

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

In the Disciplinary Matter of:

Ruth Marie Wingeier
Respondent

DECISION

On 2/10/2014, the American Midwifery Certification Board (AMCB) received a written complaint from a CNM regarding possible violations by the Respondent of the AMCB Disciplinary Policy. The Respondent provided care to a patient identified as the complainant's granddaughter. The complaint alleged that the Respondent had provided home birth services to a high-risk patient resulting in the death of the infant. Accompanying the complaint to AMCB was a copy of a complaint filed with the Minnesota Board of Nursing (BON) with regard to the same allegation.

In accordance with AMCB procedures, the complaint was reviewed by the AMCB President, who determined that the matters alleged in the notice of possible violation, if true, could constitute grounds for disciplinary action.

Accordingly, by letter dated 6/3/2014, AMCB notified Respondent that it had initiated a disciplinary proceeding to determine whether good grounds existed for discipline. A response from the Respondent was requested and an initial response was received on 7/5/2014 and a full response was received on 7/9/2014.

Given the potential for action by the Minnesota Board of Nursing, the Chair of the Discipline Review Committee made the decision to stay the ACNM disciplinary process temporarily pending possible state action as State investigation and sanctions (if any) would inform the AMCB process. The AMCB Discipline Director monitored Minnesota Board of Nursing actions and no public record of sanctions upon Respondent's license was noted.

Subsequently, on 8/15/2016 AMCB was notified by the Minnesota Board of Nursing of disciplinary action upon Respondent's Advanced Practice Registered Nursing license. The Disciplinary action was based upon a different allegation, specifically inpatient administration of a homeopathic remedy to a patient attempting a VBAC after two previous cesarean births. The Respondent was not the attending midwife after the patient's arrival at the hospital and did not have practice privileges at the facility. The Disciplinary action consisted of a letter of Reprimand and Civil Penalty.

After consultation with the President of AMCB, the decision was made to combine the initial complaint with the subsequent Minnesota Board of Nursing action as one Disciplinary process.

Accordingly, by letter dated 8/23/2016, AMCB notified Respondent that it had initiated a disciplinary proceeding to determine whether good grounds existed for discipline under the any or all of four provisions of Section VI.A.7. of the Disciplinary Policy:

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 (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 response from the Respondent was requested within 30 days of the receipt of the letter. A response was received on 9/26/2016.

A Review Committee comprised of a Chair (Carol Howe, CNM, DNSc) and two qualified members (Nancy Jo Reedy, CNM, MSN and Lonnie Morris, CNM, PhD) was duly convened.

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 good grounds for discipline against Respondent exist under sections A.7. and A.9. of the Disciplinary Policy and that the imposition of sanctions is warranted.

FINDINGS

The Review Committee finds the following facts:

1. AMCB (formerly the ACNM Certification Council) 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 has assumed responsibility for discipline of ACNM/ACC/AMCB certificants through the Disciplinary Policy, the most recent version of which ACC adopted November, 2012.

3. Respondent was certified by ACNM on 4/10/1982, prior to AMCB's assumption of responsibility for certification of nurse-midwives.

4. With regard to the first complaint, conduct inconsistent with professional standards related to a home birth with subsequent stillbirth due to uterine rupture the findings of fact are:

a. A home birth was attempted for a patient whose obstetrical history placed her at high risk of uterine rupture, including a uterine malformation and history of 2

previous cesarean births. Patient also had a history of preterm birth.

b. Patient desired to attempt home birth. After consultation with an obstetrician who recommended hospital birth, and finding no hospital willing to attempt a VBAC after two previous cesarean birth, the patient indicated that she intended to labor at home and in the hospital parking lot, enter the hospital in second stage labor and refuse cesarean delivery.

c. Respondent, who cared for this patient in this and previous pregnancies, agreed to attend labor at home and accompany patient to the hospital prior to delivery.

d. Patient notified Respondent of onset of contractions at 2021, Respondent told the patient to walk for an hour and Respondent would prepare to come to the home. Patient called at 2230 indicating that she was unable to time contractions, feeling constant tenderness and pressure. Respondent arrived at 0025, 4 hours after the initial call.

e. On arrival at the patient's home, Respondent noted signs of uterine rupture, including absent FHTs, change in fetal lie, tender abdomen and no fetal presenting part in the pelvis. A call was placed to 911. The patient was placed in an ambulance 47 minutes after Respondent's arrival.

d. Patient's stillborn infant was delivered by cesarean section upon arrival at the hospital.

5. With regard to the allegation regarding use of a homeopathic remedy in an inpatient setting in which Respondent did not have practice privileges, the findings of fact are:

a. Respondent was present at the hospital for the labor of a patient attempting a VBAC after two previous cesarean births. The patient's labor was not progressing and the recommendation had been made for a repeat cesarean birth.

b. Respondent had no practice privileges in the hospital.

c. At the patient's request, Respondent administered a homeopathic remedy in an attempt to augment labor.

d. Respondent did not inform the attending care providers, nor did she document her action.

e. On 12/3/2015, Respondent signed a Stipulation and Consent Order resulting in a Reprimand and Civil Fine from the Minnesota Board of Nursing.

DISCUSSION

In this matter we are called upon to decide whether and what discipline is warranted against a CNM who has been sanctioned for professional negligence or malpractice by a state licensing board.

Our decision regarding the allegation by the Minnesota BON (administration of a homeopathic remedy without authority to do so) is guided by the general principle that a private certification organization like ACMB will normally give full faith and credit to the disciplinary decisions of an expert public body such as a state licensing board. As a matter of policy, therefore, the Review Committee will presume that acts of a state licensing board taken pursuant to statutory authority are valid and worthy of respect. That is, absent some factual and compelling reason to believe that the licensing board's decision-making processes violated the licensee's rights to due process, we will not attempt to decide *de novo* whether the state licensing board acted properly. It is the burden of a certificant charged with violation of the Disciplinary Policy to show such a reason. Although we acknowledge that the presumption of validity may be difficult to overcome in any particular case, we believe that it is appropriate to AMCB's mission and circumstances.

The Committee is persuaded that Respondent has not met her burden of showing some material irregularity in the Minnesota Board of Nursing processes that would cast doubt on the fundamental correctness or fairness of its decisions. Employing a limited and deferential scope of review of the Minnesota BON decisions that resulted in the Reprimand of Respondent's license, the Committee is satisfied that the BON acted under lawful authority and valid procedures. Accordingly, we conclude that a basis exists for discipline under section A.9., namely, that Respondent has committed gross or repeated negligence or malpractice in professional work.

Respondent was sanctioned by the Minnesota BON, a fact that she obviously does not contest. Consequently, without more, a basis for discipline exists under section A.7. of the Disciplinary Policy, namely, that Respondent has been sanctioned by a state licensing board.

With regard to the Complaint filed by the grandmother of a patient whose infant was stillborn after a uterine rupture at home, the Committee is also persuaded that Respondent committed gross negligence by supporting the patient's plan to labor out of hospital until birth was imminent. Uterine rupture can occur at any point in the course of labor. Although Respondent describes a compelling account of the patient's attempt to find a hospital willing to offer VBAC after two cesarean births, the risk imposed by the concomitant unicornuate uterus made labor in any setting a high-risk situation. Although patients have the absolute right to accept or refuse any recommendation, there is no obligation for a midwife to support a patently unsafe decision. To request that a patient transfer care in a non-emergent situation does not constitute patient abandonment. Further, there is no evidence that the Respondent strenuously objected to or advised against this patient's plan. In fact, the patient submitted a letter in support of the Respondent, noting "Together, we made a plan..." which included laboring and possibly delivering at home.

The Review Committee also notes with concern that 4 hours passed between the initial phone call indicating labor had begun and Respondent's arrival at the home. In the interim, a phone call indicating the cessation of timeable contractions and the onset of constant uterine tenderness did not prompt an immediate recommendation for transfer to hospital by ambulance. Further, 46 minutes elapsed from Respondent's arrival until transfer by ambulance occurred.

It is of note that in both allegations considered here, Respondent's decisions were dictated by patient request rather than sound clinical or legal decision-making.

SANCTIONS FOR VIOLATIONS

The Review Committee determines that the following sanctions shall be imposed for the violations found:

1. **Reprimand.** A letter of reprimand will be executed.
2. **Fine:** A fine of \$1,000 will be imposed.

Effective: 4/7/2017

REVIEW COMMITTEE

Carol Howe, CNM, DNSc, FACNM, FAAN, Chair
Nancy Jo Reedy, CNM, MSN, FACNM
Lonnie Morris, CNM, PhD, FACNM

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