

**BEFORE THE  
BOARD OF DIRECT ENTRY MIDWIFERY  
HEALTH LICENSING OFFICE**

<i>In the Matter of:</i>	)	<b>Amended Notice of Intent to Suspend and</b>
<b><i>Augustine Colebrook</i></b>	)	<b>Impose Additional Discipline</b>
	)	<b>Right to Request a Hearing</b>
<i>License No.</i>	)	
DEM-LD-10119128	)	
	)	
Respondent,	)	Office File No. 11-6616

Under ORS 687.420, 687.445, and 687.485, the Board of Direct Entry Midwifery (“Board”), with the assistance of and in consultation with the Health Licensing Office<sup>1</sup> is the State Board charged with licensing and disciplining licensed direct entry midwives. Pursuant to ORS 687.445, 676.612(1), and 676.992(2), the Board, hereby proposes to:

- 1) Suspend the Respondent’s license to practice direct entry midwifery, for a minimum period of six (6) months with reinstatement contingent on the following:
  - 1.1. Satisfying any general requirements for reinstatement under the applicable statutes and rules and the following specific requirements.
  - 1.2. Respondent violates no laws or Oregon Administrative Rules during suspension period.
  - 1.3. Respondent completes a class in risk assessment in pregnancy. Respondent is responsible for identifying a course and submitting the courses for approval by the Board.
  - 1.4. Respondent completes a class in hypertensive disorders in pregnancy. Respondent is responsible for identifying a course and submitting the courses for approval by the Board.
  - 1.5. Respondent may not supervise other individuals or make clinical decisions, concerning the practice of midwifery during suspension period.
  
- 2) Upon reinstatement, place the Respondent’s license on probation for a period of six months with the following specific requirements:
  - 2.1. Respondent will meet with and have charts reviewed by a Board approved supervisor throughout the care of her first 10 clients after the reinstatement of her license. Respondent is responsible for identifying a supervisor and submitting information, as required by the Board, for approval by the Board. Respondent is responsible for any fees or costs associated with such supervision. Respondent is responsible for insuring the Board’s guidelines for supervised care are followed.<sup>i</sup>
  - 2.2. Respondent may not supervise other individuals concerning the practice of midwifery.
  - 2.3. Respondent violates no laws or Oregon Administrative Rules during suspension period.

<sup>1</sup> As of July 1, 2014, the “Oregon Health Licensing Agency” (OHLA or Agency) became the “Health Licensing Office” (HLO or Office).

- 3) Assess the cost of any disciplinary proceeding against the Respondent, up to a maximum of \$5,000.

### **FINDINGS OF FACT**

- 1) At all relevant times, Respondent held Oregon Direct Entry Midwifery license DEM-LD-10119128 issued by the Office.
- 2) At all relevant times, Respondent was one of two midwives (Respondent and CNM) responsible for the care of the Client including the client's records, and prenatal care. Respondent was the sole midwife responsible for the primary care of the Client during the intrapartum period.
- 3) At all relevant times, Respondent was the Executive Director of Wise Woman Care Associates and Trillium Waterbirth Center.
- 4) On or about June 29, 2011, Client transferred care from her OB and began care with Respondent at 33 weeks into her twelfth pregnancy, G12,T3,P3,A4,L4 at 40 years old. At the initial visit Client's Blood Pressure (BP) was 120/80 and Protein: 0.
  - 4.1. Respondent's risk assessment included: Previous C-section; Previous late term abortion; Grand Multiparity; 4 previous preterm births and never had a baby at term; Advanced maternal age; Previous post-partum hemorrhage; Asthma; Fibroid uterus. Respondent noted that Client was healthy low risk.
- 5) On or about July 5, 2011, at a prenatal visit with Respondent, (34.3 weeks) Client's BP was 138/98 and there was a trace of protein in her urine measured on a urine dipstick.
- 6) On or about July 11, 2011, at a prenatal visit with Respondent, (35.2 weeks) Client's BP was 120/78; she had no protein in her urine, 1+ pitting edema and a mild headache.
- 7) On or about July 13, 2011, Client called Respondent at 10:30 p.m. complaining of a left-sided headache and reported a home BP reading of 140/99. Respondent reviewed preeclampsia symptoms and treatments with Client. Respondent instructed Client to call if her BP was at 150/100 or with a worse headache or vision changes.
- 8) On or about July 14, 2011, Client called Respondent reporting that her headache was decreasing, no swelling and a home BP reading of 133/88 and 150/90.
- 9) On or about July 14, 2011, at a home prenatal visit with CNM (35.5 weeks) Client reported having mild but persistent headaches for the past three days, with home BPs ranging from 130s/80s to 150s/90s. CNM measured and charted Client's BP at 150/90 (sitting) and 130/90 (lying down), a trace of protein in her urine, and mild non-pitting edema. CNM sent for blood and urine tests for CBC, CMP, Uric acid and a protein/creatinine ratio. Those test were reported to Respondent on July 18, 2011, according to those tests Client's protein/creatinine ratio was .41, which equates to estimated 24 hour urine protein 513 mg or "+++" on a urine dipstick.

- 10) On or about July 16, 2011, at a prenatal visit with CNM (36.0 weeks) Client reports still having mild persistent headaches, home BP had been 140/90.-CNM charted mild non-pitting edema in the feet, a BP of 148/98 (sitting) and 130/98 (sitting). CNM instructed Client to treat with diet, monitor her BP and call if BP was over 150/100. CNM wrote report to Respondent.
- 11) On or about July 18 2011, at 4:00 p.m., during a prenatal visit with Respondent (36.2 Weeks) Client's had a BP of 140/85 and had protein in her urine measured as +2 on a urine dipstick. Respondent sent Client for more labs and instructed her to do nipple stimulation to induce labor. Client reported mild transitory headaches in the morning, and home BPs ranging from 138/88 to 150/100.
- 12) On or about July 18 2011, at 6:30 p.m., a notation was made in Client's chart, BP 148/88; Pulse 84; fetal heart tones (FHT) 143 up to 158 with movement.
- 13) On or about July 20 2011, during a prenatal visit (36.4 weeks), CNM reported the Client had a BP of 128/80 and had protein in her urine measured as +1 on a urine dipstick. No home BP reading were noted.
- 14) On or about July 23, 2011, during a prenatal visit with CNM (37.0 weeks), Client's BP was 140/90 and protein was +2, blood +1 as measured on a urine dipstick. No home BP reading were noted, but were described as still up from baseline. CNM charted mild hypertension with persistent proteinuria, and yet also noted "no preeclampsia symptoms." Sent for labs and 24-hour urine. Client was instructed to call if her BP was at 150/100 or she had other signs or symptoms of preeclampsia. CNM wrote report to Respondent.
- 15) On or about July 25, 2011, Client completes 24-hour urine; 24-hour total protein was 1245 mg. The labs were reported on July 26, 2011; Respondent stamped and initialed "Received" on July 27 2011.
- 16) On or about July 27, 2011, at 11:00 a.m., Client called Respondent and wanted to be in labor. Respondent told her that she should come to the birth center. According to Client in her interview, she wanted to be in labor because she was concerned that her preeclampsia would get worse. Respondent indicated in her interview that sometime after her last prenatal with Client (36.4 week and the labor) CNM advised her that delivery was the solution to the concerns about preeclampsia and borderline BP issues, so Respondent stimulated labor with herbs.
- 17) On or about July 27, 2011, at 6:15 p.m., the labor record begins. Client's BP was 149/99, fetal heart tone (FHT) 140, and infrequent contractions. Respondent administered cotton root bark, 60 drops.
- 18) On or about July 27, 2011, between 6:30 p.m. to 10:20 p.m. Client's BP's were 145/90 and 145/91. Respondent administered cotton root bark 60 drops seven more times, and "labor enhancer tincture" 4 times.

- 19) On or about July 27, 2011, at 10:30 p.m. Respondent artificially ruptured Client's membranes. Respondent reported clear fluid. Fetal Heart Tones ranged from 130 to 155 between 10:20 and 10:30 p.m.
- 20) On or about July 27, 2011, from 10:45 p.m. to midnight, FHT ranged from 134 to 142, Respondent administered "labor enhancer tincture" two additional times.
- 21) On or about July 28, 2011, between 12:15 a.m. and 2:00 a.m., FHT ranged from 134 to 152. An IV was placed at 1:15 a.m. and the Client's BP was recorded at 142/85 at 2:00 a.m.
- 22) On or about July 28, 2011, at 2:05 a.m., Respondent recorded VE 6, FHT 170. Copious bloody show during a vaginal examination.
- 23) On or about July 28, 2011, at 2:10 Respondent recorded, FHT 160, Respondent listened to FHT through a contraction and heard an early deceleration to 117, and at 2:15 a.m., Respondent recorded FHT at 130 with no decelerations.
- 24) On or about July 28, 2011, at 2:30 a.m. FHT were 150s to 100 at the start of a contraction. Respondent recorded she observed two tablespoons of red blood. Respondent was concerned about abruption or rupture. The decision was made to transport Client to the hospital.
- 25) On or about July 28, 2011, at 2:35 a.m., Respondent transported Client to Providence Medford Medical Center by private car.
- 26) On or about July 28, 2011, at 3:52 a.m., Client delivered a baby girl by cesarean section. Baby was 2200 g (4.9 lbs) the surgeon noted a vasa previa (fetal blood vessels cross or run in close proximity to the external orifice of the uterus) extending across the infants occiput.

### **APPLICABLE LAW<sup>2</sup>**

**ORS 676.606 Oversight and centralized service by agency.**

\* \* \*

- (4) State Board of Direct Entry Midwifery, as provided in ORS 687.405 to 687.495;

**ORS 676.612 Disciplinary authority; authority of agency to require fingerprints.**

\* \* \*

- (2) A person subject to the authority of a board, council or program listed in ORS 676.606 commits a prohibited act if the person engages in:

\* \* \*

- (j) Unprofessional conduct, negligence, incompetence, repeated violations or any departure from or failure to conform to standards of practice in performing services or practicing in a regulated occupation or profession subject to the authority of the boards, councils and programs listed under ORS 676.606.

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<sup>2</sup> The laws in the "Applicable Law" and "Conclusions of Law" sections are those that were in place at the time the violations occurred.

(n) Violation of any rule regulating an occupation or profession subject to the authority of the boards and councils listed in ORS 676.606.

**OAR 332-015-0000 Definitions**

The following definitions apply as used in OAR 332-015-0000 through 332-030-0000.

\* \* \*

(2) "Antepartum" means the period of time before the onset of labor.

\* \* \*

(8) "Intrapartum" means the period of time from the onset of labor through the birth of the placenta.

(9) "LDM" means licensed direct entry midwife.

(10) "MANA" means the Midwives Alliance of North America.

**OAR 332-025-0021 Risk Assessment Practice Standards**

Licensees must assess the appropriateness of an out-of-hospital birth taking into account the health and condition of the mother and baby according to the following absolute and non-absolute risk criteria:

(1) "Absolute risk" as used in this rule means conditions or clinical situations of obstetrical or neonatal risk that cannot be resolved and that preclude out-of-hospital birth. If the mother or baby presents with any absolute risk factors, the LDM must:

(a) During the antepartum period, plan for transfer of care and an in-hospital birth;

(b) During the intrapartum period, arrange transportation to the hospital and transfer of care unless the birth is imminent;

(c) When the birth is imminent, take the health and condition of the mother and baby and conditions for transport into consideration in determining whether to proceed with out-of-hospital birth or to arrange for transportation to a hospital and transfer of care;

(d) During the postpartum period, arrange for transportation of mother or baby to a hospital and transfer of care;

(2) The following constitute absolute risk factors:

(a) ANTEPARTUM ABSOLUTE RISK CRITERIA: \*\*\*

(H) Pre-eclampsia/eclampsia;

\*\*\*

(b) INTRAPARTUM ABSOLUTE RISK CRITERIA: \*\*\*

(G) Pre-eclampsia/eclampsia;

\* \* \*

(6) For the purpose of this rule "transfer of care" means the process whereby any LDM who has been providing care relinquishes this responsibility to a hospital or to licensees under ORS chapter 682.

**OAR 332-025-0022 Mother and Baby Care Practice Standards:**

\* \* \*

(3) In addition to and not in lieu of the MANA core competencies, an LDM must adhere to the following mother and baby care practice standards:

(a) Care During Pregnancy (Antepartum) the LDM must: \*\*\*

(B) Determine the need for consultation or referral as appropriate;

\*\*\*

- (b) Care During Labor, Birth and Immediately Thereafter (Intrapartum) the LDM must: \*\*\*  
(B) Determine the need for consultation or referral as appropriate;

### CONCLUSIONS OF LAW

1. By failing to plan for transfer of care of her client because of the absolute risk of preeclampsia during the antepartum period, the Respondent violated OAR 332-025-0021 (1)(a) & (2)(a)(H) and ORS 676.612 (2)(n).
2. By failing to plan for transfer of care of her client because of the absolute risk of preeclampsia during the antepartum period, the Respondent failed to conform to standards of practice in violation of ORS 676.612 (2)(j) & (n) and OAR 332-025-0021 (1)(a) & (2)(a)(H).
3. By failing to plan for an in hospital birth of her client because of the absolute risk of preeclampsia during the antepartum period, the Respondent violated OAR 332-025-0021 (1)(a) & (2)(a)(H) and ORS 676.612 (2)(n).
4. By failing to plan for an in hospital birth of her client because of the absolute risk of preeclampsia during the antepartum period, the Respondent failed to conform to standards of practice in violation of ORS 676.612 (2)(j) & (n) and OAR 332-025-0021 (1)(a) & (2)(a)(H).
5. By failing to determine the need for referral of her client because of the absolute risk of preeclampsia during the antepartum period pursuant to OAR 332-025-0021 (1)(a) & (2)(a)(H), the Respondent violated OAR 332-025-0022 (3)(a)(B) and ORS 676.612 (2)(n).
6. By failing to determine the need for referral of her client because of the absolute risk of preeclampsia during the antepartum period pursuant to OAR 332-025-0021 (1)(a) & (2)(a)(H), the Respondent failed to conform to standards of practice in violation of ORS 676.612 (2)(j) & (n) and OAR 332-025-0022 (3)(a)(B).
7. By failing to arrange transportation of her client to the hospital because of the absolute risk of preeclampsia during the intrapartum period, the Respondent violated OAR 332-025-0021 (1)(b) & (2)(b)(G) and ORS 676.612 (2)(n).
8. By failing to arrange transportation of her client to the hospital because of the absolute risk of preeclampsia during the intrapartum period, the Respondent failed to conform to standards of practice in violation of ORS 676.612 (2)(j) & (n) and OAR 332-025-0021 (1)(b) & (2)(b)(G).
9. By failing to transfer care of her client because of the absolute risk of preeclampsia during the intrapartum period, the Respondent violated OAR 332-025-0021 (1)(b) & (2)(b)(G) and ORS 676.612 (2)(n).

10. By failing to transfer care of her client because of the absolute risk of preeclampsia during the intrapartum period, the Respondent failed to conform to standards of practice in violation of ORS 676.612 (2)(j) & (n) and OAR 332-025-0021 (1)(b) & (2)(b)(G).
11. By failing to determine the need for referral of her client because of the absolute risk of preeclampsia during the intrapartum period pursuant to OAR 332-025-0021 (1)(b) & (2)(b)(G), the Respondent violated OAR 332-025-0022 (3)(b)(B) and ORS 676.612 (2)(n).
12. By failing to determine the need for referral of her client because of the absolute risk of preeclampsia during the intrapartum period pursuant to OAR 332-025-0021 (1)(b) & (2)(b)(G), the Respondent failed to conform to standards of practice in violation of ORS 676.612 (2)(j) & (n) and OAR 332-025-0022 (3)(b)(B).

**PROPOSED ORDER**

Pursuant to ORS 687.445, 676.612(1) 676.992(2), the Board of Direct Entry Midwifery may take any disciplinary action it finds proper and hereby proposes to ORDER:

- 1) Suspend the Respondent's license to practice direct entry midwifery, for a minimum period of six (6) months with reinstatement contingent on the following:
  - 1.1. Satisfying any general requirements for reinstatement under the applicable statutes and rules and the following specific requirements.
  - 1.2. Respondent violates no laws or Oregon Administrative Rules during suspension period.
  - 1.3. Respondent completes a class in risk assessment in pregnancy. Respondent is responsible for identifying a course and submitting the courses for approval by the board.
  - 1.4. Respondent completes a class in hypertensive disorders in pregnancy. Respondent is responsible for identifying a course and submitting the courses for approval by the board.
  - 1.5. Respondent may not supervise other individuals or make clinical decisions concerning the practice of midwifery during suspension period.

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- 2) Upon reinstatement, place the Respondent's license on probation for a period of six months with the following specific requirements:
  - 2.1. Respondent will meet with and have charts reviewed by a Board approved supervisor throughout the care of her first 10 clients after the reinstatement of her license. Respondent is responsible for identifying a supervisor and submitting information, as required by the Board, for approval by the Board. Respondent is responsible for any fees or costs associated with such supervision. Respondent is responsible for insuring the Board's guidelines for supervised care are followed.
  - 2.2. Respondent may not supervise other individuals concerning the practice of midwifery.
  - 2.3. Respondent violates no laws or Oregon Administrative Rules during suspension period.
- 3) Assess the cost of any disciplinary proceeding against the Respondent, up to a maximum of \$5,000.

DATED 7-14-16



Colleen Forbes, LDM  
Chair, Board of Direct Entry Midwifery

Enclosures: Option form, Notice of Contested Case Rights and Procedures  
CERTIFIED MAIL: 70151730000099391395

#### NOTICE OF RIGHTS TO REQUEST A HEARING

You have the right to a hearing to contest this order. The hearing, if requested, will be conducted according to the Administrative Procedures Act, ORS chapter 183. A **request for hearing** must be in writing and **must be received** by the Health Licensing Office **within 30 days** from the date this Notice was mailed to you. The written request for a hearing must be sent to the Health Licensing Office, 700 Summer St. NE, Suite 320, Salem, Oregon 97301-1287.

If you request a hearing, you **may be required to provide, with your request, an answer** to each factual matter alleged in the Notice and a short and plain statement of any **affirmative defense** you will raise at the hearing. Please see OAR 331-020-0020. If a specific response is required, factual matters alleged in the notice and not denied in the answer shall be presumed admitted; failure to raise a particular defense in the answer will be considered a waiver of such defense; new matters alleged in the answer (affirmative defenses) shall be presumed to be denied by the office; and evidence shall not be taken on any issue not raised in the notice and the answer. You may be represented by an attorney. If you cannot afford an attorney, you may contact Oregon's Legal Aid providers to attempt to obtain free or low-cost representation.

If you are an active duty service member you have the right to request a stay of proceedings under the federal Servicemembers Civil Relief Act and may contact the Oregon State Bar toll-free at (800) 452-8260, or the Oregon Military Department toll-free at (800)452-7500, or the United States Armed Forces Legal Assistance (AFLA) locator at <http://www.militaryonesource.mil> or <http://legalassistance.law.af.mil>.

You will be notified of the date, time and place of the hearing. If you request a hearing you may be represented by an attorney at hearing and you may subpoena and cross-examine witnesses. If you cannot afford an attorney, you may contact an Oregon legal aid office to apply for assistance. If you request a hearing, you will also be given information on the procedures, right of representation and other rights relating to the conduct of the hearing before the commencement of the hearing.

## **<sup>i</sup> Midwifery Supervision Guidelines**

The supervisee must meet with the Board approved supervisor to develop a plan of supervision. The supervisee will notify the supervising midwife upon discovery of any confirmed or suspected Absolute or Non-Absolute Risks listed in OAR 332-025-0021.

The supervisor will meet with the supervisee at the following points throughout the course of care to review and discuss the client's charts for a total of no less than four meetings for each supervised birth. The supervisor will at minimum address the areas listed below with specific attention to areas where violations have occurred as listed in the final order and standards of care pursuant with midwifery laws and rules. The supervisor will address any areas of concern with the supervisee.

### **I. Intake and initial risk assessment** (meeting to take place shortly after initial visits or initial assessments)

- 1) Medical History
  - a) OB/GYN History
  - b) Surgical History
  - c) Family History
- 2) Dating parameters identified & discrepancies resolved per accepted standards
- 3) Absolute or Non-Absolute Risks identified-did the supervisee appropriately assess and recognize risk factors.
  - a) Was there an appropriate consultation and with who
  - b) Consult to confirm risk factor
  - c) What was the result of that consultation
  - d) Was there a documented discussion with the client
  - e) What was the result
- 4) Other potential risks identified or preexisting conditions
  - a) Therapeutic actions/interventions instituted in alignment with identified problems
  - b) Consult to rule out a risk factor
- 5) Informed choice discussions documented
  - a) Supervisees recommendations
- 6) Records of Care properly documents

### **II. Care During Pregnancy (Antepartum)** (meeting to take place around 36 weeks)

- 1) Assess, identify, evaluate and support maternal and fetal well-being throughout the process of pregnancy
- 2) Lab work and testing
- 3) Absolute or Non-Absolute Risks identified- did the supervisee appropriately assess and recognize risk factors.
  - a) Was there an appropriate consultation and with who
  - b) Consult to confirm risk factor

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- c) What was the result of that consultation
  - d) Was there a documented discussion with the client
  - e) What was the result
  - 4) Other potential risks identified or preexisting conditions
    - a) Therapeutic actions/interventions instituted in alignment & identified problems
    - b) Consult to rule out a risk factor

***Antepartum continued***

- 5) Informed choice discussions documented
  - a) Risks/benefits
  - b) Pros/cons
  - c) Midwife's recommendations
- 6) Informed consent documentation
- 7) Records of Care properly documents

**III. Later Pregnancy and Post Dates** (meetings to take place as necessary)

- 1) Absolute or Non-Absolute Risks identified- did the supervisee appropriately assess and recognize risk factors.
  - a) Was there an appropriate consultation and with who
  - b) Consult to confirm risk factor
  - c) What was the result of that consultation
  - d) Was there a documented discussion with the client
  - e) What was the result
- 2) Postdates testing
- 3) Informed consent documentation
- 4) Records of Care properly documents

**IV. Labor, Birth and Immediately Thereafter (Intrapartum)** (meetings to take place as necessary)

- 1) Vital signs at appropriate intervals temperature, blood pressure, pulse, fetal heart tones
- 2) Urine dip done
- 3) If abnormal vital signs – what action taken & is it consistent?
- 4) Labor progress assessed. How?
- 5) Interventions
- 6) Documentation of interventions & effect
- 7) Absolute or Non-Absolute Risks identified- did the supervisee appropriately assess and recognize risk factors.
  - a) Was there an appropriate consultation and with who
  - b) Consult to confirm risk factor
  - c) What was the result of that consultation
  - d) Was there a documented discussion with the client
  - e) What was the result
- 8) Informed consent documentation
- 9) Records of Care properly documents

**V. Postpartum** (meetings to take at the end of Midwifery care or as necessary)

- 1) Postpartum
  - a) Assessment at appropriate intervals
  - b) ID deviations
  - c) Action taken documented