U.S. MERA Principles for Model Midwifery Legislation and Regulation

• Inspired and informed by ICM Global Standards for Regulation

• Created through Delphi Study, a research method for achieving consensus among diverse stakeholders

• Endorsed October 2015 by NACPM, MANA, NARM, MEAC, ACNM, AMCB and ACME – will soon be available at http://www.usmera.org/.

• Intended to guide advocates and policymakers drafting new midwifery legislation/rules or revising existing laws/rules
Standards for Midwifery Regulation
Founding Values and Principles

• 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.
U.S. Context for Regulation: National Certification and Accreditation

• State licensure is the mechanism by which state governments regulate health professionals.

• When state licensure is based on national certification, the profession as a whole plays an important role in regulation through the processes of accountability maintained by the national certifying agency.

• National certification and educational program accreditation is developed by independent agencies governed by the profession.

• Midwifery professionals ensure that there are standards for core competencies necessary for safe practice and that midwives achieve the defined competencies through education and certification processes.
U.S. MERA Principles for Model Midwifery Legislation and Regulation

- The national midwifery certifying and accrediting agencies referred to in the Principles document have also aligned with the *ICM Global Standards for Education and Essential Competencies for Basic Midwifery Practice* as applicable in the United States context.
Standards for Midwifery Regulation
Founding Values and Principles

• 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.
U.S. MERA Principles for Model Midwifery Legislation and Regulation

U.S. MERA aligns with the ICM position that:

• 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.
U.S. MERA Principles for Model Midwifery Legislation and Regulation

U.S. MERA supports the ICM 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 ICM identifies 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?
Standards for Midwifery Regulation
Founding Values and Principles

- 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?
US MERA Principles

Background and Method

• One of the first priorities of the US MERA coalition was building consensus on the legal recognition of all nationally-certified midwives.

• Legal status, definitions, and scopes of practice vary across the states, which creates confusion for policymakers, consumers and health insurance companies, which can actually limit services to women.

• Legislative Task Force, representatives from each of the seven US MERA organizations, were charged with developing consensus statement on model midwifery legislation and regulation

• Delphi method -- an iterative process designed to help a diverse group of stakeholders gain consensus about a complex problem
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Steps in the Consensus-Building Process

Step 1: Identification of stakeholders/experts. Fifty-one stakeholders were identified:

- 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

- Key content areas identified
- Crafted into 42 initial statements, aligned with ICM Standards for Regulation – adapted to U.S. regulatory context
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Steps in the Consensus-Building Process

Step 3: Round I Survey

- Stakeholders asked to rank the importance of each statement and to comment on the statements.
- Statements were retained if 75% of the sample ranked ≥5 on a 1-7 Likert scale. Forty statements were retained.

Step 4: Development of Consensus Statement

- Working group clustered the 40 retained statements into thematic areas and drafted a working consensus statement. The draft also addressed comments made in Round I.
- First draft of the consensus statement shared with US MERA constituents, soliciting comments which were addressed in the next draft.
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Steps in the Consensus-Building Process

Step 5: Round II Survey

- Revised draft consensus statement sent to 47 stakeholders that completed Round I -- 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. Minor changes were made for clarity.

Step 6: Endorsement and Dissemination

- Final document endorsed by the US MERA organizations.
- Will be disseminated to midwifery regulatory authorities and midwifery legislative advocates and available at http://www.usmera.org/.
- Tools and other materials are being developed to assist advocates in the application of the principles.
These principles address state authority to regulate, register, and license midwives, including:

- 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.
US MERA Principles

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.
US MERA Principles

Midwifery Regulatory Authority

• 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.
**US MERA Principles**

**Midwifery Regulatory Authority**

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.
US MERA Principles

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).
US MERA Principles

Education and Qualifications

The midwifery regulatory authority:

• Relies on national certifying agencies (AMCB and NARM) to assess:
  • Competence of midwives educated in other countries.
  • Equivalence of applicants who do not meet the requirements of a U.S. accredited midwifery education.
  • Readiness for return to practice for midwives who have been out of practice for a defined period.

• Relies on the nationally-recognized accrediting agencies (ACME and MEAC) to audit midwifery education programs and midwifery education institutions.
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Regulation, Registration and Licensure

• Regulation is based on completion of an 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.
US MERA Principles

Regulation, Registration and Licensure

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.

Explanatory Note: Models exist in certain Canadian provinces....http://www.aboriginalmidwives.ca/node/2270.

UN Declaration on the Rights of Indigenous Peoples: Article 24
US MERA Principles

Regulation, Registration and Licensure

The midwifery regulatory authority:

• 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.
US MERA Principles

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.
US MERA Principles

Complaints

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

• Regulatory authority has a duty to act fairly, including treatment without bias and a fair hearing.

• Midwifery regulatory body manages 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.
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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.
US MERA Principles

Third Party Payment of Services

• Midwifery or insurance regulation should mandate third party payment, including Medicaid payment, for licensed midwives.
Principles for Model U.S. Midwifery Legislation and Regulation

Purpose to foster communication and collaboration for future efforts in the development of U.S. midwifery legislation and regulation.

Goal to promote regulatory mechanisms that protect the public by ensuring that competent midwives provide high quality midwifery care.

The Principles for Model Midwifery Legislation and Regulation and the US MERA July 2015 Statement on the Licensure of Certified Professional Midwives (CPM) are intended to complement each other.
A few last words...

• These principles are aspirational.
• Political processes are real and messy.
• 50 plus jurisdictions X 3 national credentials (CPMs, CNMs and CMs) = >150 unique situations
• Not one jurisdiction or credential has it all right – but we now share a common sense of direction!
• Working collaboratively to strengthen midwifery in the U.S. is new – and we are learning!
The Delphi Study was facilitated by Holly Powell Kennedy and members of the Legislative Task Force are Ida Darragh (NARM), Mary Lawlor (NACPM), Jo Anne Myers-Ciecko (MEAC) Marinah Farrell (MANA), Tanya Bailey (AMCB), Ginger Breedlove (ACNM) and Katherine Camacho Carr (ACME).