

## Chapter SPS 183

### GROUNDS FOR DISCIPLINE

SPS 183.01 Disciplinary proceedings and actions.

**Note:** Chapter RL 183 was renumbered chapter SPS 183 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

#### SPS 183.01 Disciplinary proceedings and actions.

(1) Subject to the rules promulgated under s. 440.03 (1), Stats., the department may reprimand a licensed midwife or deny, limit, suspend, or revoke a license or temporary permit granted under subch. XII of ch. 440, Stats., if the department finds that the applicant, temporary permit holder, or licensed midwife has engaged in misconduct. Misconduct comprises any practice or behavior that violates the minimum standards of the profession necessary for the protection of the health, safety, or welfare of a client or the public. Misconduct includes, but is not limited to, the following:

(a) Submitting fraudulent, deceptive or misleading information in conjunction with an application for a credential.

(b) Violating, or aiding and abetting a violation, of any law or rule substantially related to practice as a midwife. A certified copy of a judgment of conviction is prima facie evidence of a violation.

**Note:** Pursuant to s. SPS 4.09, all credential holders licensed by the department need to report a criminal conviction within 48 hours after entry of a judgment against them. The department form for reporting convictions is available on the department's website at <http://dsps.wi.gov>.

(c) Having a license, certificate, permit, registration, or other practice credential granted by another state or by any agency of the federal government to practice as a midwife, which the granting jurisdiction limits, restricts, suspends, or revokes, or having been subject to other adverse action by a licensing authority, any state agency or an agency of the federal government including the denial or limitation of an original credential, or the surrender of a credential, whether or not accompanied by findings of negligence or unprofessional conduct. A certified copy of a state or federal final agency decision is prima facie evidence of a violation of this provision.

(d) Failing to notify the department that a license, certificate, or registration for the practice of any profession issued to the midwife has been revoked, suspended, limited or denied, or subject to any other disciplinary action by the authorities of any jurisdiction.

(e) Violating or attempting to violate any term, provision, or condition of any order of the department.

(f) Performing or offering to perform services for which the midwife is not qualified by education, training or experience.

(g) Practicing or attempting to practice while the midwife is impaired as a result of any condition that impairs the midwife's ability to appropriately carry out his or her professional functions in a manner consistent with the safety of clients or the public.

(h) Using alcohol or any drug to an extent that such use impairs the ability of the midwife to safely or reliably practice, or practicing or attempting to practice while the midwife is impaired due to the utilization of alcohol or other drugs.

(i) Engaging in false, fraudulent, misleading, or deceptive behavior associated with the practice as a midwife including advertising, billing practices, or reporting, falsifying, or inappropriately altering patient records.

(j) Discriminating in practice on the basis of age, race, color, sex, religion, creed, national origin, ancestry, disability or sexual orientation.

(k) Revealing to other personnel not engaged in the care of a client or to members of the public information which concerns a

client's condition unless release of the information is authorized by the client or required or authorized by law. This provision shall not be construed to prevent a credential holder from cooperating with the department in the investigation of complaints.

(L) Abusing a client by any single or repeated act of force, violence, harassment, deprivation, neglect, or mental pressure which reasonably could cause physical pain or injury, or mental anguish or fear.

(m) Engaging in inappropriate sexual contact, exposure, gratification, or other sexual behavior with or in the presence of a client. For the purposes of this paragraph, an adult shall continue to be a client for 2 years after the termination of professional services. If the person receiving services is a minor, the person shall continue to be a client for the purposes of this paragraph for 2 years after termination of services, or for one year after the client reaches age 18, whichever is later.

(n) Obtaining or attempting to obtain anything of value from a client without the client's consent.

(o) Obtaining or attempting to obtain any compensation by fraud, misrepresentation, deceit or undue influence in the course of practice.

(p) Offering, giving or receiving commissions, rebates or any other forms of remuneration for a client referral.

(q) Failing to provide the client or client's authorized representative a description of what may be expected in the way of tests, consultation, reports, fees, billing, therapeutic regimen, or schedule, or failing to inform a client of financial interests which might accrue to the midwife for referral to or for any use of service, product, or publication.

(r) Failing to maintain adequate records relating to services provided a client in the course of a professional relationship.

(s) Engaging in a single act of gross negligence or in a pattern of negligence as a midwife, or in other conduct that evidences an inability to apply the principles or skills of midwifery.

(t) Failing to respond honestly and in a timely manner to a request for information from the department. Taking longer than 30 days to respond creates a rebuttable presumption that the response is not timely.

(u) Failing to report to the department or to institutional supervisory personnel any violation of the rules of this chapter by a midwife.

(v) Allowing another person to use a license granted under subch. XII of ch. 440, Stats.

(w) Failing to provide direct supervision over a temporary permit holder while the permit holder is engaging in the practice of midwifery.

(2) Subject to the rules promulgated under s. 440.03 (1), Stats., the department shall revoke a license granted under subch. XII of ch. 440, Stats., if the licensed midwife is convicted of any of the offenses specified in s. 440.982 (2), Stats.

(3) Subject to s. 440.982, Stats., no person may engage in the practice of midwifery unless he or she has been granted a license or a temporary permit to practice midwifery under subch. XII of ch. 440, Stats., or granted a license to practice as a nurse-midwife under s. 441.15, Stats.

(4) Subject to s. 440.981, Stats., no person may use the title "licensed midwife" unless he or she has been granted a license to

practice midwifery under subch. XII of ch. 440, Stats., or granted a license to practice as a nurse–midwife under s. 441.15, Stats.

**History:** CR 06–096: cr. Register December 2006 No. 612, eff. 5–1–07.