

**BEFORE THE REVIEW COMMITTEE
OF THE AMERICAN MIDWIFERY CERTIFICATION BOARD**

In the Disciplinary Matter of:

Rebecca McInnis
Respondent

DECISION

In October, 2013, the American Midwifery Certification Board (AMCB) was notified anonymously that Respondent was practicing nurse-midwifery without current national certification. After verification that Respondent was representing herself as a CNM on her website, a letter was sent to both her home and birth center ordering her to cease representing herself as a CNM. Further research by the AMCB Discipline Director revealed actions taken upon Respondent's nursing licenses in Texas and Utah, and upon Respondent's midwifery license in Utah. These actions were as follows:

- September 2011: The Utah Division of Occupational and Professional Licensing of the Department of Commerce issued a Public Reprimand of Respondent's license to practice nurse-midwifery based upon charges of unprofessional conduct. Specifically, Respondent administered misoprostol in an out of hospital setting to a patient attempting a vaginal birth after cesarean. Further, Respondent failed to document administering misoprostol in the patient record. A \$1,000 fine was levied.
- November 2013: The Utah Division of Occupational and Professional Licensing of the Department of Commerce accepted surrender of Respondent's license to practice nurse-midwifery stemming from charges of practicing without a license. Specifically, Respondent allowed her AMCB certification to lapse in December, 2010. In May, 2012, Respondent was issued a citation and \$500 fine by the Utah Division of Occupational and Professional Licensing of the Department of Commerce for continuing to practice nurse-midwifery with an expired license. Further, when applying to renew her license, Respondent represented to the Utah licensing board that she was currently certified by AMCB. Respondent practiced as a Certified Nurse-Midwife (CNM) continuously from January 1, 2011 to November 2013 without national certification.
- June 2014 : The Texas Board of Nursing revoked Respondent's RN license after she failed to respond in writing to charges that stemmed from the voluntary surrender of Respondent's licenses to practice as a Certified Nurse-Midwife and to administer controlled substances in Utah. Respondent was informed that a written response was required via Certified Mail on April 15, 2014.

In accordance with AMCB procedures, the matter was reviewed by the President of AMCB. It was determined that Respondent's behavior constituted grounds for disciplinary review. Accordingly, by a letter dated August 1, 2012, AMCB notified Respondent that it had initiated a

disciplinary proceeding to determine whether good cause existed for imposing discipline under the following provisions of the Disciplinary Policy:

A. 4. Misrepresentation of certification or violation of the Corporation's personal and/or intellectual property rights including but not limited to unauthorized access, possession of, use of, distribution of, or access to (i) the Corporation's exams, (ii) certificates, (iii) name, trade name or trademarks; and (iv) any of its other personal and/or intellectual property.

A.7: Limitation or sanction by a federal, state or private licensing board, administrative agency, association or health care organization relating to public health or safety, or midwifery practice and/or;

A.9: Engaging in conduct which is inconsistent with professional standards, including but not limited to (i) any practice that creates unnecessary danger to a patient's life, health or safety; and (ii) any practice that is contrary to the ethical conduct appropriate to the profession that results in termination or suspension from practice. Actual injury to a patient or the public need not be shown under this provision.

A Disciplinary Review Committee comprised of three individuals with no prior involvement with the matter was constituted. AMCB requested that Respondent submit a written response to the charge within thirty days of receipt of the letter-notice. On November 17, 2014, AMCB received a response from Respondent.

The Review Committee has now considered the charges against Respondent and the above-described matters of record. On the basis of the factual findings and reasons set forth below, the Committee unanimously concludes that grounds for discipline against Respondent exist under sections A.4, A.7. and A.9 of the Discipline Policy.

FINDINGS

The Review Committee finds the following facts:

1. AMCB (previously known as ACC) was formed in 1991 by the American College of Nurse Midwives (ACNM) as an independent entity to carry on the existing program of ACNM for certifying the competency of individuals as entry-level nurse midwives.
2. AMCB assumed responsibility for discipline of ACNM/AMCB certificants through the Discipline Policy, the most recent version of which AMCB adopted in November 2012.
3. Respondent was initially certified as a CNM by AMCB (formerly ACC) on 1/18/2002 and allowed her certification to lapse on 12/31/10.

4. Respondent denies that she knew her certification lapsed on 12/31/10. Of note, Respondent was actively participating in the recertification process in 2009, as she applied for and completed the antepartum module as a part of the Certificate Maintenance Program.
5. Respondent's statement on her application for recertification by examination was that "Certification was not complete due to missing continuing education credits."
6. AMCB attempted to notify Respondent regarding lapse of certification, but the letter was returned on 2/12/10. AMCB had not been notified of address change.
7. On 4/11/12, Respondent applied for re-licensure as a CNM in Utah, and at that time falsely attested that she was currently certified by AMCB, a requirement for licensure.
8. In October, 2013, AMCB was informed that Respondent was practicing without current certification. The informant was advised to notify the Utah State Board of Nurse-Midwifery, resulting in the second Board action against Respondent.
9. Respondent completed a master's completion program in January, 2014 and met the graduate degree requirement now required for certification.
10. Respondent was recertified by examination as a CM on 4/28/14. The CM credential was granted because Respondent did not have a current, valid license as an RN.
11. The Utah Board of Nurse-Midwifery cited Respondent twice (9/13/11 and 11/8/13) for acts or omissions that violated the standard of care for a nurse-midwife.
12. The Texas Board of Nursing cited Respondent on 6/10/14 for failing to respond to charges in writing as required and stipulated in a letter dated 4/15/14 and delivered by certified mail.
13. Respondent's published licensure status in Texas lists her RN license initially granted 6/27/95 as having been revoked on 7/31/2001. Respondent listed her RN status on the AMCB application for certification as "delinquent-2001."
14. Respondent has applied for RN licensure in Utah. Respondent's license is listed as "restricted active on probation".
15. Respondent requests the CNM certificate be granted as the CM certificate is not recognized in Utah.

DISCUSSION

In this matter we are called upon to decide whether and what discipline is warranted against a CNM whose license to practice nursing and nurse-midwifery has been revoked for failure to meet the standards of practice for nurse-midwifery.

The Committee is persuaded that there is evidence that Respondent's practice was inconsistent with professional standards, reflecting practice that created unnecessary danger to a patient's life, health or safety and demonstrated unprofessional conduct related to maintenance of her license and certification. Respondent misrepresented her certification status to the public and to the Utah Board of Nurse-Midwifery. Respondent's practice and behavior has resulted in sanction by two state licensing boards.

Respondent has responded to the Committee with explanations for her behavior. Respondent accepts responsibility for substandard practice related to use of misoprostol in an attempted VBAC in an out of hospital setting, and changed her practice accordingly.

With regard to practicing without certification and misrepresentation of her certification status, Respondent asserts that she was unaware that her certification had lapsed and did not intentionally misrepresent her status to the Utah Board of Nurse-Midwifery.

With regard to failure to appear to answer Texas Board of Nursing charges, Respondent failed to respond in writing (as required) and when notified of the Board's intent to revoke Respondent's RN license contends that she spoke with an investigator for the Board, indicating that she could not appear in person. Respondent stated that she believed "my telephone response was adequate."

Little evidence is presented that Respondent understands the gravity of her lapse of professional judgement or accepts responsibility for her failure to comply with regulatory requirements. In all instances, Respondent was notified officially of requirements in writing, including the lapse in her certification (returned due to failure to report address change) and the requirement to respond to Texas charges in writing. Respondent failed to inform AMCB of her address change as required, and either failed to read the correspondence from the Texas Board of Nursing or chose to ignore its contents. In either case, the behavior is not consistent with the professional standards of nurse-midwifery.

SANCTIONS FOR VIOLATIONS

The Review Committee agrees with the sanctions imposed by the Utah Board of Nurse-Midwifery and the Texas Board of Nursing and recommends that Respondent receive a letter of reprimand. The Review Committee further recommends that Respondent not be granted the CNM certificate until her RN license is unencumbered.

Respondent is also required to:

1. Notify AMCB at such time as her Utah RN license becomes unrestricted.
2. Petition at that time for a change from a CM certificate to a CNM certificate.
3. Notify AMCB at such time as she resumes nurse-midwifery practice
4. Pay a \$2,000 fee to AMCB
5. Once the CNM certificate is granted, Respondent's nurse-midwifery practice will be subject to peer review monitoring every 6 months for a period of 2 years. Respondent must submit the name of peer reviewer for approval by Carol Howe, CNM, DNSc, FACNM.

Effective: November 16, 2015

REVIEW COMMITTEE

Carol Howe, CNM, DNSc, FACNM, Chair

Debra Penney, CNM, MPH, PhD

Sarah Hagen, CNM

Cara Krulewitch, CNM, PhD, FACNM
AMCB President, Board of Directors