North American
Registry of Midwives
Providing Certification Standards
For Certified Professional Midwives

Position Paper on the Practice of Midwifery

What is the North American Registry of Midwives?

The North American Registry of Midwives (NARM) is the leading certification agency for direct-entry midwifery in the United States. The NARM Certification credential and/or the NARM Written Examination are required for licensure in most of the states that license direct-entry midwives, and in all the states that license midwives specifically for out-of-hospital birth. NARM's midwifery certification is a state-of-the-art, legally defensible certification program. Since 1994, NARM has certified over 800 direct-entry midwives who practice midwifery primarily in out-of-hospital settings. Midwives credentialed by NARM are called Certified Professional Midwives (CPMs). NARM has defined the practice of midwifery as it applies to CPMs by a Job Analysis, or task survey, which was done in 1995 and in 2001. Demonstration of knowledge and skills on these tasks is required for certification.

Statement on the practice of midwifery:

The practice of midwifery is a distinctly separate profession from the practice of medicine or nursing. Certified Professional Midwives (CPMs) provide the Midwives Model of Care. They have demonstrated the knowledge and skills to provide full prenatal, birth, and postpartum care to low-risk women, to recognize deviations from normal, and to refer, consult, or transfer care if appropriate. The North American Registry of Midwives (NARM) affirms the autonomy of independent midwives, the critical importance of their role as guardians of normal birth, and the value of their compassionate, skilled, and woman-centered care.

Statement on the regulation of direct-entry midwives:

The state regulation of direct-entry midwifery assures that credentialed midwives meet standard criteria for practicing, follow sanctioned protocols, and are accountable for their actions. Certified Professional Midwives (CPMs) are competent to practice midwifery. If a state chooses to regulate direct-entry midwives, NARM encourages the requirement of the CPM credential as the standard for eligibility. Supervision by any other health care provider is not required, though collaborative relationships are encouraged.

Certified
Professional
Midwives

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In the following cases, the courts ruled that midwifery does not constitute the practice of medicine or nursing for purposes of statutes regulating the practice of medicine.

In the Supreme Court Of The State Of Kansas, No. 73,851, the State Board Of Nursing and State Of Kansas ex rel. State Board Of Healing Arts, Appellants, v. e. Michelle Ruebke, Appellee. March, 1996

> The practice of midwifery is separate and distinct from the practice of medicine. The practice of midwifery is not incident to the practice of medicine or surgery so that it becomes part of the healing arts by the application of K.S.A. 65-2869.
>
> Assistance in childbirth rendered by one whose practical experience with birthing provides comfort to the mother is not nursing under the Kansas Nursing Act, such that licensure is required.

Peckmann v. Thompson, 745 P. Supp. 1388 (C.D. Ill. 1990), is particularly informative on the question of whether the "practice of medicine" in its ordinary sense could be applied to midwifery. The Illinois court found that it could not, stating:

> "As noted, paragraph 4400-50 prohibits the 'practice of medicine in all of its branches.' Because the Act fails to define this term, and because its common understanding generally does not encompass assisting the normal delivery of a healthy child, the plaintiffs reasonably may have concluded that their conduct was not proscribed by that portion of the Act. Similarly, paragraph 4400~49 prohibits, among other things, the unlicensed treatment of any 'ailments, or supposed ailments.' Again, because that term is nowhere defined, and because its common understanding generally does not describe the condition of a pregnant woman without complications, the plaintiffs reasonably may have concluded that their conduct was not proscribed by that portion of the Act." 745 F. Supp. at 1393.

State of California, In the Matter of the Accusation Against: Case# 1M-98-83794 Alison Osborn, LM. OAH # N-1999040052.

> Findings of Fact: "Midwives employ a midwifery model of practice distinct from the medical model of practice."
>
> Legal Conclusions: "Unlike physicians, physician assistants, physician assistant midwives, registered nurses, or certified nurse midwives who practice within the context of a medical model, licensed midwives practice within the context of a midwifery model."

Summary of Cases from the American Law Reports 4th, © (1988) The Lawyers Co-operative Publishing Company © 2002 West Group, Annotation Midwifery: State Regulation, Noralyn O. Harlow, J.D:

While holding that a state nursing registration board had the power to discipline a nurse on the basis that she violated a statute governing nursing and its accompanying regulations by engaging in the practice of midwifery without certification, the court in ***Leigh v Board of Registration in Nursing (1985) 395 Mass 670, 481 NE2d 1347***, later app *399 Mass 558, 506 NE2d 91*, nevertheless found that the mere practice of midwifery itself was not grounds for discipline because it did not constitute the unauthorized practice of medicine. The court observed that there was no statutory prohibition against the practice of midwifery by lay persons, noting that the legislature regulated midwifery only with respect to nurses. In addition, the court found that since case law indicated that ordinary assistance in the normal cases of childbirth would not be considered the practice of medicine, it therefore could not prohibit the practice of midwifery as the unauthorized practice of medicine.

Overturning a nursing board's revocation of a nurse's license to practice, the court **in *Leggett v Tennessee Bd. of Nursing (1980, Tenn App)*** *612 SW2d 476*, held that while the nurse was acting as a lay midwife, she was not performing as a nurse and therefore was not subject to nursing regulations or statutes. Since state statutes and regulations specifically excluded midwifery from the practice of medicine and from the practice of nursing, and since the nurse did not perform as a nurse in her role as a midwife, the court ruled that she should not have her nursing license revoked, especially where there was no showing that performing the services of midwife independently of the profession of nursing in any way adversely affected her skill or ability as a registered nurse.

In *Leggett v Tennessee Bd. of Nursing (1980, Tenn App) 612 SW2d 476*, the facts of which are set out in § 14c, the court noted that midwifery was specifically excluded from the practice of medicine by state statutes and regulations, and thus a midwife was not subject to provisions regulating the practice of medicine.

Holding that the statutory provision for licensing individuals who wished to practice "medicine, surgery, and midwifery" applied only to those wishing to practice medicine, and did not extend to individuals who practiced only midwifery, the court in ***People v Hildy (1939)*** *289 Mich 536, 286 NW 819*, reversed a conviction of a midwife for practicing medicine without a license. The court reasoned that since the practice of midwifery was recognized in other statutes separate from the practice of medicine and surgery, individuals who wished to practice only midwifery were not regulated by the statute which covered individuals who wished to practice medicine, surgery, and midwifery, inclusive.

Holding that the practice of midwifery did not constitute the unauthorized practice of medicine, the court in ***Banti v State (1956)*** *163 Tex Crim 89, 289 SW2d 244*, overturned a midwife's conviction for the misdemeanor offense of unlawfully practicing medicine. The court found that the legislature had not included the act of assisting women in childbirth within the practice of medicine for the purposes of the statute making the unlicensed practice of medicine a punishable offense, observing that the legislature had in a number of statutes recognized midwifery as outside the realm of the medical practice act.

In holding that midwifery did not constitute the unauthorized practice of medicine, the court overruled ***Sachs v Board of Registration in Medicine (1938)*** *300 Mass 426, 15 NE2d 473*, a case involving the issue of whether the practice of medicine included optometry, where the court stated that the practice of medicine included midwifery.