

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

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*In the Matter of:* )  
**Shibley, Dana** )  
 ) **Default Final Order**  
*License No.* )  
*DEM-LD- 1004924* )  
 )  
Respondent, ) Agency File No. 10-6219

**PROCEDURAL HISTORY**

On June 12, 2015, the Health Licensing Office<sup>1</sup> (HLO or Office), sent, by registered and certified mail, a notice of intent to assess a civil penalty, impose additional discipline and right to a hearing (notice), to Respondent. On June 22, 2015, HLO received the registered and certified envelope back, with a tag from the United States Postal Service, "RETURN TO SENDER." On June 30, 2015, the notice was given to ABC Legal Service for delivery. On July 16, 2015, the notice was returned to the office indicating Respondent no longer lived at the address the office had on record. On July 8, 2015, the Office sent the notice, by registered and certified mail to Respondent's PO Box. On July 10, 2015 a signed receipt (not signed by Respondent) was returned to the office. On July 21, 2015, an office Investigator called Respondent and asked if Respondent received the notice. Respondent acknowledged in the affirmative, she had received the notice. Respondent had 30 days to request a hearing. Respondent did not request a hearing within the 30 days. As a result, the Board is issuing this final order by default.

The notice informed Respondent that in the event a final order by default was issued, the Board and Agency would designate its file in this matter for purposes of proving a *prima facie* case. The Board now designates its file in this matter for purposes of proving a *prima facie* case.

**NOW, THEREFORE**, after consideration of the relevant records and files of the Board relating to this matter, the Board enters the following Findings of Fact, Conclusions of Law, and Final Order:

**FINDINGS OF FACT**

- 1) At all relevant times, Dana Shibley (Respondent) held Direct Entry Midwifery license DEM-LD-1004924 issued by the OHLA.
- 2) At all relevant times, the Respondent was the primary midwife for the client.

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

- 2 3) Client began her prenatal care with the Respondent at Andaluz Water Birth Center on  
October 23, 2008.
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- 6 4) On May 3, 2009, at 1:50 am, the client arrived at the Andaluz Waterbirth Center. The client  
is in active labor and is four centimeters dilated.
- 8 5) On May 3, 2009, at 6:15 pm, Respondent documented in the Labor Record the "cervix  
melted away". This was the last documented cervical examination until the Client was  
10 transported approximately 30 hours later. Respondent also did not chart fetal position and  
station assessment during that approximate 30 hours.
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- 14 6) At 7:10 pm, the client had a sudden rupture of membranes, with initiation of pushing  
efforts.
- 16 7) From May 3, 2009 at 7:10 pm until May 5 at 12:20 am (or approximately 29 hours and 10  
minutes) the client and Respondent both reported the pushing process as being slow with  
18 irregular contractions and occurring without a strong urge to push throughout.. The client  
pushed in a variety of positions on and off, often taking long breaks for rest, food, fluid,  
20 and interventions were given to augment the contractions and pushing process.
- 22 8) The client was unable to void starting on May 4, 2009, at 10:45am and she was catheterized  
for 875 cc of urine. The client's bladder was catheterized 4 more times before transporting  
24 to the hospital.
- 26 9) Under the prevailing standards of practice, Respondent should have obtained consultation  
or referral for a protracted labor with evidence of labor dystocia (inadequate contractions)  
28 and/or obstruction (repeated need for catheterization).
- 30 10) On May 5, 2009, at 12:20 am, the client was transported to the Oregon Health and  
Science University (OHSU). The client arrived at OHSU at 1:00 am.
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- 34 11) On May 5, 2009, at 3:00 am, the client delivered her child via Cesarean Section. The  
Apgar score was 6/9.
- 36 12) The infant was delivered with significant facial bruising, cranial edema and full  
thickness necrosis on a part of the nose requiring months of medical treatment and  
38 additional surgery. He was diagnosed with craniosynostosis, which likely contributed to  
the inability to be delivered vaginally.
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**APPLICABLE LAW**

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**676.612 Disciplinary authority; authority of agency to require fingerprints.** (1) In the manner prescribed in ORS chapter 183 for contested cases and as specified in ORS 675.385, 678.780, 680.535, 687.445, 688.734, 688.836, 690.167, 690.407, 691.477, 694.147 and 700.111, the Oregon Health Licensing Agency may refuse to issue or renew, may suspend or revoke or may otherwise condition or limit a certificate, license, permit or registration to practice issued by the agency or may discipline or place on probation a holder of a certificate, license, permit or registration for commission of the prohibited acts listed in subsection (2) of this section.

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(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:

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(j) 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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**332-015-0040**

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**Education**

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(1) All applicants must have completed the following minimum core competencies adapted from the 1997 Edition of the Midwives Alliance of North America (MANA) and approved by the Board:

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(c) Care During Labor, Birth and Immediately Thereafter (Intrapartum): The midwife provides health care, support and information to women throughout labor, birth and the hours immediately thereafter. The midwife determines the need for consultation or referral

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as appropriate. The midwife uses a foundation of knowledge and/or skill which includes the following:

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(A) The normal processes of labor and birth.

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(F) Fetal and maternal anatomy and their interactions as relevant to assessing fetal position and the progress of labor.

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**332-025-0022**

**Standards of Care**

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Standards of care for the determination of initial visits, laboratory tests, prenatal visits, education/counseling/anticipatory guidance, emergency access, intrapartum care, postpartum care, and newborn care include:

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2 (7) INTRAPARTUM CARE:

4 (a) Assessment during labor: The following parameters shall be included as part of the initial  
6 assessment of a laboring woman and her baby as indicated: maternal temperature, blood pressure,  
8 pulse, frequency, duration and intensity of uterine contractions, and the physical and emotional  
10 environment. Fetal well-being shall also be assessed which includes fetal lie, position, and presentation,  
12 fetal movement, heart rate before, during and after uterine contractions, fetal scalp color as appropriate,  
14 and if relevant, the color, odor and clarity of amniotic fluid. Appropriate assessment of mother and  
16 fetus should be ongoing during labor including regular assessment of fetal heart tones.

12 **CONCLUSIONS OF LAW**

14 The references to statutes and rules below are to the laws in place at the time of the violations.

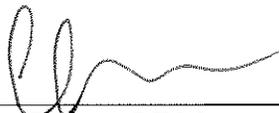
- 16 1) By failing to obtain consultation or referral as appropriate, for a protracted labor with  
18 evidence of labor dystocia (inadequate contractions) and/or obstruction (repeated need for  
20 catheterization) which failed to conform to the standards of practice, Respondent violated  
22 ORS 676.612(2)(j) and (n) and OAR 332-015-0040.
- 24 2) By failing to provide appropriate assessment of mother and fetus during ongoing labor, by  
26 failing to assess fetal position and station, cervical examination during labor to ascertain  
28 true station and descent during second stage. Respondent violated OAR 332-025-0022.

24 **ORDER**

26 Pursuant to ORS 687.445, 676.612(1) 676.992(2), the Board of Direct Entry Midwifery may take  
28 any disciplinary action it finds proper, including revocation of Respondent's license, for any  
30 violation and hereby ORDERS:

- 32 1) The Respondent is assessed a civil penalty in the amount of \$1500.

34 DATED 10-1-15

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40 Colleen Forbes, LDM  
42 President, Board of Direct Entry Midwifery

44 Enclosures: Final Order by Default  
CERTIFIED MAIL: N/A

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## APPEAL

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If you wish to appeal the final order, you must file a petition for review with the Oregon Court of Appeals within 60 days after the final order is served upon you. *See* ORS 183.480 *et seq.*

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