

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

In the Disciplinary Matter of:

Evelyn D. Muhlhan

Respondent

Decision

On April 8, 2013 the Maryland Board of Nursing executed a Consent Order of Stayed Suspension and Probation in the matter of Evelyn D. Muhlhan, CNM. Allegations against Ms. Muhlhan included violations of the following articles of the Nurse Practice Act (Md. Health Occ. Code Ann., § 8-316 (a)):

- (8) Does any act that is inconsistent with generally accepted professional standards in the practice of registered nursing;
- (9) Is grossly negligent in the practice of registered nursing;
- (25) Engages in conduct that violates the professional code of ethics;
- (26) Is professionally incompetent;
- (30) Violates regulations adopted by the Board;
- (31) Performs an act that is beyond the licensee's knowledge and skills.

A copy of the Consent Order of Stayed Suspension and Probation was provided indicating that, for a period of 3 years and 6 months, the Respondent is required to:

- Not practice as a registered nurse or nurse-midwife in a home birth setting.
- Obtain Board approval prior to accepting any registered nurse positions.
- Only be employed as a nurse-midwife if the October 24, 2012 suspension of her certification by AMCB has been lifted and terminated and she provides documentation that her AMCB certification is active and in good standing; she is employed as a nurse-midwife in a hospital or birthing center; and she obtains Board approval prior to accepting any nurse-midwifery position.
- Notify all current or future nursing employers of the stayed suspension/probationary status of her registered nurse license and nurse-midwife certificate.
- Arrange for her supervisor at her place of employment to submit written quarterly Work-Site reports to the Board evaluating her registered nursing and nurse-midwifery practice.
- Notify the Board in writing of any nursing position from which she is terminated and/or voluntarily resigns within 3 business days.
- Submit to the Board written quarterly Self-Reports describing her progress.
- Submit annual written documentary evidence of successful completion of all requirements for maintenance of her nurse-midwifery certification.
- Notify the Board within 3 days of any temporary or permanent move within or outside the State of Maryland.

- Disclose a copy of the Order to the nursing board of any other state in which she is licensed, certified, and/or employed.
- Complete within 6 months Board-approved courses in 1. Documentation and 2. Critical Thinking.
- Schedule and attend annual, in-person, face-to-face meetings with the Board staff.
- Obey all state and federal laws.

The AMCB was informed of the following previous orders concerning Evelyn D. Muhlhan by the Maryland Board of Nursing :

- Order for Summary Suspension of Registered Nurse License and Registered Nurse Midwife Certification of October 6, 2011
- Amended Order for Summary Suspension of Registered Nurse License and Registered Nurse Midwife Certification of June 13, 2012.

In accordance with AMCB procedures, these documents were reviewed by Ms. Barbara Graves, President. In a certified letter dated October 24, 2012, AMCB notified Evelyn D. Muhlhan that a temporary suspension of her AMCB Certification was effective immediately and would continue through the final AMCB Discipline Review Process under the following provisions of the Disciplinary Policy:

A.7 Limitation or sanction by federal, state or private licensing board, administrative agency, association or health care organization related to public health or safety or midwifery practice.

A.9 Engaging in unprofessional conduct, 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.

The notice requested that the Respondent submit a written answer to these charges within 30 days of receipt of the letter. Ms. Muhlhan's attorney, S. Micah Salb submitted a response dated November 2, 2012 requesting a 60 day postponement of AMCB action as the MD Board of Nursing case had been resolved. AMCB granted the request. By letter dated December 28, 2012, Attorney Salb submitted a request for an additional postponement as they await the finalization of the MD Board of Nursing Consent Order. AMCB granted the 30 day extension by letter dated January 15, 2013. Attorney Salb submitted another request for an extension until February 21, 2013 to allow Ms. Muhlhan the opportunity to review the MD Board of Nursing Consent Order. Attorney Salb submitted a letter dated April 24, 2013 providing the MD Board of Nursing Consent Order in response to AMCB's original letter for Show Cause dated October 24, 2012. A Disciplinary Review Committee, comprised of three individuals with no prior involvement with the matter or the individual against whom discipline is being considered, was duly convened.

The Disciplinary Review Committee has now considered the charges against Ms. Muhlhan and the above described matters of record. On the basis of the factual findings and reasons set forth below, the Committee unanimously concluded that substantial grounds for discipline against Respondent exist under section A.6, A.7 and A.9 of the Disciplinary Policy and the imposition of termination of certification is warranted.

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 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 has assumed responsibility for discipline of ACNM/ACC/AMCB certificants through the Disciplinary Policy, the most recent version of which AMCB adopted December, 2003.
3. Respondent was initially certified by AMCB (formerly ACC) on 7/11/1987.
4. Respondent is currently licensed as a Registered Nurse and Certified Nurse-Midwife in the State of Maryland.
5. Respondent practices/practiced at Alternative Birth Choices, LLC, Catonsville, MD.
6. Respondent signed the Maryland Board of Nursing's Consent Order acknowledging that she admitted "the truth of the Findings of Fact."

Discussion

In this matter, we are called upon to decide whether and what discipline is warranted against a CNM who received a "Consent Order of Stayed Suspension and Probation" by the Maryland Board of Nursing. This order included the description of six individual complaints regarding Ms. Muhlhan's practice received from 4 physicians, a hospital's risk manager, and a patient. Each case involved Ms. Muhlhan's home birth practice and transfers from home to hospital of laboring women or neonates. The complaints included home birth patients managed by the Respondent in June 2008, April 2010, November 2010, January 2011 (times two), and September 2011. The Review Committee reviewed and discussed each case in detail and concluded that the Respondent consistently disregarded the Maryland Board of Nursing rules by practicing as a nurse-midwife in a home birth setting without an approved Agreement that includes home births and practicing without a collaborating physician for home births. In addition, her documentation and clinical decisions during prenatal care and the management of home births compromised patient safety putting the women and their fetuses/infants at risk.

The Review Committee is persuaded that the Respondent has not practiced consistent with the standards for safe midwifery care during home birth. The Review Committee is also persuaded that the incidents cited rise to the level of a consistent

pattern over time of not meeting the core competencies or practice standards for midwifery as specified by the American College of Nurse-Midwives.

The Review Committee concludes that Respondent engaged in conduct that violates the following Disciplinary Policies of the AMCB:

A.6 Gross or repeated negligence or malpractice in professional work.

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.

A.9, Engaging in conduct which is inconsistent with professional standards, including but not limited to (1) 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.

As a result, the Committee recommends that Ms. Muhlhan's AMCB certification as a nurse-midwife is revoked effective immediately under the provision of AMCB's Disciplinary Policies B.1.

Executive Committee for Discipline Discussion

Following full consideration of the Disciplinary Review Committee's finding of facts and conclusions, the AMCB Executive Committee for Discipline affirms the Committee's findings and determines that the following sanctions shall be imposed for the violations found:

Revocation of AMCB certification. Respondent's certification is hereby revoked.

Notification of Certification Status. AMCB will notify the State of Maryland Board of Nursing of the revocation of the Respondent's certification.

Effective: 7/1/2013

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