

LOUISIANA STATE BOARD OF MEDICAL EXAMINERS

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IN THE MATTER OF:

LINDA KEYSER-SMITH
(CERTIFICATE NUMBER MW0399)

DECISION

94-A-011

Linda Keyser-Smith comes before the Louisiana State Board of Medical Examiners ("Board") pursuant to an Administrative Complaint charging her with several violations of the Louisiana Midwife Practitioners' Act, R.S. 37:3240, et. seq.

The matter was heard before a panel consisting of Drs. Mary Lou Applewhite, Trenton L. James II, and Keith C. Ferdinand, President, presiding, constituting a quorum of the Board.

At the hearing, the following stipulation of facts was read into the record:

Between 1992 and 1995, Respondent performed midwifery services to clients without a backup physician as required by law. In instances where complications ensued during the delivery process, this practice resulted in patients coming to the hospital emergency room, requiring emergency services by the on-call obstetrician without advance notice or knowledge of the patient. In addition to performing midwifery services without a backup physician, the Respondent has during the same period of time ordered ultrasound examinations. On or about August 1, 1993, the Respondent performed a home delivery of twins, Ricky H. and David H., at 36 weeks gestation. The infants suffered respiratory distress and were transported to W. Calcasieu Cameron Hospital over three hours after delivery. There were problems requiring ventilator management and support. Ms. Keyser-Smith had no backup physician, so the case had to be managed by the hospital without benefit of a physician familiar with the case over three hours after delivery of Twin A. They were called Twin A and Twin B respectively. Furthermore, the mother had a relative in the past that had twins on one occasion and a personal history of five premature births with rapid labor and delivery. The mother had not obtained a physical examination and risk assessment by a licensed physician prior to the start of the care by the midwife.

In the case of Jennifer P.R., the Respondent performed home delivery of the

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patient's third child by vaginal delivery although the patient had previously had a cesarean section. However, the patient did have another vaginal birth subsequent to the C section delivered by another midwife, and on that occasion Board approval was obtained. (At the hearing, Ms. Keyser-Smith testified that she had done both post-cesarean section deliveries.)

In 1995 the Respondent was retained to provide midwifery services to the patient, Trina F. The patient had no backup physician. She went into labor at approximately 43 weeks with rupture of membranes at approximately 4:00 a.m., on June 29, 1995. At that time the patient was complaining of a fever. After failed attempts at home delivery by the Respondent for more than 30 hours after rupture of membranes, the patient was transported to St. Patrick's Hospital in Lake Charles, where she was admitted by the on-call obstetrician, Donald Toatley, M.D., at 11:21 a.m., June 30, 1995, who had no knowledge of the patient prior to admission. Dr. Toatley testifies that he found the patient to be feverish and exhausted, with thick pea soup stained meconium amniotic fluid due to infection related to maternal fever and prolonged waiting after rupture of membranes. The baby was delivered by cesarean section and was born with significant respiratory distress and meconium stained skin. The infant was transported under the care of a neonatologist, Dr. Chih-Hao Lin, to the neonatal intensive care unit at Lake Charles Memorial Hospital. Ventilator support was required until July 6, 1995, due to respiratory distress, aspiration pneumonia. Subsequently the infant recovered and was discharged on July 15, 1995.

As a result of the above conduct, Respondent is charged with the following violations:

- 1) For providing midwifery services without a backup physician, she is charged with violating R.S. 37:3251(1), for "being derelict in any duty imposed by law", and violating R.S. 37:3251(2) for exhibiting incompetence as determined by local midwifery standards".
- 2) For ordering sonographic examinations, performing midwifery services in the absence of a backup physician, and performing midwifery services in high risk cases, and without timely transfer to physician care, she is charged with violating R.S. 37:3251(6), which proscribes violating any of the standards of practice set forth in R.S.37:3244.

R.S. 37:3244 provides, in pertinent part, as follows:

"A. Licensed midwifery in Louisiana is limited in scope to practice and outlines in this Section.

B. The licensed midwife may provide care to low risk patients determined by physician evaluation and examination to be essentially normal for pregnancy and childbirth.

Such care includes prenatal supervision and counseling; preparation for childbirth; and supervision and care during labor and delivery and care of the mother and the newborn in the immediately postpartum period if progress meets criteria generally accepted as normal as defined by the Board."

R.S. 37:3251 provides, in pertinent part, as follows:

"The Board may refuse to issue, suspend for a definite period, or revoke a permit or license for any of the following causes:

- (1) Being derelict in any duty imposed by law.
- (2) Exhibiting incompetence as determined by local midwifery standards.
- (6) Violating any of the standards of practice set forth in R.S. 37:3244."

Complainant's counsel also refers to Sections 5309, 5311, 5315, 5319, 5321, 5337, and 5361 of the Board's Rules and Regulations for Standards of Practice for Licensed Midwives.

The essence of these rules is that Licensed Midwives are authorized to handle low risk pregnancies, with the supervision of a physician actively engaged in the practice of obstetrics and with hospital privileges in obstetrics. It is the responsibility of the patient to obtain the services of the backup physician, but the midwife may not accept a patient who has not obtained such physician backup.

Ms. Keyser-Smith testified that, in the cases detailed in the stipulation, she was unable to find a physician who was willing to act as backup. She further stated that she was unaware that she could not order ultrasound examinations. Since she discussed these matters with the Board's Investigating Officer, in June 1994, Ms. Keyser-Smith testified that she has complied fully with the laws and regulations, and there is no evidence to the contrary.

CONCLUSIONS OF LAW

It is clear that Ms. Keyser-Smith handled cases without a backup physician engaged in active obstetrical practice, and that she was aware of the regulations and laws which require such physician backup. She is, therefore, guilty of "being derelict in any duty imposed by law". She is also guilty of violating R.S. 37:3244(B), for the same reason.

We do not find Respondent guilty of incompetence. Counsel for Complainant referred to a number of depositions of physicians who were familiar with some of Respondent's cases. However, these were not introduced into evidence, and are not before us. Dr. Toatley's discovery

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deposition was objected to at the hearing, because there was no agreement among counsel to introduce it in lieu of Dr. Toatley's testimony. The record does not reveal such an agreement, so the Board has not considered the deposition.


DECISION

In the light of the foregoing, and particularly in view of Ms. Keyser-Smith's compliance with Board rules for the last three years, we impose the following sanctions:

- 1) The license of Linda Keyser-Smith to practice Midwifery in the state of Louisiana, as evidenced by Certificate Number MW0399, is hereby placed on probation for a period of five years, subject to the general terms and conditions of probation heretofore adopted by the Board, and subject to the following special conditions:
- 2) Respondent shall pay a fine of \$100.00 and all costs of this proceedings.

At NEW ORLEANS, LOUISIANA, this 22 day of October, 1997.

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A handwritten signature in black ink, appearing to read 'Keith C. Ferdinand', is written over a horizontal line.

Keith C. Ferdinand, M.D.
President