Nurse-Midwifery Advisory Committee Meeting

SUPPLEMENTAL MATERIALS

Nurse-Midwifery Advisory Committee (NMAC) Meeting | May 10, 2022

Table of Contents

2.0 General Instructions for the Format of a Teleconference Meeting 3

4.0 Review and Vote on Whether to Approve Previous Meeting's Minutes 5

5.0 Discussion and Possible Action: Review of updates to FAQ language for sections 4-7 of SB 1237 (Reg. Sess. 2019-2020) (Bus. & Prof. Code, §§ 2746.5, 2746.51, 2746.52, & 2746.54) **15**

6.0 Discussion and Possible Action: Regarding Board of Registered Nursing website updates for midwifery practice **22**

7.0 Discussion and Possible Action: Regarding updates on the implementation of the California Department of Public Health's prenatal screening portal **24**

8.0 Discussion and Possible Action: Regarding NMAC mission statement and 2022 goals **27**

Agenda Item 2.0

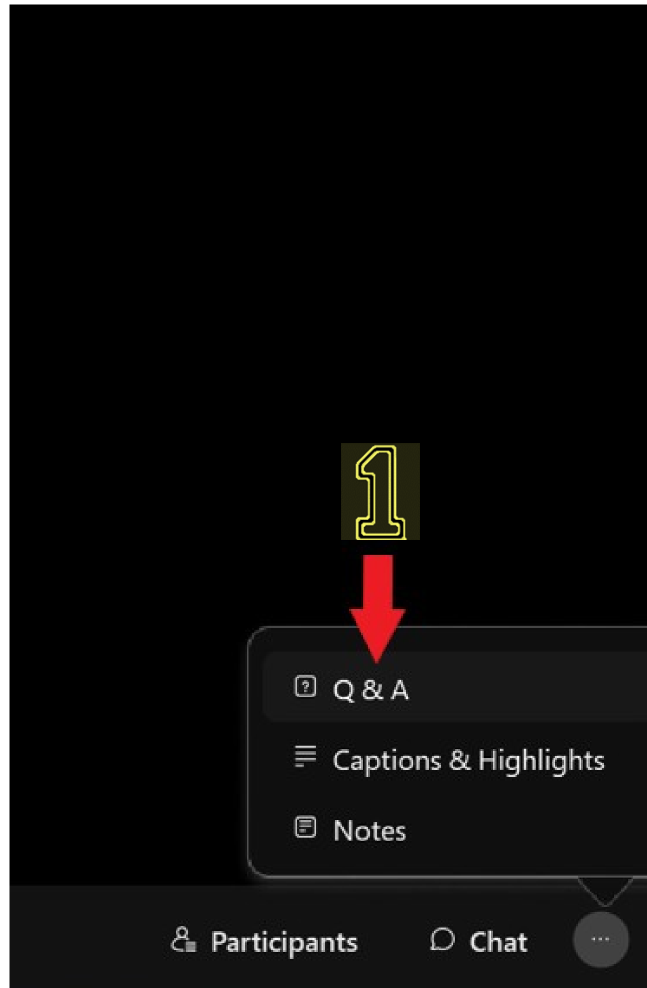
General Instructions for the Format of a Teleconference Meeting

Nurse-Midwifery Advisory Committee (NMAC) Meeting | May 10, 2022

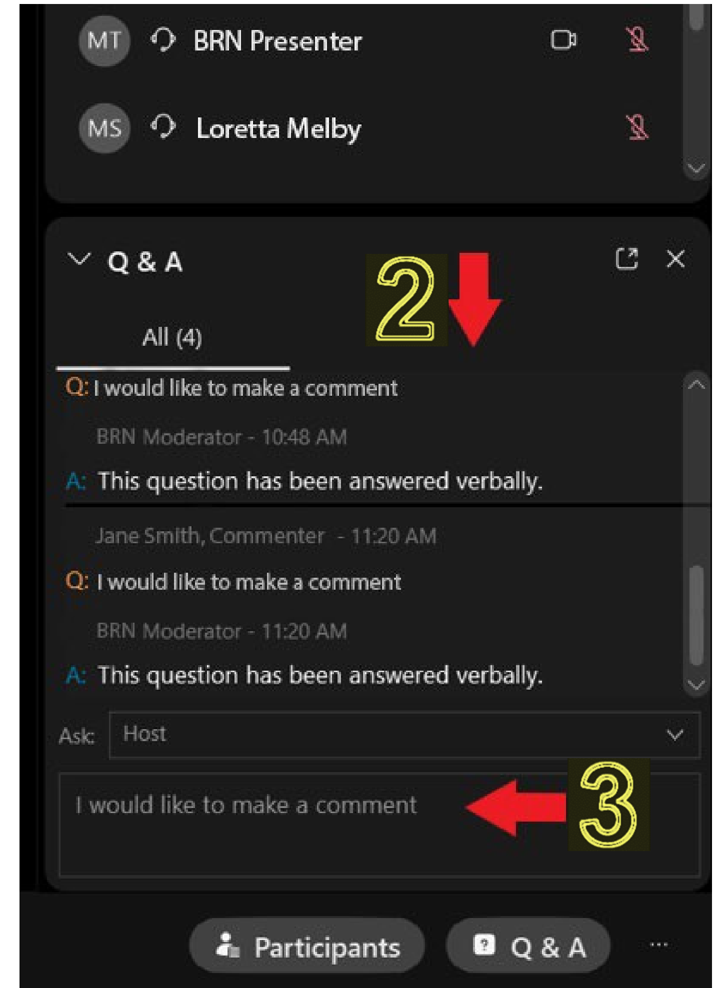
Participating Via WebEx During a Public Comment Period

If you would like to make a public comment:

1. Click on the 'Q & A' button at the lower right ofyour WebEx session (you may need to click the three dots (…) to find this option).



2. The 'Q & A' panel will appear.



3. In the 'Q & A' panel, type "I would like to make a comment". You will be identified by the name or moniker you used to join the WebEx session, your line will be opened (**click the 'Unmute me' button**), andyou will have **two (2) minutes** to provide comment. Every effort is made to take comments in the order which they are requested.

NOTE: Please submit a new request for each agenda item on which you would like to comment.

Agenda Item 4.0

Review and Vote on Whether to Approve Previous Meeting Minutes.

Nurse-Midwifery Advisory Committee (NMAC) Meeting | May 10, 2022

DRAFT

BOARD OF REGISTERED NURSING
NURSE-MIDWIFERY ADVISORY COMMITTEE
COMMITTEE MEETING MINUTES

DATE: February 8, 2022

START TIME: 9:10 am

LOCATION: **NOTE:** A physical meeting location was not provided pursuant to the provisions of Government Code section 11133.

9:10 am **1.0** **Call to Order/Roll Call/Establishment of a Quorum**
Mary Kay Phillips, PhD, CNM – Chair, called the meeting to order at 9:10 am. Quorum established at 9:11 am.

Nurse-Midwifery Advisory Committee Members:
Mary Phillips, PhD, CNM – Chair
Jenna Shaw-Battista, PhD, RN, PHN, NP, CNM, FACNM – Vice Chair
James Byrne, MD
Rebecca DeSantis (absent)
Ruth Mielke, PhD, CNM, FACNM, WHNP-BC
Misa Perron-Burdick - MAS, MD
Hilary Reyes

BRN Staff Representatives:
Loretta Melby, RN, MSN, Executive Officer
Reza Pejuhesh, DCA Legal Attorney
Evon Lenerd Tapps, BRN Assistant Executive Officer
McCaulie Feusahrens, Licensing Division Chief

9:14 am **3.0** **Review and vote on whether to approve previous meeting's minutes**

3.1 November 16, 2021

Discussion: Mary Kay Phillips introduced the agenda item and opened for Advisory Committee discussion. Questioned the minutes under agenda item five (5) which discusses the portal and asked if the IDEAL portal requires delegation or if CNMs have direct access.

Loretta Melby: Explained that the committee needs to review and approve the minutes as written but if there is additional discussion needed on an item then it needs to be agendized for a future meeting.

Mary Kay Phillips: Asked about an issue on the minutes regarding making contact with Department of Vital Statistics for a presentation or FAQ regarding the birth data points and when the agenda item will be added.

Loretta Melby: Explained that when the agenda item is agendized then the committee will be notified.

Mary Kay Phillips: Asked if any other members had any issues with the minutes.

Ruth Mielke: Stated she wasn't present at the last meeting.

Loretta Melby: Clarified that any member not present should abstain from the vote.

Motion: **Jenna Shaw-Battista**: Motioned to accept the minutes with the amendment to reflect that the advisories had already been assigned.

Second: **Mary Kay Phillips**

Public Comment for Agenda Item 3.0: No public comments.

Vote:

Vote	MKP	JSB	JB	RD	RM	MPB	HR
	Y	Y	A	AB	A	Y	Y

Key: Yes: Y | No: N | Abstain: A | Absent for Vote: AB

9:24 am **4.0** **Public comment for items not on the agenda; items for future agendas.**

Public Comment for Agenda Item 4.0: No public comments.

9:26 am **5.0** **Discussion and Possible Action: Regarding Certified Nurse Midwives' access to the California Department of Public Health's Screening Information System without delegated authority.**

Discussion: Mary Kay Phillips introduced the agenda item and opened for Advisory Committee discussion. She explained that this was brought to her attention by multiple sources, so she contacted CDPH and added it to the agenda. Further explained that CDPH said CNMs have access to the online portal if a physician/surgeon grants access to the portal. CDPH said this is not the optimal way to access the portal, but they have not been able to get validation from the BRN. (Information from an email from CDPH to Mary Kay)

Loretta Melby: Requested Mary Kay to forward the email and read the email that she received from the Chief of Genetic Screening that states that physician assistants and nurses are being added to the portal and it is tentatively scheduled for a May release. She further explained that NPs, CNMs, CNSs, and RNs should be able to access directly and enter information without obtaining delegated authority.

Ruth Mielke: Asked if NMAC can have a presentation from CDPH once it goes live.

Loretta Melby: Stated that once it goes live, we will request that CDPH be added to the agenda for an update and training.

Misa Perron-Burdick: Requested that members state their name when they speak as she doesn't know their voices. Asked if the physician assistants are included and further stated that this is against SB 1237 and independent practice and should be resolved.

Loretta Melby: Explained that physician assistants should be included through the Medical Board of California and asked, again, for Mary Kay to send the email because BRN has been working with CDPH since July and would like to resolve that this incorrect information is still being disseminated.

Mary Kay Phillips: Asked what the message would be to people who are trying to renew and are required to have delegated access in May.

Loretta Melby: Explained that this is out of BRN's control because it is being done by another agency. She can only provide the information for CDPH's system, and she will continue to meet with CDPH.

James Byrne: Explained that this sounds like a major infrastructure change instead of making changes to an existing system. We need to be patient, and this is a good change.

Mary Kay Phillips: The CDPH believes that they contact the BRN to verify a CNM license but they could not get them authenticated so they went to the delegated access.

James Byrne: Shared the context and explained that these screening are highly sensitive and important and that is why the safeguards are so important. Further explained that if it wasn't a tight system the information may not be presented correctly. Explained that it may seem unfair, but the level of life and death information is so valuable that it needs to be done right.

Mary Kay Phillips: Agreed and explained that her concern is more regarding the fact that it has been more than a year since the passing of the bill and CNMs lose faith when they run into these issues. Expressed the need to be clear to the CNMs in the community so there is not a sense that it is not all for naught.

James Byrne: Explained that he understands the frustration that people may have with the slow movement but hopefully this conversation will show that there is movement, and it is being taken seriously.

Hilary Reyes: Explained that we want to get the technology safely finished but it has taken over a year and further stated that there should have been an interim fix where the Department just verifies the licensure of the CNM.

Loretta Melby: Reiterated that this is not under BRN purview, and she will stay in communication with CDPH.

Misa Perron-Burdick: Explained that she has about 20-25 delegates and it takes about 5 minutes per month so it's not too bad; however, she doesn't want to have to do it on principle.

Public Comment for Agenda Item 5.0: **Kathleen Belzer, past President of Nurse Midwives Association and current President of Nurse Midwife Foundation:** Explained that she appreciates the conversation, but this is creating a real barrier to patient care. Many CNMs do not have a doctor who can delegate authority.

9:47 am **6.0** **Discussion and Possible Action: Review of FAQ language for sections 4-7 of SB 1237 (Reg. Sess. 2019-2020) (Bus. & Prof. Code, §§ 2746.5, 2746.51, 2746.52, & 2746.54).**

Discussion: Mary Kay Phillips introduced the agenda item and opened for Advisory Committee discussion.

Loretta Melby: Explained that there have been changes and the FAQs have been formatted for public posting.

Mary Kay Phillips: Explained that she received Reza's comments and provided an overview of the comments – medicated abortions (outlier), inter-conception care. Further explained that she provided a response late last night and does not know if Reza had a chance to review it.

Reza Pejuhesh: Explained that he did not have a chance to review. Made comments differentiating regulations and statutory language. Further explained that a FAQ cannot make an interpretation of a statute or regulation because it does not go through the APA process.

Discussion with Reza, Mary Kay and Jenna regarding the edits to the FAQs.

Mary Kay Phillips: Explained that the purpose of these FAQs is to ensure that CNMs and the public can easily understand the bill. Asked if it would be appropriate to include FAQs that are not specific to the bill. Further explained that she's working with one of the largest employers of CNMs and obtaining admission privileges.

Reza Pejuhesh: Explained that NMAC can post FAQs not directly related to SB 1237; however, it's important to keep in mind that interpretation is not appropriate for FAQs. Further explained that we

must be meticulous in the review to ensure accuracy of what is posted on the web as it represents BRN.

Mary Kay Phillips: Expressed that the information must be provided to help reduce the barriers to independent practice.

Ruth Mielke: Asked if it would be beneficial to have a brief preamble at the beginning of the document.

Misa Perron-Burdick: Explained that NMAC is looking to the BRN for more guidance on the implementation of the bill.

Mary Kay Phillips: Explained that anyone she is speaking with is looking for regulations to interpret the bill and the committee agreed there will not be any regulations.

Reza Pejuhesh: Clarified that the statute is clear enough that there is no need for regulations. Explained that the language is unambiguous and is the major difference between SB 1237 and AB 890.

Jenna Shaw-Battista: Explained that she had a conversation a week and a half ago and they googled CNM and BRN and found multiple references to physician supervision which looked like evidence that independent practice is not in effect.

Reza Pejuhesh: Explained that this is being dealt with in an agenda item further down and that his document with comments is attorney client privileged and cannot be shared.

Loretta Melby: Explained that she has been working with Mary Kay offline discussing out of date forms and speaking with staff about adding a CNM webpage to include more information.

Mary Kay Phillips: Suggested adding a preamble explaining CNM independent practice and asked if the members had enough time to review the information or if they need more time to review.

Loretta Melby: Explained that that if the information is factually correct then it should be approved. If there is more information the members want to add then this can be done at a later date.

Hilary Reyes: Stated that the information looks factually correct, but she likes the idea to add information about the independent practice at the beginning of the document.

Mary Kay Phillips: Requested to keep information about inter-conception and asked if she could continue to work on item 4 and share with members before another meeting.

Reza Pejuhesh: Explained that proposed communication could be interpreted as a serial communication which is a violation of the

Open Meeting Act. He further explained that a motion could be made for chair to continue to work with him on the document for additional updates.

Motion: **Mary Kay Phillips:** Approve the draft FAQ responses and delegate authority for Chair to work with Board staff and legal on other changes within the document

Second: **Misa Perron-Burdick**

Public Comment for Agenda Item 6.0: **Kathleen Belzer, past President of Nurse Midwives Association and current President of Nurse Midwife Foundation:** Appreciated the committee's thorough discussion and expressed concerns that interconception care is a very important item that was negotiated with CMA and needs to be included. Stated that we are at a critical time, infant mortality rates for people of color are four to five times higher than for other women and CNMs are experts in birth and maternity care.

Vote:

Vote	MP	JSB	JB	RD	RM	MPB	HR
	Y	Y	Y	AB	Y	Y	Y

Key: Yes: Y | No: N | Abstain: A | Absent for Vote: AB

10:38 am **7.0** **Discussion and Possible Action: Regarding Board of Registered Nursing website updates for midwifery practice.**

Discussion: Mary Kay Phillips introduced the agenda item and opened for Advisory Committee discussion. Explained that Lori mentioned this agenda item earlier and that she has started the review and her comments are listed in the materials. The proposed suggestion is to create a subcommittee to review the website as it can't wait for each quarterly meeting.

James Byrne: Appreciates the summary and it's very clean.

Jenna Shaw-Battista: Explained that this was identified as a pressing need during the first NMAC meeting. Asked what the current process is.

Mary Kay Phillips: Explained that what she has looked at thus far is taking out certain language. She further explained that she asked Loretta if she could create a subcommittee because she isn't comfortable doing it alone. Asked if anyone else would be willing to work on this.

Loretta Melby: Stated she fully supports a subcommittee that will work with BRN staff to update websites as needed. Explained that the subcommittee could bring forward to the entire group for voting or you could delegate approval authority to the subcommittee.

Mary Kay and Ruth volunteered to be included on the subcommittee.

Mary Kay Phillips: Suggested a motion to create the subcommittee, work to make corrections, submit the forms to Legal.

James Byrne: Expressed that he wants them to get it done quickly and publish before bringing to committee who can then provide input.

Motion: **James Byrne:** Motioned to create a subcommittee consisting of Mary Kay and Ruth to go through the website and create updates and send proposed revisions to Board staff and Legal and the subcommittee has authority to publish the revisions and present the updates during the May meeting.

Second: **Hilary Reyes**

Public Comment for Agenda Item 7.0: **Kathleen Belzer, past President of Nurse Midwives Association and current President of Nurse Midwife Foundation:** Commented that she applauds this group for trying to make changes in a relatively quick manner when that has not been the practice. She has been contacted by the California Coalition of Reproductive Freedom and the Black Women for Wellness as well as others. She would like to know if someone can reach out to other state agencies to update their websites to reflect the current law due to outdated information being posted on their websites. Making changes to the BRN website has been a long time coming. She also said that when drafting the bill it was always meant to be standalone language so it could be implemented quickly which is not what happened but she hopes going forward this will change.

Vote:

Vote	**MP**	**JSB**	**JB**	**RD**	**RM**	**MPB**	**HR**
	Y	Y	Y	AB	Y	Y	Y
Key: Yes: Y | No: N | Abstain: A | Absent for Vote: AB							

10:56 am **8.0** **Discussion and Possible Action: Regarding NMAC mission statement and 2022 goals.**

Discussion: Mary Kay Phillips introduced the agenda item and opened for Advisory Committee discussion. She explained that she would like to create goals for the committee.

Ruth Mielke: Agreed but explained that it will take further discussion.

Jenna Shaw-Battista: Stated that she feels like this topic was discussed during the first meeting.

Mary Kay Phillips: Presented a lengthy mission statement for consideration by the committee. Explained that she would like to send the mission statement to the members for consideration and any changes or updates they want to add.

Reza Pejuhesh: Explained that the statement can be sent to the members since it was presented at the meeting but no further discussion among members or it will be considered a serial meeting.

Mary Kay Phillips: Stated she can send the statement to BRN staff who can send to the members for their input, responses can be sent back to staff, and presented at the next meeting. Asked the committee members for goals.

Hilary Reyes: Suggested providing recommendations/guidance on care for a CNM going through the disciplinary process.

Jenna Shaw-Battista: Stated this was discussed at an earlier meeting.

Loretta Melby: Explained that the committee voted to update the disciplinary guidelines and include information specific to nurse midwifery practice. Cases that fall outside the disciplinary guidelines would go to the committee for input before the case goes to the Board. If a case goes to closed session with the Board then the committee can be included. There was discussion regarding what type of input the committee should have regarding disciplinary action against nurse midwives.

Jenna Shaw-Battista: Explained that she was under the impression the NMAC would have more input in the nurse midwifery discipline process.

Loretta Melby: Stated that another presentation can be made by the Chief of Enforcement, Shannon Johnson to help clarify, if needed.

Mary Kay Phillips: Stated that she would like 2-4 simple goals with timeframes attached for review at the May meeting.

Jenna Shaw-Battista: Thought they had identified some priorities at previous meetings but was unable to locate in meeting materials but is okay with creating goals.

Public Comment for Agenda Item 8.0:

Kathleen Belzer, past President of Nurse Midwives Association and current President of Nurse Midwife Foundation: Provided perspective about mission and goals – section 1 in the bill is findings and declarations and might be a good start to creating the mission and goals. Discipline was included for ACOG because there was some confusion with nurse midwifery practice. She did some

research and there were very few nurse midwives who had gone far in the discipline process.

11:23 am **9.0** **Adjournment:** Mary Kay Phillips, PhD, CNM, Chair, adjourned the meeting at 11:23 am.

Submitted by:

McCaulie Feusahrens
Chief of Licensing
Licensing Division
California Board of Registered Nursing

Accepted by:

Mary Kay Phillips, PhD, CNM
Chair
Nurse-Midwifery Advisory Committee

Loretta Melby, MSN, RN
Executive Officer
California Board of Registered Nursing

Agenda Item 5.0

Discussion and Possible Action: Review of FAQ language for sections 4-7 of SB 1237 (Reg. Sess. 2019-2020) (Bus. & Prof. Code, §§ 2746.5, 2746.51, 2746.52, & 2746.54)

Nurse-Midwifery Advisory Committee (NMAC) Meeting | February 8, 2022

BOARD OF REGISTERED NURSING
Nurse-Midwifery Advisory Committee Meeting
Agenda Item Summary

AGENDA ITEM: 5.0
DATE: May 10, 2022

ACTION REQUESTED: **Discussion and Possible Action:** Review of FAQ language for sections 4-7 of SB 1237 (Reg. Sess. 2019-2020) (Bus. & Prof. Code, §§ 2746.5, 2746.51, 2746.52, & 2746.54)

REQUESTED BY: Mary Kay Phillips, PhD, CNM
NMAC Chair

BACKGROUND:

The NMAC members will discuss the need to develop FAQs and/or advisories as well as regulatory revisions that may be needed on matters related to midwifery practice, education, appropriate standard of care, and other matters as a result of the implementation of SB 1237. A draft FAQ document is included in the materials.

RESOURCES:

SB 1237 'Today's Law As Amended' (specifically section(s) 8, 9, 10 and 11 for clarification)
https://leginfo.legislature.ca.gov/faces/billCompareClient.xhtml?bill_id=201920200SB1237&showamends=true
Nursing Practice Act - Business and Professions Code, Division 2, Chapter 6:
https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=BPC&division=2.&title=&part=&chapter=6.&article=

NEXT STEPS:

FISCAL IMPACT, IF ANY:

PERSON(S) TO CONTACT:

McCaulie Feusahrens
Chief of the Licensing Division
California Board of Registered Nursing
mccaulie.feusahrens@dca.ca.gov

DRAFT

Frequently Asked Questions (FAQs) related to midwifery practice and the implementation of Senate Bill (SB) 1237 (Reg. Sess. 2019-2020)

On September 18, 2020, Governor Newsom signed SB 1237 into law which broadened the certified nurse midwife (CNM) scope of practice and made other changes to the Nursing Practice Act. The changes to allow additional independence for CNMs in California commenced on January 1, 2021. Below are FAQs related to the implementation of SB 1237.

What is the CNM's Independent Scope of Practice in California?

CNMs may provide care, in the hospital or any out-of-hospital setting, for low-risk pregnancy and childbirth, prenatal, intrapartum and postpartum care, interconception care, family planning care, and immediate care for the newborn, consistent with the Core Competencies for Basic Midwifery Practice adopted by the American College of Nurse-Midwives (ACNM) or its successor organization. (Bus. & Prof. Code, § 2746.5, subd. (a))

Low-risk pregnancy is defined as:

(1) There is a single fetus.
(2) There is cephalic presentation at the onset of labor.
(3) The gestational age of the fetus is greater than or equal to 37 weeks and zero (0) days and less than or equal to 42 weeks and zero (0) days at the time of delivery.
(4) Labor is spontaneous or induced.
(5) The patient has no preexisting disease or condition, whether arising out of the pregnancy or otherwise, that adversely affects the pregnancy and that the CNM is not qualified to independently address per the Core Competencies for Basic Midwifery Practice adopted by ACNM or its successor organization.

Can CNMs care for patients who fall outside of the defined low-risk scope?

Yes. CNMs may provide care for patients who fall outside of the independent scope of services delineated in subdivision (a) of Business and Professions Code section 2746.5, and may provide intrapartum care to a patient with a previous cesarean section or a surgery involving the myometrium, with signed mutually agreed-upon policies and protocols with a physician that delineate the parameters for consultation, collaboration, referral, and transfer of care. (Bus. & Prof. Code, § 2746.5, subd. (b))

Must CNMs be supervised by a physician in order to provide care for patients who fall outside of the defined low-risk scope?

No. In providing care under mutually agreed-upon policies and protocols to patients who fall outside of the independent scope of services delineated in subdivision (a), subdivision (b) of Business and Professions Code section 2746.5 does not require direct or indirect physician supervision of the CNM, nor does it require the CNM and physician to have a Collaborative Practice Agreement in place. Additionally, subdivision (b) of Business and Professions Code section 2746.5 does not necessarily

require that the CNM consult, collaborate, refer, or transfer care to the specific physician who signs the mutually agreed-upon policies and protocols. (Bus. & Prof. Code, § 2746.5, subd. (b))

Is a CNM required to always have mutually agreed-upon, signed policies and protocols with a physician in order to practice?

No. If the CNM is providing care and services within the independent scope of services described in subdivision (a) of section 2746.5 of the Business and Professions Code, the CNM is not required to have any mutually agreed-upon, signed policies and protocols with a physician in order to practice.

Subdivision (a) also points to the Core Competencies for Basic Midwifery Practice by ANCM as a foundational guide for determining what the CNM is qualified to independently address within prenatal, postpartum, and intrapartum care, family planning and interconception care, and immediate care of the newborn. (Bus. & Prof. Code, § 2746.5, subd. (k))

What if a CNM does not have these "mutually agreed-upon policies and protocols" signed by a physician?

If a CNM does not have mutually agreed-upon policies and protocols with a physician in order to provide care for patients who fall outside of the independent scope of services delineated in subdivision (a) of Business and Professions Code section 2746.5, the CNM will transfer any such patient to the care of a physician and surgeon, including to provide intrapartum care to a patient who has had a prior cesarean section or prior surgery that interrupts the myometrium (Bus. & Prof. Code, § 2746.5, subd. (c)). Note, for patients that have had a previous cesarean or require surgery that interrupts the myometrium, this subdivision does not prohibit the CNM from providing prenatal care – the statute only requires the CNM to transfer such patients' care to a physician during the intrapartum period.

What if the CNM is attending the labor of a patient who intends to give birth in an out-of-hospital setting, and who started labor at a gestational age less than 42 weeks, but who is now at exactly 42 weeks gestation and otherwise "low-risk"?

For patients intending to give birth in an out-of-hospital setting, and who are no longer considered low-risk because the gestational age of the fetus is more than 42 weeks and zero (0) days, a CNM without mutually agreed-upon policies and protocols with a physician must initiate transfer to physician care for such patients. However, if such a patient otherwise meets all of the other criteria for "low-risk" as defined in subdivision (a) of section 2746.5 of the Business and Professions Code, and it is determined that there is insufficient time to safely transfer the patient to a hospital prior to delivery, or if transfer in that moment poses a threat to the health and safety of the patient or unborn child, the CNM may continue to provide care in the out-of-hospital setting, consistent with their transfer plan (Bus. & Prof. Code, § 2746.5, subd. (c)(2)). The transfer plan must be in accordance with the requirements of Business and Professions Code section 2746.54, subdivision (a), and must be disclosed to a prospective patient in oral and written form, with informed consent obtained.

If a patient is transferred to physician care, can they ever return to the care of the CNM?

Yes. Any patient who has been transferred to physician care may return to the care of the CNM after the physician has determined that the condition or circumstance that required transfer, or would require transfer, is resolved. (Bus. & Prof. Code, § 2746.5, subd. (c)(3))

Can a CNM in California perform a vacuum or forceps extraction, or perform an external cephalic version?

No. (Bus. & Prof. Code, § 2746.5, subd. (f))

Does the law require anything specific in terms of documentation of patient care?

Yes. The law requires CNMs to document all consultations, referrals, and transfers in the patient record. (Bus. & Prof. Code, § 2746.5, subd. (g))

What is required of the CNM in emergency situations?

A CNM must refer all emergencies to a physician and surgeon immediately and may provide emergency care until the assistance of a physician is obtained. (Bus. & Prof. Code, § 2746.5, subd. (h))

Are CNMs required to have physician supervision for furnishing medications?

No, SB 1237 removed the 4:1 physician supervision ratio for furnishing of medication. CNMs may furnish drugs or devices incidental to their scope of practice. In some cases, standardized procedures or patient-specific protocols are required for furnishing of drugs or devices. (Bus. & Prof. Code, § 2746.51)

When is a CNM required to have standardized procedures for furnishing drugs or devices?

Standardized procedures are required for furnishing drugs or devices:

(1) When furnishing or ordering drugs or devices for services that do not fall within the independent scope of services specified in subdivision (a) of section 2746.5 of the Business and Professions Code.

(2) When furnishing or ordering Schedule IV or V controlled substances at any time, even if ordering these medications incident to the independent scope of services described in subdivision (a) of section 2746.5 of the Business and Professions Code. (Bus. & Prof. Code, § 2746.51, subd. (a)(2))

What are the required components of a standardized procedure for furnishing drugs or devices by a CNM?

Subdivision (a)(2) of section 2746.51 of the Business and Professions Code requires that standardized procedures, for the specific purposes of furnishing drugs or devices by a CNM, must be developed in collaboration with and approved by a physician and the CNM. The standardized procedure covering the furnishing or ordering of drugs or devices must include the following:

(1) Which CNM may furnish or order drugs or devices.

(2) Which drugs or devices may be furnished or ordered and under what circumstances.

(3) The method of periodic review of the CNM’s competence, including peer review, and review of the provisions of the standardized procedure.

(Bus. & Prof. Code, § 2746.51, subd. (a)(2))

Of note, if utilizing a standardized procedure for anything other than furnishing drugs or devices by a CNM, California Code of Regulations, title 16, section 1474 (which was jointly promulgated by the Medical Board of California and by the California Board of Registered Nursing (BRN)), identifies requirements pertaining to general standardized procedures.

When is a patient-specific protocol necessary for the furnishing of medication?

If Schedule II or III controlled substances are furnished or ordered by a CNM for any condition, even for services that fall within the independent scope of services specified in subdivision (a) of Business and Professions Code section 2746.5, the controlled substances must be furnished or ordered in accordance with a patient-specific protocol approved by a physician. For Schedule II controlled substance protocols, the provision for furnishing the Schedule II controlled substance must be specific – beyond simply a category of illness for which the medication can be furnished – and must address the actual diagnosis of the illness, injury, or condition for which the Schedule II controlled substance is to be furnished. (Bus. & Prof. Code, § 2746.51, subd. (a)(3))

Are there specific requirements for CNMs who furnish drugs or devices?

Yes.

(1) The CNM must have a furnishing number issued by the BRN This number must be included on all transmittals of orders for drugs or devices by the CNM.
(2) The CNM must complete a course in pharmacology covering the drugs or devices to be furnished, and the course must include the risks of addiction and neonatal abstinence syndrome associated with the use of opioids.
(3) Upon request by a licensed pharmacist who is uncertain of the authority of the CNM to furnish or order drugs or devices, a CNM must provide the pharmacist with a copy of the standardized procedure or protocol relating to the furnishing or ordering of controlled substances by the CNM.
(4) For furnishing controlled substances, the CNM must register with the United States Drug Enforcement Administration (DEA) and the Controlled Substance Utilization Review and Enforcement System (CURES) pursuant to Section 11165.1 of the Health and Safety Code. The CNM must provide documentation of board approved continuing education specific to the use of Schedule II controlled substances in settings other than a hospital. (Bus. & Prof. Code, § 2746.51, subd. (b))

Can I directly procure drugs and devices that are critical to my practice setting, administer or order laboratory tests, or request patient reports?

Yes. Subdivision (f) of section 2746.51 of the Business and Professions code supersedes any potential conflicting provisions of law and allows CNMs to directly procure supplies and devices, obtain and administer diagnostic tests, and directly obtain and administer nonscheduled drugs consistent with the provision of services that fall within the scope of services specified in subdivision (a) of section 2746.5 of the Business and Professions Code, order laboratory and diagnostic testing, and receive reports that are necessary to their practice as a CNM consistent with section 2746.5 of the Business and Professions code. (Bus. & Prof. Code, § 2746.51, subd. (f))

Do CNMs still need a Standardized Procedure to repair lacerations or to perform an episiotomy?

No. CNMs may repair first- and second-degree lacerations of the perineum, and perform episiotomies in any birth setting, including the home, without standardized procedures. CNMs must ensure that all complications are referred to a physician and surgeon immediately. Additionally, the CNM must ensure the immediate care of patients who are in need of care beyond the CNM's scope of practice and ensure timely emergency care can be obtained in situations when a physician is not on the premises. (Bus. & Prof. Code, § 2746.52)

When are disclosures and informed consent for CNM care necessary?

Disclosures and informed consent for CNM care are only required when the patient's intended site of birth is an out-of-hospital setting, such as a birth center or the home. These disclosures must be provided to a prospective patient as part of a patient care plan, and informed consent must be obtained from the patient. (Bus. & Prof. Code, § 2746.54)

What is the required format of the disclosures and what must be included*?*

When disclosures are required for the provision of CNM care due to the intended birth site being in an out-of-hospital setting, a CNM must disclose in both oral and written form to a prospective patient as part of a patient care plan, and obtain informed consent for, all of the following:

(1) The patient is retaining a CNM and the CNM is not supervised by a physician and surgeon.
(2) The CNM's current licensure status and license number.
(3) The practice settings in which the CNM practices.
(4) If the CNM does not have liability coverage for the practice of midwifery, the CNM shall disclose that fact.
(5) There are conditions that are outside of the scope of practice of a CNM that will result in a referral for a consultation from, or transfer of care to, a physician and surgeon.
(6) The specific arrangements for the referral of complications to a physician and surgeon for consultation. The CNM shall not be required to identify a specific physician and surgeon.
(7) The specific arrangements for the transfer of care during the prenatal period, hospital transfer during the intrapartum and postpartum periods, and access to appropriate emergency medical services for mother and baby if necessary, and recommendations for pre-registration at a hospital that has obstetric emergency services and is most likely to receive the transfer.
(8) If, during the course of care, the patient is informed that the patient has or may have a condition indicating the need for a mandatory transfer, the CNM shall initiate the transfer.
(9) The availability of the text of laws regulating midwifery practices and the procedure for reporting complaints to the BRN, which may be found on the BRN's internet website.
(10) Consultation with a physician and surgeon does not alone create a physician-patient relationship or any other relationship with the physician and surgeon. The CNM shall inform the patient that CNM is independently licensed and practicing midwifery and in that regard is solely responsible for the services the CNM provides.

The disclosure and the patient's informed consent shall be signed by both the CNM and the patient and a copy of the disclosure and consent shall be placed in the patient's medical record. (Bus. & Prof. Code, § 2746.54)

Agenda Item 6.0

Discussion and Possible Action: Regarding Board of Registered Nursing website updates for midwifery practice

Nurse-Midwifery Advisory Committee (NMAC) Meeting | May 10, 2022

BOARD OF REGISTERED NURSING
Nurse-Midwifery Advisory Committee Meeting
Agenda Item Summary

AGENDA ITEM: 6.0
DATE: May 10, 2022

ACTION REQUESTED: **Discussion and Possible Action:** Regarding Board of Registered Nursing website updates for midwifery practice

REQUESTED BY: Mary Kay Phillips, PhD, CNM
NMAC Chair

BACKGROUND:

The NMAC members will discuss CNM information on the BRN's website that need changes/updates due to the implementation of SB 1237. The committee may make recommendations to establish a process to review and provide suggested website updates with immediate need as well as a process for ongoing review/updates, as needed.

The following documents have been removed from the BRN website while edits are being made:

- https://www.rn.ca.gov/pdfs/regulations/npr-b-31.pdf
- https://www.rn.ca.gov/pdfs/regulations/npr-b-50.pdf
- https://www.rn.ca.gov/pdfs/regulations/npr-b-39.pdf
- https://www.rn.ca.gov/pdfs/regulations/npr-b-32.pdf
- https://www.rn.ca.gov/pdfs/regulations/npr-b-41.pdf
- https://www.rn.ca.gov/pdfs/regulations/npr-i-22.pdf
- https://www.rn.ca.gov/pdfs/regulations/npr-b-82.pdf
- https://www.rn.ca.gov/pdfs/enforcement/brnprob104.pdf

RESOURCES:

NEXT STEPS:

FISCAL IMPACT, IF ANY:

PERSON(S) TO CONTACT:
McCaulie Feusahrens
Chief of the Licensing Division
California Board of Registered Nursing
mccaulie.feusahrens@dca.ca.gov

Agenda Item 7.0

Discussion and Possible Action: Regarding updates to the California Department of Public Health's prenatal screening portal

Nurse-Midwifery Advisory Committee (NMAC) Meeting | May 10, 2022

BOARD OF REGISTERED NURSING
Nurse-Midwifery Advisory Committee Meeting
Agenda Item Summary

AGENDA ITEM: 7.0
DATE: May 10, 2022

ACTION REQUESTED: **Discussion and Possible Action:** Regarding updates to the California Department of Public Health's prenatal screening portal

REQUESTED BY: Mary Kay Phillips, PhD, CNM
NMAC Chair

BACKGROUND:

The NMAC members will discuss updates to the California Department of Public Health's prenatal screening portal.

On May 3, 2022, the following information was sent to all CNMs and NPs on the BRN ListServ:

Starting May 16th, 2022, licensees of the Board of Registered Nursing will be able to independently register to use the Genetic Disease Screening Program's CalGenetic Online Portal. Nurse midwifes, nurse practitioners, registered nurses, temporary registered nurse licensees, clinician nurse specialists, nurse anesthetists, psychiatric mental health nurses, public health nurses will be able to independently enroll and access Prenatal Screening (PNS) Program results in the CalGenetic Portal and will no longer require authority delegated by a California physician to utilize portal applications. **Nurses are strongly encouraged to register as independent users for the Genetic Disease Screening Program's CalGenetic Portal, starting May 16th, 2022.**

The CalGenetic Online Portal currently includes access to the PNS Program Results application. The Portal will also host a new PNS Program Orders application, which will go live in September 2022, in conjunction with the launch of the redesigned PNS Program. The new PNS Program will include two separate screening tests: cell free DNA (cfDNA) screening for chromosome abnormalities and Maternal Serum Alpha Fetoprotein (MSAFP) screening for neural tube defects. Registration on the CalGenetics Portal will enable some providers to submit electronic patient orders for cfDNA and MSAFP prenatal screening when the new program is launched. Only one user account is required per person to access both the PNS Results application and the upcoming PNS Orders application in the CalGenetic Online Portal.

The following table lists the staff classifications and the type of access each group will have to the PNS Results and upcoming PNS Orders applications.

If you can only view PNS Program Results or place PNS Program Orders as a delegate of a physician, your Calgenetic Online Portal access must be renewed every 90 days for security purposes, and it may be necessary to renew the PNS Orders access prior to the new PNS Program launch. However, renewal is easy and takes less time than the registration process. Your delegating physician will receive a renewal notification and other program information via email.

For training video materials, please visit
https://www.cdph.ca.gov/Programs/CFH/DGDS/Pages/pns/PNS-Results-Portal.aspx
For questions, please contact pns@cdph.ca.gov.

Provider Access to the CalGenetics Portal for PNS Screening Orders and Results						
Professions	**Can access with license verified by IDEAL***	**Can access with license verified by IDEAL***	**Can access PNS Results as licensed user?**	**Can place PNS Orders as licensed user?**	**Can place PNS Orders as a delegate?**	**Can add delegates?**
Start Date	June, 2021	May 16, 2022	May 16, 2022	Sept 19, 2022	Sept 19, 2022	June 2021
Physicians & Surgeons	Yes	-	Yes	Yes	-	Yes
Osteopathic Physicians & Surgeons	Yes	-	Yes	Yes	-	Yes
Licensed Midwife	Yes	-	Yes	Yes	-	No
Physician Assistant	-	Yes	Yes	Yes	-	No
Nurse Midwife	-	Yes	Yes	Yes	-	No
Nurse Practitioner	-	Yes	Yes	Yes	-	No
Registered Nurse	-	Yes	Yes	-	Yes	No
Temporary Registered Nurse License	-	Yes	Yes	-	Yes	No
Clinician Nurse Specialist	-	Yes	Yes	-	Yes	No
Public Health Nurse	-	Yes	Yes	-	Yes	No
Genetic Counselors	-	-	Yes	-	-	No
* Interoperability Development Effort to Authenticate Licensees (IDEAL) is used by Medical Board of California to authenticate and support access to the CalGenetics Portal						

RESOURCES:

NEXT STEPS:

FISCAL IMPACT, IF ANY: None

PERSON(S) TO CONTACT:

McCaulie Feusahrens
Chief of the Licensing Division
California Board of Registered Nursing
mccaulie.feusahrens@dca.ca.gov

Agenda Item 8.0

Discussion and Possible Action: Regarding NMAC mission statement and 2022 goals.

Nurse-Midwifery Advisory Committee (NMAC) Meeting | May 10, 2022

BOARD OF REGISTERED NURSING
Nurse-Midwifery Advisory Committee Meeting
Agenda Item Summary

AGENDA ITEM: 8.0
DATE: May 10, 2022

ACTION REQUESTED: **Discussion and Possible Action:** Regarding NMAC mission statement and 2022 goals

REQUESTED BY: Mary Kay Phillips, PhD, CNM
NMAC Chair

BACKGROUND:

The NMAC will discuss and create a mission statement as well as goals for the upcoming year. The NMAC's approved charter is included in the meeting materials for reference during the discussion.

RESOURCES:

NEXT STEPS:

FISCAL IMPACT, IF ANY:

PERSON(S) TO CONTACT:

McCaulie Feusahrens
Chief of the Licensing Division
California Board of Registered Nursing
mccaulie.feusahrens@dca.ca.gov

The California Board of Registered Nursing's Nurse-Midwifery Advisory Committee **DRAFT**

The mission of the California Board of Registered Nursing (Board or BRN) is to protect-the health, safety, and well-being of the public through the fair and consistent application of the statutes and regulations governing nursing practice and education in California. The Board values include effectiveness, integrity, transparency, collaboration and equity.

Background

On September 18, 2020, Governor Newsom signed Senate Bill (SB) 1237 into law. SB 1237 made changes to the Business and Professions Code (BPC) and, in summary, does the following:

- Authorizes a Certified Nurse-Midwife (CNM) to attend cases of low-risk pregnancy, as defined, and childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning services, interconception care, and immediate care of the newborn, consistent with standards adopted by a specified professional organization, or its successor, as approved by the Board.
- Authorizes a CNM to practice with a physician and surgeon under mutually agreed-upon policies and protocols that delineate the parameters for consultation, collaboration, referral, and transfer of a patient's care, signed by both the CNM and a physician and surgeon to provide a patient with specified services.
- Requires the patient to be transferred to the care of a physician and surgeon to provide those services if the CNM does not have those mutually agreed-upon policies and protocols in place and authorizes the return of that patient to the care of the CNM after the physician and surgeon has determined that the condition or circumstance that required, or would require, the transfer is resolved.
- Authorizes a CNM to continue to attend the birth of the newborn and participate in physical care, counseling, guidance, teaching, and support, if a physician and surgeon assumes care of the patient, as indicated by the mutually agreed-upon policies and protocols.
- Authorizes a CNM, after referring a patient to a physician and surgeon, to continue care of a patient the patient during a reasonable interval between the referral and the initial appointment with the physician and surgeon.
- Authorizes a CNM to attend pregnancy and childbirth in an out-of-hospital setting if consistent with the above-described provisions.
- Prohibits a CNM to assist childbirth by vacuum or forceps extraction, or to perform any external cephalic version.
- Requires a CNM to refer all emergencies to a physician and surgeon immediately and authorizes a CNM to provide emergency care until the assistance of a physician and surgeon is obtained.
- Requires a CNM who is not under the supervision of a physician and surgeon to provide oral and written disclosure to a patient and obtain a patient's written consent, as specified. By expanding the scope of a crime, the bill would impose a state-mandated local program.
- Requires the Board to appoint a committee of qualified physicians and surgeons and nurses called the Nurse-Midwifery Advisory Committee consisting of four qualified CNMs, two qualified physicians and surgeons, including, but not limited to, obstetricians or family physicians, and one public member.
- Requires the committee to make recommendations to the Board on all matters related to midwifery practice, education, appropriate standard of care, and other matters as specified by the board. As well as provide recommendations or guidance on care when the Board is considering disciplinary action against a CNM.

- Authorizes a CNM to furnish drugs or devices incidentally to the provision of care and services allowed by a certificate to practice nurse-midwifery, as provided, and when care is rendered in an out-of-hospital setting, as specified.
- Limits the requirement that the furnishing or ordering of drugs or devices by a CNM be in accordance with the standardized procedures or protocols to the furnishing or ordering of drugs or devices for services that do not fall within the scope of services specified by the bill and Schedule IV or V controlled substances by a CNM for any condition.
- Requires Schedule II or III controlled substances furnished or ordered by a CNM for any condition to be furnished or ordered in accordance with a patient-specific protocol approved by a physician and surgeon.
- Requires a CNM who is authorized to furnish or issue a drug order for a controlled substance to additionally register with the Controlled Substance Utilization Review and Enforcement System (CURES).
- Authorizes a CNM to procure supplies and devices, obtain and administer diagnostic tests, obtain and administer nonscheduled drugs consistent with the provision of services that fall within the scope of services specified by the bill, order laboratory and diagnostic testing, and receive reports, as specified.
- Makes it a misdemeanor for a CNM to refer a person for specified laboratory and diagnostic testing, home infusion therapy, and imaging goods or services if the CNM or their immediate family member has a financial interest with the person receiving a referral.
- Requires a CNM performing and repairing lacerations of the perineum to ensure that all complications are referred to a physician and surgeon immediately, and that immediate care of patients who are in need of care beyond the scope of practice of the CNM, or emergency care when a physician and surgeon is not on the premises.
- Requires the CNM in attendance of a live birth responsible for collecting information on the planned place of birth and whether it was a hospital, freestanding birthing center, home delivery, clinic or physician's office, or other specified place; entering the information on the birth certificate; securing the required signatures; and for registering the certificate with the local registrar.

On February 9, 2021, the Board appointed the initial members to the NMAC.

NMAC Purpose/Charge

Pursuant to BPC section 2746.2 the Board is authorized to appoint qualified CNMs, physicians and public members to NMAC to advise and make recommendations to the Board on all matters relating to midwifery practice, including but not limited to, education, appropriate standard of care, and other matters specified by the Board. The NMAC shall provide recommendations or guidance to the Board when the Board is considering disciplinary action against a CNM.

Relationship to the Board

NMAC is an advisory committee of the Board. NMAC meetings are conducted pursuant to the Bagley-Keene Open Meeting Act as set forth in Government Code (GOV) sections 11120-11132.

NMAC information and recommendations may be forwarded to the Nursing Practice Committee, where Board members assigned to that committee will hear and refer the information to the full Board. The Board's Executive Officer (EO) or NMAC staff liaison will facilitate the referral of NMAC recommendations. If time does not allow information and recommendations to be forwarded to the Nursing Practice Committee, referral may be made to the full Board. Referral to the Nursing Practice Committee or the full Board will depend on the relevance of the topic/issue to laws and regulations, the Board's public protection mandate, time-sensitivity, and other factors. Referred recommendations may be information-only or may request Board action in some instances.

Membership
In accordance with BPC section 2746.2(b)(3), the NMAC shall be composed of the following:

- Four (4) qualified CNMs,
- Two (2) qualified physicians and surgeons including but not limited to, obstetricians or family physicians, and
- One (1) public member.

~~NMAC members are appointed by the Board and shall be appointed to a two-year term. Members shall serve no more than two consecutive terms or a total of four consecutive years.~~

Except as provided below, all appointments shall be for a term of four years and vacancies shall be filled for the unexpired term. No person shall serve more than two consecutive terms.

The initial appointments shall be for the following terms:

- Two of the four licensed CNMs shall serve a term of four years. One licensed CNM shall serve a term of three years and the remaining CNM shall serve a term of two years.
- One of the two physicians/surgeons shall serve a term of three years and the other shall serve a term of four years.
- The public member shall serve a term of four years.

NMAC members will identify and vote on a committee Chair and Vice-Chair to facilitate NMAC meetings in collaboration with the Board's EO or NMAC staff liaison. The NMAC Chair will develop the meeting agendas in collaboration with the Board's EO, NMAC staff liaison, and other Board support staff. Only appointed NMAC committee members vote on meeting agenda items when a vote is required. This may include items such as approval of minutes and specific recommendations to be moved forward to Board Committees or the full Board. The NMAC Vice-Chair has the authority to perform the committee Chair's duties in the Chair's absence and is knowledgeable regarding issues that impact NMAC and the policies and procedures by which the committee must be run. Members must be available for telephone and email consultation with BRN staff relative to program work and other program issues.

A listing of NMAC members will be maintained by the BRN and include appointment start and end dates. A public listing of the NMAC members will be posted on the BRN website. Appointed members resigning before their appointed term ends are asked to submit a letter of resignation directed to the attention of the NMAC Chair and the Board's EO. The Board's EO or designee will facilitate the application process to fill committee vacancies and submit for Board appointment, as needed. Committee members may be removed by the Board prior to expiration of their term for dereliction of duties as a committee member, misconduct, or other good cause.

Meetings
The NMAC meets up to four times per year, generally, the day before a Board meeting. The meetings will typically be scheduled for 90 minutes and will be held virtually and/or at various locations throughout the state. All NMAC meetings will be open to the public and will adhere to the Bagley-Keene Open Meeting Act requirements.

Special meetings may be held at such times as the board may elect, or on the call of the Board President or the Board's EO. The NMAC agenda and materials are posted on the BRN website per GOV section 11125. Advisory committee members will be asked to provide agenda items, a brief agenda item summary, and meeting materials in advance of meetings according to the requested submission timelines established by BRN staff. Meeting materials will be posted on the BRN website in the same location as the specific meeting agenda, meeting location, minutes etc. Meeting materials received during or after a meeting will subsequently be posted on the BRN website along with other already posted meeting materials and will be labeled as addenda/supplemental materials.

Meeting agenda items will be discussed using standard meeting management procedures. Members of the

public and other interested parties will be provided opportunities to speak during public comment periods or as requested by committee members during meetings. Time allocated for public comment may be limited by the NMAC meeting chair to facilitate effective meeting time management consistent with GOV section 11125.7.

NMAC meeting minutes are prepared by the designated BRN staff. The Board EO or designee, Legal Counsel and NMAC Chair will review meeting minutes for accuracy and needed edits in advance of submission to the NMAC members. The Committee will vote to approve draft minutes at NMAC meetings. Finalized meeting minutes will be signed and dated by the EO or designee and NMAC Chair and subsequently posted on the BRN website in the same section as the meeting agenda and the meeting materials.

Quorum:
Four NMAC members at any NMAC meeting constitutes a quorum.

Board Staff:
BRN staff will regularly support the committee by providing meeting assistance, advice, consultation, reports/presentations and other forms of help as requested. Such staff include: the Board EO, the Assistant EO, the Chief of Licensing, the Chief of Enforcement, the NMAC staff liaison, Nursing Education Consultants (NEC)/Supervising NECs, and other staff as needed.

Review of NMAC Advisory Committee:
All advisory committees of the Board are required to engage in a self-evaluation annually. Annual review of the original goals of the committee should be completed to ensure the work of the committee continues to be relevant to the BRN, licensees, and the public. The terms of the committee members and the Chair and Vice-chair should be reviewed, and the committee should vote on an election process and determine if any exceptions are applicable based on the original mandate of the committee.

Additionally, the NMAC shall periodically review and update this document to ensure the document remains relevant to current statutes, regulations, the Board's mission and strategic plan, midwifery practice and workforce changes/updates, etc. At minimum, it will be reviewed and re-approved by the NMAC membership at least every four years from the last effective approval date. This document will include a signature page for the Board's EO and the NMAC Chair and Vice-Chair to sign and date once this document is approved by the membership in each review cycle.