

---

---

# A BILL FOR AN ACT

RELATING TO THE LICENSURE OF MIDWIVES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that the nature of the  
2 maternity and prenatal services provided by midwives could  
3 potentially endanger the health and safety of women and newborns  
4 under a midwife's care if the profession is not adequately  
5 regulated. Public health and safety concerns substantially  
6 outweigh any negative effects arising from regulation, including  
7 the resulting restrictions on individuals entering the  
8 profession of midwifery and any increase in the cost of  
9 midwifery services caused by regulation of the profession. The  
10 legislature further finds that the auditor, in its sunrise  
11 analysis on the regulation of certified professional midwives,  
12 applied the criteria for licensure in the Hawaii regulatory  
13 licensing reform act. The auditor recommended that the  
14 profession of midwifery be regulated and its practitioners be  
15 licensed.

16           The legislature also finds that there are two national  
17 pathways to certification for midwives. The American Midwifery  
18 Certification Board is the certifying agency for certified nurse



1 midwives and certified midwives. The North American Registry of  
2 Midwives is the certifying agency for certified professional  
3 midwives. The legislature notes that the intent of this measure  
4 is to establish regulations for certified midwives and certified  
5 professional midwives, based on standards and best practices  
6 adopted by the United States Midwifery Education, Regulation,  
7 and Association coalition. The legislature also notes that  
8 certified nurse midwives are already otherwise regulated by the  
9 state board of nursing and are not intended to be covered by  
10 this measure. Native Hawaiian healers engaged in traditional  
11 Native Hawaiian healing practices, recognized as such by any  
12 council convened by Papa Ola Lokahi, are also not intended to be  
13 regulated by this measure, although the legislature notes that  
14 traditional Native Hawaiian healers are encouraged to  
15 participate in the licensing pathway, if they so choose.

16 The purpose of this Act is to establish mandatory licensing  
17 for certified midwives and certified professional midwives in  
18 Hawaii.

19 SECTION 2. The Hawaii Revised Statutes is amended by  
20 adding a new chapter to be appropriately designated and to read  
21 as follows:



1 "CHAPTER

2 MIDWIVES

3 § -1 Definitions. As used in this chapter:

4 "Accreditation Commission for Midwifery Education" means  
5 the organization established in 1982 and recognized by the  
6 United States Department of Education as an accrediting agency  
7 for midwifery education programs, whose graduates are eligible  
8 for certification as certified midwives.

9 "American Midwifery Certification Board" means the national  
10 certifying body for certified midwife candidates who have  
11 received their graduate level education in programs accredited  
12 by the Accreditation Commission for Midwifery Education.

13 "Board" means the state board of midwifery established  
14 under section -3.

15 "Certified midwife" means a midwife who has been certified  
16 by the American Midwifery Certification Board.

17 "Certified professional midwife" means a midwife who has  
18 been certified by the North American Registry of Midwives.

19 "Licensed certified midwife" means a certified midwife who  
20 holds a current license issued by the board pursuant to this  
21 chapter to engage in the practice of midwifery in Hawaii.



1 "Licensed certified professional midwife" means a certified  
2 professional midwife who holds a current license issued by the  
3 board pursuant to this chapter to engage in the practice of  
4 midwifery in Hawaii.

5 "Midwifery Education and Accreditation Council" means the  
6 organization established in 1991 and recognized by the United  
7 States Department of Education as an accrediting agency for  
8 midwifery education programs and institutions, whose graduates  
9 are eligible for certification as certified professional  
10 midwives.

11 "Practice of midwifery" means providing well-woman and  
12 maternity care for individuals and their newborns during the  
13 antepartum, intrapartum, and postpartum periods.

14 "United States Midwifery Education, Regulation, and  
15 Association coalition" means the national coalition comprised of  
16 representatives of national midwifery associations,  
17 credentialing bodies, and education accreditation agencies,  
18 including:

- 19 (1) Accreditation Commission for Midwifery Education;
- 20 (2) American College of Nurse-Midwives;
- 21 (3) American Midwifery Certification Board;



- 1 (4) Midwives Alliance of North America;
- 2 (5) Midwifery Education and Accreditation Council;
- 3 (6) National Association of Certified Professional
- 4 Midwives; and
- 5 (7) North American Registry of Midwives.

6 § -2 Powers and duties. In addition to any other powers  
7 and duties authorized by law, the board shall:

- 8 (1) Receive applications for licensure;
- 9 (2) Determine the qualifications of persons applying for
- 10 licensure;
- 11 (3) Grant licenses to qualified applicants;
- 12 (4) Establish procedures to renew, suspend, revoke, and
- 13 reinstate licenses;
- 14 (5) Establish and collect fees for the examination of
- 15 applicants for licensure and license renewal;
- 16 (6) Establish the minimum educational and continuing
- 17 educational requirements for licensure;
- 18 (7) Investigate complaints against licensed certified
- 19 midwives and licensed certified professional midwives;
- 20 (8) Undertake, when appropriate, disciplinary hearings;
- 21 and



1 (9) Subject to chapter 91, adopt, amend, or repeal rules,  
2 as necessary to effectuate this chapter.

3 § -3 Board of midwifery; establishment, appointment,  
4 membership. (a) There is established the board of midwifery  
5 within the department of commerce and consumer affairs for  
6 administrative purposes.

7 (b) The board shall consist of seven members as follows:

8 (1) One certified nurse midwife regulated by the state  
9 board of nursing who shall be in current and active  
10 practice of midwifery in the State for the duration of  
11 appointment and who shall have actively practiced as a  
12 certified nurse midwife in the State for at least  
13 three years immediately preceding the appointment;

14 (2) Two licensed certified midwives who shall be in  
15 current and active practice of midwifery in the State  
16 for the duration of their appointment and who shall  
17 have actively practiced as licensed certified midwives  
18 in the State for at least three years immediately  
19 preceding their appointment; provided that the two  
20 certified midwives initially appointed under this



1 paragraph shall be licensed pursuant to this chapter  
2 by January 1, 2021;

3 (3) Two licensed certified professional midwives who shall  
4 be in current and active practice of midwifery in the  
5 State for the duration of their appointment and who  
6 shall have actively practiced as licensed certified  
7 professional midwives in the State for at least three  
8 years immediately preceding their appointment;  
9 provided that the two certified professional midwives  
10 initially appointed under this paragraph shall be  
11 licensed pursuant to this chapter by January 1, 2021;

12 (4) One traditional Native Hawaiian healer engaged in  
13 traditional practices of prenatal, maternal, and  
14 childcare, as recognized by a council convened  
15 pursuant to section 453-2(c); and

16 (5) One public member.

17 (c) The board shall select its own chairperson from among  
18 its members.

19 (d) The term of office for members of the board shall be  
20 four years. No member shall be appointed to more than two  
21 consecutive terms or serve more than eight consecutive years.



1 (e) The governor may appoint and fill each vacancy on the  
2 board pursuant to section 26-34.

3 § -4 **Scope of practice; standards.** (a) The board shall  
4 establish scope of practice standards for the practice of  
5 midwifery by licensed certified midwives and licensed certified  
6 professional midwives. The scope of practice standards shall be  
7 based on the definition and scope of practice established by the  
8 United States Midwifery Education, Regulation, and Association  
9 coalition for certified midwives and certified professional  
10 midwives.

11 (b) The standards adopted by the board shall include  
12 requirements for educational standards, ethical conduct, client  
13 protection, disclosures, immunity from vicarious liability, and  
14 recordkeeping.

15 § -5 **License; qualifications.** (a) No person shall  
16 engage in the practice of midwifery in this State unless the  
17 person holds a current license issued by the board pursuant to  
18 this chapter. A license shall be granted to an applicant who  
19 files a board-approved application for licensure, pays the  
20 required application fees, and provides evidence to the board of  
21 the following:





- 1           (1) Documentation of completion of an educational program  
2           or pathway as follows:
- 3           (A) For certified midwives, documentation of  
4           graduation from a midwifery educational program  
5           accredited by the Accreditation Commission for  
6           Midwifery Education; or
- 7           (B) For certified professional midwives,  
8           documentation of completion of an educational  
9           program or pathway accredited by the Midwifery  
10          Education and Accreditation Council;
- 11          (2) Documentation of certification from the appropriate  
12          national certifying agency:
- 13          (A) For certified midwives, documentation of  
14          certification by the American Midwifery  
15          Certification Board; or
- 16          (B) For certified professional midwives,  
17          documentation of credentialing by the North  
18          American Registry of Midwives; and
- 19          (3) Successful completion of continuing education  
20          requirements established by the board.



1 (b) All licenses for certified midwives issued pursuant to  
2 this chapter shall be valid for five years from the date of  
3 issuance.

4 (c) All licenses for certified professional midwives  
5 issued pursuant to this chapter shall be valid for three years  
6 from the date of issuance.

7 § -6 Fees; penalties. (a) Each applicant shall pay a  
8 licensing fee of \$250 upon application for a new or renewal  
9 license. Fees collected pursuant to this section shall be  
10 deposited into the compliance resolution fund established  
11 pursuant to section 26-9(o).

12 (b) Any fine imposed by the board after a hearing  
13 conducted pursuant to this chapter shall be no less than \$100  
14 and no more than \$1,000 for the first violation. A second or  
15 subsequent violation of this chapter shall be referred to the  
16 department of the attorney general for criminal prosecution.  
17 Any person who pleads guilty to or is found guilty of a second  
18 or subsequent violation of this chapter shall be guilty of a  
19 misdemeanor.

20 § -7 Hearings. (a) Unless otherwise provided by law,  
21 in every case in which the board refuses to issue, renew,



1 restore, or reinstate a license under this chapter, or proposes  
2 to take disciplinary action or other licensing sanctions against  
3 a licensee, the board shall conduct an administrative proceeding  
4 in accordance with chapter 91.

5 (b) In all proceedings before it, the board shall have the  
6 same powers respecting administering oaths, compelling the  
7 attendance of witnesses and the production of documentary  
8 evidence, and examining witnesses as are possessed by circuit  
9 courts. In case of disobedience by any person of any order of  
10 the board, or of any subpoena issued by the board, or the  
11 refusal of any witness to testify to any matter regarding which  
12 the witness may be questioned lawfully, any circuit judge, on  
13 application by the board, shall compel obedience as in the case  
14 of disobedience of the requirements of a subpoena issued by a  
15 circuit court, or a refusal to testify therein.

16 § -8 Exemptions. (a) This chapter shall not apply to  
17 the following:

- 18 (1) Student midwives in training under the direct  
19 supervision of licensed certified midwives;
- 20 (2) Certified nurse midwives regulated by the board of  
21 nursing pursuant to chapter 457;



- 1           (3) A person administering care to a spouse, parent,  
2                   sibling, child, or other family member, including  
3                   hanai family;
- 4           (4) A person rendering aid in an emergency where no fee  
5                   for the service is contemplated, charged, or received;
- 6           (5) A person performing a service within the person's  
7                   authorized scope of practice of a profession that is  
8                   licensed, certified, or registered under other laws of  
9                   this State; and
- 10          (6) Traditional Native Hawaiian healers engaged in  
11                   traditional healing practices of prenatal, maternal,  
12                   and child care, as recognized by a council convened  
13                   pursuant to section 453-2(c).
- 14          (b) Nothing in this chapter shall limit, alter, or  
15 otherwise adversely impact the practice of traditional Native  
16 Hawaiian healing pursuant to the Constitution of the State of  
17 Hawaii. Nothing in this chapter shall prevent a Native Hawaiian  
18 healer from pursuing licensure under this chapter.
- 19          (c) Except as otherwise provided in this section, after  
20 December 31, 2020, no person shall practice midwifery in the  
21 State or hold themselves out as a certified midwife or certified



1 professional midwife without being licensed pursuant to this  
2 chapter."

3 SECTION 3. (a) The department of commerce and consumer  
4 affairs shall convene a working group of interested  
5 stakeholders, including representatives from various midwifery  
6 organizations, different midwifery backgrounds, Papa Ola Lokahi,  
7 and the American Congress of Obstetricians and Gynecologists,  
8 before the midwifery licensing goes into effect pursuant to  
9 section 4 of this Act.

10 (b) The group shall consider matters related to the  
11 following issues or concerns:

- 12 (1) Informed consent;
- 13 (2) Peer review as part of the re-credentialing process;
- 14 (3) A transport plan;
- 15 (4) Whether an additional person, apart from family  
16 members, needs to be present during a home birth;
- 17 (5) Whether the Midwifery Bridge Certificate, issued by  
18 the North American Registry of Midwives, is sufficient  
19 for licensure as a certified professional midwife or  
20 if recipients of this certificate should be viewed as



1 students or trainees and have a different licensure  
2 status; and

3 (6) The potential for a path for licensure for lay  
4 midwives who are neither certified midwives or  
5 certified professional midwives.

6 (c) The working group shall submit a report to the  
7 legislature, no later than twenty days prior to the regular  
8 session of 2018, on the findings and recommendations of the  
9 working group.

10 SECTION 4. (a) The board of midwifery established  
11 pursuant to section 2 of this Act shall establish the midwifery  
12 licensing program by July 1, 2019; provided that licenses for  
13 certified midwives and certified professional midwives shall be  
14 issued by the board beginning July 1, 2020.

15 (b) The board of midwifery shall submit a report to the  
16 legislature, no later than twenty days prior to the regular  
17 session of 2019, regarding the status of the licensing program  
18 established pursuant to this Act.

19 SECTION 5. If any provision of this Act, or the  
20 application thereof to any person or circumstance, is held  
21 invalid, the invalidity does not affect other provisions or



1 applications of this Act that can be given effect without the  
2 invalid provision or application, and to this end the provisions  
3 of this Act are severable.

4 SECTION 6. This Act does not affect rights and duties that  
5 matured, penalties that were incurred, and proceedings that were  
6 begun before its effective date.

7 SECTION 7. This Act shall take effect on July 1, 2050.

8



**Report Title:**

Licensure; Midwives; Board of Midwifery; Certified Midwives;  
Certified Professional Midwives

**Description:**

Establishes the board of midwifery to regulate the practice of midwifery by certified midwives and certified professional midwives. Requires licensing of certified midwives and certified professional midwives to commence beginning on July 1, 2020. Requires the department of commerce and consumer affairs to convene a working group of interested stakeholders and submit a report to the legislature. Effective July 1, 2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

