

SENATE THIRD READING
SB 1440 (Roth)
As Introduced February 18, 2022
Majority vote

SUMMARY

Provides that if the Medical Board of California (MBC) does not receive specified information about a quality of care complaint against a licensed midwife (LM) within 10 business days of requesting it, the complaint may be reviewed by medical experts and referred for investigation without that information.

Major Provisions

- 1) Provides that if the MBC does not receive the information it is required to request regarding a quality of care complaint against an LM within 10 business days of requesting that information, the complaint may be reviewed by the medical experts and referred to a field office for investigation without the information.
- 2) Expressly states that nothing in the law amended by the bill shall impede the board's ability to seek and obtain an interim suspension order or other emergency relief.

COMMENTS

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.

The Licensed Midwifery Practice Act contains many of the same provisions relating to investigation and enforcement procedure for complaints against LMs as it does for complaints against physicians and surgeons. Both Acts require the MBC to request and review all of the following:

- 1) Relevant patient records.
- 2) The statement or explanation of the care and treatment provided by the licensee.
- 3) Any additional expert testimony or literature provided by the licensee.
- 4) 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 two Acts are currently unaligned in that 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. The MBC has indicated that 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. Making this technical change will safeguard against unnecessary delays in taking action to protect the public following a complaint against an LM.

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."

Arguments in Support

The *Medical Board of California* (MBC) supports this bill. According to the MBC, the bill "makes clear the Board'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."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, no costs to the MBC.

VOTES**SENATE FLOOR: 33-0-7**

YES: Archuleta, Atkins, Bates, Becker, Borgeas, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Nielsen, Ochoa Bogh, Portantino, Rubio, Skinner, Umberg, Wieckowski, Wiener

ABS, ABST OR NV: Allen, Dahle, Grove, Pan, Roth, Stern, Wilk

ASM BUSINESS AND PROFESSIONS: 17-0-1

YES: Berman, Flora, Mia Bonta, Chen, Megan Dahle, Fong, Gipson, Grayson, Irwin, Lee, McCarty, Medina, Alvarez, Ting, Akilah Weber, McKinnor, Nazarian

ABS, ABST OR NV: Cunningham

ASM APPROPRIATIONS: 15-0-1

YES: Holden, Bigelow, Bryan, Calderon, Carrillo, Megan Dahle, Davies, Mike Fong, Fong, Gabriel, Levine, Quirk, Robert Rivas, Akilah Weber, Wilson

ABS, ABST OR NV: Eduardo Garcia

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