

**Oregon Health Licensing Agency
Board of Direct Entry Midwifery
Minutes of September 11, 2006**

MEMBERS PRESENT

Betty Griffith, Chairperson
Holly Scholles, Vice Chairperson
Rosemary Carvalho, Licensed Direct Entry Midwife (LDM)
Sherry Dress, Licensed Direct Entry Midwife (LDM)

MEMBERS ABSENT

Nancy Grant M.D.
Michele Bouche, Certified Nurse Midwife (CNM)

TELEPHONE CONFERENCE

Sue Morningstar, Certified Nurse Midwife (CNM)

STAFF PRESENT

Susan Wilson, Director
Larry Peck, Regulatory Operations Manager
Samantha Patnode, Board Liaison/Executive Assistant

AUDIENCE MEMBERS

Lisa Lehrer, Licensed Direct Entry Midwife (LDM)
Anne Frye

CALL TO ORDER

Chairperson, Betty Griffith, called the meeting of the Board of Direct Entry Midwifery to order at 9:21 a.m. on Monday, September 11, 2006 at the Oregon Health Licensing Agency (OHLA) Rhoades Conference Room, 700 Summer St NE, Salem, Oregon.

APPROVAL OF AGENDA

MOTION

Ms. Scholles made a motion and Ms. Dress seconded to approve the agenda. The motion passed with Ms. Dress, Ms. Scholles, Ms. Griffith, Ms. Carvalho, and Ms. Morningstar voting aye.

APPROVAL OF MINUTES

MOTION

Ms. Dress made a motion and Ms. Scholles seconded to approve the March 27, 2006 minutes. The motion passed with Ms. Dress, Ms. Scholles, Ms. Griffith, Ms. Carvalho, and Ms. Morningstar voting aye.

REPORTS

Revenues and Expenditures (tape 1, counter number 15)

Mr. Riggs, Fiscal Services Division Manager, explained the two main categories of interest. **Personal Services** are employee compensation and related benefits. **Services and Supplies** are non-personnel expenses for agency operations. Charges are divided into two types – direct and indirect – for each program. Indirect costs for agency operation include office supplies, rent, telephones, data processing hardware and software, etc. and costs are distributed by a prorate. Direct charges include attorney general counsel, postage, instate travel or investigative costs, and are distributed at actual rates. He reported on July 1, 2005 the balance was \$129,947 and as of July 31, 2006, the cash balance was \$157,385. Ms. Wilson explained the OHLA Request Budget for 2007 – 2009 and the process. She focused on policy package 201 uniform fee structure, which will establish a revenue pool and provides a consistent formula for funding the OHLA. Ms. Carvalho inquired on what the proposed uniform license fee would be for Direct Entry Midwifery. Mr. Riggs stated all 84,000 practitioner fees including Direct Entry Midwifery fee will be \$21.

Enforcement (tape 1, counter number 87)

Mr. Tryon, Chief Enforcement Officer, reported on the number of complaints received in the following time period: (tape 1, counter number 87)

January 1, 2006 through July 31, 2006:

- Total Number of Licensees – 47
- Total Number of Complaints – 4

He provided a full comparison report on complaints received and orders written for the years of 2002 to date. Mr. Tryon provided an explanation of the complaints, ratio of complaints per license base and the ratio of complaints per licensee. Mr. Tryon gave an overview of two cases closed in April and August 2006 and reported on the open files.

Licensing (tape 1, counter number 118)

Ms. Murphy, Licensing Supervisor, reported there were 47 active licensed midwives with legend drugs endorsement. She pointed out a monthly and yearly comparison report for 2003 through 2005. She recapped the month-by-month breakdown of 2005 through 2006 comparison report noting an increase of 2 since 2004.

Ms. Murphy reported that at the April 10, 2006 board meeting, the Board approved adding statistical birth occurrences to the peer review summary sheet. The Board recommended the following changes to the form: Add apgar score, maternal death, and abbreviate VBAC. Ms. Griffith stated that peer review is required annually, and asked if midwives perform them quarterly, which peer review period should be submitted with the license renewal. Staff stated that only one peer review summary sheet should be submitted at the time of renewal.

The Board discussed who is qualified to attend and participate in peer reviews. Comments were made that under OAR 332-015-0030 the definition of peer review states that "discussion of cases with other care providers and students". Staff questioned whether other healthcare providers were allowed to attend and participate in peer review discussions. The Board deferred the issue to the Rules Advisory Committee for further review of the definition of Peer Review to possibly add "other healthcare providers".

MOTION

Ms. Scholles made a motion and Ms. Dress seconded to make changes to the peer review form by adding apgar score, maternal death, and abbreviate VBAC. The motion passed with Ms. Dress, Ms. Scholles, Ms. Griffith, Ms. Morningstar, and Ms. Carvalho voting aye.

Ms. Murphy reported that a letter was mailed to all licensed midwives reporting requirements to vital statistics and that practitioners must use "LDM" when reporting the attendant designation of births.

Ms. Murphy stated that a continuing education audit was conducted on two licensed midwives. She stated submission of the continuing education information is due by September 24, 2006.

Outreach and Communication (tape 1, counter number 290)

Mr. Bohot, Communications Officer, reported that the Board of Direct Entry Midwifery brochure has been revised to address stakeholders concerns regarding informed consent and information on potential risks for out of hospital births. The brochure also includes the following information:

- The voluntary nature of midwifery licensure in Oregon-
- Qualifications for licensure

- Professional titles
- Legend drugs and devices

Mr. Bohot provided a revised Midwifery fact sheet on qualifications and continuing education requirements. He stated that the continuing education page on the Web site has been updated and newly remodeled. Ms. Frye suggested the word "lay" should be deleted. Ms. Wilson stated that "lay" is a common term used for unlicensed or untrained persons. Ms. Leher commented that the information in the Drugs & Devices section of the brochure is not correct. Ms. Scholles volunteered to review the brochure and report changes to staff.

VBAC Continued Discussion (tape 1, counter number 400)

Staff reported that a response letter to Dr. Kort, from Samaritan WomanCare Center from Tricia Allbritton, Administrative Division Manager was sent to acknowledge his letter and advise him that the issue was still under discussion. The letter contained reference to: existing administrative rules and risk factors regarding vaginal births after cesareans (VBACS) in out-of-hospital settings.

Ms. Dress suggested that the Board meet four times a year due to items needing immediate board attention. Ms. Wilson stated schedules don't permit more meetings of the full Board and that in the interim staff or subcommittees address immediate issues.

Mr. Bohot reported that the Board/Council Member Orientation Handbook has been completed. He noted that filming for the new board & council member video would begin in November 2006. He reported to the Board that Metro Parent Magazine had written an article on *Midwifery*.

Mr. Bohot provided a North America study on outcomes of planned home births with certified professional midwives.

VBAC Continued Discussion (tape 1, counter number 511)

The Board continued discussion on VBAC births. Ms. Wilson explained that allowing midwives to perform VBAC in a home birth setting is a public protection issue, and that patients need to understand the risk factors involved if circumstances arise during a home birth. She suggested referring the issue to the Public Safety Committee for further discussion and to provide Dr. Kort and others an opportunity to present their point of view, review complete case studies and allow for diverse group discussion in considering the facts. Ms. Scholles expressed the need for informed consent to be addressed with patients. Ms. Wilson concurred and clarified that informed consent is part of the education process for the patient. Board members discussed the dichotomy between the medical and midwifery model of care, and how to defuse opposition from medical care providers based on inconclusive evidence of the safety of VBAC in the home birth setting. Ms. Scholles underscored the criteria and safeguards used to formulate the current non-absolute risk criteria regarding *"previous uterine incision other than low transverse cesarean and/or myomectomy with review of surgical records and/or subsequent birth history."*

Ms. Dress stated that it is difficult to educate the medical community when physicians are misinformed on midwifery practices. She recommended sending the Board's position statement on VBAC to all doctors and hospitals; board members agreed the position statement should be posted on the Web site and made available in response to questions from interested parties, but not targeted specifically at the medical community. The statement will represent the Board's position on VBAC in the practice of midwifery. Ms. Griffith noted that the DHS, Health Service Birthing Center Task Force on which she and the agency director served was provided a study on VBAC's, which refuted the standard medical opinion. She agreed to provide a copy of the study for reference at the meeting.

MOTION

Ms. Dress made a motion and Ms. Carvalho seconded to resume discussion related to the VBAC births to the Public Safety Committee with the assignment to establish and publish a position statement that includes research, citations, and informed consent. The motion passed with Ms. Scholles, Ms. Griffith, Ms. Dress, Ms. Morningstar, and Ms. Carvalho voting aye.

2007 Board Meeting Dates (tape 1, side 2, counter number 95)

MOTION

Ms. Scholles made a motion and Ms. Dress seconded to approve the 2007 meeting dates. The motion passed with Ms. Scholles, Ms. Griffith, Ms. Dress, Ms. Morningstar, Ms. Carvalho voting aye.

- April 16, 2007
- September 10, 2007

2007 Subcommittees (tape 1, side 2, counter number 120)

Ms. Griffith asked if there were any changes to the subcommittees.

MOTION

Ms. Carvalho made a motion and Ms. Scholles seconded to approve 2007 Subcommittees with the following changes. The motion passed with Ms. Scholles, Ms. Griffith, Ms. Dress, Ms. Morningstar, Ms. Carvalho voting aye.

Peer Review: Betty Griffith; Sue Morningstar; Sherry Dress

Education and Examination: Sue Morningstar; Holly Scholles; Sherry Dress

Enforcement: Nancy Grant, M.D.; Betty Griffith; Rosemary Carvalho; Alternate Holly Scholles

Public Safety: Nancy Grant, M.D.; Rosemary Carvalho; Michele Bouche

Legislation/Rules: Betty Griffith; Michele Bouche; Holly Scholles

2007 Chair and Vice Chair (tape 1, side 2, counter number 125)

MOTION

Ms. Scholles made a motion and Ms. Carvalho seconded that Betty Griffith remain as 2007 Chair. The motion passed with Ms. Scholles, Ms. Dress, Ms. Morningstar, Ms. Carvalho voting aye.

MOTION

Ms. Dress made a motion and Ms. Carvalho seconded that Holly Scholles remain as the 2007 Vice Chair. The motion passed with Ms. Griffith, Ms. Dress, Ms. Morningstar, Ms. Carvalho voting aye.

Public Comment

No Public Comment

Board Interest File

Ms. Griffith focused on the *Board Interest File* for board review and noted it contained information pertaining to Direct Entry Midwifery.

EXECUTIVE SESSION – Enforcement ORS 192.660(2)(k)
(tape 1, side 2, counter number 150)

Chair Griffith called for the Board to enter Executive Session under ORS 192.660(2)(k) at 11:33 a.m. for the purpose of considering information obtained as part of an investigation of a licensee or applicant by a health professional regulatory board. Ms. Griffith recused herself from deliberations due to conflict of interest regarding file number 04-4279 because she attended the licensee's criminal hearing. Ms. Dress recused herself from deliberations due to conflict of interest regarding file number 06-4860, because she was the primary attendant at birth. Recusal refers to a public official or employee declining to participate in a matter because of a potential or actual conflict of interest.

Executive Session concluded at 12:30 p.m. and the following actions were taken:

File Number 04-4279

MOTION

Ms. Scholles made a motion and Ms. Dress seconded to accept the Enforcement Committee recommendation to assess a civil penalty of \$1,000 for violation of 332-025-0020(3) for failing to have documentation of an emergency transport plan; and a civil penalty of \$1,000 for violation of 332-025-0022(3) for failing to conduct a urinalysis on 3 prenatal visits; and a civil penalty of \$1,000 for violation of 332-025-0020(4) for failing to accompany the patient during transport, failing to call 911, and for failing to conduct ongoing and continuing assessment until another healthcare provided assumed care. The motion passed with Ms. Scholles, Ms. Dress, Ms. Morningstar, Ms. Carvalho voting aye. Ms. Griffith was recused from discussion of the file due to conflict of interest for attendance at the licensee's criminal hearing.

File Number 06-4745

MOTION

Ms. Scholles made a motion and Ms. Dress seconded that no violations were assessed and the case closed. The motion passed with Ms. Scholles, Ms. Griffith, Ms. Dress, Ms. Morningstar, Ms. Carvalho voting aye.

File Number 06-4746

MOTION

Ms. Scholles made a motion and Ms. Carvalho seconded that no violations were assessed and the case closed. The motion passed with Ms. Scholles, Ms. Griffith, Ms. Dress, Ms. Morningstar, Ms. Carvalho voting aye.

File Number 06-4817

MOTION

Ms. Scholles made a motion and Ms. Dress seconded that no violations were assessed and the case closed. The motion passed with Ms. Scholles, Ms. Griffith, Ms. Dress, Ms. Morningstar, Ms. Carvalho voting aye.

File Numbers 06-4860

MOTION

Ms. Carvalho made a motion and Ms. Morningstar seconded to refer file 06-4860 to the Enforcement Subcommittee for further investigation. Ms. Scholles and Ms. Griffith voted no and Ms. Carvalho and Ms. Morningstar, voting aye. Ms. Dress was recused as she was the primary attendant at birth being investigated. It was determined enforcement staff lacked the necessary information to process the file. Further review was assigned to the DEM Enforcement Subcommittee.

The meeting was adjourned at 12:51 p.m.

Susan K. Wilson, Director