Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Evan Low, Chair
AB 1612 (Burke) – As Amended April 18, 2017

SUBJECT: Nursing: certified nurse-midwives: supervision.

SUMMARY: Authorizes a certified nurse-midwife (CNM) to furnish and order drugs and devices related to care rendered in a home under standardized procedures and protocols; authorizes a CNM to directly procure supplies and devices, to obtain and administer drugs and diagnostic tests, to order laboratory and diagnostic testing, and to receive reports that are necessary to his or her practice and consistent with nurse-midwifery education preparation; authorizes a CNM to perform and repair episiotomies and to repair first-degree and second degree lacerations of the perineum, in a licensed acute care center, as specified, in a home setting and in a birth center accredited by a national accrediting body approved by the Board of Registered Nursing (BRN); requires a certified nurse-midwife when performing those procedures, to ensure that all complications are referred to a physician and surgeon immediately.

EXISTING LAW:

1) The Nursing Practice Act, provides for the licensure and regulation of the practice of nursing by the Board of Registered Nursing (BRN), within the Department of Consumer Affairs, and authorizes the board to issue a certificate to practice nurse-midwifery to a person who meets educational standards established by the board or the equivalent of those educational standards. (Business and Professions Code (BPC) § 2700 *et seq.*)

2) Authorizes a CNM, 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. (BPC § 2746.5 (a))

3) Provides that the practice of nurse-midwifery constitutes the furthering or undertaking by a certified person, 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. (BPC § 2746.5 (b))

4) Authorizes a CNM to furnish and order drugs or devices incidentally to the provision of family planning services, routine health care or perinatal care, and care rendered consistently with the CNM's educational preparation in specified facilities and clinics, and only in accordance with standardized procedures and protocols, as specified. (BPC § 2746.51 *et seq.*)

5) Authorizes a CNM to perform and repair episiotomies and to repair first-degree and second degree lacerations of the perineum in a licensed acute care hospital and a licensed alternate birth center, if certain requirements are met, including, but not limited to, that episiotomies are performed pursuant to protocols developed and approved by the supervising physician and surgeon. (BPC § 2746.52)

THIS BILL:

1) Allows CNMs to attend to 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.

2) Removes the requirements that a CNM practice under the supervision of a licensed physician and surgeon who has current practice or training in obstetrics.

3) States that a CNM may consult, refer, or transfer care to a physician and surgeon as indicated by the health status of the patient and the resources and medical personnel available in the setting of care. Nurse-midwifery care emphasizes informed consent, preventive care, and early detection and referral of complications.

4) Permits a CNM to provide care in a home setting, as specified.

5) Requires the ordering of drugs and devices to be authorized by a physician.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the **California Nurse Midwives Association**. According to the author, "AB 1612 removes the physician supervision requirements for CNMs, allowing them to practice independently within their scope of practice. It retains physician involvement in prescribing medications. If signed into law, CNMs will continue to collaborate with physicians as indicated by the needs of their patients, but will have the flexibility to provide a full range of women's health care services. The legislature has previously granted practice autonomy to California's licensed midwives (regulated by the Medical Board). The licensed midwives are required to have three years of training after completing high school; comparatively, nurse-midwifery education programs are Master's degree programs available only to individuals who already have a registered nursing license. It would be logical for the legislature to remove physician supervision laws for both types of midwifery practitioners."

The California Maternal Quality Care Collaborative states "Midwifery care has been identified as an underused maternity service, with the potential to curb costs, improve overall outcomes, and reduce rates of cesarean. When permitted to work to the full extent of their education and experience, CNMs can expertly provide more women's health care in California. Untethering CNMs from physician supervision requirements will increase access to health care services for thousands of women in both urban and rural areas."

Background. Midwifery is the care of childrearing women during pregnancy, labor and birth and during the postpartum period. Midwifery services are offered by CNMs, who are regulated by the BRN and Licensed Midwives (LMs) who are regulated by the Medical Board of California (MBC). While both CNMs and NMs practice midwifery, there are differences in their education requirements, practice settings and supervision requirements.

Education. CNMs are licensed registered nurses with a certificate to practice midwifery, have acquired additional training in the field of obstetrics and are certified by the American College of Nurse Midwives.

LMs have completed a three-year postsecondary education program in an accredited midwifery school approved by the MBC or via the Challenge Mechanism. The Challenge Mechanism is an approved midwifery education program which allows students to obtain credit by examination for previous midwifery education and clinical experience.

Practice Settings. LMs can practice in home, birth centers and clinics. CNMs can practice in the same settings, but, unlike LMs, they can also practice in hospital settings. In 2012, CNMs attended approximately 8.5 percent of all births in California – the majority of which took place in a hospital and 1,365 were in free-standing birth centers. It is estimated that ninety percent of all CNM attended births take place in a hospital setting.

CNM care is a federally mandated Medicaid benefit. According to the Centers for Disease Control and Prevention, in 2012, 30 percent of CNM attended births in California were Medicaid, 65 percent were private pay and 2 percent were self-pay.

Physician Supervision. In California, LMs are permitted to practice without the supervision of a physician. However, despite the fact that many states allow CNMs to practice independently, California is one of six states that still requires physician supervision of CNMs. California law specifies that the supervision shall not be construed to require the physical presence of the physician. It also requires that in order for a CNM to prescribe medication, a physician needs to be telephonically available.

According to the author, although the supervision requirement tethers CNMs to practice only where a physician can supervise, it does not consist of actual oversight of health care delivery, inspection or review of charts, co-signature on prescriptions, direct care of the patient or evaluation of CNM patients at any point during pregnancy or well-woman care.

Changes to CNMs Scope of Practice. If this measure is enacted, a number of changes to the scope of practice for a CNM and authorization for a CNMs independent practice would be made. These include:

a) Practice in all settings, including, but not limited to, a home.

b) Authorization to provide peripartum care in an out-of-hospital setting to low-risk women with uncomplicated singleton-term pregnancies who are expected to have an uncomplicated birth.

c) A CNM would no longer be required to adhere to standardized procedures and protocols when:

   i. procuring supplies and devices;

   ii. ordering and obtaining diagnostic tests;

   iii. ordering laboratory and diagnostic testing;

   iv. receiving reports that are necessary to his or her practice as a CNM; and,

   v. performing and repairing episiotomies and to repair first-degree and second degree lacerations of the perineum in a patient's home.

Prior Related Legislation. AB 1306 (Burke) of 2016 would have removed physician supervision for certified nurse midwives. *NOTE: This bill failed passage on the Assembly Floor.*

AB 1308 (Bonilla), Chapter 665, Statutes of 2013, removed physician supervision requirements for LMs.

SB 1950 (Figueroa), Chapter 1085, Statutes of 2002, required the MBC to adopt regulations defining the appropriate standard of care and level of supervision required for the practice of midwifery.

SB 1479 (Figueroa), Chapter 303, Statutes of 2000, expanded the disclosures required to be given by LMs and also required midwives to register birth certificates for home births.

SB 350 (Killea), Chapter 1280, Statutes of 1993, enacted the Licensed Midwifery Practice Act of 1993 to provide for the licensing and regulation of non-nurse and non-physician assistant midwives by the MBC.

REGISTERED SUPPORT:

California Nurse Midwives Association (sponsor)
Association for California Healthcare Districts
California Hospital Association
California Association of Nurse Anesthetists
Maternal and Child Health Access
American Nurses Association California
California Families for Access to Midwives
2 individuals

REGISTERED OPPOSITION:

California Medical Association

Analysis Prepared by: Le Ondra Clark Harvey, Ph.D. / B. & P. / 916-319-3301