

**NEW JERSEY DIVISION OF CONSUMER AFFAIRS
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS
MIDWIFERY LIAISON COMMITTEE
PUBLIC SESSION MINUTES
JUNE 14, 2021**

A Public Session meeting of the New Jersey Midwifery Liaison was held on Monday June 14, 2021, virtually. The meeting started at 10:45 a.m.

I. ROLL CALL

Kathleen Gater, Chair of the Committee *(Present)*

Louise Aucott *(Present)*

Dina Aurichio *(Present)*

Karen Shields *(Present)*

Bevin Cahill *(Present)*

Julie Blumenfeld *(Present)*

Dr. Fred Silverberg *(Present)*

Charles Manning, Regulatory Analyst *(Present)*

Steven Flanzman, Deputy Attorney General *(Present)*

Terri Goldberg, Acting Executive Director *(Excused)*

Karen Day-Burr, Assistant Deputy Director *(Present)*

Donald Marquis, Acting Assistant to Executive Director *(Present)*

Magda Schaler-Haynes, JD, MPH, Senior Health Care Policy Advisor to the Division of Consumer Affairs *(Present)*

II. OPEN PUBLIC MEETING STATEMENT

The requirements of the “Open Public Meetings Act” were satisfied by notice of its meeting given in the annual notice adopted by the New Jersey Board of Medical Examiners on December 21, 2020 which was transmitted electronically to the ATLANTIC CITY PRESS, STAR LEDGER, CAMDEN COURIER POST, ASBURY PARK PRESS, BERGEN RECORD, and the TRENTON TIMES, all on the 27th day of May 2021.

III. RATIFICATION OF PUBLIC SESSION MINUTES

Attached are the Public minutes for April 29, 2021 for ratification.

UPON MOTION OF MS. AURICHIO AND SECOND BY DR. SILVERBERG THE COMMITTEE UNANIMOUSLY RATIFIED THE PUBLIC SESSION MINUTES OF APRIL 29, 2021, WITH AMENDMENTS.

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IV. OLD BUSINESS (Ongoing discussion)

**A. DISCUSSION ON THE REMOVAL/AMENDMENT OF MIDWIFERY
REGULATION CHAPTER 35:2A6**

The Committee began its discussion on the amendment of Chapter 35:2A6, which states, “Prior to beginning practice as a midwife, a licensee shall enter into a consulting agreement with a physician who is licensed in New Jersey...” It was the consensus amongst the Committee, with the exception of Dr. Silverberg, to amend its regulations in support of full practice authority.

Ms. Schaler-Haynes added that the regulation as it is, creates a restrictive practice for midwifery that doesn’t improve outcomes of infant mortality/morbidity. Ms. Schaler-Haynes also noted the following:

1. full practice of midwifery could improve the alarmingly high rate of infant mortality/morbidity;
2. there is well established literature to increase scope of practice in combating infant mortality/morbidity;
3. The need to modernize and look at all tools to prevent and limit infant mortality/morbidity.
4. this regulation is not consistent with the guidelines of the American College of Nurse Midwives;

Specifically, the majority of the Committee notated several points of consideration in support of its argument to amend the regulations:

5. no data that supports patients would be safer by having a consulting agreement in place;
 6. midwives are capable of consulting with a physician without a regulation telling them to do so;
 7. Midwives have difficulty finding a consulting physician willing to take on the liability which creates the barrier to practicing for many midwives;
 8. Midwives should be policing their profession, not physicians, which creates a competition with those who provide the same service such as Obstetrics.
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The Committee inquired if a joint meeting could be held with the New Jersey Board of Medical Examiners (“the Board”) to present more information in support of its position to amend its consulting physician agreement and allow for full practice authority. Ms. Schaler-Haynes added that the Health equity subcommittee has been discussing best ways to use education on midwifery as a resource to aid in the discussion with the Board. She stated these are matters of health equity and should be used to discuss the outcome of equity and competition from within fields who provide the same services such as obstetrics. Ms. Schaler-Haynes stated it is essential to review this information in the context of racial disparities and health equities.

Through further discussion, the Committee recognized the importance of having a united Committee prior to presenting to the Board and requested to have a thorough discussion with Dr. Silverberg to alleviate any concerns he had to amend the regulations. The Committee asked Dr. Silverberg to discuss his specific concerns which are as follows:

1. Training of midwives versus the training of physicians; (2 years after their bachelor’s vs 8 years for physicians);
2. in case of an emergency midwives need an agreement in place with a physician, noting health complications may arise during pregnancy for the mother and/or baby and it is essential to have a physician who is a phone call away, ready and available to attend to the patient;
3. There is a distinction that exists between low risk and high risk pregnancies; a low risk pregnancy can quickly turn into a high risk pregnancy.
4. Doesn’t feel that the current regulation is restrictive and essentially midwives have full practice authority even with the consulting agreement requirement in place;
5. Should the regulation be rescinded, there would be no standard to hold midwives accountable who violate practice rules;
6. The number of birthing centers in the state of New Jersey has increased, therefore there is no shortage of midwives in the workforce.

Dr. Silverberg further explained his position on the issue came from a sense of wanting to be able to sleep at night knowing there is a safety net in place. Furthermore, he stated he has been in this field for a long time and has occasionally seen midwives with no back up with a negative outcome. Dr. Silverberg elaborated that he understands his argument does not necessarily provide that it makes the practice of midwifery safer with this regulation in place; however it is a safety net as an additional resource and in part deals with competence and education of midwives.

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To appeal to Dr. Silverberg, Committee members discussed ways to alleviate his concerns:

1. The consulting agreement would continue to be applicable in other areas of the regulations as they are only moving to amend the pre-requirement for a consulting agreement.
2. Negative outcomes where it was found that midwives had no consulting physician in place occurred while this regulation was in place;
3. Consults between midwives and physician can take place without a regulation telling them do so;
4. Rules are in place that allow for discipline regardless of the regulation being removed. The current regulation has a negative impact that creates a negative barrier who stand to make significant impacts in lowering the risk of infant mortality/morbidity.
5. Rescinding the regulations doesn't diminish the committee's ability to review patient safety issues
6. There is a call for action at the state level due to the NJ statistics of 47-48% of infant mortality/morbidity which needs to be addressed and there are many midwives who cannot practice. There are standards and core competencies that are followed.
7. In approximately 26 states there is full practice authority which is also supported by the American College of Nurse-Midwives.
8. The practice of midwifery functions well and promotes great relationships, and shouldn't require a regulation to force relationships with physicians.
9. When there is a duty to consult midwives must consult and write the physicians name in the medical records.

Deputy Attorney General Flanzman ("DAG Flanzman) and Regulatory Analyst, Charles Manning added that the proposal being considered does not remove provisions of Chapter 13:35 2a.5 which provide that midwives conduct their practice pursuant to standards set forth by the ACNM in Standards for the Practice of Midwifery. The Committee further added that the proposed language also does not eliminate the need for collaboration and the language could be reworded. The Committee asked if Dr. Silverberg had any reservations considering the information provided regarding his concerns. Dr. Silverberg stated he would be in agreement to reword some language of the regulation that would not create restrictive practice of midwifery.

Upon motion of Ms. Aucott and second by Ms. Blumenfield, the Committee moved to request that Mr. Manning draft proposed regulations to amend N.J.A.C 13:35-

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2A.5 to incorporate a requirement for generating a medical record of consultation when appropriate. All in favor.

V. NEW BUSINESS

NO NEW BUSINESS DISCUSSED.

VI. INFORMATIONAL

A. ONLINE APPLICATIONS FOR NEW LICENSES

As of May 2, 2021, applications for the following professions are now available online:

- Midwife
- Professional Midwife
- Certified Nurse Midwives
- Certified Nurse Midwives with Prescriptive Authority

These applications can be accessed by visiting:

<https://www.njconsumeraffairs.gov/mid/Pages/applications.aspx>

MS. DAY BURR ADDED THAT AS OF JUNE 18TH PAPER APPLICATIONS WILL NO LONGER BE ACCEPTED. ANY PAPER APPLICATIONS RECEIVED AFTER THIS DATE WILL BE RETURNED TO THE APPLICANT WHO WILL BE INSTRUCTED TO COMPLETE THE ONLINE APPLICATION. ADDITIONALLY, MS. DAY-BURR INFORMED THE COMMITTEE AN ALERT HAD BEEN ADDED TO THEIR WEBSITE ON JUNE 15, 2021.

B. PROGRAM DISCONTINUATION NOTICE - TEMPORARY EMERGENCY RECIPROCITY LICENSES.

The Division of Consumer Affairs is making important changes to the Temporary Emergency Reciprocity Licensure Program for out-of-state licensed

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health care practitioners. The Division will no longer accept ANY new applications for Temporary Emergency Reciprocity Licenses, effective Friday, June 4, 2021.

THE COMMITTEE ACCEPTED THIS AS INFORMATIONAL ONLY.

C. SUMMARY COUNT OF LICENSEES

As of June 7, 2021 there are 376 active Certified Nurse Midwives, 16 active Midwives, 17 active Professional Midwives, and 359 active Certified Nurse Midwives with Prescriptive Authority.

THE COMMITTEE ACCEPTED AS INFORMATIONAL ONLY.

D. 2021 MEETING DATES

August 9, 2021
October 4, 2021
December 13, 2021

THE COMMITTEE ASKED THAT THE ADMINISTRATIVE OFFICE LOOK TO ADD ADDITIONAL MEETING DATES TO ENSURE PROGRESSION OF THE PROPOSED REGULATORY AMENDMENTS. THE ADMINISTRATIVE OFFICE WILL WORK ON THIS AND PROVIDE AN UPDATE OF THE SCHEDULE AT THE NEXT MEETING OF THIS COMMITTEE.

VII. ADJOURNMENT

UPON MOTION OF MS. AURICHIO AND SECOND BY DR. SILVERBERG, THE COMMITTEE ADJOURNED TO EXECUTIVE SESSION TO DISCUSS MATTERS UNDER INVESTIGATION AND FOR ADVICE OF COUNSEL.

