
**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Richard Roth, Chair
2021 - 2022 Regular

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| Bill No: | SB 1440 | Hearing Date: | April 18, 2022 |
| Author: | Roth | | |
| Version: | February 18, 2022 | | |
| Urgency: | No | Fiscal: | Yes |
| Consultant: | Sarah Mason | | |

Subject: Licensed Midwifery Practice Act of 1993: complaints

SUMMARY: Makes clarifying changes to provisions in the Licensed Midwifery Practice Act of 1993 (Act).

Existing law:

- 1) Enacts the Act, which provides for the regulation and licensure of midwives (LMs) by the Medical Board of California (MBC). (BPC § 2505)
- 2) Requires MBC to create and appoint a Midwifery Advisory Council consisting of licensees of the board and members of the public who have an interest in midwifery practice, including, but not limited to, home births, of which half must be licensed midwives. (BPC § 2509)
- 3) Authorizes the MBC to suspend, revoke, or place on probation the license of a midwife for various offenses. (BPC § 2519)
- 4) Requires complaints against LMs to be reviewed by medical experts with pertinent education, training, and expertise in midwifery. (BPC § 2519.5)

This bill specifies that if MBC does not receive certain information within 10 working days, a complaint may be reviewed by appropriate experts and referred to a field office for investigation without the information.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** The Author is the Sponsor of this bill. According to the Author, “SB 1440 conforms the process used to evaluate midwifery quality of care complaints to the process used to evaluate physician and surgeon quality of care complaints.”
2. **Background.** MBC received regulatory authority over LMs in 1994 and, although other allied health professions later developed their own regulatory boards, MBC continues to have jurisdiction over licensed midwives. A LM is an individual who has been issued a license to practice midwifery by MBC.

LMs are authorized to attend cases of normal pregnancy and childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother and immediate care for the newborn. LMs can also directly obtain supplies and devices, obtain and administer drugs and diagnostic tests, order testing and receive reports that are necessary to his or her practice of midwifery and consistent with his or her scope of practice. LMs can practice in a home, birthing clinic or hospital environment. As of March 1, 2021 there are 471 actively licensed LMs in California.

When the Licensed Midwifery Practice Act of 1993 was first enacted, LMs were required to practice under the supervision of physicians. Since AB 1308 (Bonilla, Chapter 665, Statutes 2013) went into effect on January 1, 2014, LMs are authorized in statute to practice autonomously without any supervision requirements.

LMs do not have member representation on MBC, rather, Business and Professions Code (BPC) Section 2509 authorizes MBC to create a Midwifery Advisory Council (MAC) and appoint its members consisting of LMs and members of the public, specifically at least half of the MAC members are LMs, and it includes one physician and two public members. The MAC makes recommendations on matters specified by MBC and MBC holds all authority to take action regarding the licensure and regulation of midwives in California.

The Medical Board of California (MBC) reported to the Legislature during its sunset review oversight in 2020-21 that disciplinary actions filed against LMs are small, proportionate with the small LM population. The MBC uses its disciplinary guidelines for LMs.

Last year, SB 806 (Roth, Chapter 649, Statutes of 2021) codified a requirement that complaints against licensed midwives shall be reviewed by medical experts with pertinent education, training, and expertise in midwifery to ensure that complaints against LMs are reviewed by peers with an informed understanding of the standard of care for midwifery. This bill makes technical changes related to those provisions.

3. **Related Legislation.** AB 1767 (Boerner Horvath, 2022) would eliminate the Midwifery Advisory Council and instead establish a California Board of Licensed Midwives within the Department of Consumer Affairs.

SUPPORT AND OPPOSITION:

Support:

None received

Opposition:

None received

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