

**Oregon Health Licensing Agency
Board of Direct Entry Midwifery
Minutes of February 1, 2007**

MEMBERS PRESENT

Betty Griffith, LDM, Chairperson
Holly Scholles, LDM, Vice Chairperson
Sue Morningstar, Certified Nurse Midwife (CNM) – Telephone Conference
Rosemary Carvalho, Licensed Direct Entry Midwife (LDM) – Telephone Conference
Sherry Dress, Licensed Direct Entry Midwife (LDM) – Telephone Conference
Michele Bouche, Certified Nurse Midwife (CNM) – Telephone Conference

MEMBERS ABSENT

Nancy Grant Obstetrician/Gynecologist (OB/GYN)

STAFF PRESENT

Susan Wilson, Director
Tricia Allbritton, Administrative Services Division Manager
Angela Allen, Administrative Representative

AUDIENCE MEMBERS

Lisa Lehrer, Licensed Direct Entry Midwife (LDM)
Anne Frye, Licensed Direct Entry Midwife (LDM)
Kate McLauchlan, Unlicensed Direct Entry Midwife
Carla Viles, Unlicensed Midwife Direct Entry Midwife
Marjie Houck, Licensed Direct Entry Midwife
Amanda Moore, Unlicensed Direct Entry Midwife
Lennon Clark, Unlicensed Direct Entry Midwife
Elise Clark, Unlicensed Direct Entry Midwife
Georganne Clark, Unlicensed Direct Entry Midwife
Jafel M.S – Gece /Staff Representative Phil Barnhart
Carol Severson, Licensed Direct Entry Midwife (LDM)
Jessica Dolin, Licensed Direct Entry Midwife (LDM)
Rayna V Miles, Unlicensed Direct Entry Midwife
Debbie Cowart, Unlicensed Direct Entry Midwife

CALL TO ORDER

Chairperson, Betty Griffith, called the meeting of the Board of Direct Entry Midwifery to order at 2:09 p.m. on February 1, 2007 at the Oregon Health Licensing Agency (OHLA) Rhoades Conference Room, 700 Summer St NE, Salem, Oregon.

Ms. Griffith stated that board members, staff, public, and a large number midwives from the community are in the audience and deferred to Susan Wilson, Director of OHLA. Ms. Wilson explained the purpose for today's meeting was in response to interest raised by Representative Barnhart regarding mandatory licensure for Direct Entry Midwifery. Ms. Wilson stated during her Ways and Means, Subcommittee on Education, Oregon Health Licensing Agency budget presentation on January 22, 2007, Representative Barnhart asked if midwifery was still voluntary licensure and in view of the proposed uniform fee decrease was there consideration to change this licensing status. He noted "voluntarily licensing" was due in part to the high licensing fees, and asked if mandatory licensure had been considered.

Ms. Griffith requested each Board member focus and comment on the following:

1. Why have mandatory licensure;
2. Why retain voluntary licensure; and
3. What issues and resolutions affect the issue of mandatory licensing?

Ms. Scholles stated there is nothing wrong with the current system and noted that opening legislation may result in defending the profession including board composition and education requirements. She noted her involvement with initial legislation in 1993 and that the highest fee of \$2000 was the result of litigation. She stressed the primary concern when the legislation was created in 1993 was not about money or third party reimbursement. There was concern that if midwifery had always been legal in Oregon, that mandatory licensing would criminalize the practice and restrict it in ways that would be dangerous to public well-being and to the profession. She stated that people who are not licensed and continue to practice would create problems when the transfer of care happens, because people tend to hold onto clients too long and when they do decide to transfer care they get in trouble at the point of transfer. She explained that there needs to be collaborative care with the midwives and feels mandatory licensure would divide the midwife community. She noted that it is important to protect "traditional midwifery" and not to impact midwifery standards. She stated that mandatory licensure could potentially put individuals out of business. She stated that midwives want to be able to choose and not be restricted by laws and rules.

Ms. Dress pointed out legislators can open the law at any time, which could expose the midwifery profession and that the issue is credibility of midwifery which is lacking in the State of Oregon. She stated that she favors mandatory licensing, because the mother and family can retain the right to choose a midwife that is licensed versus a non-licensed midwife. She feels strongly that midwives should have to pass a test and meet requirements, so the public will know that midwives are competent. She noted the public needs to be educated on the different types of midwives and feels mandatory licensure will equal the playing field for everyone. She explained allowing families to choose is absolutely necessary. She clarified that how the language in the law is presented will be most important to allow for the right to choose between licensed and unlicensed midwives and that it should include a legal exclusion for spiritual and ethical reasons.

Ms. Wilson pointed out the public has a misconception that the State of Oregon regulates *all* midwives. She noted that when the public views the OHLA/Direct Entry Midwifery Board web site they assume regulation of the profession encompasses all midwives. Ms. Wilson suggested that a change to the law to delineate between the types of midwives and difference between licensed and unlicensed. Ms. Scholles stated that a registered category would be confusing to the public. Ms. Wilson stated because there isn't a state standard, confusion currently exists, and therefore opportunity to take advantage of parents.

Ms. Carvalho stated her main concern is that there still isn't full disclosure being made by midwives and the public and parents are confused about somebody identifying themselves as a midwife and they don't know what that means. She suggested that along with mandatory licensure that there be a requirement for full disclosure to parents. Ms. Dress suggested possibly requiring a form be provided to clients. She stated that she is not opposed to mandatory licensure, because there are more and more complaints each year and public safety needs to be addressed. She stressed that the core competencies need to be met, because when the public sees the term "midwife" and they assume that core competencies are met. Credibility is a huge issue for midwives and she suggested that mandatory full disclosure be considered in law change as well.

Ms. Bouche stated the board's main focus is to protect the public and provide standardization and accountability and competency. She suggested that a document or some kind of registration for tracking midwives that practice outside standards be recommended. She is not opposed to mandatory licensing.

Ms. Carvalho raised the issue that full disclosure may limit the scope of practice for unlicensed midwives.

Ms. Griffith stated the requirement of all midwives to get Certified Professional Midwife (CPM)¹ and become a licensed Direct Entry Midwife (LDM)² could take a couple of years. She stated there is a researcher who has recently received a grant to do a study and determine the differences between the outcomes of all out of hospital births performed by Licensed Direct Entry Midwives (LDM) versus in-hospital births performed. The results of the study will be published in two years in a medical journal and it will be very important.

Public Comment

Ms. Lisa Lehrer stated giving midwives the choice of not being governed by the government is important. She stated that for some licensure isn't obtainable, because it costs too much to get a CPM. She explained non-licensed midwives are cost effective for Oregonians with limited income.

Ms. Lisa Lehrer explained that the women's study has almost completed the formulary stage and presented two abstracts. Ms. Lehrer stated that the methodology has been approved, but the actual numbers and analytical information needs to be collected. She stated Oregon is one of only two states in the U.S. that provides optional or voluntary licensure for Direct Entry Midwives. Non-nurse midwives formerly referred to as lay midwives; attend births at home and in free standing birth centers. Currently very little is known about how state specific licensure and certification programs affect the quality and safety and services provided. The purpose of this project is to analyze outcomes of all out-of-hospital deliveries attended by DEM's both licensed and unlicensed in Oregon for one year. Data will be collected through the same online database used in the CPM 2000 study. This will facilitate the comparison of Oregon results with those already published for CPM's in North America. Findings will help answer questions about the safety of out-of-hospital delivery and also will contribute to debates in consumer protection and choice. Results will be published in peer review journals and will also used to identify areas where midwifery education, examination, certification, and may be modified to help optimize access to safe, affordable, and high quality midwifery services in Oregon.

Ms. Lehrer provided an overview on the progress of the study that the Oregon Midwifery Council approved in the Spring of 2006; the OHSU Department of Anthropology conducted an internal review in the Spring of 2006. There was full institutional review board pending funding and ongoing projected notification in April 2007. The participant, recruitment and database training will happen in the Summer and early Fall of 2007. She stated that data entry will begin in January 2008 until December 31st and then analysis will be completed. Ms. Griffith suggested waiting two years for this study to be completed before mandating licensure. Ms. Wilson acknowledged that while this study is important, the objective of today's discussion is to resolve the mandatory license issue. She suggested that an interim fix of establishing a registration category would respond to public protection, and suggested offering the study, to substantiate its focus, that the choice of hospital or in home birth, offer sound alternatives for the public. By doing so, OHLA has the necessary tools to identify groups and disclose to the public that variety exists so parents can make an informed decision.

Ms. Debbie Cowart stated that she has been practicing midwifery in the Lebanon area since 1992. She said that she has recently looked into acquiring her CPM and becoming state licensed. She explained that she did not qualify for getting her CPM under special circumstances requirement and did not qualify due to not

¹ CPM means Certified Professional Midwife which is an independent practitioner who has met the standards for certification set by the North American Registry of Midwives (NARM) and is qualified to provide the Midwives Model of Care.

² LDM means Licensed Direct Entry Midwife which is a person who meets the minimum qualifications for licensure under ORS 687.420 and is authorized to supervise the conduct of labor and childbirth; advise the parent as to the progress of the childbirth; render prenatal, intrapartum and postpartum care, and who meets the qualifications for reimbursement under medical assistance programs according to ORS 687.415.

meeting the required number of births to be licensed. She explained that she has a small practice and performs about five to 10 births per year and in order to meet the criteria to become licensed now it would take two to three years and cost \$3,000 or more. She voluntarily provides disclosure with a completed informed consent and feels the public still does not fully understand. She stated that she sutures and does many other things as an unlicensed midwife because her clients do not want to go to a hospital. Ms. Wilson asked if providing a state approved disclosure would affect the way she does business or prevent her from getting a license. Ms. Cowart feels that all midwives already give disclosure to their clients.

Ms. Carla Viles pointed out that unlicensed and licensed midwives don't practice full disclosure. She stated that she always gives disclosure to her clients and would be willing to register. Ms. Carvalho stated that full disclosure should apply to all licensed and unlicensed midwives. Ms. Wilson asked Ms. Viles if providing full disclosure would affect the way she does business. Ms. Viles stated that babies die and the recourse would be a lawsuit in civil courts that can be utilized by parents. Ms. Wilson stated that third party reimbursements are being provided to midwives, and the public should be aware of their protection under the law.

Ms. Anne Frye explained the CPM and Oregon Midwifery Council provides a disclosure process and recommended that midwives be "listed" with the state instead of "registered". She stated that some midwives will disclose and some midwives will not and questioned how honesty was going to be regulated. She does not support mandatory disclosure to clients. She stressed that if the remainder of midwives are to be registered in Oregon, it should be called "listed" instead of registered. She stressed by-passing the legislature and the Board can decide to focus on educating the public and midwives. She suggested an informed disclosure document be published on the Web site and made available for all midwives. Ms. Wilson stated the OHLA Web site already posts information. She stated without a law change it is impossible to mandate full disclosure and the public remains the victim.

Ms. Jessica Dolin stated she is currently a licensed midwife who works in the Portland area. She explained that the current system gives her clients and her a better outcome because she is licensed, but would want to have the option to drop her license or opt out of registering. She stated that if the public chooses to hire someone unlicensed it is their choice and doesn't think registering would solve the problem. She feels credibility is an issue for some providers.

Ms. Georgann Clark explained that she is an unlicensed midwife in the Eugene area. She stated that the board sounds like it is concerned about public well-being and wants a process for the public to file a complaint if the midwife is licensed or unlicensed. She explained that the consumer has personal accountability to ask the right questions prior to selecting a midwife provider. She asked how many complaints are coming in on unlicensed and licensed midwives and if there is a public well-being issue. Ms. Carvalho reiterated that some midwives don't disclose their status.

Ms. Amanda Moore stated that she is a lay unlicensed midwife. She explained when a woman chooses home birth they are educating themselves on the first step of choosing women who can provide that type of care. She stated that when she interviews potential clients one of the first questions is, are you licensed and what is your experience. She pointed out she does not give a written disclosure, but has a very in depth conversation and explained that she has lost a lot of clients disclosing she is unlicensed. She feels having a mandatory disclosure and a registration or listing will be very difficult, because midwives are unlicensed for many different reasons. She asked what the complaint statistics are between licensed and unlicensed midwives, and the time frame to report on this issue. Ms. Wilson stated she will report back in a week to Representative Barnhart. Ms. Wilson stated it's best to be a partner in the legislative process and confirmed the mandate is public protection. She said she couldn't speculate where Rep. Barnhart will take the issue, but that it will take a law change to mandate public disclosure.

MOTION

Ms. Scholles made a motion and Ms. Dress seconded to work collaboratively with Representative Barnhart to provide tools for public safety, if he proposes legislation for full disclosure and listing unlicensed individuals, and if not, wait to collect further information from the study. The motion passed with Ms. Scholles, Ms. Griffith, Ms. Dress, Ms. Carvalho, and Ms. Dress voting aye. Morningstar (excused), Dr. Grant (excused).

The meeting was adjourned at 4:44 p.m.

Samantha Patnode, Board Liaison