

TENNESSEE COUNCIL OF CERTIFIED PROFESSIONAL MIDWIFERY
Special Council Meeting

September 4, 2018
10:00 a.m.

MINUTES

A Special meeting of the Tennessee Council of Certified Professional Midwifery was held in the Poplar Conference Room, at 665 Mainstream Drive, Nashville, TN 37243 on September 4, 2018.

Members Present: Debra Church, CPM, Chair
 Margaret Marie Fulmer Brasel, MSN, CNM, Vice Chair
 Sandra Elliott Tinnin, Board Member
 Jo Nell Montgomery, Consumer Member

Members Absent: Charles Rush, MD

Staff Present: Candyce Waszmer, Administrative Director
 Stacy Tarr, Administrative Director
 Angela M. Lawrence, Executive Director
 Sherry Williams, Board Administrator
 Kyonzte Hughes-Toombs, Deputy General Counsel

The necessary number of council members joined the meeting and a quorum was established. The Council meeting was call to order by Ms. Debra Church, at 10:02 a.m.

The meeting started with a roll call of present members and staff.

Minutes

Ms. Church made a motion to approve the minutes from the May 30, 2018 meeting of the Council and Ms. Brasel seconded the motion. The motion carried.

Review and Ratification of Licenses

Ms. Church made a motion to ratify all new professional midwifery licenses/reinstatements. Ms. Tinnin seconded the motion. The motion carried by unanimous vote.

Report from the Office of Investigations

Ms. Lori Leonard informed the Council they have received one (1) new complaint this year for malpractice/negligence. There are no closed complaints and three (3) complaints currently in review. There is currently one practitioner being monitored and this person is paid in full and may be coming up for compliance soon.

Discuss collection of birth statistics Model Form

The council was provided a proposed form developed by Ms. Church to review. Ms. Stacy Tarr presented an overview reminding the Council of the statute requiring them to provide statistical data annually. Administrative staff was hoping to link the report to the renewal, but since the renewal is completed biannually, completing it with the renewal would not be in compliance with the statute. Administrative staff is currently looking at ways to capture the statistical information online or electronically and would like the council guidance on the necessary information to move forward. After a lengthy discuss Ms. Church made a motion to table this decision until the next meeting to allow more time the council to review and staff to research how to best implement the process. Ms. Brasel seconded the motion. The motion carried.

Presentation from Patrick Powell – 2018 Legislation Updates

Mr. Powell presented a list of public chapters that could have some effect on all boards and council under Health Related Boards. Mr. Powel presented a brief overview on each of the following Public Chapters 611, 744, 745, 793, 754, 929, 954 and 1021.

Contest Case

Marie Godfree v. State of Tennessee Council of Certified Professional Midwifery

Poplar Room

Administrative Law Judge: Thomas G. Stovall

Panelist: Debra Church, CPM, Margaret Brasel, MSN, CNM, Sandra Tinnin, Board Member and Jo Nell Montgomery, Consumer Member

Counsel for State: Kyonzte Hughes-Toombs

Counsel for Respondent: Cindy Morgan, Esq.

The facts stipulated are as follows:

Respondent is unlicensed by this Council but admits that she provides traditional midwifery services but does not charge a fee. Respondent feels this is a ministry and only received reimbursement for her expenses. The respondent states reimbursement is not always in the form of money. Respondent has accepted produce, gifts and sometimes does not receive anything. After both the counsel presented their sides of the case and the testimony was heard from the respondent, Administrative Judge Stovall asked to review the proposed findings documents to be presented to the panelists by Ms. Hughes-Toombs. The case was dismissed by Judge Stovall due to specific details in the Notice of Charges there were not presented in the case by the state. The state is bound by the Notices of Charges and must provide the proof as stated in the Notice of Charges document. The case was dismissed without prejudice.

Agreed Order

Carolyn Drake Reisman, CPM – did not appear before the Council and was not represented by counsel. Ms. Hughes-Toombs represented the State. Respondent has been licensed since May 10, 2006 and has an expiration date of April 30, 2019. Respondent's certification was disciplined on April 4, 2013 for failure to have a collaborative plan with a physician and failure to develop an appropriate emergency plan for four (4) patients. The Council's order was ratified by the Board of

Osteopathic Examination on May 15, 2013. Respondent sent emergency care plans to the Department of Health for two (2) years, which were accepted by the Department of Health's Disciplinary Coordinator as appropriate pursuant to the Council's order. In or about 2008, the Respondent contacted a physician to ask him to form a collaborative care plan with her and for her clients. The physician and Respondent do not agree as to the results of their discussion in 2008 regarding the formation of a collaborative care plan. Respondent emailed emergency care plans to the physician via the email address given to her by the physician. The physician asserts that all of the emergency care plans went to the spam folder of the email address. The physician did not discover the emergency care plans until 2016. Respondent had no contact with this physician, other than referring one or more clients to him and emailing the emergency care plans, from 2008 to 2016. In 2016, the physician contacted the Respondent to terminate their relationship and inform her that he did not accept responsibility for her clients and to stop sending him emergency care plans. Respondent then entered into a collaborative care plan with another physician. The facts stipulated constitute grounds for discipline. This order shall place the Respondent's license on probation for six (6) months, effective the date of this order. Respondent must submit a copy of each emergency plan for each client to the disciplinary coordinator for the Division of Health Related Boards. Respondent must ensure that any physician with whom she forms a collaborative care plan is properly informed of the responsibilities involved. Respondent must have a collaborative care plan in place for all clients. If the Respondent chooses to retire her license prior to the expiration of the probationary period, the license will remain on probation until the expiration of the probationary period. Upon receiving Respondent's retirement affidavit, no further emergency care plans will need to be submitted. Respondent must pay one Type C civil penalty of one hundred dollars (\$100.00) for each year she did not form a collaborative plan with a physician for a total civil penalty of eight hundred dollars (800.00). Respondent must also pay all actual and reasonable cost of the case not to exceed three thousand five hundred dollars (\$3,500.00). Ms. Church motioned to approve the order. Ms. Tinnin seconded the motion and it passed.

Discuss and create a "Compensation" rule definition

Ms. Hughes-Toombs presented a document found in the Massage Board statute as an example of possible language the Council might use as a guide. Ms. Hughes-Toombs suggested the Council consider making a change to the rule to add a definition of compensation. After discussion Ms. Brasel motioned to add a definition of compensation to the rules by defining compensation as the payment, loan, advance, donation, contribution, deposit or gift of money. Ms. Montgomery seconded the motion and it passed.

Appoint a member to informed consent form taskforce

Ms. Hughes-Toombs presented the rules changes discussed at the last meeting to the Board of Osteopathic Examination since they have to approve the rule changes as well per statute. One area of concern for the Osteopathic Board was the informed consent form. The Board would like to see a model form for the informed consent. The Board is requesting that one or two persons from this Council meet with members from the Osteopathic Board and legal counsel to discuss the content of the form and come up with a consensus for the form. It was suggested that the Council's consultant, Mary Ann Richardson serve on the taskforce. Ms. Hughes-Toombs agreed to reach out to her and ask if she would serve. Ms. Tinnin also volunteered to serve on the taskforce.

Discuss and consider the Council meeting twice per year

Ms. Tarr addressed the Council on behalf of administrative staff making the request to work more routinely with this Council by meeting more than once per year. Ms. Hughes-Toombs reminded the Council of a busy year as far as contest cases as well. After some discussion, it was suggested the Council meet in April and September on an as needed basis.

Angela Lawrence, Executive Director introduced herself to the Council as this was her first meeting with the Council.

Ms. Church made a motion to adjourn. Ms. Brasel seconded the motion. The meeting adjourned at 12:46pm CT.