Citizens Advocating Licensed Midwifery

HISTORICAL BACKGROUND OF MIDWIFERY IN CALIFORNIA

Midwifery care was unregulated in California until 1917 when a simple self-registration mechanism was passed. In 1937 it was replaced with Section 2505, which is a practical definition of traditional, domiciliary midwifery formalized as a non-medical form of care. Certification under section 2505 restricts certified midwives to circumstances of healthy mothers experiencing normal pregnancies and midwives to seek out physician assistance in the event of medical problems or complicated births.

Section 2505 is common sense legislation consistent with the worldwide traditions of non-medical midwifery practice. Non-medical birth attendants delivered historically more than 90% of all humans ever born. Two-thirds of the world population is still delivered by non-medical, non-nurse midwives. Statistics supporting non-medical midwifery as a safe, effective and satisfactory form of maternity care is overwhelming.

Legal/Legislative Background

Since 1917 midwives have been regulated under Section 2505 of the California Business and Professional Code. In 1949 the Medical Board cited dwindling requests for midwifery care in a petition to the legislature to eliminate traditional midwifery from the list of certifications issued by the Medical Board. The program that regulated traditional midwifery was dismantled without public notice or a public hearing.

In 1978, 1979, 1980, 1986, and 1992 the California Association of Midwives sought out a legislative remedy. Each time physician and hospital groups pooled resources to defeat it. The medical establishment testified that complete lack of maternity care is preferable to traditionally trained, non-medical midwifery care.

In 1993 Senate Bill 350 was introduced by Lucy Killea of San Diego and signed into law. Called the Licensed Midwifery Practice Act of 1993, it outlined scope of practice for direct-entry midwives, and rigorous academic and clinical requirements for licensing. The requirements as outlined are
based upon the successful programs of ten states in this nation, are equivalent to standards set forth by the International Confederation of Midwives and the World Health Organization, and are on par with the midwifery component currently used to establish licensing for nurse-midwives. The original language in SB 350 about the relationship between doctors and midwives was that the relationship would be "collegial" or "consultative". During the legislative process, the LMPA was taken over by the California Medical Association and worded to require a "Supervisory" relationship: This wording change created vicarious liability for doctors as a "disincentive to home birth" (a quote from ObGyn News by the president of the California chapter of ACOG.)

In 1999 another attempt at a legislative remedy was sponsored by a consumer group, California Citizens for Health Freedom, as AB 1418, introduced by Virginia Strom-Martin and coauthored by Dion Aroner of the Assembly and Senator Ray Haynes. AB 1418 is an amendment bill restoring the original collaborative relationship between midwife and physician thereby removing vicarious liability to physicians. However, lobbyists for obstetricians were able to destroy this amendment and maintain their unconstitutional barrier to the practice of licensed midwives and certified nurse midwives.

In September of 2000 SB 1479 was signed into law reaffirming that every woman has a right to choose her birth setting from the full range of safe options available in her community and recognizing childbirth as a normal process of the human body and not a disease. Despite this positive wording and strong legislative reinforcement of the normalcy of birth, the "Physician supervision" clause remains on the books.

Current Legal Situation

Because the current law creates unnecessary liability for doctors, they cannot provide the legally mandated supervisory relationship. There are approximately 140 licensed direct entry midwives in California - all are unable to comply with the technical requirements of the law, and stand in jeopardy of losing their license on this technicality alone. Unless the LMPA is amended, physicians will continue their restraint of midwifery practice, meanwhile jeopardizing a parent's access to midwifery care and to medical resources as needed.