ACOG, District I X

*1401.21st* Street, Suite *370* Sacramento, California 95814 (916) 442-8865

FAX, (916) 442.8857

email: distrid9@acog.org

**THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGIST**

DISTRICT IX WOMEN'S HEALTH

December 20, 2002

Medical Board of California Licensing Program

1428 Howe Avenue, Suite 56 Sacramento, CA 95825-3236

Attn:

**Lucinda James, Chief** Licensing Program

**Dear Ms.**  **James**

The American College of Obstetricians and Gynecologists, District IX (California), appreciates the opportunity to comment upon suggested criteria relative to planned home births and the California licensed midwifery program. ACOG, District IX represents more than 4,300 practicing California obstetricians and gynecologists.

Requirements of Senate Bill 1950

Senate Bill 1950 directs the Medical Board, which has regulatory oversight responsibility for licensed midwifery in California, to "... not later than July 1, 2003, adopt in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), regulations defining the appropriate standard of care and level of supervision required for the practice of midwifery."

There is nothing in the directive of the legislation that states the Medical Board should develop a standard of care for planned home births, using the Washington state pilot program criteria or any other criteria for planned home births. Rather, the statute directs the Board to develop an "appropriate standard of care and level of supervision required for the practice of midwifery." We assert that this legislative directive charges the Board with the development of a standard to ensure the safetv of licensed midwifery practice that does not subject mothers or their infants to increased risks, which are certainly inherent in home births.

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**Washington State Experience**

The background materials you sent to us included the guidelines for the planned home birthing program in Washington State. There appears to be an assumption that such guidelines will in fact ensure safety in the home setting. This is not the case.

The Washington State pilot program was reviewed in the peer reviewed journal

*"Obstetrics and Gynecology"* (August 2002, Volume 100;Number 2, Pages 253-259). The objective of the study was "To determine whether there was a difference between planned home births and planned hospital births in Washington state with regard to certain adverse infant outcomes (neonatal death, low Apgar score, need for ventilator support) and maternal outcomes (prolonged labor, postpartum bleeding). A copy of that article is attached for your information.

Briefly summarized, the results of the study showed the following:

1. Infants born to women intending a home delivery were more than twice as likely to have a very low Apgar score at 5 minutes than women who delivered in the hospital setting; and

2. A greater proportion of these infants died during the neonatal period or had respiratory distress at delivery.

-. The risk of neonatal death was almost twice as high for infants born to women intending to deliver at home as for infants born to women delivering in hospitals.

 ... Infants born to nulliparous women who intended to deliver at home appeared to have an increased risk of neonatal respiratory distress relative to infants of other nuilliparous women.

5. Nulliparous women intending a home delivery were more likely to have prolonged labor and to have postpartum hemorrhage than nulliparous women delivery in hospitals.

6. Deaths from congenital heart disease and respiratory distress, two causes that might be expected to be amenable to prevention in the hospital setting, occurred with a relatively higher frequency among infants whose births were planned at home.

**ACOG Policv - Home Deliveries**

**ACOG has the following policy regarding home delivery:**

" Labor and delivery, while a physiologic process, clearly presents potential hazards to both mother and fetus before and after birth. These hazards require **standards of safety which are provided in the hospital setting and cannot be matched in the home situation.**

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         "We support those actions that improve the experience of the family while continuing to provide the mother and her infant with accepted standards of safety available only in hospitals which conform to standards as outlined by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists." [Emphasis added.]

**Discussion**

The results of the Washington State study show that there continue to be significant risks inherent in the process of home birthing. While we are supportive of efforts to enhance the experience of birth, we cannot ignore the facts that home birth poses unacceptable risks to the safety and well-being of both mother and infant. The promulgation of regulations to give the state's approval to home birthing is contrary to the public safety and in fact, could result in higher mortality and morbidity rates for California's women and their babies.

California Government Code Section 11349.1 requires regulations to comply with ~ of the following requirements:

**1.** 2. 3. 4. 5. 6.

Necessity Authority Clarity Consistency Reference Non-duplication

We would like to address two issues in this letter - necessity and authority.

**A. Necessity**

Among other things, "necessity" means that the rulemaking proceeding demonstrates by substantial evidence the need for a regulation to effectuate the purpose of the statute. [Govt. Code � 1 1 349(a)] While our comments have been solicited prior to the public hearing process, we believe it is important to point out that the provisions of SB 1950 do not necessitate the development of a standard of care for home birthing.

There is nothing in the legislative history to suggest that the Board must develop a standard of care for home births attended by licensed midwives. Rather, the board had been directed to develop a standard of care and define levels of physician supervision

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which are necessary to ensure the safe practice of midwifery. We do not believe that regulations, which are based on standards such as those used in Washington State, will ensure safe practice, and that such standards may in fact result in higher maternal and fetal mortality and morbidity. By developing a standard of care based on home birth, the state basically states that such a practice is safe. We do not believe this practice is safe, and that should such a regulation be adopted, it would unnecessarily place women and their infants at increased risk of harm.

**B.** **Authority**

"Authority" means there is a provision of law which permits or obligates the agency to adopt, amend, or repeal a regulation. Govt. Code � 1 1 349(b)]

Section 2507 of the Business **and** Professions Code outlines clearly the scope of practice for licensed midwives, as follows:

"2507. (a) The license to practice midwifery authorizes the holder, under the supervision of a licensed physician and surgeon, to attend cases of normal childbirth and to provide prenatal, intrapartum, and postpartum care, including family-planning care, for the mother, and immediate care for the newborn.

  (b) As used in this article, the practice of midwifery constitutes the furthering or undertaking by any licensed midwife, under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics, to assist a woman in childbirth so long as progress meets criteria accepted as normal. All complications shall be referred to a physician immediately. The practice of midwifery does not include the assisting of childbirth by any artificial, forcible, or mechanical means, nor the performance of any version.

  (c) As used in this article, "supervision" shall not be construed to require the physical presence of the supervising physician.

  (d) The ratio of licensed midwives to supervising physicians shall not be greater than four individual licensed midwives to one individual supervising physician,

   (e) A midwife is not authorized to practice medicine and surgery by this article."

This section of the Business and Professions Code does not indicate a practice setting preference, nor does it obligate the Board to promulgate regulations, which establish a standard of care for home birthing. We would suggest that the role of the Board is to promulgate regulations that are consistent with nationally recognized guidelines for the safe and clinically appropriate management of pregnancy by licensed midwives who work under the supervision of a physician as required by their practice statute.

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**Conclusion**

We believe it is possible to develop a general standard of care by referencing nationally recognized and approved guidelines for the safe management of pregnancy in appropriate settings under physician supervision. Because a practitioner does not choose to practice

state should sanction such a practice.

ACOG, District IX appreciates the opportunity to provide you with our perspectives regarding the development of regulations to implement the provisions of SB 1950. If we may provide you with further information regarding this issue, please do not hesitate to contact us.

Sincerely,

James A. Macer, Chair

ACOG, District IX

Josephine L. Von Herzen, M.D., Past Chair ACOG, District IX

cc: Attachment *(Obstetrics* & *Gynecology,* 8-2002;Vol.IOO, No.2; 253-259)

      CHAIR

James A. Macer, MD

10 Congress Street, #400 Pasadena, CA 91105

**DISTRICT IX OFFICERS** 2002.2005

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Frank R. Gamberdella, MD

504 W. Pueblo Street #201 Santa Barbara, CA 93105

 IMMEDIATE PAST CHAIR Josephine Yon Herzen, MD 550 Woshlngton Street, #725 San Diega, CA 92103

  SECRETARY Belly Tv, MD, MBA 17922 Filch

Irvine, CA 92614

     TREASURER

Jeanne Conry, MD, PI 8204 Cantershlre W, Granite Bay, CA 957