

# PRINCIPLES for MODEL U.S. MIDWIFERY LEGISLATION & REGULATION

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ACME, ACNM, AMCB, MANA, MEAC, NACPM, NARM



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## Introduction

The purpose of this consensus document is to foster communication and collaboration for future efforts in the development of U.S. midwifery legislation and regulation. The goal is to promote regulatory mechanisms that protect the public by ensuring that competent midwives provide high quality midwifery care. Midwifery is a profession that is autonomous, separate, and distinct from nursing and medicine. Only midwives can exercise the full scope of midwifery practice and provide all the competencies within this scope.

This document outlines the principles of model midwifery legislation to support and regulate practice. These principles address state authority to regulate, register, and license midwives, including the establishment of education qualifications, setting standards for practice and conduct, management of complaints, and issues pertaining to liability insurance and reimbursement. Recognizing that current state laws regarding midwifery vary widely, this document is intended to serve as a guide to those engaged in the revision of existing or the development of new laws. A glossary is provided to define the terms used in the document.

The document has been collaboratively produced by seven organizations that comprise US MERA (Midwifery Education, Regulation, & Association), with input from other health professional and advocacy organizations, researchers, midwives, legislative advocates, and consumer advocates. The document was drawn from the International Confederation of Midwives (ICM) *Global Standards for Regulation* and founding values and principles, which were adapted for the United States context (Appendix A). The national midwifery certifying and accrediting agencies referred to in this document have also incorporated the [\*ICM Global Standards for Education\*](#) and [\*Essential Competencies for Basic Midwifery Practice\*](#) for which are relevant to the United States context.

US MERA supports ICM's position that midwives work in partnership with women to promote self-care and the health of mothers, infants, and families; respect human dignity and women as persons with full human rights; and advocate for women so that their voices are heard and their health care choices are respected.

The organizations represented in US MERA include:

Accreditation Commission for Midwifery Education  
American College of Nurse-Midwives  
American Midwifery Certification Board  
Midwives Alliance of North America  
Midwifery Education Accreditation Council  
National Association of Certified Professional Midwives  
North American Registry of Midwives

**Glossary** (all terms are specific to the United States and its territories)

Accreditation – a process by which a credentialing or educational program is evaluated against defined standards by a third party. When in compliance with these standards, it is awarded recognition. As the term relates to midwifery education, accreditation is an official assessment that an educational program or institution has met standards established by an accrediting agency recognized by the U.S. Department of Education (USDE). As the term relates to credentialing or certifying agencies, accreditation is assurance that the agency has met standards established by the National Commission for Certifying Agencies (NCCA).

Accrediting agency – as the term relates to midwifery education, an organization charged with oversight of the accrediting process and authorized to issue certificate of assurance.

- Accreditation Commission for Midwifery Education ([ACME](#)) – accrediting agency of nurse-midwifery and midwifery education programs whose graduates are eligible for certification by examination through the American Midwifery Certification Board (AMCB). ACME is recognized by the U.S. Department of Education.
- Midwifery Education & Accreditation Council ([MEAC](#)) – accrediting agency of direct-entry midwifery institutions and programs whose graduates are eligible for certification by examination through the North American Registry of Midwives (NARM). MEAC is recognized by the U.S. Department of Education.

Certification – the recognition of an individual who has demonstrated through a standardized assessment that they meet the defined qualifications within the profession.

Certifying agency – an organization charged with oversight of the certification process, authorized to administer examination of knowledge and issue certificate of assurance.

- American Midwifery Certification Board ([AMCB](#)) – certifying agency for certified nurse-midwives and certified midwives. AMCB's CNM and CM credentials are accredited by the National Commission for Certifying Agencies.
- North American Registry of Midwives ([NARM](#)) – certifying agency for certified professional midwives. NARM's CPM credential is accredited by the National Commission for Certifying Agencies.

Certificate – an official document that attests to a certain fact (i.e., midwifery knowledge and competency).

International Confederation of Midwives ([ICM](#)) – a non-governmental organization that represents midwives and midwifery to organizations worldwide to achieve common goals in the care of mothers and newborns; they define midwifery and establish global standards for education, regulation, and association for country-specific adaptation.

Legislation – the creation or enactment of laws.

License – Licenses are issued by state authority and may be mandated by regulatory and government agencies. Licenses define the title and scope of practice, which may vary across states.

Midwifery credentials at the national level – the titles bestowed by the certifying agency.

- Certified Midwife (CM) – conferred by AMCB
- Certified Nurse-Midwife (CNM) – conferred by AMCB
- Certified Professional Midwife (CPM) – conferred by NARM

Midwifery Professional Association – organization that represents the interests of midwives in service to women and their families. In general, these organizations in the United States contribute to the development of standards of education and practice.

- American College of Nurse-Midwives ([ACNM](#))
- Midwives Alliance of North America ([MANA](#))
- National Association of Certified Professional Midwives ([NACPM](#))

National Commission for Certifying Agencies ([NCCA](#)) – works to ensure the health, welfare, and safety of the public through the accreditation of a variety of individual certification programs that assess professional competency.

Regulation – a rule or directive made and maintained by a regulatory authority.

Regulatory authority – a body with power to enforce rules or directives.

Separation of powers – divides investigatory procedures from administrative regulation.

Statute – a written law passed by a legislative body.

U.S. Department of Education – a department of the federal government concerned with education law, data collection and research, and student financial aid. The Secretary of Education also publishes a list of nationally recognized accrediting agencies determined to be reliable authorities as to the quality of education or training provided by the institutions of higher education and the higher education programs they accredit.

## **Midwifery Regulatory Authority**

There is a midwifery-specific regulatory authority with adequate statutory powers to effectively regulate midwives and support autonomous midwifery practice. If the midwifery-specific regulatory authority is administratively connected to another or broader authority (e.g., board of health professionals or nursing) the midwifery-specific authority must retain final authority over midwifery regulation.

The governance structures of the midwifery regulatory authority are set out by the legislation and include, but are not limited to, roles and responsibilities of board members, powers of the board, and process of appointment of board members and the chairperson.

Regulatory processes are transparent to the public through publication of an annual report and other mechanisms for publicly reporting on activities and decisions.

The midwifery regulatory authority is funded through licensing fees paid by members of the profession. When there are too few midwives to generate sufficient fee income, a mechanism should be provided to underwrite the regulatory authority. Since government funding has the potential to limit the autonomy of the midwifery regulatory authority, mechanisms should be designed to minimize such a consequence.

The midwifery regulatory authority works in collaboration with state, national, and international midwifery professional association(s) and relevant regulatory authorities.

### *Membership of the regulatory authority:*

- There is a transparent process for nomination, selection, and appointment of members to the regulatory authority, which identifies roles and terms of appointment. The majority of members of the midwifery regulatory authority are midwives.
- Midwife members of the midwifery regulatory authority reflect the diversity of midwives and midwifery practice in the state.
- There is a provision for public members of the midwifery regulatory authority who ideally represent the diversity, interests and diverse perspectives of childbearing women.
- The chairperson of the midwifery regulatory authority must be a midwife, chosen by members of the group.

## **Education and Qualifications**

The midwifery regulatory authority:

- Adopts standards for midwifery education and accreditation of midwifery education programs and institutions. These are consistent with the education standards adopted by the national certifying bodies (AMCB, NARM), which are accredited by NCCA, and accrediting agencies (ACME, MEAC), which are recognized by the U.S. Department of Education.
- Recognizes midwifery education programs and institutions leading to the qualification prescribed for midwifery licensure when accredited by nationally recognized accrediting agencies (ACME, MEAC).

- Relies on national certifying agencies (AMCB and NARM) to establish criteria and processes to assess midwives educated in other countries.
- Relies on the national certifying (AMCB and NARM) and accrediting agencies (ACME and MEAC) to develop criteria and processes to assess equivalence of applicants who do not meet the requirements of a U.S. accredited midwifery education.
- Relies on national certifying agencies (AMCB and NARM) to identify criteria and processes to assess readiness for return to practice for midwives who have been out of practice for a defined period.
- Relies on the nationally recognized accrediting agencies to audit midwifery education programs and midwifery education institutions.

### **Regulation, Registration and Licensure**

Regulation occurs at the state level. It is based on completion of an accredited education program accredited by an agency recognized by the U.S. Department of Education and passage of a national certification exam administered by a certifying agency and accredited by NCCA. This enables uniformity of practice standards and facilitates freedom of movement of midwives across state jurisdictions.

Only those authorized under the relevant legislation may use the midwifery title endowed by that legislation. Midwives holding more than one national midwifery credential will be authorized to practice, as permitted by state law.

The legislation sets the criteria, standards, and processes for initial midwifery licensure and/or licensure renewal.

The midwifery regulatory authority:

- Maintains a register of midwives and makes it publicly available.
- Maintains mechanisms for a range of licensure status, such as provisional, temporary, conditional, suspended and full licensure.
- Works in collaboration with indigenous or other unique communities to consider licensure requirements or exemptions that encompass religious or cultural needs.<sup>i</sup>
- Relies on the national certifying agencies to maintain a mechanism through which midwives regularly demonstrate their continuing competence to practice.
- Defines expected standards of conduct and what constitutes unprofessional conduct or professional misconduct.
- Imposes, reviews, and removes penalties, sanctions, and conditions on practice.
- Collects information about midwives and their practice to contribute to workforce planning and research.

### **Scope and Conduct of Practice**

The midwifery regulatory authority:

- Defines the scope of practice of the midwife based upon the definition and scope of practice established by the professional midwifery associations and the national certifying bodies.

- Defines the standards of practice and ethical conduct based upon those established by the professional midwifery associations and national certifying bodies.

### **Complaints**

The legislation sets out the powers and processes for receipt, investigation, determination and resolution of complaints.

Mechanisms must be in place to ensure that the regulatory authority has a duty to act fairly, including treatment without bias and a fair hearing.

The midwifery regulatory body has policy and processes to manage complaints in relation to competence, conduct or health impairment in a timely manner.

The legislation should provide for the separation of powers between the investigation of complaints and the hearing and determining of charges of professional misconduct.

Management processes for complaints are transparent, unbiased, include the right to a fair hearing, and are led by a team of members of the profession.

### **Malpractice and Liability Insurance**

Midwifery regulation does not require licensed midwives to purchase professional liability insurance. However, a licensed midwife who does not carry professional liability insurance will be required to inform clients of this and obtain written informed acknowledgement.

### **Third Party Payment for Services**

Midwifery or insurance regulation should mandate third party payment, including Medicaid payment, for licensed midwives.

## Appendix A

The document draws upon the [ICM Global Standards for Midwifery Regulation](#) and the ICM founding values and principles, which recognize that:

- Regulation is a mechanism by which the social contract between the midwifery profession and society is expressed. Society grants the midwifery profession authority and autonomy to regulate itself. In return, society expects the midwifery profession to act responsibly, ensure high standards of midwifery care, and maintain the trust of the public.
- Each woman has the right to receive care in childbirth from an educated and competent midwife authorized to practice midwifery.
- Midwives are autonomous practitioners; they practice in their own right and are responsible and accountable for their own clinical decision-making.
- Midwifery is a profession that is autonomous, separate and distinct from nursing and medicine. What sets midwives apart from nurses and doctors is that only midwives can exercise the full scope of midwifery practice and provide all the competencies within this scope.

The ICM identifies the following principles of good regulation to provide a benchmark against which regulatory processes can be assessed.

- *Necessity* – is the regulation necessary? Are current rules and structures that govern this area still valid? Is the legislation purposeful?
- *Effectiveness* – is the regulation properly targeted? Can it be properly enforced and complied with? Is it flexible and enabling?
- *Flexibility* – is the legislation sufficiently flexible to be enabling rather than too prescriptive?
- *Proportionality* – do the advantages outweigh the disadvantages? Can the same goal be achieved better in another way?
- *Transparency* – is the regulation clear and accessible to all? Have stakeholders been involved in development?
- *Accountability* – is it clear who is responsible to whom and for what? Is there an effective appeals process?
- *Consistency* – will the regulation give rise to anomalies and inconsistencies given the other regulations already in place for this area? Are best practice principles being applied?

## **Appendix B**

### **Background**

In 2011 the International Confederation of Midwives (ICM) released Global Standards for Midwifery Education, Regulation, and Association (MERA) providing for the first time guidance for international midwifery. Inspired by the ICM's global vision for strengthening midwifery, seven U.S. midwifery organizations representing professional associations, education/accreditation, and certification (US MERA) began working together in 2012 to achieve common goals in midwifery that align with the ICM Global Standards. One of the first projects identified as a priority by the US MERA coalition was building consensus on the legal recognition of all nationally-certified midwives.

While midwifery is defined and regulated across all 50 states, the legal status, definitions, regulations, and scopes of practice vary markedly. This creates confusion for policymakers, consumers and insurance companies, and can actually limit services to women. In 2014, the US MERA coalition created a legislative task force to develop a consensus statement on model midwifery legislation and regulation using the Delphi research method, which is designed to help a diverse group of stakeholders gain consensus about a complex problem.

### **Method**

The Delphi method is an iterative process beginning with a panel of experts or stakeholders who anonymously respond to statements about the topic of interest. The process was facilitated by the legislative task force, a working group with representatives from each of the seven US MERA organizations. Three of the organizations had used the method previously to gain consensus on a clinical practice document (Kennedy et. al., 2015).

### **Steps in the Process**

Step 1: Identification of stakeholders/experts. The US MERA constituents anonymously identified key stakeholders for the Delphi study with the goal of including a wide range of perspectives and experience. These were anonymously ranked and retained if 75% of the group ranked  $\geq 5$  on a 1-7 Likert scale. Fifty-one stakeholders were retained:

- Midwifery professional organizations = 15
- Midwifery accreditation organizations = 10
- Midwifery certification organizations = 10
- Health professionals/organizations = 5
- Consumer/childbirth advocacy groups = 5
- Midwifery legislative advocates = 5
- Epidemiologist = 1

Step 2: Identification of Delphi Statements. The US MERA constituents anonymously identified key content areas to be addressed in the document. The working group

composed these into 42 initial statements in alignment with the ICM Global Standards for Regulation as applied in U.S. regulatory context.

Step 3: Round I Survey. The first survey contained the 42 initial statements and was sent to the 51 stakeholders who were asked to rank the importance of each statement on a 1-7 Likert scale to be included in the consensus document. Stakeholders could also comment on the statements. Statements were retained if 75% of the sample ranked  $\geq 5$ . Forty statements were retained.

Step 4: Development of Consensus Statement. The working group clustered the 40 retained statements into thematic areas and drafted a working consensus statement. This was carefully constructed to also address the comments provided in Round I. The working group shared the first draft of the consensus statement with their US MERA constituents, soliciting comments, which were addressed in the next draft.

Step 5: Round II Survey. The revised draft consensus statement was sent to the 47 stakeholders that completed Round I. They were asked to note agreement on whether the statement reflected critical issues for midwifery regulation, whether any critical elements were missing and invited to make any other comments. The working group carefully evaluated all of the comments and responded in the revisions. Some minor changes were made for clarity and an additional paragraph was added in the introduction about midwives partnership with women – this is drawn directly from the ICM competencies. Some suggestions were simply not applicable to the document or the context of regulation.

Step 6: Endorsement and Dissemination. The final document was endorsed by the seven US MERA organizations in October 2015. US MERA may seek endorsements from other organizations. The document will be disseminated to all 50 state midwifery regulatory authorities and midwifery legislative advocates.

## References

Kennedy, H.P., Cheyney, M., Lawlor, M., Myers, S., Schuilling, K., Tanner, T. (2015). A modified-Delphi study on normal physiologic birth. *Journal of Midwifery & Women's Health*, 60(2), 140-145.

*ICM Global Standards for Midwifery Education, Regulation, and Association*. (2013). The Hague: International Confederation of Midwives.  
<http://internationalmidwives.org/what-we-do/education-regulation-association/>

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<sup>i</sup> *Explanatory Note: Models for this exist in certain Canadian provinces. In Nunavut and British Columbia, the exemption is only available for midwives who practiced Aboriginal midwifery prior to the coming into force of the Act. In Ontario, Aboriginal midwives providing care to Aboriginal communities are exempt from the Regulated Health Professions Act. The Ontario Midwifery Act allows Aboriginal midwives who provide traditional midwife services to use the title "Aboriginal midwife". The Quebec statute allows Aboriginal midwives to practice without being registered members, provided that the nation, group or community has entered into an agreement with the government. From <http://www.aboriginalmidwives.ca/node/2270>.*

### UN Declaration on the Rights of Indigenous Peoples: Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, all social and health services.

2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.  
[http://www.un.org/esa/socdev/unpfii/documents/DRIPS\\_en.pdf](http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf)