



ACNM Policy Update

Monday, September 26, 2016

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Federal Issues

1. Congressional Update from ACNM's Federal Lobbyist, Patrick Cooney

The House of Representatives and Senate have been busy since they returned to work in early September 2016 after the long summer break. Since returning they have been attempting to finish must-pass funding legislation for the federal government to operate and other key pieces of legislation. But many are surprised that the Republican-led House and Senate are still in session as of September 22nd and are likely to go longer as no agreement has emerged between Democrats and Republicans. Many Republicans in the House and Senate are concerned with possible election losses and are anxious to finish legislative work so they can get home and campaign.

Republicans and Democrats have been fighting over details of a stop-gap spending bill to fund the government through December 9th. Congress will return after the election to finish the spending bill for the rest of fiscal year 2017. Democrats have been seeking riders to the stop-gap measure that would address drinking water problems in Flint, Michigan, and also funding for the Zika virus outbreak. Republicans have sought riders to stop funding of Planned Parenthood and provide emergency flood relief in Louisiana.

While this is happening, key health committees in the Congress have been busy moving forward bills of interest in the health care community. The House Energy and Commerce Committee approved several health related bills, including HR.1209. The "[Improving Access to Maternity Care Act of 2015 \(H.R.1209/S. 628\)](#)," introduced by Representatives Michael Burgess, MD (R-TX) and Lois Capps (D-CA) and Senators Mark Kirk (R-IL) and Tammy Baldwin (D-WI), seeks to determine areas throughout the U.S. that are experiencing a significant shortage of full scope maternity care professionals, including certified nurse-midwives (CNMs)/certified midwives (CMs) and Ob-Gyns, and eliminate those gaps. The next step will be consideration on the House floor. ACNM and the American Congress of Obstetricians and Gynecologists (ACOG) have [urged](#) House and Senate enactment of the bill, but it remains in question whether any of the bills will make it to the President's desk for signature after the election when Congress returns.

1. ACNM Releases New Policy Statement Pertinent to State Legislative Efforts

At the September 2016 meeting, the ACNM Board of Directors approved a new [policy statement](#) titled *Statutory and Regulatory Language Differentiating Scope of Practice/Practice Authority by Practice Setting*. The statement affirms ACNM's opposition to proposals to regulate midwifery practice based on practice setting or birth site rather than provider credentials.

2. Update on the California Full Practice Authority Bill, AB. 1306

Special thanks to Kim Q. Dau, CNMA's Affiliate Legislative Chair, for this update.

The 2015-2016 California legislative session ended on August 31, and with it we also saw the end of the California Nurse-Midwives Association's (CNMA) sponsored bill, AB 1306, to remove physician supervision for nurse-midwives. After successfully passing out of four committees and two floor votes, the bill ultimately died on the Assembly floor-- the last stop before the governor's desk.

This bill addressed an issue that has been identified as critical to support the growth of midwifery: archaic reference to mandatory physician supervision. This issue is ACNM/CNMA's primary policy priority--- and the support from membership over the past two years has been phenomenal. Letters of support have poured in from across the state, phone calls to representatives, in-district visits to legislators' offices, a massive CNMA lobby day effort, and social media action on Twitter and Facebook. Our message made its way to Sacramento and was heard loud and clear. All throughout the legislative session, there were many positive comments made about personal positive experiences with nurse-midwives.

So, with all of this action and a (mostly) warm response to nurse-midwifery care-- why did AB 1306 die? Although we had initial success in negotiating with physician organizations (California Medical Association, California Academy of Family Physicians, and ACOG), these conversations fell apart over the issue of "the corporate practice of medicine."

According to the opposition letter from the California Medical Association, "There is no provision in AB1306 that protects healthcare consumers by prohibiting non-health care practitioner-led entities (organizations, corporations, etc) from engaging in the business of providing health care services. For many years, the California Legislature has protected health care consumers from abuses that are likely to stem from commercial exploitation of the practice of medicine."

Of course, we can all read that and agree that healthcare consumers should be protected from "abuses likely to stem from commercial exploitation of the practice of medicine." That is not a difficult concept to agree upon. However, the specific language barring the corporate practice of medicine specifically prohibits hospitals from directly hiring physicians, and if it were included in AB1306, nurse-midwives too. Currently most hospitals get around this by contracting with physician groups (through which most nurse-midwives are also employed) or by hiring physicians through medical foundations.

Critics of the corporate practice of medicine bar argue that this policy ultimately has the impact of reducing health care access; many states are getting rid of this policy. Critics would also point out that there are several exemptions to the bar on corporate practice of medicine which weaken the argument that the policy is absolutely necessary; for example, county hospitals and academic hospitals may hire physicians directly.

AB1306 bill author, Asm. Autumn Burke, ultimately decided to add language to AB1306 that provided patient protections in line with the conceptual intent of the corporate practice of medicine bar, but did not include the exact language that the physician groups wanted, thus

permitting hospitals to directly hire nurse-midwives. These amendments were taken at the end of June 2016. It was at that point that the physician groups began to actively oppose our bill and dismantle the support for our issue that we once had. Of note, the California Association of Nurse Practitioners also had a bill to remove physician supervision this year, and it also died related to the corporate practice of medicine bar.

CNMA continues to feel very enthusiastic about removing physician supervision and is currently assessing options for next steps. While the ultimate outcome is not what we hoped for, there is much to celebrate about this past session and the future potential for success.

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If you have questions about ACNM Legislative activities, please contact Cara Kinzelman, ACNM's Director of Advocacy and Government Affairs at ckinzelman@acnm.org or 240-485-1841.

Want to take action or get involved? Contact ACNM's [Government Affairs Committee](#).

Don't have the time or energy to get involved, but still want to contribute? Support the [Midwives-PAC](#).
