

Honolulu, Hawaii

FEB 17 2017

RE: S.B. No. 1312
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Twenty-Ninth State Legislature
Regular Session of 2017
State of Hawaii

Sir:

Your Committee on Commerce, Consumer Protection, and Health,
to which was referred S.B. No. 1312 entitled:

"A BILL FOR AN ACT RELATING TO THE LICENSURE OF MIDWIVES,"

begs leave to report as follows:

The purpose and intent of this measure is to establish:

- (1) Mandatory licensing for midwives, beginning July 1, 2019; and
- (2) A temporary advisory committee on midwife licensing, until July 1, 2019.

Your Committee received testimony in support of this measure from the Hawaii Women's Coalition, Midwives Alliance of Hawaii, Breastfeeding Hawaii, Health Mothers Healthy Babies Coalition of Hawaii, and eight individuals. Your Committee received testimony in opposition to this measure from the Hawai'i State Center for Nursing; American Congress of Obstetricians and Gynecologists, Hawaii Section; Hawaii Affiliate of the American College of Nurse-Midwives; The Queen's Health Systems; Birth Sovereignty; Hot Yoga Hilo; and over one hundred seventy individuals. Your Committee received comments on this measure from the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs; Office of Hawaiian Affairs; Office of the Auditor; Board



of Nursing; Kapi'olani Medical Center for Women and Children; Papa Ola Lokahi; We Are One, Inc.; and nine individuals.

Your Committee finds that midwives play a vital role in the home childbirth process. Midwives monitor the pregnant mother's health, monitor the weight, heart rate, and position of the baby, provide prenatal care, assist during labor and delivery, and offer guidance about breastfeeding and other newborn care issues. The important work performed by midwives necessarily has a direct effect on the health and safety of mothers and newborns. In recognition of this impact, the Office of the Auditor recently recommended that every person who provides maternity and prenatal services as a midwife be subject to mandatory licensing requirements, to protect health and safety and ensure that certain minimum standards and qualifications are met. This measure therefore establishes mandatory licensing requirements for persons who engage in the practice of midwifery care.

However, your Committee has heard the concerns that this measure does not distinguish between different kinds of midwives. According to testimony received by your Committee, the paths to becoming a certified nurse midwife, a certified midwife, and a certified professional midwife vary greatly. Your Committee notes that certified nurse midwives require a registered nurse license and an advanced practice registered nurse license. Certified nurse midwives in Hawaii are already regulated by the Board of Nursing and your Committee understands that putting lay midwife licensure under the Board of Nursing may require the Board to oversee a health care profession outside of the profession of nursing.

Your Committee has also heard the concerns that this measure makes no exemptions for licensure for traditional Native Hawaiian healers. Your Committee appreciates the important role Native Hawaiian healers play in maternal and child care and also recognizes and appreciates the unique right, guaranteed under the Hawaii State Constitution, of Native Hawaiians to practice and perpetuate their cultural and religious beliefs. Accordingly, your Committee concludes that amendments to this measure are necessary to make it clear that the licensing structure contemplated by this measure shall apply only to certified midwives and certified professional midwives.



Your Committee notes that, rather than establishing an advisory committee under the Board of Nursing, a more appropriate avenue for licensure is to establish a separate Board of Midwifery, within the Department of Commerce and Consumer Affairs, which shall focus on licensing and oversight of certified midwives and certified professional midwives. Your Committee also notes that additional amendments to this measure are necessary to establish regulations for certified midwives and certified professional midwives that are based on the standards and best practices adopted by the United States Midwifery Education, Regulation, and Association coalition.

Accordingly, your Committee has amended this measure by:

- (1) Updating definitions;
- (2) Establishing a seven-member Board of Midwifery, rather than an advisory committee to the State Board of Nursing, within the Department of Commerce and Consumer Affairs, who shall oversee the licensing and regulation of licensed certified midwives and licensed certified professional midwives in Hawaii;
- (3) Clarifying the composition, terms, and appointment of members of the Board of Midwifery;
- (4) Requiring the Board of Midwifery to establish scope of practice standards for the practice of midwifery by licensed certified midwives and licensed certified professional midwives and requiring the standards to:
 - (A) Be based on standards and scope of practice established by the United States Midwifery Education, Regulation, and Association coalition for certified midwives and certified professional midwives; and
 - (B) Include requirements for educational standards, ethical conduct, client protection, disclosures, immunity from vicarious liability, and recordkeeping;



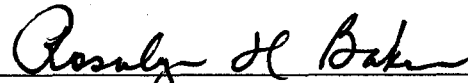
- (5) Clarifying the licensure requirements for certified midwives and certified professional midwives;
- (6) Clarifying the exemptions from licensure requirements, including exempting certified nurse midwives regulated by the Board of Nursing and traditional Native Hawaiian healers recognized as such by a council convened by Papa Ola Lokahi;
- (7) Clarifying that unless otherwise exempted, after December 31, 2020, no person shall practice midwifery in Hawaii or hold themselves out as a certified midwife or certified professional midwife without being appropriately licensed;
- (8) Requiring the Department of Commerce and Consumer Affairs to convene a working group of interested stakeholders to consider certain matters related to the practice of midwifery in Hawaii and report to the Legislature prior to the convening of the Regular Session of 2018;
- (9) Requiring the Board of Midwifery to establish the midwifery licensing program by July 1, 2019; provided that licenses for certified midwives and certified professional midwives shall be issued by the board beginning July 1, 2020, and requiring the Board to submit a report to the Legislature, no later than twenty days prior to the Regular Session of 2019, regarding the status of the licensing program;
- (10) Deleting language that would have established requirements for client protection, disclosure, record keeping, and immunity from vicarious liability, as these requirements will be based on standards established by the United States Midwifery Education, Regulation, and Association coalition;
- (11) Deleting language that would have established a temporary advisory council to the Board of Nursing on midwife licensing matters;



- (12) Inserting an effective date of July 1, 2050, to encourage further discussion;
- (13) Updating the purpose section; and
- (14) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Commerce, Consumer Protection, and Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1312, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1312, S.D. 1, and be referred to your Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Commerce, Consumer
Protection, and Health,



ROSALYN H. BAKER, Chair



The Senate
 Twenty-Ninth Legislature
 State of Hawai'i

Record of Votes
Committee on Commerce, Consumer Protection, and Health
CPH

Bill / Resolution No.:* <i>SB 1312</i>	Committee Referral: <i>CPH, WAM</i>	Date: <i>2/14/17</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
BAKER, Rosalyn H. (C)	/			
NISHIHARA, Clarence K. (VC)	/			
CHANG, Stanley		/		
ESPERO, Will	/			
IHARA, Jr., Les	/			
KIDANI, Michelle N.	/			
RUDERMAN, Russell E.	/			
TOTAL	<i>6</i>	<i>1</i>		
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>Clarence K. Nishihara</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes