

**STATE OF ALASKA
DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT
DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING
BOARD OF CERTIFIED DIRECT-ENTRY MIDWIVES**

MINUTES OF MEETING

AUGUST 24, 2006

By authority of AS 08.65.020 and in compliance with the provisions of AS 44.62, Article 6, a scheduled meeting of the Board of Certified Direct-Entry Midwives was held August 24, 2006 in the Atwood Building, 550 W 7th Ave., Suite 1270, Anchorage, Alaska. Division staff participated telephonically from Juneau.

Agenda Item 1 **Call to Order/Roll Call**

The meeting was called to order by Dana Brown, CDM, Chair at 9:10 a.m.

Present, constituting a quorum of the board were:

Dana Brown, CDM, Chair, Fairbanks
Barbara Norton, CNM, Anchorage
Mark Richey, MD, Anchorage (Dr. Richey left the meeting at 9:35)
Holly Steiner, CDM, Wasilla

Not present: Mila Cosgrove, Public Member

Staff present: Judy Weske, Licensing Supervisor

Public Present in Anchorage at various times:

Laura Gore, Rinn Mandeville, Tora Gerrick, Susan Terwilliger, Deborah
Schneider, Judi Davidson

Agenda Item 2 **Review/Amend Agenda**

On a motion made by Steiner, seconded by Richey and carried unanimously it was

RESOLVED to approve the agenda as written

Agenda Item 3 **Ethics Reporting**

All members present reported that they had no ethics violations or potential violations.

Agenda Item 4 **Public Comment**

No public comment.

Agenda Item 5 **Review/Approve Minutes**

On a motion made by Steiner, seconded by Richey and carried unanimously it was

RESOLVED to approve the February 24, 2006 minutes as written.

Agenda Item 6 **Regulations**

The board reviewed the regulation changes effective April 29, 2006 (12 AAC 14.110(b)(5) and (d); 12 AAC 14.120; 12 AAC 14.200(e)(f); 12 AAC 14.210(f); 12 AAC 14.420).

The board then reviewed changes to 12 AAC 14.300(c)(3); 12 AAC 14.400(b)(4) and 12 AAC 14.900(c)(3)(D), adopted by the board at its February 2006 meeting and which are currently pending at the Department of Law.

The board discussed changes to 12 AAC 14,500; 510 and 570. The board referenced that following the CDC guidelines was important.

Discussion continued throughout the morning regarding regulation changes.

The board also discussed standard of care regulation violations especially in terms of what constitutes a regulation violation when peer review is being conducted. The board would be talking with investigator Susan Winton regarding these matters later in the meeting.

Recessed for lunch at 11:30 a.m.
Back on record at 12:30 p.m.

Present, constituting a quorum of the board were:

Dana Brown, CDM, Chair, Fairbanks
Barbara Norton, CNM, Anchorage
Holly Steiner, CDM, Wasilla
Mark Richey, MD

Not present:

Mila Cosgrove, Public Member

Staff present:

Judy Weske, Licensing Supervisor
Susan Winton, Investigator

Public Present:

Laura Gore and Rinn Mandeville

Agenda Item 7 **Applications for Certification**

The board reviewed pending applications for Rinn Mandeville and Amy Reedy-Huffman.

Barbara Norton asked that the minutes reflect that board members would like to receive board packets more than three days in advance. Ms. Weske apologized for the lateness in board packets being sent and confirmed that staff would try to get packets out timely in the future.

Agenda Item 8 **Investigative Report**

Review of applications was tabled while the board met with Susan Winton, Board Investigator.

Susan Winton introduced herself to the board and stated that she is happy to be working with the board. She went over the board's investigative report and added that since the date of the August 2006 investigative report, there were two additional peer review matters pending which are in the process of being referred to the division. One of the matters is a standard of care issue and the other is a reporting violation. Susan will be meeting with Laura Gore on these matters.

Barbara Norton asked what constitutes a violation of standard of care. Susan explained a violation of standard of care is when someone alleges that the patient was not provided with the minimum standard of care that the board has recognized. It does not necessarily need to be a violation of regulation. It could be something the peer review committee looked at and said this does not meet standards.

Barbara Norton asked what to do about midwives who are not practicing according to the standard of care but don't actually violate a regulation because there is no regulation for that violation. Susan said that's the perfect instance for a peer review committee. Peer review has the voice of the board and based on the board's direction sets the standards. If there is a something that a midwife is doing that is not addressed in regulation, then the board may want to amend their regulations; for example, a practice of care that has started among the midwives and the board feels that practice is not addressed in regulation, then the board may want to amend regulations accordingly.

The peer review committee is the board's way of looking at the practice of midwives and making determinations that are not already written in statute or regulations and making determinations that yes, that was sufficient or no that wasn't sufficient and we need to discipline the licensee or we need to write a regulation that prohibits such practice. Barbara asked "how are we going to know if it's sufficient and are we going to know the outcome?" Susan replied "that's what the peer review committee is for". Barbara then gave an example of a patient who is in prolonged labor and is finally transported to the hospital. Because it was an emergency transport, the transport is reported to the peer review committee; the committee says the midwife kept the patient too long before transporting. Barbara asked what happens then since there is no specific regulation that addresses that circumstance.

There is no definition of prolonged labor yet there is a national/community standard of care and how do you determine a violation occurred. Susan said that's what your peer review committee decides; they say there isn't a statute or regulation that says this is a determination of prolonged labor but we think it is not up to the standard of care for midwives. The peer review committee looks at a practice or a particular instance and they say we don't think this is up to our standards and if there isn't a statute or regulation specifically written then I (investigations) don't necessarily get involved unless peer review wants me to; the peer review committee needs to decide whether to refer to the board and recommend that a regulation be written to address the issue. Peer review is a great way for midwives to evaluate the practice of other midwives and make recommendations either to the board for consideration of regulations or refer it to the division advising that the committee thinks it violates standard of care even though it may have never been addressed before.

Dana Brown asks whether disciplinary action can be taken for that which is not a violation of statute or regulation. Susan responded that it doesn't have to be a specific statute or regulation, because a standard of care already exists; for example professional ethics which the board has adopted. Susan advised that she does receive complaints from physicians or nurses regarding midwives. Barbara Norton said it all boils down to the integrity of the peer review process. Susan referred the board to AS 08.65.120.

Laura Gore asked for clarification regarding why the board isn't a part of the complaint process; she says the board has always been told that they will be "tainted" if they are a part of the process. Susan addressed why it's important for the whole board not to be involved in the process. Susan said that she does work with one board member during the investigative process for their professional opinion, and then if the matter is presented to the entire board, the board has the opportunity to be impartial in listening to the matter. If the whole board was a part of the process it would act as judge and jury. No licensing board operates that way.

Dana addressed the high cost of licensing fees. The board would like fines from disciplinary actions to go back to the board to offset the licensing fees. Susan said that the appropriate practicing licensees are paying for bad licensees and that's just a fact of life.

Taking appropriate action against licensees in conjunction with the peer review committee reporting violations to the investigator is the way to get word out to midwives the board is serious and in the long run investigations may decrease, thus resulting in lower licensing fees.

The question was asked if a hospital doctor or nurse can file a complaint and bypass peer review. Susan replied that "yes" anyone can file a complaint with the investigator. What about frivolous complaints from physicians who simply do not like midwives? Dana and Susan said those complaints get reviewed but the complaints do not move forward if they are not valid or they may get referred to peer review.

Barbara Norton said they would like to know what kinds of complaints are being received; how often are issues coming up; the board wants to hear how many or what kinds of violations, etc., are happening so that they are better able to determine whether a regulation should be done. Susan said that's what she hopes to resolve by coming to the board meetings; for example, with today's investigative report, she advised the board of the additional two peer review matters that she will be meeting about with Laura Gore. She can provide general information that does not taint the board's judgment in future decisions.

The question was asked whether an inventory of patterns of behavior could be provided and that which is separate from the board and peer review that the association could filter. Susan advised that investigative information is confidential; once an investigation or complaint is closed individuals can request access to the information under the Freedom of Information Act (FOIA). Those requests are handled by the Juneau paralegal.

Susan provided the board with a handout with several topics (Options of the Board, Peer Review Committee, Action by the Division, Violations of Professional Ethics or Statute/Regulation) and a Midwives Flowchart. The flowchart attached to the handout addresses "issues" because they are not yet complaints or violations. Susan went over the handout.

Laura Gore said in the past there was no communication between the division and the peer review committee and often times peer review would not know that a particular license had been suspended; peer review kept receiving transport reports and summaries from a licensee and had no idea that the licensee was practicing without a license. Will there be better communication now that Susan is on board? Susan thought communication would be better. The peer review committee would like to be updated on disciplinary action. Susan agreed to send the committee copies of actions taken by the board and reiterated that she is just a phone call away and would be happy to talk if questions or concerns arise.

The board would like the flowchart Susan presented to be included in the application and renewal packet.

Agenda Item 7

Applications for Certification(Cont'd)

The board continued application review.

Off record at 2:30 p.m. (for five minute break).

Back on record at 2:35 p.m.

On a motion made by Steiner, seconded by Norton and carried unanimously it was

RESOLVED to approve the application by examination for Rinn Mandeville pending passing the NARM examination and proof of certification for Group B Streptococci.

On a motion made by Norton, seconded by Richey and carried unanimously it was

RESOLVED to approve the application by examination for Amy Reedy-Huffman pending passing the NARM examination, proof of certification for Group B Streptococci and amending form 08-4215e, pages 1, 3, 4, 5, 6 and 9.

The board clarified the issue with pages 1 and 3 is dosage; page 4 is indication, page 5 is method of administration, page 6 is dosage of pitocin, and page 9 is method of administration.

Agenda Item 6

Regulations(Cont'd)

On a motion made by Steiner, seconded by Norton and carried unanimously it was

RESOLVED to approve for public notice:

12 AAC 14.500(c)(1) add a new section (K) to read:
hepatitis B

12 AAC 14.500(c)(2)(B) amend to add "C" after hepatitis and to read:
test for hepatitis C and human immune deficiency virus (HIV).

12 AAC 14.500(d) amend to read:
At 11-13 weeks offer an ultrascreen and between 15-20 weeks

12 AAC 14.500(e) amend to read:
At 24-28 weeks of gestation, the certified direct-entry midwife shall recommend

- (1) a 50. gm glucose tolerance test for gestational diabetes;
- (2) a hemoglobin or hematocrit test;
- (3) an antibody screen and rhogam injection for a woman with Rh negative type blood.

12 AAC 14.500(f) amend to read:
At 35-37 weeks of gestation the certified direct-entry midwife shall order

- (1) a hemoglobin or hematocrit test, if indicated, and
- (2) a culture for Group B Streptococci per CDC guidelines

On a motion made by Steiner, seconded by Norton and carried unanimously it was

RESOLVED to approve for public notice:

12 AAC 14.510(g) amend to read:
A certified direct-entry midwife may start prophylactic antibiotic intravenous therapy for Group B Streptococci per CDC guidelines.

On a motion made by Steiner, seconded by Norton and carried unanimously it was

RESOLVED to approve for public notice:

12 AAC 14.570 amend to add new text in (9) and then renumber the existing (9), (10), (11) to (10), (11), (12):

- (9) lactated ringers, plain or with dextrose five percent, or normal saline, up to 2000 mL administered intravenously to an intrapartum client who would benefit from hydration;

Agenda Item 9 **NARM Examination Report**

Holly Steiner proctored the August 2006 examination; two candidates attended and everything went fine.

Agenda Item 10 **Peer Review Update**

The board reviewed the reports provided by the peer review committee. All but one licensee passed peer review and the peer review committee has forwarded that information to the board's investigator.

Agenda Item 11 **Budget Report**

The board reviewed the report provided.

Agenda Item 12 **FY 2006 Annual Report Preview**

Mila Cosgrove was responsible for preparing the annual report and did not have a draft ready for the board's review. The board reviewed fiscal year statistics provided in the board packet.

The board also reviewed the apprentice application for Tamara Smith.

On a motion made by Norton, seconded by Richey and carried unanimously it was

RESOLVED to approve the apprentice application for Tamara Smith pending confirmation that Kristen Gerrish is an approved preceptor.

The board briefly discussed the requirements to be a preceptor; the board would like tighter requirements for preceptors, but realize a statute change would be necessary. Also, if a licensee is under a MOA, the board wants the MOA to reflect that the licensee may not act as a preceptor while under the MOA. Dana recommends members go over the board's statutes to determine what changes are necessary and then work with the Midwives Association to have them advocate for those changes.

Agenda Item 13 **Miscellaneous Correspondence**

There was no correspondence to review.

Agenda Item 14 **Sign Certificates/Meeting Dates Discussion**

The board signed the certificates.

After looking at Rinn Mandeville and Amy Reedy-Huffman's files again it was noted they had not completed the board's jurisprudence examination and they would need do so before receiving licensure.

The board noted that business could be conducted in one day for the Juneau meeting. Therefore, the next meeting will be held Friday March 2, 2007. The August 23-24, 2007 dates will remain the same.

Agenda Item 15 **Final Comments/Wrap Up**

While the meeting was scheduled for August 24 and 25, 2006, the board was able to conclude its business on August 24 and having no other business adjourned the meeting at 3:45 p.m.

Respectfully Submitted:

Judy Weske, Licensing Supervisor

Approved:

Dana Brown, CDM, Chairperson

Date: _____