

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT  
DIVISION OF CORPORATIONS, BUSINESS  
AND PROFESSIONAL LICENSING

**BOARD OF CERTIFIED DIRECT-ENTRY MIDWIVES**

550 West 7<sup>th</sup> Ave  
Atwood Building Room 1270  
Anchorage, AK

February 22, 2013

By authority of AS 08.065.020 and in compliance with the provision of AS 44.62, Article 6, a scheduled meeting of the Board of Certified Direct-Entry Midwives was held February 22, 2013 in the Atwood Building, 550 West 7<sup>th</sup> Ave Suite 1860 Anchorage, AK

**February 22, 2013**

**Agenda Item 1      Call to Order**

The meeting of the Board of Certified Direct-Entry Midwives was called to order by Cheryl Corrick, CDM Chair on February 22, 2013 at 9:02 a.m.

This meeting was public noticed December 15, 2012 in the Anchorage Daily News.

Present, constituting a quorum of the board were:

Cheryl Corrick, CDM, Chair, Fairbanks  
Mary 'Jennie' Grimwood, Public Member, Secretary, Cordova  
Barbara Norton, ANP, CNM, Anchorage  
Peggy Downing, MD, Wasilla  
Deborah Schneider, CDM, Wasilla

Present from the Division of Corporations, Business & Professional Licensing:

Connie Petz, Licensing Examiner  
Jasmin Baustista, Investigator  
Misty Frawley, Administrative Officer (via telephone)  
Jun Maiquis, Regulations Specialist (via telephone)  
Harriet Milks, Assistant Attorney General, Counsel for the Division of CBPL (via telephone)  
Quinten Warren, Chief Investigator  
Alvin Kennedy, Investigator

Public Members present on February 22, 2013 - Joanna Holbrook, Kirsten Gerrish, Lena Kilic, Dana Brown, Stella Lyn, Cindy Earley-Steinke

**Agenda Item 2      Review / Approve Agenda**

Staff asked the board to consider moving old business task regarding Peer Review to agenda item 11 and table the review of open book questionnaire to the fall board meeting.

**ON A MOTION MADE BY DR. DOWNING and SECONDED BY JENNIE GRIMWOOD. IT WAS RESOLVED TO AMEND THE AGENDA TO TABLE REVIEW OF OPEN BOOK QUESTIONNAIRE UNTIL THE FALL BOARD MEETING INCLUDE PEER REVIEW UNDER AGENDA ITEM 11. ALL IN FAVOR, NO NAYS.**

No further discussion.

**Agenda Item 3      Review / Approve Minutes**

August 16-17, 2012 minutes reviewed by board. Barbara Norton asked why on page 6 under Agenda Item 6 it says 'no vote from Barbara Norton' when she had made the motion? Staff explained that Ms. Norton was not present at the time of the vote as she had stepped out of the room at when the actual vote occurred. Staff will revise the minutes to reflect Ms. Norton was not present for the vote.

**ON A MOTION MADE BY DEBORAH SCHNEIDER, SECONDED BY DR. DOWNING, IT WAS RESOLVED TO AMEND PAGE 6 TO CLARIFY BARBARA NORTON WAS NOT A NO VOTE BUT DID NOT VOTE AND APPROVED THE AUGUST 16-17, 2012 MINUTES. ALL IN FAVOR, NO NAYS.**

**Agenda Item 4      Ethics Reporting**

There were no ethics violations to report by Board members or staff.

**Agenda Item 5      Investigative Report**

Investigator Jasmin Bautista has been assigned to this board and she shared her investigation report. The Board of Certified Direct-Entry Midwives had seven (7) open complaints and/or cases. The investigation unit has not closed any cases since the last Board meeting. Investigator Alvin Kennedy, has been assigned to four of the standard of care cases. He has assured the Board it is his intent to have these close to closed by the next board meeting.

Chief Investigator Quentin Warren joined the meeting to explain the turnover of assigned investigators and the long delays in case closure along with concerns for practicing while under review for standard of care.

Chief Warren said some of these investigations are extensive and that they take each case very seriously. He said he will continue to come to the meetings to make sure the Board knows that these cases are a priority with the division. He told the Board that some investigation cases cost hundreds of thousands of dollars. It is hoped that one day, unlicensed activities for open cases could be moved from a civil case to a criminal case. Then ongoing legal costs would move from this Boards license fees to the state of Alaska. The Board was informed that once a civil case is moved to a criminal case, there is potential for jail time.

**Agenda Item 6      Regulation Project**

This regulation project was published for written public comment on January 11, 2013. Lora Reinbold, chair of the Administrative Regulation Review Committee wrote a letter to the Board with concerns to inconsistencies in the proposed disciplinary action guidelines as public noticed in the regulation project.

The Board discussed that these disciplinary guidelines were modeled after the nursing guidelines. They had proposed this regulation based on recommendations from the investigative unit.

The Board held telephonic discussion with Harriet Milks, Assistant Attorney General and Counsel for the Division of Corporations, Business and Professional Licensing and Jun Maiquis, Regulations Specialist who was in attendance at Ms. Milks office.

Ms. Milks explained to the Board the proposed regulations do not have statutory authority because the regulation must use the same standard as the statute. Unlike in the Board of Nursing statute AS 08.68.270 Grounds for denial, suspension, or revocation. The nursing board **may** deny, suspend, or revoke the license of a person who...

Ms. Milks discussed the current regulation project with the Board and explained the new section related to disciplinary sanctions was in question because the board is mandated in statute by the word 'shall'. Alaska Statute 08.65.050. QUALIFICATIONS FOR LICENSE. The board **shall issue** a certificate to practice direct entry midwifery to a person who (3) furnishes evidence satisfactory to the board that the person **has not engaged in** conduct that is a ground for imposing disciplinary sanctions **under AS 08.65.110**.

The statute makes it mandatory for the Board to deny a license unless an applicant can prove they have not violated any of AS 08.65.110.

The board may impose disciplinary sanctions on a person who holds a certificate or permit who has violated AS 08.65.110 but according to 08.65.050(3) the Board is required to deny anyone a license if they have violated any of AS 08.65.110.

This means several things for the regulation project. The word 'guideline' does not use the same standard as the statute which says 'shall issue', meaning the Board must issue a license when an applicant has not violated AS 08.65.110. When an applicant documents they have 'not engaged in actions that impose disciplinary actions' then the board must issue them a license. Conversely, if an applicant cannot furnish evidence satisfactory to the board that the person has 'not engaged in conduct that is a ground for imposing disciplinary sanctions under AS 08.65.110' then the board must deny the license.

Ms. Wilks said this is a double negative expression. The board is required to issue a license when someone proves they have not violated AS 08.65.110 and the board is required to deny a license when someone has violated AS 08.65.110.

Ms. Milks did note that under 08.65.110(4) the board has the ability to decide what affects the licensee's ability to continue to practice competently and safely. The standard under Nursing statute 08.68.270 (2) has been convicted of a felony or other crime if the felony or other crime **is substantially related to the qualifications, functions or duties of the licensee;**

Ms. Milks identified the 'ability to continue to practice competently and safely' in the midwives statute could be considered a narrower standard than the statute in nursing 'substantially related to the qualifications, functions or duties of the licensee'.

Ms. Milks said if the Board is trying to strengthen the regulation it's important the standard articulated in the regulation tracks the language that is in the statute. Statute language trumps the language in the regulation.

Ms. Milks told the Board that any guidelines the board wants to adopt to determine the grounds of disciplinary sanctions has to be the same standard as the statute and that is something that "affects the licensee's ability to continue to practice competently and safely". Unless the Board wants to open themselves up to a lot of unnecessary challenges the first step is to have the standard be the same.

To begin again, step one could be to make sure the proposed regulations use the same standards in the statute. After that the board may consider carefully all the different crimes that are listed in the proposed regulation and consider whether in fact each of these does affect the licensee's ability to continue to practice competently and safely in midwifery.

The board must consider how reasonable the connection between the crimes affect if the midwife could practice competently and safely. Sometimes boards consider the length of time between conviction and application for license as a standard. For instance, committing larceny as a teenager and then application for licensure in their 40's. Then the Board would need to determine which ones are not automatic disqualifiers for licensure.

Barbara Norton asked Ms. Milks if the current statutes and regulations are adequate as they stand currently for denial of a license. Ms. Milks said that the best any Board can do is implement their statutes and regulations with deliberation and reason based on if you think it affects their ability to practice competently and safely. They must be consistent during any application review. A Boards' determination should not be arbitrary or discriminatory. They should be consistent and reasonable and in the best interest of the public.

Cheryl Corrick said that the denial to a past applicant was considered because she could not work in a birth center due to the barrier crime matrix and she wanted to know what Ms. Milks thought of that decision.

Ms. Milks said that it is not the Boards role to determine where someone could practice. It's problematic to adopt wholesale a regulation that doesn't by its own terms apply to the whole group of people of whom you have authority to issue a license to practice.

It's better practice to determine what the crimes are that affect the licensee's ability to continue to practice competently and safely within a regulation. The board could also consider a statutory change for license denial.

The Board thanked Ms. Milks for her time and ended the call.

The Board decided at this time to withdraw the proposed article seven and not to reconsider revising it as a future project. After discussion, they believe they already have

adequate statutes in place. They want the rest of the regulation project to proceed for 12 AAC 14.110, 12 AAC 14.470, 12 AAC 14.570 and 12 AAC 14.990.

**ON A MOTION MADE BY DR. DOWNING, SECONDED BY DEBORAH SCHNEIDER, AMEND AND ADOPT THE REGULATIONS BY REMOVING THE DISCIPLINARY GUIDELINES FROM THE REGULATION. VOTE: ALL IN FAVOR, NO NAYS.**

TASK: Staff will send letter to Ms. Reinbold thanking her for her comments, explaining the Board has decided to withdraw the disciplinary guidelines from this regulation project. Staff will forward the remaining adopted regulations on to Jun Maiquis.

#### **AGENDA ITEM 7      FY12 ANNUAL REPORT/BUDGET REPORT**

Annual Report was reviewed. Jennie Grimwood will submit the FY13 narrative statement by July 1, 2013. This document will recap board accomplishments from July 1, 2012 to June 30, 2013.

The budget was discussed and the Board is still in favor of an increase in the apprentice permit fee. The board asked staff to send a repeat letter to Sara Chambers, affirming the board wants apprentice permit holders to pay a fee that is 50 percent of the CDM license fee.

TASK: staff to submit letter to Ms. Chambers

TASK: Jennie Grimwood will submit draft narrative for FY13

#### **The Board was ahead of schedule and deviated to AGENDA ITEM 13 - CORRESPONDENCE/COURSE APPROVAL**

Under 12 AAC 14.200. COURSE OF STUDY REQUIREMENTS. (e) The board will maintain a list of organized courses of study that it finds meets the requirements of (a) of this section. The board will review the list biennially to determine if the course of study on the list continues to meet the requirements of (a) of this section. The board will remove a course from the list if the board determines based on its review that the course no longer meets the requirements of (a) of this section.

(g) A course of study must include at a minimum a comprehensive mid-course of study examination and a final comprehensive examination that covers all of the topics in (a) of this section.

Staff sent reminder letter on January 28, 2013 to the three providers advising that in order to remain on the list of the 'approved course of study programs' they need to submit a request for re-approval and provide any updated curriculum for the board to review.

Staff suggested the Board define what type of documentation they want the course providers to submit for review when they make changes to course content. This would be a tool both the Board and the provider could work with for future years. As it currently stands, the letter has no direction, only tells them to provide any updated curriculum.

Via Vita Midwifery Foundations had provided a complete and detailed course content for changes which the Board found very informative.

**ON A MOTION MADE BY DR. DOWNING, SECONDED BY DEBORAH SCHNEIDER, APPROVE VIA VITA MIDWIFERY FOUNDATION. VOTE: ALL IN FAVOR, NO NAYS.**

Ancient Arts Midwifery Institute stated they add many options every year but did not provide documentation. The Board asked what does this mean? How does this inform the Board as to what is being offered in their curriculum?

Audience member, Kirsten Gerrish asked to speak regarding AAMI. She told the Board that reference to 'options' are educational areas the students can select. The Board wanted to have more information in order to know if her educational information is current with changes in midwifery. The options that are made available to the student should be disclosed to the Board in order to determine if content is current with changes in midwifery.

**ON A MOTION MADE BY BARBARA NORTON, SECONDED BY DR. DOWNING, APPROVE ANCIENT ARTS MIDWIFERY INSTITUTE PENDING RECEIVING INFORMATION ABOUT OPTIONAL EDUCATIONAL OPPORTUNITIES IN COURSE CONTENT. VOTE: ALL IN FAVOR, NO NAYS.**

Task: Staff will request Ancient Arts Midwifery Institute provide documentation that elaborates more on their program and submit to the Board for a Mail Vote for Re-approval.

Midwife to Be had not responded indicating if they wanted to continue to be an approved course provider. Someone from the audience spoke out and said they just emailed Midwife to Be during the discussion and they told her they will send information to staff immediately.

**ON A MOTION MADE BY DR. DOWNING, SECONDED BY DEBORAH SCHNEIDER, VOTE TO REMOVE MIDWIFE TO BE FROM THE LIST IF THEY DO NOT RESPOND BY MARCH 1, 2013. VOTE: ALL IN FAVOR, NO NAYS.**

Task: Staff will request Midwife to Be provide documentation for changes in their program and submit to the Board for a mail vote for re-approval.

**Lunch Recess:** OFF record 11:53 A.M.

#### **AGENDA ITEM 8      CALL TO ORDER/ROLL CALL**

Back on record at 1:05 P.M., Cheryl Corrick called the meeting to order and took role call. All board members and staff were in attendance.

#### **AGENDA ITEM 9      PUBLIC COMMENT**

Cindy Early Steinman, child birth educator and doula told the board she has been told that the limits to midwifery care is a public concern. She has worked with over 600 couples and some expressed concerns related to the limits of care they can get from a midwife. Specifically; VBAC (vaginal birth after caesarian), hospital assistance at a breach birth and assistance past 42 weeks gestation. A recent case in Europe, a council on human rights ruled that it is a violation of human rights to deny a woman where and with whom she can give birth. In effect making it illegal for someone to attend her under those circumstances is a violation of women's rights. She asked the Board to consider at

least being current as to what is going on in Hungary. If the Board has regulations in place for licensing midwives then it seems that someone going through that process should then be trusted to make choices on those issues and be able to provide that care to families who want that.

Audience member Dana Brown responded to Ms. Steinman telling her that it takes legislative change for areas as she has mentioned. Barbara Norton and Dr. Downing both stated that few medical doctors today are even taught how to perform a breech birth. They said to tell women to lobby their legislators.

Discussion regarding allowing more course providers outside of the three Board approved and MEAC approved. Dana Brown wanted it on the record, as a past board member, there is a reason that there are only 3 courses approved because the process of reviewing educational curriculum is laborious and is not good use of board members time. She said it is the responsibility of every approved provider to provide their curriculum to the Board for approval every two years.

Judi Davidson asked the board to consider discussion at a future board meeting for the use of nitrous oxide. It is used in Europe and helps during the delivery process. She will provide written information by early July to put in August board packet. She is hoping it could be added to the list of medications.

Dr. Downing told the Board that nitrous oxide has been found to be abused as it is highly addictive.

Task: Add discussion of nitrous oxide to agenda for next board meeting, audience member Judi Davidson will submit educational information by July 1, 2013 for the August board packet.

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## **AGENDA ITEM 10      REVIEW APPLICATIONS FOR LICENSURE**

Application by Examination - Stella Lyn

**ON A MOTION MADE BY BARBARA NORTON, SECONDED BY DEBORAH SCHNEIDER, APPROVE STELLA LYN FOR A CERTIFIED DIRECT ENTRY MIDWIFE LICENSE PENDING SUCCESSFULLY PASSING THE NARM EXAMINATION. VOTE: ALL IN FAVOR, NO NAYS.**

Application by Credentials - Heather Forbes

In order to assist the Board in review of the application by credentials Ms. Forbes, an Oregon licensed midwife, staff provided resources in the board packet for both Oregon Law for licensing midwives and requirements for NARM to be a Certified Professional Midwife (CPM). Alaska regulations require an applicant by credentials to have licensing requirements at least equivalent in scope, quality, and difficulty to those of this state.

Oregon pathway to licensure is CPM or passing the NARM so Ms. Forbes did not meet Alaska requirements. She will need to provide additional qualifying documentation of more births, five more primary, five more newborn and five more continuity of care. This is the difference of what is required in Alaska versus the NARM CPM.

**ON A MOTION MADE BY BARBARA NORTON, SECONDED BY DEBORAH SCHNEIDER, APPROVE HEATHER FORBES APPLICATION FOR CERTIFICATION PENDING**

**DOCUMENTATION OF COMPLETION OF IV THERAPY GROUP B STREP AND IV THERAPY AND DOCUMENTATION SUBMITTED ON FORM 08.4198C OF AN ADDITIONAL FIVE CONTINUITY OF CARE CLIENTS TO INCLUDE SIX PRENATAL VISITS, PRIMARY BIRTH ATTENDANT AT THE BIRTH, THE IMMEDIATE NEW BORN EXAM FOR EACH OF THOSE BIRTHS AND ONE POSTPARTUM. VOTE: ALL IN FAVOR, NO NAYS.**

TASK: Staff will send the follow up letter to Cheryl Corrick before sending it to Heather Forbes to make sure all application requirements are correctly stated.

The Board has not had many applications for CDM by credentials but discussed that there are 21 jurisdictions which license by Certified Professional Midwife requirements and in review of this application file, Ms. Norton asked the board to consider a future regulation change under Alaska supervised clinical experience requirements 12 AAC 14.210 (b). This is to make the AK birth number requirements to match the Certified Professional Midwife requirements established by North American Registry of Midwives.

TASK : Staff to research if there is any reason that a regulation change for less birth numbers requirements could not be the same as a CPM requirements.

**AGENDA ITEM 11      Amended to Old Business to discuss Peer Review**

At the August 2012 board meeting it was decided the Peer Review process should be revised to provide information to the board in a consolidated format. A worksheet was crafted and staff will forward it to Peer Review to use for their May 2013 Peer review.

The March peer review letter which will be sent to all CDM's was revised to provide additional directions to guide them in meeting peer review requirements.

Staff explained to the board, during the last peer review it was noted that many midwives did not have any birth charts reviewed by peer review. In discussion with her supervisor it was noted that every midwife should have at least one birth and then a percentage of their total births reviewed by Peer Review.

12 AAC 14.900. PEER REVIEW (2) randomly review summaries of births submitted by a certified direct-entry midwife under (c)(1) of this section;

There was discussion and it was said that all summaries are reviewed by Peer Review but birth charts are only requested if there is an outlier on the chart.

After discussion staff asked the Board to explain for the record why they would not want to randomly check charts for all midwives. Cheryl Corrick said it was because they didn't want Peer Review to be punitive but positive.

From the audience, Dana Brown said that to randomly pick charts was a waste of time. They weren't finding anything. If there is an outlier on the chart, this is when Peer Review would request a chart.

After more discussion the Board determined that Peer Review should have a list of outliers that would identify when to require a chart review. Barbara Norton said that there should be a consistent list that everyone applies every time. Peer Review should develop

a set of standards to have as a consistent system as to what they are looking for every time such as death, tears, apgars, etc.

Break – Off Record at 3:03 P.M. - Back on record at 3:12 P.M.

## **AGENDA ITEM 12      AUDIT REVIEW**

Staff discussed concerns for two types of certificates which are being received from CDM's from Midwives Association of Alaska:

**FIRST:** The IV Therapy and Group Beta Strep certificates does not identify a date the course is completed and the expiration date was changed on one certificate to December 2014. This makes the expiration date three months and two years past the date the class was actually taken.

Staff explained to the Board that continuing education certificates should identify the actual date when a course is taken. This is essential when determining if someone took a course during the regulation timeframe of a license renewal period.

Deborah Schneider said that MAA had decided to just make all certificate dates expire the end of each year so that people were not scrambling to find a course at renewal. The Board discussed this and both Barbara Norton and Dr. Downing said that when a course is required to be completed every two years that it means it needs to be completed every two years. If the only two women teaching the class are Deborah Schneider and Holly Steiner and finding classes are a problem then more classes need to be made available. If MAA needs more people to teach Group B and IV Therapy then more people need to teach it. Perhaps these courses could be offered 4 times each year.

**SECOND:** The certificates for continuing education from MAA annual conference does not have a description of the continuing competency activity which is how the certificate would indicate the content of the education. It only says Fall Conference.

In review of the MAA website it was noted that the combined CE hours on the certificate also added in the Group IV Therapy and Group Strep as part of the combined continuing education hours. In addition, some classes during the conference were not a full contact hour so they did not meet the required time. A contact hour equals a minimum of 50 minutes of instruction.

If a midwife did not take any other classes outside of a MAA conference and the hours included Group IV and Group Strep they may not have completed 20 hours of continuing education and could not renew their license.

Also the certificate is not complete according to centralized regulations, which applies to all professional licensing groups in the state of Alaska, the certificate should be complete per centralized regulation 12 AAC 02.960 (1-5).

1. Name of licensee
2. Amount of continuing competency credit awarded
3. Description of the continuing competency activity
4. Dates of actual participation or successful completion

5. Name, mailing address and signature of the instructor, sponsor, or other verifier.

A letter will be drafted from the Board to inform MAA of these issues to have future certificates meet Alaska requirements.

TASK: Staff will forward the letter to MAA

The Board reviewed the two audited licensees.

**ON A MOTION MADE BY BARBARA NORTON, SECONDED BY DR DOWNING TO  
ACCEPT CONTINUING EDUCATION FOR JUDI DAVIDSON AND MELISSA MAYO.  
VOTE: ALL IN FAVOR, NO NAYS.**

### **AGENDA ITEM 13 Correspondence**

Tara Elrod asked the board to review and approve a course for continuing education. Staff will send her a letter advising she needs to contact MAA for approval of the course.

### **AGENDA ITEM 14 OLD BUSINESS – TASKS**

Staff gave a handout explaining the licensing requirements to operate a business in the state of Alaska. Professional license holders who are operating a business also are required to have a business license if they are self employed. In the event they also are a corporation or LLC need to have a corporation license too.

The Board was disappointed in the response from Alaska Academy of Family Physicians when they said they declined direct entry midwives to attend the ALSO course. Cheryl Corrick will follow up with a letter to them regarding this matter and will inform the Board at the fall meeting.

The Board and audience members thanked Barbara Norton for her service on the Board. She has served on the Board since June 3, 2005.

### **Task list for meeting follow up**

#### **Staff:**

Send Letter to Representative Reinbold regarding Regulations project  
Forward adopted regulations to Jun Maiquis.  
Send letter to Sara Chambers requesting increasing Apprentice permit fee  
Contact Ancient Arts Midwifery requesting written documentation for Optional benefits in course content.  
Contact Midwife to Be asking if they want to continue and requesting written documentation for any changes in course content.  
Send Tara Elrod letter referring her to MAA for continuing education  
Send letter to applicant by credentials Heather Forbes  
Send letter to MAA explaining the requirements for continuing education certificates, contact hour requirements and IV Therapy and Group Beta Strep  
Add final minutes to website, update meeting dates  
Research if a regulation change for birth numbers can be same as CPM requirements

#### **Board members tasks:**

Cheryl Corrick will follow up on the ALSO letter for the fall Board meeting.

Jennie Grimwood will submit draft narrative to staff FY13 by July 1, 2013.

Judi Davidson (non-board member) will submit educational information for discussion of nitrous oxide by July 1, 2013 for the August board packet.

**AGENDA ITEM 15      SCHEDULE MEETINGS**

Fall board meeting – August 22-23, 2013 in Anchorage

Spring board meeting – February 27-28, 2014 in Anchorage

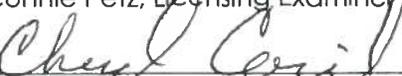
**AGENDA ITEM 16      ADJOURN MEETING**

**ON A MOTION BY DR. DOWNING SECONDED BY BARB NORTON TO  
ADJOURN THE MEETING. ALL IN FAVOR, CARRIED UNANIMOUSLY.**

Meeting adjourned and off the record at 4:05 P.M.

Respectfully Submitted:

 8.22.13  
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Connie Petz, Licensing Examiner

  
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Cheryl Corrick, CDM Chair