

BEFORE THE ARKANSAS STATE BOARD OF HEALTH

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

VS.

Debra Disch

RESPONDENT

ORDER AND NOTICE OF HEARING

The Arkansas State Board of Health has authority to license and regulate the practice of lay midwifery in the State of Arkansas pursuant to the Licensed Lay Midwife Act, Ark. Code Ann. § 17-85-107. The Arkansas State Board of Health, pursuant to the Licensed Lay Midwife Act has promulgated the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas.

Allegations of Fact

1. On March 31, 2014, the respondent replied to a letter from the Arkansas Department of Health requesting further information regarding her allegedly illegal midwifery practice in the state of Arkansas. The respondent admitted in writing that she had acted in the capacity of midwife, providing prenatal, intrapartum and/or postpartum care to pregnant women in Arkansas, and received payment for these services. The respondent admitted in writing that she had facilitated, participated in or been present for both home VBAC deliveries and twin (or other multiples) home births in the state. She also admitted that she was aware those activities are against protocol for home births in Arkansas and are considered violations of the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (the Rules).

2. On July 29, 2014, the Respondent was sent a Determination of Review from the Arkansas Department of Health with the finding that the Respondent had been practicing midwifery in the state of Arkansas without a valid Arkansas Lay Midwifery License, thereby demonstrating a lack of regard for the clinical safety and disregard for Arkansas law governing the practice of midwifery.
3. On January 16, 2015, and June 3, 2015, ADH Women's Health Section received notification from the Scott County Health unit that two clients had reported they were receiving midwifery care from the respondent.
4. On July 9, 2015, ADH Women's Health Section received a letter forwarded from a Scott County Local Health Unit client stating the Respondent has provided midwifery care to her during five of her pregnancies, including a recent pregnancy.
5. As of August 14, 2015 (up to and including the date of this notice) the Respondent does not hold a valid license to practice midwifery in the state of Arkansas.

Allegations of Law Violated

1. Ark. Code Ann. § 17-85-107 provides as follows:
 - a. The State Board of Health is empowered to license lay midwives in this state pursuant to regulations established by the board to include, but not limited to:

Standards of practice for prenatal, intrapartum, and postpartum care of mother and baby, physician supervision, physician consultation, licensed nurse midwife supervision or consultation, or physician and hospital backup.
2. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (2008), provide at § 302.04 that:

The Department may refuse to issue, may suspend or may revoke a permit for violation of State law or these Regulations.

3. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (2008) provide at 301.04 that:


The Division may refuse to issue, may suspend or may revoke a license for violation of ~~State Law~~ or these Regulations including...1. Dereliction of any duty imposed by law.

4. Ark.Code Ann. § 17-85-105(a)(2) provides that it is unlawful to by any means that you are licensed to practice lay midwifery in Arkansas if you are not in fact licensed. It is also unlawful to receive compensation for attending a birth as a lay midwife. Id. at § 105(a)(1).

ORDER

WHEREFORE, the Arkansas Department of Health and the Arkansas State Board of Health have determined that a hearing shall be conducted according to the Administrative Procedure Act, Ark. Code Ann. § 25-15-201 et seq.; the Licensed Lay Midwife Act, Ark. Code Ann. § 17-85-101 et seq.; and the Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas. **NOTICE IS HEREBY GIVEN** that a formal hearing regarding the charges and allegations set out herein will be held on **October 7, 2015, at 10:00 o'clock, a.m., in Room 906 of the Freeway Medical Building, 5800 West 10th Street, Little Rock, Arkansas.** The Respondent may be heard in person or by counsel and may offer such witnesses, affidavits and documentary evidence in defense of the above charges as may be relevant to this matter. Respondent's failure to appear at the hearing may result in the imposition of fines.

IT IS SO ORDERED this 23rd day of September, 2015.


Patricia Scott, DNP, Director
Center for Health Advancement

BEFORE THE ARKANSAS STATE BOARD OF HEALTH

ARKANSAS DEPARTMENT OF HEALTH

PETITIONER

VS.

DEBRA DISCH

RESPONDENT

FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

A hearing was held on the above-styled matter before a Subcommittee of the State Board of Health (the "Board") on the 7th of October, 2015, at the Arkansas Department of Health, Freeway Medical Center, 5800 West Tenth Street, Suite 906, Little Rock, Arkansas 72205. The Respondent, Debra Disch, did not appear, but did present a letter on her behalf. The Petitioner, the Arkansas Department of Health, Women's Health Section, appeared by and through its attorneys, Reginald Rogers and Elizabeth Pitman. On the basis of testimony and other evidence presented at the hearing, the Arkansas State Board of Health makes the following Final Findings of Fact, Conclusions of Law, and Order:

Findings of Fact

1. On March 31, 2014, the Respondent replied to a letter from the Arkansas Department of Health requesting further information regarding her allegedly illegal midwifery practice in the state of Arkansas. The Respondent admitted in writing that she had acted in the capacity of midwife, providing prenatal, intrapartum and/or postpartum care to pregnant women in Arkansas, and received payment for those services. The Respondent admitted in writing that she had facilitated, participated in or been present for both home vaginal birth after cesarean (VBAC) deliveries and twin (or other multiples) home births in the state. She also admitted that she was aware those activities are against protocol for home

2. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (2008), provide at § 302.04 that:

The Department may refuse to issue, may suspend or may revoke a permit for violation of State law or these Regulations.

3. The Rules and Regulations Governing the Practice of Lay Midwifery in Arkansas (2008) provide at § 301.04 that:

The Division may refuse to issue, may suspend or may revoke a license for violation of State law or these Regulations including...1. Dereliction of any duty imposed by law.

4. Ark.Code Ann. § 17-85-105(a) provides that it is unlawful for any person not licensed as a lay midwife by the State Board of Health, excluding licensed nurse-midwives and physicians licensed by the State Medical Board, to:

(a) Receive compensation for attending birth as a lay midwife; or

(b) Indicate by any means that the person is licensed to practice lay midwifery in Arkansas.


5. Respondent violated Ark. Code Ann. § 17-85-105 and the Rules by practicing midwifery without a license on at least four (4) separate occasions.
6. Pursuant to Ark. Code Ann. § 20-7-101(b), the State Board of Health has the authority to fine every person violating rules or regulations promulgated under its authority up to \$1,000 per violation.

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the State Board of Health hereby finds that Respondent, Debra Disch, shall be fined one thousand dollars (\$1,000.00) per violation of the Rules and Regulations Governing Lay Midwifery and the Lay Midwifery Act, for a total fine of four thousand dollars (\$4,000.00).

The State Board of Health also finds that Respondent, Debra Disch, should be permanently barred from obtaining a lay midwifery license in the State of Arkansas without further deliberation and decision from the Board.

Pursuant to the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-212, the Respondent may petition for judicial review of this decision by filing a petition in the Circuit Court of any county in which the Respondent resides or does business or in Pulaski County within thirty (30) days of receipt of the final Order.



President
Arkansas State Board of Health
DATE: 1/28/14