

**BEFORE THE REVIEW COMMITTEE
OF THE AMERICAN MIDWIFERY CERTIFICATION BOARD**

In the Disciplinary Matter of:

Mabel Yawa Dzata, CNM

Decision

The State of Oregon took action against Mabel Yawa Dzata, CNM, in 2018. Ms. Dzata was licensed to practice as a Registered Nurse and recognized as a Certified Nurse-Midwife with prescriptive authority in the State of Oregon. The State of Oregon Board of Nursing (BON) Stipulated Order for Voluntary Surrender (Reference No. 17-01129) on April 11, 2018 whereby Ms. Dzata's voluntary surrender of her license to practice as both a Registered Nurse and Nurse-Midwife were accepted. Voluntary surrender of these licenses was for a minimum period of three (3) years and was pursuant to Rules promulgated by the Oregon Board of Nursing, specifically ORS 678.111 (1) (f) and (g) and OAR 851-045-0070 (1) (a) and (d); (4) (a), (b), and (c); OAR 851-056-0016 (1), (2) and (d).

The allegations were based on an anonymous web complaint reported to the Oregon State BON on December 1, 2016. According to the complaint, the Respondent, Ms. Dzata, was functioning as a primary care provider for Willamette Heart and Family Wellness Clinic; she was credentialed by Care Oregon for Nurse-Midwifery practice. The complaint stated Ms. Dzata had been providing care to a woman with multiple co-morbidities (diabetes, cellulitis, hypothyroidism, chronic kidney disease, COPD, chronic anxiety/depressive disorder, chronic back pain, hyper-triglyceridemia); the patient requested a "new provider" after four (4) visits with Ms. Dzata. The BON did receive the medical records for this patient where Ms. Dzata was listed as the PCP and it was noted that she had been both providing care and prescribing medications. A second complaint was reported by Care Oregon on March 3, 2017. Care Oregon reported they had received a patient complaint regarding Ms. Dzata as her PCP. The patient had requested Care Oregon assign a new PCP; the clinic (Willamette Heart and Family Wellness) had not assigned another PCP because the patient would not provide a reason for the request to see another provider. The Oregon BON received a copy of the medical records for the second patient who had complaints of a chronic cough, symptoms of a urinary tract infection, numbness in her left arm and thigh, and a history of anxiety and super ventricular tachycardia. Ms. Dzata also acknowledged that she agreed to see males in clinic for "urgent/emergent care," as well as provide short-term pain management for acute needs.

The investigative report, conducted by Michelle Standridge BSN, RN for the Oregon State BON, stated that the anonymous individual lodging the complaint against the Respondent had indicated they had reviewed Ms. Dzata's credentialing documents with Care Oregon. The individual noted "...Dzata had specifically requested she not act as a Primary Care Provider (PCP)". Despite Oregon State BON request for Ms. Dzata's employment records and job description, these documents were not received. Discussion with the Quality Assurance representative from Care Oregon reflected review of the care Ms. Dzata provided to one patient and that they did not renew the Respondent's credentialing application. Of note, the Willamette Heart and Family Wellness Clinic was then removed from the Care Oregon network due to "concerns related to the clinic and physician." On January 24, 2018 the clinic website reflected that Ms. Dzata was a "CNM, providing

midwifery and gynecological care” though the clinic scheduler told the BON investigator that the Respondent could provide primary care.

The Oregon BON consulted with the Advanced Practice Consultant to the BON on February 17, 2017 and again on January 24, 2018. Consultation was regarding the NMNP scope of practice in providing primary care to female patients and the role and education CNMs receive related to primary care. There was also review of the Oregon Nurse Practice Act (Division 50) which did not indicate scope of practice would include providing services as a PCP. Further, the Advanced Practice Consultant offered the opinion that primary care by a nurse-midwife should address “simple health concerns” found in the course of caring for the essentially healthy women. The consultant provided the board American College of Nursing (ACNM) position guidelines though no specific dated documents were referenced.

Ms. Dzata responded to the Oregon State BON February 3, 2017, stating that she was employed as a primary care NP for women only. She accepted employment with the Willamette Heart and Wellness Clinic on May 15, 2014 with the understanding that she would ultimately be providing prenatal care as clinic services expanded but shortly after starting the position, she was scheduled to see male patients for minor care. She stated she subsequently notified her employer that she was not credentialed to do so but was ultimately told that failing to see male patients would constitute patient abandonment. Further, the Respondent clarified that providing PCP care to the two women who requested transfer to another PCP was accompanied by clarification to patients that she would need to refer them to the appropriate specialist to address unstable health care issues; patient issues resulted in a failure of patients to follow-up with specialists. Similarly, short-term pain management was accompanied by referral to a chronic pain specialist where possible. The Respondent acknowledged she did not understand that treatment of common health problems (e.g., colds, headaches, migraines, infected toes) was not within her scope of practice as defined by the Oregon Nurse Practice Act.

The Respondent chose to waive her rights to a hearing with evidence and witnesses and voluntarily entered into an agreement with the Oregon State BON. Ms Dzata voluntarily surrendered her license to practice as a Registered Nurse, as well as her right to practice Nurse-Midwifery for a minimum of three (3) years.

In accordance with AMCB procedures, Dr. Linda Hunter, President, reviewed the documents from the Oregon State BON. In a certified letter dated September 26, 2019, the AMCB notified Ms. Dzata that a Discipline Review Committee had been appointed in response to the orders by the Oregon State BON representing a possible violation under the following provisions of the AMCB’s Discipline Policy:

A.7 Limitation or sanction by federal, state or private licensing board, administrative agency, association or health care organization related to public health or safety or midwifery practice.

A.9 Engaging in unprofessional conduct, including but not limited to (i) any practice that creates unnecessary danger to a patient’s life, health or safety; and (ii) any practice that is contrary to the ethical conduct appropriate to the profession that results in termination or suspension from practice. Actual injury to a patient or the public need not be shown under this provision.

The AMCB notice requested that the Respondent submit a written answer to these charges within 30 days of receipt of the letter. AMCB received a letter of response to the notice of disciplinary proceeding from Ms. Dzata on October 24, 2019. Ms. Dzata was responsive and cooperative with all requested available documents which included a letter in response to the reported complaint and her biography/resume.

A Disciplinary Review Committee, comprised of three individuals with no prior involvement with the matter or the individual against whom discipline was being considered, was duly convened and, after reviewing all the materials provided, met on November 12, 2019. The Disciplinary Review Committee has now considered the charges against Ms. Dzata in the above described matters of record. On the basis of the factual findings and reasons set forth below, the Committee unanimously concluded that the Oregon Board of Nursing's actions against Ms. Dzata (surrender of license), and the subsequent conditions and requirements stipulated in the agreement, were fully served with documentation provided by the Oregon Board of Nursing's Disciplinary Counsel. Based on review of the available evidence, we concur with the findings and support reprimand with no support for further sanctions by the AMCB.

Findings

The Review Committee finds the following facts:

1. AMCB (previously known as ACC) was formed in 1991 by the American College of Nurse-Midwives as an independent entity to carry on the existing program of ACNM for certifying the competency of individuals as entry-level nurse-midwives.
2. AMCB has assumed responsibility for discipline of ACNM/ACC/AMCB certificants through the Disciplinary Policy, the most recent version of which AMCB adopted June 2007, rev. April 2018.
3. Respondent Mabel Yawa Dzata was initially certified by AMCB (formerly ACC) on 6/30/2000 and is currently certified through 12/31/2020 (certification #9958). The initial complaint to the Oregon State BON was received on December 1, 2016 and called into question the Respondent acting as a primary care provider to a woman with health problems and co-morbidities. A second similar complaint was received March 3, 2017. The complaints referred to care provided to patients from August 2016 through January 2017. Both concerns related to serving as a primary care provider for two women with multiple co-morbidities despite referral to specialists for follow-up care, and prescribing medications in her role as primary care provider.
4. The Oregon State BON, following review of the complaint, charged the Respondent with violation of the Oregon Nurse Practice Act. The three (3) specific counts were:
 - a. Practicing beyond the scope of practice
 - b. Substandard or inadequate care
 - c. Narcotics violation or other violation of drug statutes
5. Oregon statute 851-050-0005 (9) (e) states: "The Nurse Midwife Nurse Practitioner independently provides health care to women, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women. The scope of practice includes treating the male partners of their female clients for sexually transmitted diseases, and reproductive health. Counseling related to sexuality, relationship, and reproductive issues is included in this scope."

6. Further, Oregon statute 851-050-0016 (1) (2) (d) states: (1) “The Board may deny, suspend or revoke the authority to write prescriptions and/or dispense drugs for the causes identified in ORS 678.111 (1) or with proof that the authority has been abused.” (2) “The abuse of the prescriptive or dispensing authority constitutes conduct derogatory to nursing standards and is defined as: (d) Prescribing, dispensing or distributing drugs to an individual not within the scope of practice or type of client population served by state certification and licensure as an APRN.”
7. Following review, the Oregon State Board of Nursing moved to give notice of proposed revocation of licensure and the Respondent was notified of such action.
8. On March 13, 2018 the Respondent signed a Stipulation for Voluntary Surrender of license to practice as a Registered Nurse and Nurse-Midwife and agreed to cease practicing for a minimum of three (3) years. The Respondent's decision was accepted by the Oregon State BON on April 11, 2018 in lieu of a contested case hearing for Revocation of licensure.

Discussion

In this matter, we were called upon to decide whether and what discipline is warranted against CNM, Mabel Yawa Dzata, who received notice of issue from the Oregon State BON for Proposed Revocation to practice as a Registered Nurse and Nurse Practitioner (Nurse-Midwife) on February 14, 2018. The Oregon State BON accepted the Respondent's signed Stipulation of Voluntary Surrender of licensure on March 13, 2018 for a minimum of a three (3) year period. The Oregon State Board of Nursing's action was based on care provided to two different women and alleged violation of the Oregon Nurse Practice Act by “practicing outside her scope of practice.”

There is evidence of Ms. Dzata practicing outside scope of practice as referred to in the Oregon State Nurse Practice Act which limits Nurse-Midwifery provision of primary care to women; focus is on pregnancy, childbirth, postpartum period, newborn care, family planning, and gynecological needs of women. However, the fact that the Oregon State BON sought outside consultation from a Certified Nurse-Midwife, underscores ambiguity in the existing statutes. The Respondent has been educated and maintains certification for full-scope practice to include primary care services. The requisite knowledge related to primary care was delineated in the 1997 *Core Competencies for Basic Midwifery* which were in effect during the time the Respondent completed her nurse-midwifery education; core competencies in primary care continue in the most current 2012 revision.

Further, AMCB mandates continuing education for certification maintenance related to three main areas of midwifery practice (antepartum/primary care of pregnant women, intrapartum/newborn/postpartum, gynecology/primary care of well-women). Topics addressed in certification maintenance modules for gynecology/primary care address multiple common acute and chronic health problems that women often experience, such as migraines, thyroid disease, and hyperlipidemia, among others – all health problems experienced by patients who were the basis for the existing Oregon State BON action. The Respondent has successfully met all requirements for recertification since 2000, including certification maintenance requirements related to primary care. In summary, the Respondent was educated to provide primary care services to women; state regulations lacked clarity, preventing her from practicing to her full scope.

Finally, lack of clarity regarding the definition of primary care in the Oregon Nurse Practice Act notwithstanding, committee members noted that there were no documented adverse

patient outcomes. Thus, the Disciplinary Review Committee is persuaded that the Respondent did not engage in conduct that should result in further action. Ms. Dzata has been responsive to both the Oregon State BON, as well as to the AMCB, and we see no reason for further sanctions. Further, the Review Committee concludes that while the Respondent – by her own admission in waiving her rights and voluntarily surrendering her license, did violate the Disciplinary Policies set forth by the AMCB, no further disciplinary action should be taken beyond reprimand.

Therefore, the Disciplinary Review Committee *recommends AMCB reprimand without further sanctions* against CNM Mabel Yawa Dzata or her certification.

REVIEW COMMITTEE

Marie Hastings-Tolsma, PhD, CNM, FACNM, Chair
Michele Megregian, MSN, CNM
Leissa Roberts, DNP, CNM, FACNM

Linda A. Hunter, CNM, EdD, FACNM
President, AMCB Board of Directors
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