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| Citizens for Health Freedom |   |
|  | **Subject:****Midwifery** **Loss of****Safe and Economical****Healthcare Options --****Home-based Birth Service****as provided by Midwives** |
| Olive Charles, Charles Gurskin & baby boy | Frank Cuny, California Coordinator |

*Background:* Two recent sets of action are setting the stage for the elimination of home-based birth services as provided by midwives in California.

The loss of home-based birth services denies childbearing families the fundamental right to choose this safe and economical form of maternity services. It also has a negative economic impact for California by needlessly increasing the cost of maternity care without improving outcomes. **In particular, the loss of competitive stimulation within the healthcare industry drives up premiums paid by employers and individuals for healthcare coverage, making California businesses less able to compete in a global economy.**

The loss of traditional maternity care also removes the single most economical category of caregiver and the single most economical birth setting from the pool of practitioners authorized to provide care under Medical to medically-indigent families. Around the world many other jurisdictions embrace this efficacious form of maternity care, thus permitting them to out-bid firms based in California while enjoying better maternal-infant outcomes at a lower cost.

Cesarean Mortality [Statistics](http://docs.google.com/cs97stat.htm) and hospital use data

Situation 1.

The February 1997 meeting of the California Medical Board approved regulations that define the term "medical supervision" as it appears in the midwifery licensing laws to mean that physicians are responsible for full scope of action of the midwives they work with, thus artificially creating 'vicarious' liability for doctors who supervise midwives.

The new midwifery statute (Licensed Midwifery practice Act of 1993) does mandates that each midwife have a "physician supervisor" but it does not define the nature of the working arrangement between these professionals. In particular, the law does not require any written contract, agreement or protocols between the physician and the midwife because to do so would erect an insurmountable barrier to practice. This newly-licensed category of direct-entry or 'non-nurse' midwives *only* provide home-based maternity services. The inability to legally provide this kind of care not only derives families of a safe birth option but also derpives licensed midwives of the right to practice their profession.

The author of the bill specifically fought this type of crippling regulation and was successfully in keeping it out of the enabling legislation (voted down by both houses). The intent of the supervisory clause was to mandate a working relationship between physicians and midwives, assuring that a backup arrangement is in place and the childbearing mother could, if necessary, be admitted to hospital and physicians would take over the care from that point.

Research from European countries where the midwifery-model of care is the norm, identify that domiciliary (non-institutional) midwifery care is statistically equal or superior to that provided in hospitals when compared to women of the same, low- risk category. Also, the care of midwives significantly lowers the rate of operative deliveries (forceps) and the need for cesarean sections while maintaining the very best maternity outcomes, thus cutting overall healthcare expenditures while assuring a healthy population.

There is no actuarial data identifying any increased risk of litigation associated with home-based birth services by certified midwives or in any other way justifying any increased premium for physicians who associate with such midwives. None-the-less, California's three doctor-owned insurance firms have notified physicians they cannot provide prenatal care past 28 weeks of pregnancy to women who plan to give birth at home with a midwife. They also have announced a "surcharge" of $12,000 per year, per midwife, for any physician who provides the legally-mandated 'supervision' to domiciliary midwives (either nurse or direct-entry).

So far, 45 California midwives have been licensed under the new bill. However physicians are now refusing to have any working agreement with domiciliary midwives (both nurse and direct-entry). Without this agreement midwives will not be able to offer their services within the scope of the law as currently written. During the presentation at the February licensing committee meeting, Medical Board members responded by saying this was a legislative problem. The legislature put the term "medical supervision" in the law and the Board did not have a choice but to enforce the law as it stands. Many members of the MBC Division of Licensing have expressed the view this was a poor wordage to have in the bill. The co-chairs of the Midwifery Committee have both repeatedly insisted that the midwives must seek legislative changes in order for the midwifery licensing process in California to work.

Situation 2.

This past month a midwife was tried in the criminal court in San Diego and found guilty of 6 felony counts of practicing medicine without a licensed and child endangerment. The investigation was done by the Consumer Affairs investigation staff. The medical board worked closely with the DA's office on this. The judge refused try the case on a lesser charge of practicing midwifery with a license, which is a misdemeanor. His view was that the new midwifery bill passed by legislature did not supersede the 1976 legal opinion declaring unlicensed midwifery to be an illegal practice of medicine.

The core issue of this prosecution was to define medically-unmanaged births as potential child endangerment cases. This opens the door for all persons involved in home births without physician supervision to be arrested under felony charges of child endangerment, with the possibility of the parents of homebirth babies losing child custody.

One immediate possible solution is for the legislature to change the wording of the midwifery statute where it refers to "medical supervision" and amendment it to read "collaboration with a physician" (possible additional wording: **if no collaborative physician is available within a geographical area, transfer arrangements must be made with a hospital providing in-patient obstetrical services** ").

This term is consistent with the original intent of the author of the bill and consistent with the MBC's original plan which included "clean-up legislation" as the last item on their time-line for implementation of the midwifery program.

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