

Date of Hearing: August 10, 2022

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Chris Holden, Chair

SB 1440 (Roth) – As Introduced February 18, 2022

Policy Committee: Business and Professions

Vote: 17 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill provides that if the Medical Board of California (MBC) does not receive specified information regarding a quality of care complaint against a licensed midwife (LM) within 10 business days of requesting that information, the MBC's medical experts may review the complaint and refer it to a field office for investigation.

FISCAL EFFECT:

No costs to the MBC.

COMMENTS:

- 1) **Purpose.** According to the MBC, this bill “makes clear [MBC’s] authority to refer quality-of-care complaints about a LM to the field for an investigation, even if we do not receive the information described in Business and Professions Code (BPC) section 2519.5. This conforms to the same process provided for comparable physician and surgeon complaints, as contained in BPC section 2220.08.” The MBC indicates it is important to reconcile the two acts to provide the MBC with the same authority to review and investigate complaints against LMs that it has for physicians and surgeons, and making this technical change will safeguard against unnecessary delays in taking action to protect the public following a complaint against an LM.
- 2) **MBC.** In addition to licensing physicians and surgeons, the MBC has jurisdiction over a number of other professionals, including LMs. An LM is authorized to attend cases of normal pregnancy and childbirth and to provide prenatal, intrapartum, and postpartum care. The MBC receives guidance on midwifery issues through a Midwifery Advisory Council. The MBC uses its disciplinary guidelines for LMs; however, complaints against LMs must be reviewed by medical experts who have education, training, and expertise in midwifery. The MBC has reported that disciplinary actions filed against LMs are small, proportionate with a small LM population of approximately 484 LMs currently licensed in California.
- 3) **The Licensed Midwifery Practice Act.** The Licensed Midwifery Practice Act contains many of the same provisions relating to investigation and enforcement procedures for complaints against LMs as the Medical Practice Act does for complaints against physicians. Both acts require the MBC to request and review all of the following:

- a) Relevant patient records.
- b) A statement or explanation of the care and treatment provided by the licensee.
- c) Any additional expert testimony or literature provided by the licensee.
- d) Any additional facts or information requested by the medical expert reviewers that may assist them in determining whether the care rendered constitutes a departure from the standard of care.

However, the Medical Practice Act allows for a complaint to be reviewed by medical experts and referred for investigation without reviewing the above information if it has not been provided within 10 working days of the MBC's request. This language is not currently mirrored in the Licensed Midwifery Practice Act.

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