Maryland

Board of Nursing

Wes Moore, Governor · Aruna Miller, Lt. Governor · Laura Herrera Scott, M.D., M.P.H., Secretary

February 22, 2023

The Honorable Joseline A. Peña-Melnyk
Chair, House Health and Government Operations Committee
Room 241 House Office Building
Annapolis, MD 21401-1991

RE: HB 351 – Health Occupations – Licensed Direct–Entry Midwives – Previous Cesarean Section – Letter of Support with Amendments

Dear Chair Peña-Melnyk and Committee Members:

The Maryland Board of Nursing (the Board) respectfully submits this letter of support with amendments for House Bill (HB) 351 – Health Occupations – Licensed Direct–Entry Midwives – Previous Cesarean Section. This bill allows a licensed direct–entry midwife to assume and take responsibility for a client who had a previous cesarean section and regulates the circumstances under which the responsibility may be assumed or taken; alters the required contents of a certain informed consent agreement; and requires the State Board of Nursing, in consultation with certain stakeholders, to develop a transport protocol for clients who had a previous cesarean section.

Licensed direct–entry midwives are revered proponents for delivering low–risk midwifery care in communities, particularly in the home setting. LDEMs are independent practitioners educated in the discipline of midwifery through self–study, apprenticeship, or by attending a Board approved midwifery program. The direct–entry midwifery profession has been a formalized license in the state of Maryland since 2015, and has gained familiarity within the healthcare community.

The public health emergency brought many challenges to the healthcare setting, particularly for midwifery, obstetrical, and gynecologic care. As a result, maternal patients sought midwifery care and developed an interest in pursuing labor and delivery in the comfort of their homes. Even with an increase in demand for midwifery services, direct–entry midwives have been prohibited from caring for women with a history of a previous cesarean section, regardless of when the procedure was performed.

On October 31, 2021, the Direct–Entry Midwife Advisory Committee (DMAC) completed a full study regarding the provisions of House Bill (HB) 1032 introduced during the 2021 legislative session, which would have expanded the scope of licensed direct–entry midwives to include providing vaginal birth after cesarean (VBAC) services to qualifying women in Maryland. As part of this report, the committee reviewed the scope of practice for certified professional

midwives (statutorily known as licensed–direct entry midwives in the state) permitted to provide VBAC in other states. Of the thirty–six (36) states with licensure for the legal practice of CPMs, twenty eight (28) allow licensed midwives to attend vaginal births after cesarean, including Virginia and the District of Columbia. The earliest statutory authorities that permitted LDEMs to perform VBAC services were cited by the states of New Mexico (1978) and Louisiana (1985).

Cesarean sections are the most common obstetric procedure that is performed when a vaginal delivery would place the fetus or mother at risk of harm. Due to the invasive nature of this surgery, complications may arise for subsequent pregnancies and trials of labor. One such complication, cited by the American College of Obstetricians and Gynecologists, would include uterine rupture. The incidence of a uterine rupture, however, for an individual with a confirmed low transverse incision could be between 0.2 and 1.5%.[1]

The Board believes that, when provided with full informed consent, the decision of the place and provider of birth should be left to the birthing mother and family. The Board believes it is critical to provide a consent agreement to a patient that informs them of the benefits, risks, and alternatives to the procedure being performed. Additionally, the Board respectfully submits the following amendment in an effort to explicitly state that there is an exception to the prohibition that a LDEM not care for a patient who has had previous uterine surgery.

Amendment #1. Section 8 – 6C – 03. On page 1. Line 25.

A. A licensed direct – entry midwife may not assume or continue to take responsibility…

Amendment #2. Section 8 – 6C – 03. On page 2. Lines 6 – 9.

(11) **EXCEPT AS PROVIDED IN SUBSECTION B, [P] p**revious uterine surgery, including **[:] A CESAREAN SECTION OR MYOMECTOMY;**

B. SUBSECTION A(11) DOES NOT APPLY TO A PATIENT WHO HAD A SINGLE PREVIOUS CESAREAN SECTION THAT:

(i) RESULTED IN THE PATIENT HAVING A CONFIRMED LOW TRANSVERSE INVISION; AND

(ii) WAS PERFORMED AT LEAST 18 MONTHS BEFORE THE EXPECTED DATE OF BIRTH FOR THE CURRENT PREGNANCY.

Amendment #3. Section 8 – 6C – 09. On page 3. Lines 26 – 28.

(1) A DESCRIPTION OF THE PROCEDURE, BENEFITS, ALTERNATIVES, AND RISKS OF A HOME BIRTH AFTER CESAREAN SECTION, INCLUDING CONDITIONS THAT MAY ARISE DURING DELIVERY; AND

[1] Kan A. (2020). Classical Cesarean Section. Surgery journal (New York, N.Y.), 6(Suppl 2), S98–S103. https://doi.org/10.1055/s-0039-3402072

For the reasons discussed above, the Maryland Board of Nursing respectfully submits this letter of support with amendments for HB 351.

I hope this information is useful. For more information, please contact Ms. Iman Farid, Health Planning and Development Administrator, at iman.farid@maryland.gov or Ms. Rhonda Scott, Deputy Director, at (410) 585 – 1953 (rhonda.scott2@maryland.gov).

Sincerely,

Gary N. Hicks
Board President

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.