



Creating a State of Health

MINUTES OF SPECIAL PUBLIC MEETING

PUBLIC BODY: ADVISORY COMMITTEE ON MIDWIFERY
DATE: FRIDAY, NOVEMBER 13TH, 2020
LOCATION: MICROSOFT TEAMS
CONTACT PERSON: TRAVIS SPLAWN TELEPHONE: (405) 271-5243

I: Call to Order

Travis Splawn called the meeting to order.

II: Roll Call

Keith Daniels initiated a roll call for the meeting.

Members present: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Members absent: Kate Arnold

III: Statement of Compliance with the Open Meetings Act

Keith Daniels read the statement of compliance: *This special meeting of the Advisory Committee on Midwifery, scheduled to begin at 9:00 a.m. on this 13th day of November, 2020, was convened in accordance with the Oklahoma Open Meeting Act [25 O.S., §§ 301 et seq.] Further, an advance public notice that was sent to the Secretary of State's Office of Administrative Rules by Internet, prior to this time today, specifying the time and place of the meeting here convened, preceded this meeting. Notice of this meeting was given at least twenty-four (24) hours prior here to and no one filed a written request of notice of meetings of this public body to date.*

IV: Introduction of Advisory Committee on Midwifery

Travis Splawn asked the committee members to introduce themselves, and each gave a short introduction in turn.

V: Explanation of Responsibilities of the Committee

OSDH legal counsel Nicole Nash discussed the function and purpose of the Committee as set forth in law, and the requirements of the Open Meeting Act. The purpose of this Committee is to advise the State Commissioner of Health on all matters pertaining to the practice of midwifery -- including but not limited to the scope and standards of practice, licensure requirements, requirements for ensuring continued competence, procedures for recording outcomes, processing of complaints, administrative actions taken on licenses, enforcement matters, rule recommendations, and any other topics pertaining to midwifery.

Sarah Hall asked Nicole for a written summary of what she had just explained, and Nicole agreed.

Travis Splawn asked Nicole to go over the statute language for the next agenda items.

Nicole Nash answered that statute required the Committee to elect a Chair and Vice-Chair to guide the meetings of the Committee. She also stated that statute placed the language of the Disclosure Statements within the scope of the Committee.

VI: Discussion and Election of Chair and Vice-Chair

Travis Splawn opened the floor to nominations and discussions for Chair and Vice-Chair. Sarah Hall asked for clarification on the role of the Chair and Vice-Chair, and who creates the agenda for future meetings. Travis answered that the Chair and Vice-Chair are the spokesperson and backup-spokesperson for the Committee, that they will guide and keep meetings on track with the agenda, and that agenda will be created by OSDH with input from the Committee.

Nicole Nash added that future meetings of the Committee would need to be in-person barring any changes to the law, and that it was important for Committee members not to discuss public business outside of venues that are accessible to the public.

Sarah Hall discussed her experience with other councils and committees and volunteered herself for Vice-Chair. Sarah Foster nominated Nikki Imes for Chair, and Sarah Hall seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Shaun Baranowski nominated Sarah Hall for Vice-Chair. Nikki Imes seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Nikki Imes was elected Chair of the Advisory Committee on Midwifery; Sarah Hall was elected Vice-Chair. Travis Splawn turned the remainder of the agenda over to Nikki.

VII: Discussion, review, and possible action relating to language for Disclosure Statements

Nikki Imes introduced the next agenda item: disclosure statements. For reference, Travis Splawn noted the disclosure statement language in the current emergency rule. In addition, he mentioned samples of the forms Sarah Foster uses in her practice.

Shaun Baranowski asked if the Committee might have additional time to review the language before making any decision. Travis Splawn responded that there was a deadline impending for OSDH to submit rule changes to the legislature. Sam Cannella noted that allowing time for detailed review and discussion of these was the reason for the lengthy time allotted for this meeting.

Sarah Hall said that she had reviewed the language and found them appropriate, but asked whether #1 was intended for the client or the midwife. Nikki Imes responded that the item in question was on the Informed Consent form; the actual Disclosure Form was on the following page. Nicole Nash agreed. Sarah Hall made a motion to approve the Disclosure Form as presented. Sarah Foster seconded.

Aye: Shaun Baranowski, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Nay: Lecye Doolen

Sarah Hall asked whether it was more common that a midwife have malpractice insurance or not. Michelle Hernandez responded that it was the industry standard that they do not. Lecye Doolen said she felt that this form had not been discussed as thoroughly as it could have been, and that the Committee should make sure that it spends time reviewing each item. Nikki Imes said that this was a good point, but noted that this was the general form, and that she intended to spend more time discussing the more specialized forms later in the agenda. Shaun Baranowski asked if acknowledgement #2 on the Disclosure Form should specify that the midwife is not an advanced practice certified nurse midwife. Nikki Imes agreed. Travis Splawn asked if the Committee would like to make a motion to amend the form to include this language.

Shaun Baranowski made a motion for acknowledgement #2 on the Disclosure Form to specify that the midwife is not an advanced practice certified nurse midwife. Sarah Hall seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Lecye Doolen said that she was concerned that clients may not understand (on acknowledgement #2 on the Disclosure Form) what the conditions [outside the scope of practice that would result in a referral, consultation or transfer] were. Travis Splawn noted that the list of scope of practice was quite lengthy, but was specified in the law, and referenced under "resources". Lecye responded that it might be insufficient to simply assume that the client had read the law, and made a motion that [midwives] be required to present the client with a paper copy of that document and have the client sign it. Shaun Baranowski seconded the motion. Michelle Hernandez asked if it would be acceptable to do this electronically. Shaun Baranowski said she agreed with Lecye that it needed to be a paper copy, but acknowledged that this might be cumbersome. Lecye said that this might protect the midwife from liability. Michelle Hernandez added that her Informed Consent document for her practice is 13 pages long, so this should not be a burden. Travis Splawn noted that the language could specify that the client be given a choice of paper or electronic copy.

Sarah Foster restated the motion under discussion, that a checkbox be added for "I have been provided with a copy of the [midwife] rules". Nicole Nash reread the original motion: that clients be handed a physical copy of the limitations on the scope of practice and sign on the disclosure form that those have been handed to them. Lecye agreed. Michelle Hernandez asked if that could include an option for [the client] to choose to receive it in an electronic format. Nikki Imes reiterated that it was a "physical" copy under discussion. Nicole said that the motion could be amended. Lecye declined to amend the motion.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Hall, Michelle Hernandez, Nikki Imes.

Nay: Sarah Foster

Sarah Hall asked if official language for the scope of practice needed to be approved. Nikki Imes noted that this language was present in the emergency rules, and the permanent rules would be discussed in a later agenda item.

Nicole Nash and several other members asked if there needed to be separate Disclosure and Informed Consent documents for each scenario (e.g. VBAC, multiples, and breach). It was agreed that such documents would fall under the next agenda item.

VIII: Discussion, review, and possible action relating to language for Informed Consent

Nikki Imes introduced the next agenda item, discussing the Oklahoma Midwife Informed Consent Form and Out-of-Hospital Birth Consent Form.

Lecye Doolen said she felt the form was unclear and would be confusing for the client. Shaun Baranowski noted that the form allowed very little space for detailed information. Sarah Foster asked if the statute required the use of a specific form. Nicole Nash answered that the law required the Committee to prescribe a specific form, and defined the term “prescribe” meaning the intent was for the Committee to create the form. Nikki Imes wanted to know if the law would prevent midwives from offering their own forms *in addition to* the form prescribed by the committee. Nicole answered that she would research it and answer her on that later. Michelle Hernandez wanted to know if midwives would be required to have the client sign a new consent form at every single step of the pregnancy. Travis Splawn responded that the form was meant to be for the duration of the pregnancy. The Committee members offered suggestions for how the form could be amended to make that more clear.

Michelle Hernandez made a motion to remove the language in the heading, “prior to all standard tests and treatments”. Lecye Doolen seconded. Shaun Baranowski suggested amending the motion to replace that language with “prior to all standard midwifery care”. Michelle agreed. Nicole Nash noted they may need to clarify what they mean by ‘all standard midwifery care’. Sarah Foster noted that the law says “at the outset of the professional relationship”. Michelle agreed to further amend the language to include “at the outset of care”. Sarah Hall seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

The Committee members discussed various issues with the draft Informed Consent form, and whether this general Informed Consent form was required at all. Nikki Imes suggested scrapping the general form and instead expanding the Out-of-Hospital Form.

Sarah Hall made a motion to amend the Out-of-Hospital Form, keeping items 1, 2, and 3 as listed, and then merging 4, 5, 6, 7, 9, and 10 from the “Informed Consent” form to the Out-of-Hospital Form. Shaun Baranowski seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

After a short break, Sarah Foster made a mention to amend the heading of the Out-of-Hospital Consent Form from “prior to the onset of labor” to “prior to care and birth”. Sarah Hall seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Shaun Baranowski made a motion to amend item #1 on the Out-of-Hospital Consent Form to “I voluntarily consent for out-of-hospital birth with a certified professional midwife or certified midwife.” Sarah Foster seconded. Other members of the committee expressed concern that the form define what a certified midwife is (as opposed to a certified nurse midwife), and also distinguish between these and unlicensed midwives. Nikki Imes suggesting amending this motion to “I voluntarily consent for an out of hospital birth with a certified professional midwife (concise definition) or certified midwife (concise definition), neither of which is a certified nurse midwife (concise definition).” Shaun agreed and amended her motion. Travis Splawn suggested including “unlicensed midwife”. The motion was seconded by Sarah Hall.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Sarah Foster moved that the definitions used be those from MANA (Midwives Alliance of North America). Shaun Baranowski seconded the motion.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Lecye Doolen made a motion to keep item #2 on the Out-of-Hospital Consent Form as-is. Sarah Foster seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Lecye Doolen made a motion to keep item #3 on the Out-of-Hospital Consent Form as-is. Nikki Imes seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Sarah Foster made a motion to replace the language on item #4 of the Out-of-Hospital Consent Form with "I understand that if I refuse recommended testing or procedures, the prognosis (predicted future medical condition) is possible increased risk to both myself and my infant. I understand that the midwife, physician, medical personnel, and other assistants, will rely on statements about me, my medical history, and other information, in determining whether to perform the testing or procedure, or recommending another course of treatment." Nikki Imes seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Sarah Foster made a motion to replace the language on item #5 of the Out-of-Hospital Consent Form with "I understand that during the course of care it may be necessary or appropriate to perform additional testing or procedures outside the standard of care, for which additional informed consent will be offered at that time." Sarah Hall seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

The Committee then took a break for lunch. Upon resuming one hour later, Keith Daniels gave a roll call to ensure quorum:

Present: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Michelle Hernandez made a motion to accept item #6 of the Out-of-Hospital Consent Form as-is. Sarah Foster seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Sarah Foster suggested amending item #7 of the Out-of-Hospital Consent Form to “I consent to and authorize the midwife to make the decisions concerning standard tests and procedures. I also consent to and authorize the performance of additional procedures as they deem necessary or appropriate. I also consent to diagnostic studies, tests, anesthesia, x-ray examinations or other treatment.” Shaun Baranowski felt that the last sentence was redundant and could be removed. Nikki Imes made a motion to amend item #7 to “I consent to and authorize the midwife to make the decisions concerning standard tests and procedures. I also consent to and authorize the performance of additional procedures as they deem necessary or appropriate.” Shaun Baranowski seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

During discussion of #9, Travis Splawn realized that previous questions might need to say “midwife” instead of “licensed midwife”. Sarah Foster made a motion to replace “licensed midwife” with “midwife” in items #2 through #10. Sarah Hall seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Sarah Foster made a motion to remove “name” and “license number” from item #9 of the Out-of-Hospital Consent Form. Sarah Hall seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Michelle Hernandez made a motion to amend item #10 of the Out-of-Hospital Consent Form to “I voluntarily consent to allow any physician or midwife designated or selected by my midwife and all other personnel under the direct supervision and control of such physician or midwife and all other personnel who may be otherwise involved in performing such procedures to perform the procedures described or otherwise referred to herein. Unless rescinded, this consent will remain in effect until delivery or transfer of care.” Sarah Foster seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Nikki Imes made a motion amend language on the final statement before the signature block on the Out-of-Hospital Consent Form from “relating to the procedures described herein” to “relating to my care, including but not limited to, proof of the midwife’s credentials”.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Lecye Doolen made a motion to table discussion on the VBAC (Vaginal Birth After Cesarean), multiple births, and breach consent forms to the next meeting of the Committee. Michelle Hernandez stated that the Committee at least needed to adopt provisional forms in the interim so that planned births could continue. Travis Splawn interjected that these forms would only apply to maybe three midwives in the state in between this meeting and the next. A Committee Member suggested modeling Oklahoma’s forms on similar pre-existing forms used by Texas, and the Committee reviewed those. Patricia Bagwell asked if copyright would be an issue with using these forms. Sarah Hall mentioned that “review of previous records” is not mentioned on

the Texas forms. Sarah Foster displayed and read texts to her from the form's author that Oklahoma's use was approved.

Nikki Imes made a motion to adopt the following language on a VBAC Informed Consent Form: "I, [blank], do hereby request the assistance of a licensed midwife in the birth of our baby outside of a hospital. I make this request with full understanding of the potential risks of potential complications of a vaginal birth following a cesarean section. While I understand these complications are rare, they cannot be eliminated. These complications and risks may include but are not limited to uterine rupture, abnormal placental implantation (increased risk of abnormal adhesion in the wall of the uterus if it implants over the previous cesarean scar), maternal hemorrhage if the uterus ruptures or if the placenta is implanted over the previous cesarean scar, increased risk of blood transfusion or hysterectomy in the case of uterine rupture or abnormal placental implantation, increased risk of maternal death from hemorrhage, increased risk of fetal distress, increased risk of fetal / neonatal damage due to oxygen deprivation if the uterus ruptures, and increased risk of fetal / neonatal death if the uterus ruptures. I understand that the best way to avoid placental implantation problems at the birth is by verifying location of the placenta prenatally by ultrasonography. If an ultrasound shows that the placenta is implanted over the previous cesarean scar I understand that a repeat for cesarean section will be recommended. I agree to / do not agree to undergo a diagnostic ultrasound. I understand that the following factors have been identified as possible risk factors for increasing the likelihood of uterine rupture: uterine incision other than low transverse, estimated date of delivery less than 18 months from the previous cesarean birth, induction of labor (artificially inducing labor to begin), augmentation of labor (drugs used to strengthen or speed up contractions), prolonged or obstructed labor, use of either forceps or vacuum extraction, single layer closure of the previous uterine scar, and infection of the uterine scar following surgery. I understand that the most common indicators of uterine rupture are fetal distress with an abnormal fetal heart rate pattern or prolonged accelerations with an arrest in the progress, and that abdominal pain and/or vaginal bleeding are not reliable indicators of possible rupture. I understand that more frequent monitoring of the fetal heartbeat contractions and progress during labor may be required. I understand that alternatives to a planned out-of-hospital VBAC may include: VBAC within a hospital with more immediate access to surgical intervention, and/or intensive care facilities for both mom and baby with a physician or certified nurse midwife in attendance, or planned elective repeat cesarean section. I further understand that, though I prefer to give birth vaginally outside the hospital, this may not be possible. I agree to abide by the professionals' judgement and decisions made by my midwife at to the medical necessity for transport to a hospital. I also understand that if at any point in my labor I wish to be transported I will be transferred at once. I attest that I have had ample opportunities to ask questions and that these questions have been answered to my satisfaction. By my signature below I give my full, informed consent to an out-of-hospital vaginal birth after cesarean and relieve my midwife and any other persons, including any physicians or other licensed healthcare providers, involved in any aspect of my care of liability for complications or poor outcomes resulting from my decision. I understand that I am alone responsible for making this decision and accept full responsibility for the consequences of my decision.", with places for signature of mother/client, father, and midwife. Shaun Baranowski seconded.

Sarah Hall suggested adding "or uterine rupture" to the sentence "increased risk of maternal death from hemorrhage". Lecye Doolen objected to everything following "By my signature below" in the context of a provisional, temporary form. Sarah Foster moved that this language be adopted permanently. Sarah Hall suggested removing "and relieve my midwife and any other persons, including any physicians or other licensed healthcare providers, involved in any aspect of my care of liability for complications or poor outcomes resulting from my decision." Sarah Foster moved that the form be adopted with those changes. Nikki Imes seconded. Sarah Hall

suggested that this be considered provisional until Dr. Arnold reviewed it as well. Sarah Foster agreed.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

Nikki Imes reminded the Committee that they had discussed tabling the twin and breach consent forms until the next meeting. Sarah Hall asked when the next meeting would be. Travis Splawn said it would need to be before December 3rd.

IX: Review, discussion, and possible recommendations on proposed permanent rules for Licensed Midwives

Nikki Imes asked the Committee for a motion to table the Rules discussions as well, considering the limited time remaining. Sarah Foster asked if the emergency rules would be the starting point to create permanent rules. Travis Splawn responded that there are proposed permanent rules in the meeting documents which are distinct from the emergency rules currently enacted. Shaun Baranowski made a motion to table the rules discussion till the next meeting. Lecye Doolen seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

X: Review, discussion, and possible action on license applications received

The Committee discussed three applicants: Nicole Imes, Michelle Hernandez, and Sarah Foster. Nikki Imes and Nicole Nash reminded the Committee members that each would need to recuse themselves from discussion of their own application. Travis Splawn displayed the licensing requirements from the emergency rules to inform the Committee.

After review, Lecye Doolen made a motion to recommend the application for Michelle Hernandez be approved pending favorable background check. Sarah Hall seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Nikki Imes.

After review, Michelle Hernandez made a motion to recommend the application for Sarah Foster be approved pending favorable background check. Shaun Baranowski seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Hall, Michelle Hernandez, Nikki Imes.

After review, Sarah Foster made a motion to recommend the application for Nicole Imes be approved pending favorable background check. Shaun Baranowski seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez.

XI: Review, discussion, and possible action on any complaints received

Nikki Imes asked if OSDH had received any complaints, and there were none.

XII: Discussion and possible action to set meeting dates for 2021

Nikki Imes reminded the Committee that they would need to meet at *minimum* four times per year. Travis Splawn noted that the most similar existing Council is the Sanitarian Council, which meets every two months.

Sarah Hall suggested the following dates:

January 13th

March 10th

May 12th

July 14th

September 8th

November 10th

Nikki Imes made a motion to accept these proposed dates, meeting at 1pm, at the Oklahoma State Department of Health. Michelle Hernandez seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

XIII: New Business

Sarah Hall reminded the Committee that they still needed to set the date of their next meeting. Travis Splawn suggested the week of November 30th to clear the Thanksgiving holiday and give adequate time to prepare. Sarah Hall said that she would be unavailable November 30 through December 2nd. Nikki Imes made a motion to create a poll to send out to members of the Committee to create the final date for 2020. Sarah Hall seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.

XIV: Adjournment

Michelle Hernandez made a motion to adjourn. Shaun Baranowski seconded.

Aye: Shaun Baranowski, Lecye Doolen, Sarah Foster, Sarah Hall, Michelle Hernandez, Nikki Imes.