

STATEMENT FOR PUBLIC RELEASE

Order prohibiting you, Lisa Jane Barrett, from providing specified health services in South Australia pursuant to section 56C (2) of the Health and Community Services Complaints Act 2004 (the Act).

HCSCC reference 011122

I have taken the following into consideration in deciding to make the section 56C order dated 28 November 2013 under the Health and Community Services Complaints Act 2004 prohibiting you, Lisa Jane Barrett, from providing specified health services in South Australia.

1. Until 28 January 2011, you were registered by the NMBA as a midwife. You voluntarily surrendered your registration on that date.
2. I have evidence that since that date you have continued, for reward, to provide health services within the meaning of the *Health and Community Services Complaints Act 2004*. These health services comprise advice and services to pregnant women in the three trimesters of their pregnancy; the three stages of labour and the post-partum stage. In particular you have assisted to plan and then attended and provided services to those women to facilitate the birth at those mothers' homes.
3. On 31 October 2012 I issued a section 55 report recommending you should immediately cease engaging in any health services that may involve you directly or indirectly carrying out any of the following activities in South Australia in relation to the support of pregnant women:
 - a. giving advice about clinical or medical matters
 - b. performing clinical or medical tasks
 - c. supporting or participating in a planned medically unassisted birth; being at a home birth that is not attended to by a medical practitioner and/or a registered midwife.
 - d. you should ensure that you are not present in any homebirth situation that may become an emergency and may require you to provide clinical intervention.

I have evidence that you have failed to adhere to the above recommendations.

4. Australian Health Practitioner Regulation Agency (AHPRA) and the Nursing and Midwifery Board of Australia (NMBA) have investigated you in relation to your practice of midwifery whilst registered as a midwife which has resulted in the NMBA referring a Complaint to the South Australian Health Practitioners Tribunal alleging that you have engaged in professional misconduct.
5. I note the Coronial Inquest into the deaths of babies Tate Spencer-Koch, Jahli Jean Hobbs and Tully Oliver Kavanagh. The Deputy State Coroner delivered his findings on 6 June 2012. The Court found that you had participated in three planned homebirths, as a midwife in the case of Spencer-Koch and Hobbs, and as a 'birth advocate' in the case of Kavanagh. The Court found that, in all three cases, you undertook and carried out clinical tasks akin to those provided by a registered midwife. The Coroner was highly critical of your conduct in each of the deaths into which he inquired or about which he heard evidence.
6. In investigating the above matters, AHPRA and the Coroner have obtained expert opinions. All of those experts have provided opinions that your conduct in respect of those matters was unsafe, dangerous, not in accordance with accepted obstetric and midwifery practice and below the standard reasonably expected of a midwife of your level of experience and training.

The personal circumstances of the mothers and or their pregnancy involved such obvious and identifiable risk factors that a competent midwife or other health practitioner would have advised the mother to take detailed expert medical advice and, ideally, have the respective births in a properly equipped hospital or other medical facility.

7. I have evidence that on 30 December 2012, you attended at a home birth where the baby died following that home birth on 31 December 2012. I have evidence that you provided all of the midwifery type advice and services prior to, at and during, that labour. You:
- a. monitored the foetal and maternal heart rates and other vital signs;
 - b. directed the mother on positions to take and how to deal with contractions and other developments during the labour;
 - c. performed vaginal and other examinations to determine progress;
 - d. determined, and advised about the significance of, the fact that the baby was in breech position;
 - e. continued to direct the progress of the labour despite determining the breech position;
 - f. attempted extraction of the baby once the birth was not progressing (because it was in breech position);
 - g. gave inadequate advice about whether or not to transfer to hospital and allowed the labour to continue to a point where the baby was deprived of oxygen and its wellbeing compromised – resulting in the baby's death.

Your participation in the homebirth that resulted in the death of the baby on 31 December 2012 occurred after the Coroner's Inquest and the delivery of his findings and despite your claims that you were no longer providing midwifery services and was merely acting as a lay person.

It also occurred after I issued a notice with recommendations that you not be involved in such services. I have evidence you did not inform the mother in the December 2012 birth of my recommendations.

8. It is highly probable that you will continue to provide services to pregnant women and attend homebirths in South Australia.

I am of the view that your involvement in providing information and advice to pregnant women and your involvement in homebirths constitutes a health service as defined in the Act.

As you are no longer a registered midwife with the Nursing and Midwifery Board of Australia I have determined that you are an unregistered health practitioner and therefore your health services are subject to the provisions of the HCSCC Code of Conduct for Unregistered Health Practitioners as defined in section 56 of the Act.

I am of the opinion that you have breached the following clauses of the HCSCC Code of Conduct for Unregistered Health Practitioners in Schedule 2 of the Health and Community Services Complaints Regulations 2005.

1. clause 2(e) in that you fail to recognise the limitations of treatments you can provide and fail to refer clients to other competent health service providers;
2. clause 2(f) in that you fail to recommend that clients seek additional opinion and services where appropriate;

3. clause 6 in providing incorrect, unsafe and misleading advice to pregnant mothers with identifiable risk circumstances;
4. clause 11 in that you are not truthful about your qualifications, training and affiliations when asked by a client;
5. clause 15 in that you have failed to provide evidence that you have reasonable indemnity insurance.

I am of the view that:

1. your health services do not meet the generally accepted standard of health service delivery expected for the provision of health services to pregnant women and in home birthing
2. your conduct poses a significant threat to the safety of the women you purport to advise and their unborn children and thus the public
3. you pose an unacceptable risk to the health and safety of members of the public.

Order issued on 28 November 2013 by Steve Tully, Health and Community Services Complaints Commissioner (HCSCC). The prohibition order is to remain in place until revoked or amended by the Commissioner.

For the above reasons I hereby make an order commencing 28 November 2013 **prohibiting** you from providing the following health services in South Australia until further notice from me:

1. providing, undertaking or carrying out, whether directly or indirectly, services or any other acts in anyway related, of or incidental, to the health service of the assessment and monitoring of women during pregnancy, labour and the post-partum period and of their newborn babies, the provision of care during pregnancy, labour and the post-partum period and the conducting of deliveries whether spontaneous normal vaginal deliveries or otherwise.
2. For the purposes of the preceding paragraph for the avoidance of doubt and for illustrative purposes and without limitation, this order covers the following services:
 - a. the recommendation to others of treatment for, or the giving of opinions or advice about, a person's pregnancy, labour or delivery or a related condition or needs in connection with same.
 - b. communicating a diagnosis identifying, as the cause of a woman's or newborn's symptoms, a disease or disorder that may be identified whether from the results of a laboratory or other test or investigation howsoever ordered or performed on a woman or a newborn during pregnancy, labour and delivery and post-partum;
 - c. managing labour and conducting spontaneous normal vaginal deliveries or complications in connection with a pregnancy, the labour or the birth;
 - d. inserting urinary catheters into women;
 - e. performing episiotomies and amniotomies and repairing episiotomies and lacerations;

- f. administering, by injection or inhalation, a substance designated in The Standard for the Uniform Scheduling of Medicines and Poisons (SUSMP);
- g. prescribing or supplying drugs designated in SUSMP;
- h. putting an instrument, hand or finger beyond the labia majora or anal verge during pregnancy, labour and the post-partum period;
- i. administering suppository drugs beyond the anal verge during pregnancy, labour and the post-partum period;
- j. taking blood samples from newborns by skin pricking or from persons from veins or by skin pricking;
- k. intubation beyond the larynx of a newborn;
- l. administering a substance by injection or inhalation.

For the above reasons, I further order, pursuant to section 56C (2) (b) of the Act, that a hard copy of this Statement for Public Release, incorporating these orders under section 56C of the Act, be provided to any person, agency or organisation that seeks your services in South Australia.

I draw your attention to section 56C (4) of the Act that states:

A person who contravenes an order made under this section is guilty of an offence.
Maximum penalty: \$10 000 or imprisonment for 2 years or both.



Steve Tully
Health and Community Services Complaints Commissioner

Contact:

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