

JAN 18 2019

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. As determined by Senate Concurrent Resolution
2 No. 64, S.D.1 (1998), subsequent Auditor's Report No. 99-14
3 (1999), House Concurrent Resolution No. 65, H.D.1 (2016), and
4 the subsequent Auditor's Report No. 17-01 (2017), the
5 legislature finds that it is necessary to establish a mandatory
6 regulatory process for the midwifery profession.

7 The legislature further finds that midwifery is known as
8 the first profession and throughout history has been associated
9 with a level of training and skill recognized by the community.
10 Midwifery has progressed over time as knowledge about women's
11 bodies has expanded and birth outcomes have improved. The term
12 "midwife" connotes an expectation of care by consumers and the
13 community. Essential competencies for basic midwifery practice
14 throughout the world have been established to meet the global
15 needs of families and to ensure consumers receive a basic level
16 of care by a person providing a service under the title
17 "midwife".



1 Hawaii has a history of regulating midwifery with
2 registration in 1931 that progressed to certification and then
3 licensure; midwifery regulation was repealed in 1998 when nurse-
4 midwives were placed under the Board of Nursing. The lapse in
5 regulation of midwifery was not intentional by legislators or
6 the State.

7 The purpose of this Act is to resolve the lapse in
8 regulation of midwifery and to regulate midwives engaged in the
9 practice of midwifery by establishing licensure and regulatory
10 requirements under the department of commerce and consumer
11 affairs. The legislature notes that practicing midwifery
12 according to this Act does not impede one's ability to
13 incorporate or provide cultural practices.

14 SECTION 2. The Hawaii Revised Statutes is amended by
15 adding a new chapter to be appropriately designated and to read
16 as follows:

17 "CHAPTER

18 MIDWIVES

19 § -1 Definitions. As used in this chapter:

20 "Accreditation Commission for Midwifery Education" means
21 the United States Department of Education-recognized commission



1 that provides accreditation and pre-accreditation of
2 certificates, post-baccalaureates, graduate degrees, and
3 pre-certificate programs in nurse-midwifery and midwifery.

4 "American College of Nurse-Midwives" means the professional
5 association that represents and sets the standards for practice
6 through core competencies and scope of practice for certified
7 nurse-midwives/certified midwives in the United States.

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

13 "Certified midwife" means a person who holds a current and
14 valid national certification as a Certified Midwife from the
15 American Midwifery Certification Board, or any successor
16 organization.

17 "Certified professional midwife" means a person who holds a
18 current and valid national certification as a Certified
19 Professional Midwife from the North American Registry of
20 Midwives, or any successor organization.



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1 "Client" means a person under the care of a licensed
2 midwife, as well as the person's fetus and newborn child.

3 "Community birth" means birth taking place in a birth
4 center, home, or location within the community.

5 "Department" means the department of commerce and consumer
6 affairs.

7 "Director" means the director of commerce and consumer
8 affairs.

9 "International Confederation of Midwives" means the
10 accredited nongovernmental organization and representative of
11 midwives and midwifery to organizations worldwide to achieve
12 common goals in the care of mothers and newborns.

13 "Licensed midwife" means a person who is a certified
14 midwife and/or certified professional midwife:

- 15 (1) Who engages in the practice of midwifery and uses the
16 title of "Licensed Midwife";
- 17 (2) Who has been issued a license under this chapter; and
- 18 (3) Whose license is in effect and not revoked, suspended,
19 or encumbered.

20 "Midwife" means a person who has successfully completed a
21 midwifery educational pathway that is recognized in the United



1 States and meets or exceeds the International Confederation of
2 Midwives Essential Competencies for Basic Midwifery Practice and
3 the framework of the International Confederation of Midwives
4 Global Standards for Midwifery Education; has demonstrated
5 competency in the practice of midwifery by passing a national
6 midwifery certification exam offered as part of a National
7 Commission for Certifying Agencies accredited credentialing
8 program; holds a current certified professional midwife,
9 certified midwife and/or certified nurse-midwife credential; and
10 who has acquired the requisite qualifications to be legally
11 licensed to practice midwifery and use the title "midwife".

12 "Midwife assistant" means a person who: may be unlicensed;
13 performs basic administrative, clerical, and midwife technical
14 supportive services in accordance with this chapter for a
15 licensed midwife or certified nurse-midwife licensed as an
16 advanced practice registered nurse; and is under the direct
17 supervision of a midwife who is currently licensed in this
18 State.

19 "Midwife technical supportive services" means simple
20 routine medical tasks and procedures that may be safely
21 performed by a midwife assistant who has limited training and



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1 functions under the supervision of a midwife currently licensed
2 in this State.

3 "Midwifery" means providing primary health and/or maternity
4 care to women and infants.

5 "Midwifery Education Accreditation Council" means the
6 United States Department of Education recognized commission
7 established in 1991 that provides accreditation for programs and
8 institutions that meet the National Association of Certified
9 Professional Midwives core competencies and the North American
10 Registry of Midwives skills and standards for basic midwifery
11 practice.

12 "Midwives Alliance of North America" means the national
13 midwifery organization that has articulated core competencies
14 for midwives.

15 "National Association of Certified Professional Midwives"
16 means the national professional and standard-setting association
17 for certified professional midwives in the United States.

18 "North American Registry of Midwives" means the
19 organization that sets national standards for the certified
20 professional midwife credential.



1 "Qualified midwife preceptor" means a licensed and
2 experienced midwife, or other recognized maternal-health
3 professional licensed in this State, who participates in the
4 clinical education of individuals enrolled in a midwifery
5 education program accredited by the Accreditation Commission for
6 Midwifery Education or Midwifery Education Accreditation Council
7 and who meets the criteria for midwife preceptors set forth by
8 the organization.

9 "Telehealth" means the use of telecommunications as that
10 term is defined in section 269-1 including but not limited to
11 real-time video conferencing-based communication, secure
12 interactive and non-interactive web-based communication, and
13 secure asynchronous information exchange, to transmit client
14 health care information, including diagnostic-quality digital
15 images and laboratory results for health care interpretation and
16 diagnosis, for the purpose of delivering enhanced health care
17 services and information to parties separated by distance.
18 Standard telephone contacts, facsimile transmissions, or
19 electronic mail texts, in combination or by themselves, do not
20 constitute a telehealth service for the purposes of this
21 chapter.



1 "United States Midwifery Education, Regulation, and
2 Association" means the national coalition that provides
3 recommended principles and language for midwifery regulation and
4 is comprised of representatives of the following national
5 midwifery associations, credentialing bodies, and education
6 accrediting agencies, including the:

- 7 (1) Accreditation Commission for Midwifery Education;
- 8 (2) American College of Nurse-Midwives;
- 9 (3) American Midwifery Certification Board;
- 10 (4) International Center for Traditional Childbearing
- 11 (5) Midwives Alliance of North America;
- 12 (6) Midwifery Education Accreditation Council;
- 13 (7) National Association of Certified Professional
- 14 Midwives; and the
- 15 (8) North American Registry of Midwives.

16 § -2 **Scope of practice.** (a) Practice as a licensed
17 midwife means providing independent primary care services and
18 management of health care for persons with female reproductive
19 systems, focusing particularly on family planning, gynecological
20 needs, essentially healthy pregnancy and childbirth, the
21 postpartum period, and care of the newborn through the



1 performance of professional services commensurate with the
2 educational preparation and demonstrated competency of the
3 individual having specialized knowledge, judgment, and skill
4 based on the principles of the biological, physical, behavioral,
5 and sociological sciences and midwifery theory, whereby the
6 individual shall be accountable and responsible to the consumer
7 for the quality of midwifery care rendered.

8 Practice as a licensed midwife includes but is not limited
9 to observation, assessment, development, implementation, and
10 evaluation of a plan of care; health counseling; supervision and
11 teaching of other personnel; and teaching of individuals,
12 families, and groups; provision of midwifery services via
13 telehealth; administration, supervision, coordination,
14 delegation, and evaluation of midwifery practice; provision of
15 health care to the client in collaboration with other members of
16 the health care team as autonomous health care professionals
17 providing the midwifery component of health care; or use of
18 reasonable judgment in carrying out prescribed medical orders of
19 a licensed physician or osteopathic physician licensed pursuant
20 to chapter 453, an advanced practice registered nurse licensed
21 pursuant to chapter 457; orders of a physician assistant



1 licensed and practicing with physician supervision pursuant to
2 chapter 453 and acting as the agent of the supervising
3 physician; or the orders of a licensed midwife in accordance
4 with this chapter.

5 (b) Practice as a certified midwife means the full scope
6 of midwifery, regardless of compensation or personal profit,
7 that incorporates caring for all clients in all settings and is
8 guided by the scope of practice authorized by this chapter, the
9 rules of the director, and midwifery standards established or
10 recognized by the director including but not limited to:

11 (1) Advanced assessment and the diagnosis, prescription,
12 selection, and administration of therapeutic measures,
13 including over the counter drugs; legend drugs; the
14 provision of expedited partner therapy pursuant to
15 section 453-52; and controlled substances within the
16 licensed midwife's education, certification and role;
17 and

18 (2) The Standards of Practice of the American College of
19 Nurse-Midwives and American Midwifery Certification
20 Board, or successor organizations; provided that the
21 American College of Nurse-Midwives shall have no legal



1 authority over the director and shall have no legal
2 authority or powers of oversight of the director in
3 the exercise of the director's powers and duties
4 authorized by law.

5 (c) Practice as a certified professional midwife means the
6 full scope of midwifery, regardless of compensation or personal
7 profit, that incorporates caring for all clients in all settings
8 and is guided by the scope of practice authorized by this
9 chapter, the rules of the director, and midwifery standards
10 established or recognized by the director including but not
11 limited to:

12 (1) Advanced assessment and the diagnosis, selection, and
13 administration of therapeutic measures according to
14 the limited formulary of this chapter within the
15 certified professional midwife's education,
16 certification and role; and

17 (2) The Job Analysis and the Comprehensive Skills,
18 Knowledge and Abilities Essential for the Competent
19 Midwifery Practice defined by the North American
20 Registry of Midwives, or successor organization,
21 provided that the North American Registry of Midwives



1 shall have no legal authority over the director and
2 shall have no legal authority or powers of oversight
3 of the director in the exercise of the director's
4 powers and duties authorized by law.

5 (d) The practice of midwifery is based on and is
6 consistent with a licensed midwife's education and national
7 certification including but not limited to:

- 8 (1) Evaluating the physical and psychosocial health status
9 of clients through a comprehensive health history and
10 physical examination, using skills of observation,
11 inspection, palpation, percussion, and auscultation,
12 and using diagnostic instruments and procedures;
- 13 (2) Directing the midwifery care given by other personnel
14 associated with the health care team;
- 15 (3) Providing education and counseling related to the
16 health care for persons with female reproductive
17 systems, focusing particularly on essentially healthy
18 pregnancy and childbirth, the postpartum period, care
19 of the newborn, and the family planning and
20 gynecological needs of persons with female
21 reproductive systems;



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- 1 (4) Ordering, interpreting, and performing diagnostic,
2 screening, and therapeutic examinations, tests and
3 procedures;
- 4 (5) Formulating a diagnosis;
- 5 (6) Initiating and maintaining accurate records and
6 authorizing appropriate regulatory and other legal
7 documents;
- 8 (7) Providing informed consent in adherence with the
9 licensee's professional requirements, as required by
10 section 671-3;
- 11 (8) Serving as a consultant and resource of advanced
12 clinical knowledge and skills to those involved
13 directly or indirectly in client care;
- 14 (9) Operating within a health care system that provides
15 for consultation, collaborative management, and
16 referral with other health care professionals;
- 17 (10) Referring clients who require care beyond the scope of
18 practice of the licensed midwife to an appropriate
19 health care provider;



- 1 (11) Assisting in surgery; provided that this paragraph
2 shall only apply to licensed midwives practicing as
3 certified midwives;
- 4 (12) Admitting and discharging clients for inpatient care
5 at facilities licensed in the State as:
- 6 (A) Hospitals; provided that this subparagraph shall
7 only apply to licensed midwives practicing as
8 certified midwives; and
- 9 (B) Birth centers;
- 10 (13) Participating in joint and periodic evaluation of
11 services rendered such as peer review, including chart
12 reviews, case reviews, client evaluations, and outcome
13 of case statistics; and
- 14 (14) Participating in policy analysis and development of
15 new policy initiatives in the area of practice
16 specialty to improve quality of health care services
17 and consumer access to services.
- 18 (e) A licensed midwife shall comply with the requirements
19 of this chapter; participate in data collection and peer review
20 requirements adopted by the department; recognize limits of the
21 licensed midwife's knowledge and experience and plan for the



1 management of situations that exceed the scope of authorized
2 practice; and consult with or refer clients to other health care
3 providers, as appropriate.

4 **§ -3 Care provided by licensed midwives; requirements.**

5 (a) Licensed midwives shall continually assess the
6 appropriateness of the planned location of birth, and shall
7 refer to the American College of Nurse-Midwives Clinical
8 Bulletin: Midwifery Provision of Home Birth Services (November
9 2015), or succeeding document, for guidance, taking into account
10 the health and condition of the mother and baby.

11 (b) If the licensed midwife determines that a condition of
12 the mother, baby, or both, is outside of the licensed midwife's
13 scope of practice, the licensed midwife shall refer the client
14 to an appropriate health care provider.

15 (c) If the licensed midwife is attending a community birth
16 and determines during the licensee's care that the client faces
17 imminent morbidity or mortality, the licensed midwife shall
18 activate the 911 emergency system.

19 (d) If the licensed midwife transfers care of the mother,
20 baby, or both, during the intrapartum or immediate postpartum
21 period, the licensee shall provide the receiving provider with,



1 at minimum, the information listed on the transfer form adopted
2 by the department.

3 (e) If the mother or baby's guardian refuses assistance
4 from appropriate licensed health care providers or the 911
5 emergency system, the licensed midwife shall continually urge
6 the mother or baby's guardian to transfer care to an appropriate
7 licensed health care provider and may continue to provide care
8 to save a life; provided that the licensed midwife shall only
9 perform actions within the licensed midwife's technical ability.

10 **§ -4 Midwife licensure program.** There is established a
11 licensed midwife program within the department to be
12 administered by the director.

13 **§ -5 Powers and duties of the director.** In addition to
14 any other powers and duties authorized by law, the director
15 shall have the powers and duties to:

16 (1) Adopt, amend, or repeal rules pursuant to chapter 91
17 to carry out the purposes of this chapter;

18 (2) Issue and renew licenses pursuant to this chapter and
19 deny or refuse to renew licenses for failure to comply
20 with this chapter;



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- 1 (3) Suspend or revoke any license for any violation of
2 this chapter, chapter 436B, or rules adopted by the
3 director pursuant to this chapter;
- 4 (4) Reinstate licenses pursuant to this chapter;
- 5 (5) Establish fees;
- 6 (6) Discipline a licensed midwife on grounds specified by
7 this chapter or chapter 436B or for any violation of
8 rules adopted by the director pursuant to this
9 chapter;
- 10 (7) Administer, coordinate, and enforce this chapter; and
- 11 (8) Appoint an advisory committee to assist with the
12 implementation of this chapter and the rules adopted
13 thereto. The advisory committee shall consist of the
14 following:
- 15 (A) Three midwives, with a minimum of one practicing
16 in a hospital setting and one practicing in a
17 community setting; and
- 18 (B) Two public members who have either received
19 midwifery services or have an interest in the
20 rights of consumers of midwifery services and who



1 have never been a primary attendant or assistant
2 at a birth.

3 § -6 **License required.** (a) Except as provided in this
4 chapter, no person shall engage in the practice of midwifery, or
5 use the title "licensed midwife" or "midwife" or the
6 abbreviation "L.M.", or any other words, letters, abbreviations,
7 or insignia indicating or implying that the person is a licensed
8 midwife without a valid license issued pursuant to this chapter.

9 (b) Nothing in this section shall preclude a person
10 holding a national certification as a midwife from identifying
11 the person as holding such certification, so long as the person
12 is not practicing midwifery or professing to be authorized to
13 practice midwifery in the State unless that person is licensed
14 in accordance with this chapter.

15 § -7 **Exemptions.** (a) This chapter shall not apply to
16 any of the following:

17 (1) Certified nurse-midwives regulated by the board of
18 nursing pursuant to chapter 457;

19 (2) A student midwife providing midwifery services who is
20 currently enrolled in a midwifery educational program



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- 1 under the direct supervision of a qualified midwife
2 preceptor;
- 3 (3) A person administering care to a spouse, parent,
4 sibling, or child;
- 5 (4) A person rendering aid in an emergency where no fee
6 for the service is contemplated, charged, or received;
- 7 (5) The practice of a profession by individuals who are
8 licensed, certified, or registered under the laws of
9 the State who are performing services within their
10 authorized scope of practice; or
- 11 (6) A person acting as a traditional birth attendant who
12 is a person without formal education and training
13 whose cultural or religious traditions have
14 historically included the attendance of traditional
15 birth attendants at births; provided that the
16 traditional birth attendant:
- 17 (A) Assists at births only in that distinct cultural
18 or religious group;
- 19 (B) Does not obtain, carry, administer, use or direct
20 others to use, legend drugs or devices, which
21 require a license under the laws of this State;



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- 1 (C) Does not advertise that the person is a midwife;
2 and
- 3 (D) Discloses to each client verbally and in writing
4 on a form adopted by the department:
- 5 (i) That the person does not possess a
6 professional license issued by the State;
- 7 (ii) That the person's education and
8 qualifications have not been reviewed by the
9 State;
- 10 (iii) That the person is not authorized to
11 acquire, carry, administer, or direct others
12 to administer potentially lifesaving
13 medications;
- 14 (iv) That the client will not have recourse
15 through the State authorized complaint
16 process;
- 17 (v) The types of midwives who are licensed by
18 the State; and
- 19 (vi) A plan for transporting the client to the
20 nearest hospital if a problem arises during
21 the client's care.



1 This exemption shall not extend to persons who are
2 currently certified or have been certified by a
3 national midwifery organization; qualified midwife
4 preceptors; or persons whose health professional
5 license has been surrendered, suspended, or revoked
6 within the State, any other state, or any other
7 jurisdiction of the United States.

8 (b) Nothing in this chapter shall prohibit healing
9 practices by traditional Hawaiian healers engaged in traditional
10 healing practices of prenatal, maternal, and childcare as
11 recognized by any council of kupuna convened by Papa Ola Lokahi.
12 Nothing in this chapter shall limit, alter, or otherwise
13 adversely impact the practice of traditional Native Hawaiian
14 healing pursuant to the Constitution of the State of Hawaii.

15 § -8 Fees. (a) Each applicant shall pay a licensing
16 fee upon application for a new or renewal license. Fees
17 collected pursuant to this section or by rule adopted under this
18 section shall be nonrefundable.

19 (b) Pursuant to section 26-9(1), the director may
20 establish fees for the restoration of a license, penalty fees,



1 and any other fees required for the administration of this
2 chapter by rule.

3 (c) All fees collected pursuant to this chapter shall be
4 deposited by the director to the credit of the compliance
5 resolution fund established pursuant to section 26-9(o).

6 (d) Fees assessed pursuant to this chapter shall be used
7 to defray costs incurred by the department in implementing this
8 chapter.

9 **§ -9 Application for license as a midwife.** (a) To
10 obtain a license under this chapter, the applicant shall provide
11 the following:

- 12 (1) An application for licensure;
- 13 (2) The required application fees;
- 14 (3) Any additional requirements adopted by the director;
- 15 and
- 16 (4) Evidence of qualifications for licensure.

17 (b) Evidence of qualifications for licensure as a
18 certified midwife shall consist of the following:

- 19 (1) Proof of current, unencumbered certification as a
20 certified midwife by the American Midwifery
21 Certification Board or a successor organization;



- 1 (2) Proof of successful completion of an Accreditation
2 Commission for Midwifery Education graduate-level
3 midwifery program with a significant educational and
4 practical concentration on the direct care of clients
5 leading to a master's degree or higher as a midwife;
6 and
- 7 (3) Proof of successful completion of at least thirty
8 contact hours, as part of a master's degree program or
9 higher from an Accreditation Commission for Midwifery
10 Education-accredited college or university, of
11 advanced pharmacology education, including advanced
12 pharmacotherapeutics that is integrated into the
13 curriculum, within three years immediately preceding
14 the date of application. If the advanced pharmacology
15 education in a master's degree program was completed
16 prior to the three-year time period immediately
17 preceding the date of application, then one of the
18 following shall be completed within the three-year
19 time period immediately preceding the date of
20 application for initial prescriptive authority:



- 1 (A) At least thirty contact hours of advanced
2 pharmacology, including advanced
3 pharmacotherapeutics, from an Accreditation
4 Commission for Midwifery Education-accredited
5 college or university; or
- 6 (B) At least thirty contact hours of continuing
7 education in advanced pharmacology, including
8 advanced pharmacotherapeutics, approved by an
9 organization recognized by the American Midwifery
10 Certification Board's, or the successor
11 organization's, Continuing Education Policy. The
12 continuing education pharmacology contact hours
13 must be related to the applicant's scope of
14 midwifery practice.
- 15 (c) Evidence of qualifications for licensure as a
16 certified professional midwife shall be the following:
- 17 (1) Proof of current and valid certification as a
18 certified professional midwife by the North American
19 Registry of Midwives or a successor organization;
- 20 (2) Proof of successful completion of a formal midwifery
21 education and training program as follows:



- 1 (A) An educational program or pathway accredited by
2 the Midwifery Education Accreditation Council; or
3 (B) A midwifery bridge certificate issued by the
4 North American Registry of Midwives for certified
5 professional midwife applicants who either
6 obtained certification before January 1, 2020,
7 through a non-accredited pathway or who have
8 maintained licensure in a state that does not
9 require an accredited education;
- 10 (3) Proof of a current, unencumbered recognition or
11 license as a licensed midwife in all other states or
12 jurisdictions of the United States in which the
13 applicant has a current and active recognition or
14 license as a licensed midwife or similar designation;
- 15 (4) Documentation relating to any disciplinary action
16 ordered by or pending before any board or program in
17 any state or jurisdiction of the United States; and
- 18 (5) Documentation from the appropriate agencies or parties
19 regarding any criminal conviction that has not been
20 annulled or expunged of which the applicant is the
21 subject, including but not limited to:



1 (A) Certified copies of any court records, orders, or
2 other documents that state the facts and statutes
3 upon which the applicant was convicted;

4 (B) The judgment of the court with regard to the
5 conviction, sentence imposed, and actual terms of
6 the sentence; and

7 (C) Whether the sentence was completed.

8 § -10 **Renewal of license.** (a) Licenses issued pursuant

9 to this chapter shall be renewed triennially on or before
10 June 30, with the first renewal deadline occurring on June 30.

11 Licenses shall be renewed upon the payment of a renewal fee
12 within sixty days before the expiration of the license. Failure
13 to renew a license shall result in forfeiture of that license.

14 Forfeited licenses may be restored within one year of the
15 forfeiture date upon payment of renewal and restoration fees.

16 Failure to restore a forfeited license within one year shall
17 result in the automatic termination of the license. A person
18 whose license has been terminated pursuant to this section shall
19 be required to reapply for a new license as a new applicant.

20 (b) For each license renewal, the licensed midwife shall:

21 (1) Pay all required nonrefundable fees;



- 1 (2) Provide proof of current certification:
- 2 (A) As a certified midwife by the American Midwifery
- 3 Certification Board or a successor organization;
- 4 or
- 5 (B) As a certified professional midwife by the North
- 6 American Registry of Midwives or a successor
- 7 organization;
- 8 (3) Provide documentation of successful completion during
- 9 the prior triennium of appropriate continuing
- 10 education as defined by rules adopted by the director;
- 11 (4) Provide certified documentation from agencies or
- 12 parties relating to any disciplinary action ordered by
- 13 or pending before any regulatory board in any state or
- 14 jurisdiction of the United States within the three
- 15 years prior to application for renewal of recognition;
- 16 and
- 17 (5) Provide information including but not limited to
- 18 certified documents from appropriate agencies and
- 19 persons regarding any criminal conviction within the
- 20 past three years that has not been annulled or
- 21 expunged.



1 § -11 License Renewal continuing education requirement.

2 Licensed midwife applicants shall provide documentation of
3 successful completion during the prior triennium of ten contact
4 hours of appropriate continuing education, which shall be in
5 pharmacology and include pharmacotherapeutics, related to the
6 practice of midwifery from accredited colleges or universities,
7 or:

8 (1) If applicant is a certified midwife, continuing
9 education approved by an organization recognized by
10 the American Midwifery Certification Board's, or
11 successor organizations, Continuing Education Policy;
12 or

13 (2) If applicant is a certified professional midwife,
14 continuing education approved by an organization
15 recognized by the North American Registry of
16 Midwives', or successor organizations, Recertification
17 Application Packet Continuing Education Unit
18 Category 1. Certified professional midwives shall be
19 required to include treatment of shock/intravenous
20 therapy and suturing in their continuing education.



1 § -12 Grounds for refusal to renew, reinstate or restore
2 a license and for revocation, suspension, denial, or condition
3 of a license. In addition to any other acts or conditions
4 provided by law, the director may refuse to renew, reinstate, or
5 restore, and may deny, revoke, suspend, or condition, in any
6 manner, any license for any one or more of the following acts or
7 conditions on the part of a licensee or license applicant:

- 8 (1) Failure to meet or to maintain the conditions and
9 requirements necessary to qualify for the granting of
10 a license;
- 11 (2) Engaging in false, fraudulent, or deceptive
12 advertising, or making untruthful or improbable
13 statements in advertising;
- 14 (3) Engaging in the practice of midwifery while impaired
15 by alcohol, drugs, non-accommodated physical
16 disability, or mental instability;
- 17 (4) Procuring a license to practice midwifery through
18 fraud, misrepresentation, or deceit;
- 19 (5) Aiding and abetting an unlicensed person to directly
20 or indirectly perform activities requiring a license
21 to practice midwifery;



- 1 (6) Engaging in unprofessional conduct, incompetence,
2 gross negligence, or manifest incapacity in the
3 practice of midwifery;
- 4 (7) Engaging in conduct or a practice contrary to
5 recognized standards of ethics for the practice of
6 midwifery;
- 7 (8) Violating any condition or limitation imposed on a
8 license to practice midwifery by the director;
- 9 (9) Engaging in the practice of midwifery in a manner that
10 causes injury to one or more members of the public;
- 11 (10) Failing to comply with, observe, or adhere to any law
12 in a manner that causes the director to determine that
13 the applicant or holder is unfit to hold a license;
- 14 (11) Having a license revoked or suspended or other
15 disciplinary action by any state, jurisdiction of the
16 United States, or federal agency for any reason that
17 is provided by the applicable licensing laws or by
18 this section;
- 19 (12) Having been convicted or pleaded nolo contendere to a
20 crime directly related to the qualifications,
21 functions, or duties of the practice of midwifery;



1 (13) Failing to report in writing to the director any
2 disciplinary decision issued against the licensee or
3 applicant in another jurisdiction within thirty days
4 of the disciplinary decision;

5 (14) Employing, whether gratuitously or for pay, any person
6 not licensed pursuant to this chapter to perform the
7 functions or duties of the practice of midwifery; and

8 (15) Violating this chapter, chapter 436B, or any rule or
9 order of the director.

10 § -13 **Unprofessional conduct.** Midwifery behavior which
11 fails to conform to legal standards and accepted standards of
12 the midwife profession and which reflect adversely on the health
13 and welfare of the public shall constitute unprofessional
14 conduct. The types of unprofessional conduct covered in this
15 provision includes but is not limited to:

16 (1) Submitting information to the director pursuant to an
17 application or licensure, renewal of licensure, or
18 reinstatement of licensure which is fraudulent,
19 deceitful, or contains misrepresentations;

20 (2) Impersonating any applicant, acting as proxy for the
21 applicant in any midwife certifying examination,



- 1 allowing any person to use one's midwife license, or
2 the aiding, abetting, or assisting an individual to
3 violate or circumvent this chapter;
- 4 (3) Practicing midwifery within the State without a valid
5 and current license;
- 6 (4) Misrepresenting that the person is a licensed midwife,
7 verbally or in writing, when the person does not
8 possess the appropriate license;
- 9 (5) Failing to report to the director any notice of
10 revocation, suspension, or other disciplinary actions
11 against the applicant or licensee by another state or
12 jurisdiction of the United States;
- 13 (6) Performing unsafe client care or failing to conform to
14 professional standards required of a midwife which
15 poses a danger to the welfare of a client including:
- 16 (A) Intentionally or negligently causing physical or
17 emotional injury to a client;
- 18 (B) Administering medication and treatment in a
19 careless or negligent manner;



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- 1 (C) Failing to take appropriate action or follow
- 2 policies and procedures in the practice setting
- 3 designed to safeguard the client;
- 4 (D) Failing to take appropriate action in
- 5 safeguarding a client from incompetent health
- 6 care practices;
- 7 (E) Performing midwifery techniques or procedures
- 8 without proper education and training;
- 9 (F) Violating the confidentiality of information or
- 10 knowledge concerning the client or failing to
- 11 safeguard the client's dignity and right to
- 12 privacy; and
- 13 (G) Leaving a midwifery assignment or abandoning a
- 14 client without properly notifying appropriate
- 15 personnel; and
- 16 (7) Engaging in any act inconsistent with the practice of
- 17 midwifery as defined in this chapter for that of a
- 18 licensed midwife including:
- 19 (A) Engaging in conduct which evidences a lack of
- 20 ability or fitness to discharge the duty owed by
- 21 the licensee to a client;



- 1 (B) Practicing midwifery when physical or mental
2 ability to practice is impaired by alcohol or
3 drugs, or because of other physical,
4 psychological, or mental impediment;
- 5 (C) Willfully, or deliberately, falsifying or
6 altering a client's, health care facility's, or
7 employee's record;
- 8 (D) Unauthorized use or removal of drugs, supplies,
9 or property from a client or health care
10 facility, institution, or other work place
11 location; diverting or attempting to divert drugs
12 or controlled substances for unauthorized use; or
13 appropriating money, supplies, or equipment;
- 14 (E) Possessing, obtaining, furnishing, or
15 administering prescription drugs to any person,
16 including self, except as directed by a person
17 authorized by law to prescribe drugs; and
- 18 (F) Failing to supervise persons to whom midwifery
19 functions have been delegated under the licensed
20 midwife's supervision.



1 **§ -14 Global signature authority.** Licensed midwives
2 shall be authorized to sign, certify, or endorse all documents
3 relating to health care within their scope of practice provided
4 for their clients, including workers' compensation verification
5 documents, temporary disability insurance forms, verification
6 and evaluation forms of the department of human services and
7 department of education, verification and authorization forms of
8 the department of health, and physical examination forms;
9 provided that nothing in this section shall be construed to
10 expand the scope of practice of licensed midwives.

11 **§ -15 Penalties.** Any person who violates this chapter
12 shall be subject to a fine of not more than \$1,000 for each
13 separate offense. Each day of each violation shall constitute a
14 separate offense. The director may initiate a civil action to
15 collect the fine imposed under this chapter in accordance with
16 rules adopted by the director.

17 **§ -16 Prescriptive Authority.** (a) Only licensed
18 midwives practicing as certified midwives shall be granted
19 prescriptive authority. Licensed midwives practicing as
20 certified midwives shall only prescribe drugs appropriate to
21 midwifery care as recognized by the director and in accordance



1 with the current exclusionary formulary defined by the board of
2 nursing for advanced practice registered nurses.

3 (b) Only a licensed midwife practicing as a certified
4 midwife shall be able to use any sign, card, or device to
5 indicate or in any way imply, that the person is a licensed
6 midwife who is authorized to prescribe.

7 (c) A licensed midwife practicing as a certified midwife
8 shall comply with all applicable state and federal laws and
9 rules relating to prescribing and administering of drugs. A
10 licensed midwife practicing as a certified midwife shall only
11 prescribe, order, and dispense medical devices and equipment
12 appropriate to the licensed midwife's specialty.

13 (d) Prescriptions by a licensed midwife practicing as a
14 certified midwife shall be written in accordance with
15 section 329-38.

16 (e) Nothing in this section shall preclude a licensed
17 midwife practicing as a certified midwife from carrying out the
18 prescribed medical orders of a licensed physician or osteopathic
19 physician licensed in accordance with chapter 453, or advanced
20 practice registered nurse licensed pursuant to chapter 457;
21 orders of a physician assistant licensed and practicing with



1 physician supervision pursuant to chapter 453 and acting as the
2 agent of the supervising physician; or the orders of a
3 recognized licensed midwife practicing as a certified midwife in
4 accordance with this chapter.

5 § -17 Authority for certified professional midwives.

6 (a) Licensed midwives practicing as certified professional
7 midwives shall not possess prescriptive authority. Licensed
8 midwives practicing as certified professional midwives shall be
9 authorized to obtain and administer the following non-controlled
10 legend drugs or devices during the practice of midwifery:

- 11 (1) Oxygen;
- 12 (2) Neonatal eye prophylaxis;
- 13 (3) Anti-hemorrhagic agents and devices for postpartum;
- 14 (4) Vitamin K;
- 15 (5) Rho (D) immune globulin;
- 16 (6) Intravenous fluids;
- 17 (7) Amino amide local anesthetic;
- 18 (8) Group beta streptococcus prophylaxis antibiotics per
19 guidelines adopted by the Centers for Disease Control
20 and Prevention;



1 (9) Epinephrine for neonatal resuscitation per Neonatal
2 Resuscitation guidelines and anaphylactic reaction to
3 an administered medication;

4 (10) Nitrous oxide pursuant to department-approved
5 training;

6 (11) Non-hormonal contraceptives; and

7 (12) Hormonal implants pursuant to any manufacturer
8 certification requirements, as prescribed by a
9 licensed health care provider with prescriptive
10 authority under this chapter, chapter 453, or section
11 457-8.6.

12 (b) A licensed midwife practicing as a certified
13 professional midwife may obtain the authorized formulary drugs
14 listed in this section as allowed by law.

15 (c) A licensed midwife practicing as certified
16 professional midwife shall:

17 (1) Store all formulary drugs in secure areas suitable for
18 preventing unauthorized access and for ensuring a
19 proper environment for the preservation of the drugs;
20 provided that licensed midwives practicing as
21 certified professional midwives may carry formulary



1 drugs to a community setting while providing care
2 within the course and scope of the practice of
3 midwifery; provided further that the licensed midwife
4 practicing as a certified professional midwife shall
5 promptly return the formulary drugs to the secure area
6 when the licensed midwife has finished using them for
7 client care; and

8 (2) Maintain proper records of obtaining, storing and
9 administering drugs and devices.

10 (d) Nothing in this section shall preclude a licensed
11 midwife practicing as a certified professional midwife from
12 carrying out the prescribed medical orders of a licensed
13 physician or osteopathic physician licensed pursuant to chapter
14 453, or advanced practice registered nurse licensed pursuant to
15 chapter 457; orders of a physician assistant licensed and
16 practicing with physician supervision pursuant to chapter 453,
17 and acting as the agent of the supervising physician; or the
18 orders of a recognized licensed midwife practicing as a
19 certified midwife in accordance with this chapter."

20 SECTION 3. Section 26H-4, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§26H-4 Repeal dates for newly enacted professional and
2 vocational regulatory programs. (a) Any professional or
3 vocational regulatory program enacted after January 1, 1994, and
4 listed in this section shall be repealed as specified in this
5 section. The auditor shall perform an evaluation of the
6 program, pursuant to section 26H-5, prior to its repeal date.

7 (b) Chapter 465D (behavior analysts) shall be repealed on
8 June 30, 2021.

9 (c) Chapter 466L (appraisal management companies) shall be
10 repealed on June 30, 2023.

11 (d) Chapter (midwives) shall be repealed on June 30,
12 2025."

13 SECTION 4. There is appropriated out of the compliance
14 resolution fund established pursuant to section 26-9(o), Hawaii
15 Revised Statutes the sum of \$ or so much thereof as
16 may be necessary for fiscal year 2019-2020 and the same sum or
17 so much thereof as may be necessary for fiscal year 2020-2021 to
18 implement the licensure of midwives as required by this Act.

19 The sums appropriated shall be expended by the department
20 of commerce and consumer affairs for the purposes of this Act.



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1 SECTION 5. If any provision of this Act, or the
 2 application thereof to any person or circumstance, is held
 3 invalid, the invalidity does not affect other provisions or
 4 applications of the Act that can be given effect without the
 5 invalid provision or application, and to this end the provisions
 6 of this Act are severable.

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

10 SECTION 7. New statutory material is underscored.

11 SECTION 8. This Act shall take effect on July 1, 2019.

12

INTRODUCED BY:

Rosalyn de Bal

Juanita Orange

Manuel

DK

Michelle Solari

Josh

Walter W.

Spencer

Stacy

Mike Gilbert

J. Colin Gish

Charmaine

Anna Mercedes



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*Phil
Kurtz*



S.B. NO. 1033

Report Title:

Licensure; Midwives; Department of Commerce and Consumer Affairs; Appropriation

Description:

Establishes licensure of midwives including scope of practice, professional code of conduct, continuing education requirements, and prescriptive drug authority. Appropriates funds from the compliance resolution fund. Exempts traditional birth attendants and Native Hawaiian healers from licensure requirements.

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

