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An Open Letter on the Licensure of CPMs in New York

Greetings,

Certified Professional Midwife Elizabeth Catlin was recently arrested in New York State and charged with five felonies alleging the unlicensed practice of midwifery, including charges of fraud and impersonating a midwife in violation of the state's title protection law. For the Mennonite families she has served with care, skill, and dedication, as well as for her own family, this prosecution is a disaster. For us in the broader national community of midwives and birth advocates, this prosecution is a disgrace. On behalf of the Board of Directors and members of the Midwives Alliance of North America (MANA), the national organization for all midwives, and a member of US MERA (Midwifery Education, Regulation, Association), I challenge us all to remedy the erroneous law that underlies this arrest.

As in more than 30 other states, New York's 1992 statute provides for licensure of CPMs, in accord with its intent to license all categories of midwives, as detailed in MANA's newsletter at the time and in Robbie Davis-Floyd's book, *Mainstreaming Midwives*. The statute as written is fully compatible with the principles and standards of US MERA and the International Confederation of Midwives (ICM).

However, the implementation of the law violates that intent, as a result of the exclusionary rules and actions of the NY Midwifery Board. There is no legal justification for limiting the practice of midwifery in New York to Certified Nurse-Midwives (CNMs) and Certified Midwives (CMs).

The regulatory exclusion of CPM educational preparation and the NARM examination is contrary to the standards of ICM and US MERA. Our lawyers have advised us that New York's refusal to recognize the equivalent educational preparation of CPMs and NARM's equivalent examination is also contrary to the statute, Title VIII, Article 140 of the NY Education Law.

This past year has brought a resurgence of grassroots efforts to license NY CPMs. NY CPM, Inc., a non-profit 501(c)(4) state organization with the mission “to expand midwifery licensure in NY State to include the CPM as an independent practitioner,” has reached out to MANA leadership for support. MANA has committed to work with NY CPM, Inc. and its companion consumer group, NYFAM, to achieve this goal. Our lobbying efforts will be directed at the Midwifery Board, the Department of Education, and the Board of Regents to effectuate CPM licensure through rulemaking and standard administrative enforcement.

Each of our organizations – ACME, ACNM, AMCB, MANA, MEAC, NAABB, NACPM, NARM – agreed to the standards set forth in the official US MERA *Statement on the Licensure of Certified Professional Midwives (CPM) – June 2015 (copy attached)*. The MANA Board now exhorts the US MERA Steering Committee and each of your boards to join with MANA in demanding the NY Midwifery Board, Education Department, and Board of Regents take immediate action to implement Section 6955 of the NY Midwifery Law in accordance with both the law's own terms and the June 2015 US MERA Standards.

Our demand requires the agency to take the following actions:

1. Recognize CPM educational preparation as equivalent to CNM/CM educational preparation in accordance with Rules 52-20, 79-5.1, and 79-5.2. Note that these rules define "equivalent" to mean "substantially the same." This is the very essence of the agreement we reached under ICM and US MERA standards.
2. Accept MEAC as an acceptable accrediting organization under Rule 79-5.2 of the Midwifery regulations.
3. Determine that the NARM examination satisfies the requirements of Section 79-5.3 of the Midwifery regulations.
4. Amend section 79-5.2.a of the Midwifery regulations to eliminate the requirement for a master's degree as a condition of licensing. This rule exceeds the authority of the statute, which neither requires any particular academic degree, nor authorizes the Board to impose such a requirement. As ICM instructs, this issue is more appropriately determined by the accreditation and certification entities of our profession.

We call on all US MERA organizations to join with MANA and NY CPM, Inc. to achieve these results. We specifically ask that you sign onto a forthcoming letter to the NY Board of Regents and the Department of Education’s Office of the Professions that will advocate for official recognition of CPM educational preparation and the NARM examination. For evidence of equivalence we will cite the US MERA documents, *Principles for Model U.S. Midwifery Legislation and Regulation*, and the *Statement on the Licensure of Certified Professional Midwives (CPM) – June 2015*. These documents provide ample evidence for the changes that must happen in New York to ensure access to midwives for **all** communities. Our letter will argue that the NY law is written in such a way that CPMs *can* be licensed, but the Midwifery Board and staff have undercut the statute in the incorrect implementation executed in the rules and education standards.

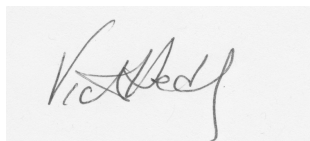
In addition, the letter will petition the Board of Regents to exercise its authority (under Title VIII, Article 130, Section 6506, Paragraph 5) to waive the Midwifery Board's educational preparation and examination standards and master's degree rule on behalf of Elizabeth Catlin, CPM, so that she can be granted a NY midwife license as soon as possible. In her years of service to her local Mennonite community, Ms. Catlin has delivered hundreds of babies within her scope of practice as a CPM. She has maintained positive relationships with local physicians, transported appropriately, and practiced without incident. Her arrest

stems from the actions of an anti-midwife doctor at the receiving hospital following an appropriate transfer; she turned her in to the state police against the advice of other members of the hospital staff. As a result of Ms. Catlin's arrest, her community has been left without a midwife and currently suffers from no reliable access to care. Indeed, several babies have been born unattended as a direct result of Ms. Catlin's forcible removal from the community. Both public health and human rights rationales demand that Ms. Catlin, far from being arrested, should be permitted to continue to attend her community, in her role as a skilled and certified midwife.

The Appendix includes excerpts from the US MERA documents (attached) that support the changes we promote, links to and excerpts from the NY statute and rules as referenced, and several media accounts of the situation.

The regulatory changes described above are not only the fair and just outcome for midwives and for the Plain communities of Northwestern New York, they are critical to increasing access to midwives throughout the state.

In solidarity,

A handwritten signature in black ink, appearing to read "Vicki Hedley", is centered within a light gray rectangular box.

Vicki Hedley, MA, CPM, CM
MANA President

cc: Sascha James-Contarelli, President, New York State Association of Licensed Midwives (NYSALM)
saschacnm@gmail.com
Melissa Carman, President, NY CPM, Inc. – nycpm501c4@gmail.com

Appendix

Address:

NY State Education Department
Office of the Professions
Division of Professional Licensing Services
Midwifery Unit
89 Washington Avenue
Albany, New York 12234-1000
518-474-3817, Press 1 then ext. 250 (voice)
518-402-5354 (fax)

From *Principles for Model U.S. Legislation and Regulation* (complete document attached)

1. **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).

And

1. **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.

More on Regulation:

1. The midwifery regulatory authority:
 - Works in collaboration with indigenous or other unique communities to consider licensure requirements or exemptions that encompass religious or cultural needs.

And

1. **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.

From the *Statement on the Licensure of Certified Professional Midwives (CPM) – June 2015* (complete document attached)

2. For CPMs who obtained certification through an educational pathway not accredited by MEAC:
 - a. CPMs certified before January 1, 2020, through a non-accredited pathway will be required to obtain the Midwifery Bridge Certificate issued by the North American Registry of Midwives (NARM) in order to apply for licensure in states using US MERA language for licensure, or
 - b. CPMs who have maintained licensure in a state that does not require an accredited education may obtain the Midwifery Bridge Certificate regardless of the date of their certification in order to apply for licensure in a state that includes the US MERA language.**

From the NYS Education Law Article 140 – Midwifery
<http://www.op.nysed.gov/prof/midwife/article140.htm>

§6955 Requirements for a professional license.

To qualify for a license as a midwife, an applicant shall fulfill the following requirements:

Please note that paragraphs a, b, and c are linked by "OR" -- which means that each of these pathways is equally acceptable under the law.

2. Education: satisfactorily;
 - a. complete educational preparation (degree or diploma granting) for the practice of nursing, followed by or concurrently with educational preparation for the practice of midwifery in accordance with the commissioner's regulations, or
 - b. submit evidence of license or certification, the educational preparation for which is determined by the department to be equivalent to the foregoing, from any state or country, satisfactory to the department and in accordance with the commissioner's regulations, or
 - c. complete a program determined by the department to be equivalent to the foregoing and in accordance with the commissioner's regulations.**

From the NYS Education Law Article 130 – Sub-article 2 - <http://www.op.nysed.gov/title8/subart2.htm>

§6506 Supervision by the board of regents.

5. Waive education, experience, and examination requirements for a professional license prescribed in the article relating to the profession, provided the board of regents shall be satisfied that the requirements of such article have been substantially met;

Pertinent articles:

<https://13wham.com/news/local/penn-yan-woman-arrested-for-posing-as-midwife>

https://www.ftimes.com/opinion/bigger-picture-midwife-s-arrest-births-wave-of-protest/article_6c49742e-3cbe-5447-8585-aec175a25f5a.html

<http://www.chronicle-express.com/news/20181222/elizabeth-catlin-charged-with-four-additional-felonies>

<http://www.chronicle-express.com/news/20181231/women-bring-birthing-concerns-to-county>

[Arrest of midwife galvanizes Mennonite community, highlights service desert for home births](#)

<https://13wham.com/news/local/community-coming-to-the-defense-of-penn-yan-midwife>

<https://www.facebook.com/329866299876/posts/10156300064339877/>

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