

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DSPS website: An individual who believes that information on the website is inaccurate may contact DSPS@wisconsin.gov

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

VIVIENNE F. COBBS, L.P.N., L.M.,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:

ORDER 0007234

Division of Legal Services and Compliance Case No. 18 RMA 003

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Vivienne F. Cobbs, L.P.N., L.M.
Pardeeville, WI 53954

Wisconsin Department of Safety and Professional Services
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Respondent Vivienne F. Cobbs, L.P.N., L.M., (DOB XX/XX/1951) is licensed in the state of Wisconsin to practice midwifery, having license number 102-49, first issued on April 30, 2012, and current through June 30, 2022.¹ Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is located in Pardeeville, Wisconsin 53954.

¹ Respondent is also licensed in the state of Wisconsin to practice as a practical nurse, having license number 22589-31, first issued on June 6, 1980, and current through April 30, 2021.

2. At all times relevant to this matter, Respondent was self-employed as a licensed midwife working in Wisconsin.

3. On November 9, 2017, Respondent first provided midwifery care to Client A. Client A was 34 weeks pregnant with her fourth child when she transferred prenatal care to Respondent. Client A reported a history of prior sexual assault, post-traumatic stress disorder (PTSD), and fetal macrosomia (giving birth to large babies).

4. Respondent recorded the following fundal heights in Client A's prenatal record:

- a. November 19, 2017 – 34 weeks – fundus 40 cm
- b. November 24, 2017 – 36 weeks – fundus 43 cm
- c. December 1, 2017 – 37 weeks – fundus 45 cm
- d. December 8, 2017 – 38 weeks – fundus 41 cm

5. The fundal heights as recorded by Respondent were abnormally high. Abnormally high fundal heights can represent a pregnancy complication, including but not limited to polyhydramnios² and an abnormally large fetus.

6. Respondent did not consult with a physician or certified nurse midwife regarding the abnormal fundal heights, nor did she refer Client A for a biophysical profile or other testing to further assess the fetus.

7. Respondent did not document in Client A's records any discussion with Client A regarding the abnormal fundal heights and concurrent concerns and risks of polyhydramnios or other complications.

8. Respondent has represented to the Department that she thought the abnormal fundal heights were inaccurate because of Client A's excess adipose tissue, which artificially increased her fundal height measurement. Respondent concedes that she failed to document in Client A's prenatal record her thought process and opinion that the measurements did not represent an accurate fundal height in Client A.

9. Respondent's documentation in Client A's prenatal record was further inadequate as follows:

- a. Lack of information regarding Client A's blood glucose to adequately assess risk of gestational diabetes.
- b. Failure to document any informed consent discussion following Client A's declined assessment of fetal heart tones at 37 weeks and 38 weeks.
- c. Lack of information regarding movement of the fetus, other than simply noted as "active" at each prenatal visit.

² Polyhydramnios is excessive accumulation of amniotic fluid — the fluid that surrounds the baby in the uterus during pregnancy.

10. Client A went into labor on December 9, 2017. During Client A's labor, Respondent performed three vaginal examinations. The records reflect that Respondent conducted the third vaginal examination at approximately 9:30 p.m. and EMS was called for transport to the Hospital at 9:55 p.m.

11. There was an allegation in the complaint that during labor Respondent performed a vaginal examination without proper consent.

12. Respondent stated to the Department that she requested to do the third vaginal examination and Client A consented. She further stated that as she performed the examination, Client A initially moved backwards, and that Respondent again asked Client A for permission to continue and Client A agreed. During the next contraction, Respondent felt the baby's ear, stopped the examination, and told Client A that they needed to call for transport to the Hospital.

13. Respondent failed to document what she claims occurred during the third vaginal exam including initial consent, Client A's subsequent resistance, and Respondent's discussion with Client A and subsequent consent to continue.

14. On October 1, 2018, Respondent completed 1.5 hours of continuing education on the topic of charting for midwives.

15. On February 15, 2019, Respondent completed 3 hours of continuing education on the topic of midwifery standards of practice.

16. Respondent denies any wrong-doing and has elected to resolve this matter by stipulation to avoid the expense of litigation.

17. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Department has jurisdiction to act in this matter pursuant to Wis. Stat. § 440.986 and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 182.03(4)(a), by failing to consult with a licensed physician or a licensed certified nurse-midwife providing obstetrical care, whenever there are significant deviations, including abnormal laboratory results, relative to a client's pregnancy or to neonate.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 182.03(4)(b)1.z., by failing to consult with a licensed physician when faced with a mother who presents with the following risk factors: antepartum, marked or severe poly- or oligo-hydramnios.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 182.03(1)(q), by failing to maintain adequate antenatal and perinatal records.

5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § SPS 182.01, by failing to comply with NACPM Standards of Practice set forth in Wis. Admin. Code § SPS 183 Appendix 1 – Standard Three and Standard Five.

6. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 440.986(2)(h).

ORDER

1. The attached Stipulation is accepted.
2. The license to practice midwifery issued to Respondent (license number 102-49) is **SUSPENDED** for seven (7) days beginning February 23, 2021, through March 1, 2021.
3. The license to practice midwifery issued to Respondent (license number 102-49) is **LIMITED** as follows:
 - a. Within ninety (90) days of the date of this Order, Respondent shall at her own expense, successfully complete four (4) hours of education on the topic of documentation and charting for midwives; three (3) hours of education on the topic of midwifery standards of practice; and six (6) hours of education on topic of providing care to survivors of sexual abuse or assault.
 - b. Each course attended in satisfaction of this Order must be pre-approved by the Department or its designee. Respondent shall be responsible for locating course(s) satisfactory to the Department and for obtaining the required approval of the course(s) from the Department or its designee. Respondent must take and pass any exam offered for the course(s).
 - c. Respondent shall submit proof of successful completion of the education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
 - d. The Department's monitoring liaison may change the number of credit hours and/or education topics in response to a request from Respondent. The monitoring liaison may consider the topic availability and/or hours of education when determining if a change to the ordered education should occur.

- e. This limitation shall be removed from Respondent's license after satisfying the Department or its designee that Respondent has successfully completed all of the ordered education.

4. Within ninety (90) days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$1,641.00.

5. Requests for course approval, proof of successful course completion, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent to the Department Monitor at the address below:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

Respondent may also submit this information online via DSPS Monitoring Case Management System, here:

<https://dpsmonitoring.wi.gov>

6. In the event Respondent violates any term of this Order, Respondent's license to practice midwifery (102-49), or Respondent's right to renew her license, may, in the discretion of the Department or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of the Order. The Department may, in addition and/or in the alternative refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

7. This Order is effective on the date of its signing.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

By:

Al. Rohmeyer
Chief Legal Counsel for Department

Date

2/22/2021

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: STIPULATION

VIVIENNE F. COBBS, L.P.N., L.M.,
RESPONDENT.

ORDER 0007234

Division of Legal Services and Compliance Case No. 18 RMA 003

Respondent Vivienne F. Cobbs, L.P.N., L.M., and the Division of Legal Services and Compliance, Department of Safety and Professional Services, stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondent is represented by Attorney Leslie Freehill.

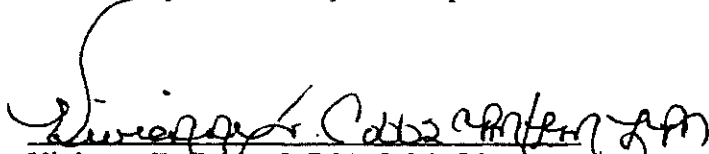
4. While denying wrong-doing, Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Department of Safety and Professional Services (Department). Respondent does so to avoid the costs of litigation. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.


6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance may appear before the Department, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

7. Respondent is informed that should the Department adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.


8. The Division of Legal Services and Compliance joins Respondent in recommending that the Department adopt this Stipulation and issue the attached Final Decision and Order.


Vivienne F. Coombs, L.P.N., L.M., Licensee
Pardeeville, WI 53954
License No. 102-49

2/22/2021
Date


Leslie Freehill, Attorney for Respondent
Pines Bach LLP
112 West Washington Avenue, Suite 900
Madison, WI 53703

2/22/21
Date


Carley Peich Kiesling, Attorney
Division of Legal Services and Compliance
P.O. Box 8935
Madison, WI 53708-8935

02/22/2021
Date