

BEFORE THE HEALTH LICENSING AGENCY
OF THE STATE OF OREGON
BOARD OF DIRECT ENTRY MIDWIFERY

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| In the matter of |) | Notice of Proposed |
| |) | Suspension and |
| Adele Rose |) | Right to Request |
| #DEMLD10117447 |) | a Hearing |
| |) | |
| Licensee |) | File No. DEM 08-5222 |

To: Adele Rose:

The Oregon Health Licensing Agency, in consultation with the Board of Direct Entry Midwifery, is the agency charged with enforcing regulations pertaining to licensed direct entry midwifery pursuant to ORS 687.445. On February 7, 2008, the Oregon Health Licensing Agency received a complaint involving Licensee. After an investigation was conducted, the Oregon Health Licensing Agency, in consultation with the Board of Direct Entry Midwifery, concluded that suspension of your license is appropriate based upon your unprofessional conduct, as alleged below, pursuant to ORS 676.612 (1)(j)(n).

I.
FINDINGS OF FACT

- 1) From approximately September 24, 2007 through January 9, 2008, Licensee provided midwifery services to client (KF).
- 2) On February 8, 2008, the Oregon Health Licensing Agency sent Licensee a letter requesting copies of all client records and documentation pertaining to client KF.
- 3) On February 28, 2008, Licensee complied and submitted all requested information.
- 4) No documentation of a plan for emergency transport could be located in client KF's client record.
- 5) On September 24, 2007, Licensee documented in client KF's medical and family history record that client KF had 2 previous c-sections.
- 6) No documentation of surgical records being reviewed or obtained identifying the type of uterine incision conducted on the previous c-sections to assess a maternal antepartum non-absolute risk could be located in client KF's client record.

- 7) No documentation of a consultation with an Oregon licensed health care provider who has direct experience with VBAC births could be located in client KF's client record.
- 8) On January 9, 2008, the Licensee's documentation regarding client KF's Intrapartum care showed discrepancies in the assessment of a protracted course of labor during its 2nd stage.

II.
STATUTORY AUTHORITY

ORS 687.445

In the manner prescribed in ORS chapter 183 for contested cases and in consultation with the State Board of Direct Entry Midwifery, the Oregon Health Licensing Agency may impose a form of discipline specified in ORS 676.612 against any person practicing direct entry midwifery for any of the grounds listed in ORS 676.612 and for any violation of the provisions of ORS 687.405 to 687.495, or the rules adopted thereunder.

ORS 676.612

- (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 690.515, 694.147 and 700.111, the Oregon Health Licensing Agency may refuse to issue or renew, may suspend or revoke or may place on probation or otherwise discipline a holder of a certificate, permit, license or registration to practice issued by the agency for any of the following reasons:

- (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 in ORS 676.606.

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

III.
CONCLUSIONS OF LAW

- 1) From September 24, 2007 through January 9, 2008, you failed to maintain and document a plan for emergency transport for client KF which is in violation of OAR 332-025-0020(12) & (13).
- 2) From September 24, 2007 through January 9, 2008, you failed to determine an antepartum non-absolute risk factor when providing services to client KF and review the surgical records and/or subsequent birth history. You also failed to obtain a consult with at least one Oregon licensed health care provider which is in violation of OAR 332-025-0021(3) & (4)(a).
- 3) On January 9, 2008, you failed to provide accurate Intrapartum assessments on client KF which is in violation of OAR 332-025-0022(7)(a).

IV.
PROPOSED ACTION

The Oregon Health Licensing Agency, in consultation with the Board of Direct Entry Midwifery, proposes to suspend Licensee's license #DEMLD10117447.

V.
NOTICE OF RIGHT 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 Oregon Health Licensing Agency within 30 days** from the date this Notice was mailed to you. The written request for a hearing must be sent to the Oregon Health Licensing Agency, 700 Summer St. NE, Suite 320, Salem, Oregon 97301-1287.

If you request a hearing, you must also provide, with your request, an answer to each factual matter alleged in this Notice and a short and plain statement of any affirmative defense you will raise at the hearing pursuant to OAR 331-020-0020. Except for good cause: 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 agency; and evidence shall not be taken on any issue not raised in the notice and the answer.

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 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.

If you do not file a timely request for hearing, the Agency's file may be made a part of the record for the purpose of proving a prima facie case. The Oregon Health Licensing Agency may issue a final order by default and impose the above sanctions against you.

DATED 12 16 2008.

Susan K. Wilson, Director
Oregon Health Licensing Agency
Board of Direct Entry Midwifery



Tim Molloy, Manager
Regulatory Operations Division

Enclosures: Option form
Certified Mail receipt # 7007 0220 0004 4775 0746