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

8 SECTION 2. The Hawaii Revised Statutes is amended by
9 adding a new chapter to be appropriately designated and to read
10 as follows:

11 **"CHAPTER**

12 **MIDWIVES**

13 § -1 **Definitions.** As used in this chapter:

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



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

3 "Department" means the department of commerce and consumer
4 affairs.

5 "Director" means the director of commerce and consumer
6 affairs.

7 "Informed Consent" means the consent obtained following a
8 thorough and easily understood explanation of the information to
9 the mother or the mother's guardian.

10 "North American Registry of Midwives" means the
11 organization that sets national standards for the certified
12 professional midwife credential.

13 "Prenatal" means the period of time from conception to the
14 onset of labor.

15 "Traditional Midwife" means an individual who is acting as
16 a traditional midwife, focusing particularly on low-risk
17 pregnancy, and does not use legend drugs and devices, does not
18 advertise as a midwife, and provides the required disclosures to
19 clients that the individual is practicing midwifery in this
20 State without a license to practice midwifery, and the client
21 has provided informed consent.



1 § -2 **Midwife licensure program.** There is established a
2 licensed midwife program within the department to be
3 administered by the director.

4 § -3 **Powers and duties of the director.** In addition to
5 any other powers and duties authorized by law, the director
6 shall have the powers and duties to:

- 7 (1) Grant permission to a person to use the title of
8 certified professional midwife and engage in the
9 practice of midwifery in this State pursuant to this
10 chapter and the rules adopted pursuant thereto;
- 11 (2) Adopt, amend, or repeal rules pursuant to chapter 91
12 to carry out the purposes of this chapter;
- 13 (3) Administer, coordinate, and enforce this chapter and
14 rules adopted pursuant thereto;
- 15 (4) Discipline a licensee for any cause described by this
16 chapter or for any violation of rules or refuse to
17 license a person for failure to meet the licensing
18 requirements for any cause that would be grounds for
19 disciplining a licensee; and
- 20 (5) Appoint an advisory committee to assist with the
21 implementation of this chapter and the rules adopted



1 thereto. The advisory committee shall consist of the
2 following:

- 3 (A) Midwives;
- 4 (B) An obstetrician-gynecologist; and
- 5 (C) Two public members who have either received
6 midwifery services or have an interest in the
7 rights of consumers of midwifery services and who
8 have never been a primary attendant or assistant
9 at a birth.

10 § -4 License required. (a) No person shall engage in
11 the practice of midwifery, or use the title "licensed certified
12 professional midwife", "midwife", "certified professional
13 midwife" or the abbreviation "C.P.M.", or any other words,
14 letters, abbreviations, or insignia indicating or implying that
15 the person is a licensed certified professional midwife without
16 a valid license issued pursuant to this chapter. The director
17 may begin to accept applications for licensure beginning on
18 July 1, 2019. Provisional licensure may be granted pursuant to
19 section -6; provided that all persons engaged in the practice
20 of midwifery, as provided by this chapter, shall be licensed by
21 January 1, 2024.



1 (b) Nothing in this section shall preclude a person
2 holding a national certification as a midwife from identifying
3 the person as holding such certification, so long as the person
4 is not practicing midwifery or professing to be authorized to
5 practice midwifery in the State unless that person is licensed
6 in accordance with this chapter.

7 § -5 Exemptions. (a) Licensure shall not be required
8 of:

- 9 (1) Any licensed person doing work within the scope of
10 practice or duties of the person's profession that
11 overlaps with the practice of midwifery; provided the
12 person does not purport to be a midwife;
- 13 (2) A student midwife providing midwifery services who is
14 currently enrolled in a midwifery educational program
15 under the direct supervision of a qualified midwife
16 preceptor;
- 17 (3) A person rendering aid in an emergency where no fee
18 for the service is contemplated, charged, or received;
19 and
- 20 (4) A person acting as a traditional midwife.



1 (b) Nothing in this chapter shall prohibit healing
 2 practices by traditional Hawaiian healers engaged in traditional
 3 healing practices of prenatal, maternal, and childcare as
 4 recognized by any council of kupuna convened by Papa Ola Lokahi.
 5 Nothing in this chapter shall limit, alter, or otherwise
 6 adversely impact the practice of traditional Native Hawaiian
 7 healing pursuant to the Constitution of the State of Hawaii.

8 § -6 **Provisional licensure.** The director shall grant,
 9 upon application and payment of proper fees, provisional
 10 licensure to those persons that satisfy the licensing
 11 requirements but have not yet acquired a license pursuant to
 12 section -5; provided that a provisional license shall expire
 13 on January 1, 2024, or upon a person receiving full licensure,
 14 whichever is sooner.

15 § -7 **Fees; disposition.** (a) Application, examination,
 16 reexamination, license, renewal, late renewal penalty fees, and
 17 other reasonable and necessary fees relating to administration
 18 of this chapter, none of which are refundable, shall be as
 19 provided in rules adopted by the director.

20 (b) Each applicant shall pay a licensing fee upon
 21 application for an initial or renewal of license.



1 (c) Pursuant to section 26-9(1), the director may
2 establish fees for the restoration of a license, penalty fees,
3 and any other fees required for the administration of this
4 chapter by rule.

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

8 (e) Fees assessed pursuant to this chapter shall be used
9 to defray costs incurred by the department in implementing this
10 chapter and shall be managed in accordance with section 26-9(1).

11 **§ -8 Application for license as a certified professional**

12 **midwife.** (a) To obtain a license under this chapter, the
13 applicant shall provide:

- 14 (1) An application for licensure;
- 15 (2) The required fees;
- 16 (3) Proof of current, unencumbered certification as a
17 certified profession midwife with the North American
18 Registry of Midwives;
- 19 (4) If applicable, evidence of any licenses held or once
20 held in other jurisdictions indicating the statistics



1 of the license and documenting any disciplinary
2 proceedings pending or taken by any jurisdiction;
3 (5) Information regarding any conviction of any crime
4 which has not been annulled or expunged; and
5 (6) Any other information the department may require to
6 investigate the applicant's qualifications for
7 license.

8 § -9 **Issuance of license.** The director may issue a
9 license to any person who meets all licensure requirements and
10 pays the appropriate fees.

11 § -10 **Renewals.** (a) Every license issued under this
12 chapter shall be renewed triennially on or before June 30, with
13 the first renewal deadline occurring on June 30, 2027. Failure
14 to renew a license shall result in a forfeiture of the license.
15 Licenses which have been so forfeited may be restored within one
16 year of the expiration date upon payment of renewal and penalty
17 fees. Failure to restore a forfeited license within one year of
18 the date of its expiration shall result in the automatic
19 termination of the license and relicensure may be subject to the
20 person applying as a new applicant and satisfying again all
21 licensing requirements in place at the time of application.



1 (b) Every license renewal, reinstatement, or restoration
2 shall be subject to the provisions of section -11.

3 § -11 Grounds for refusal to renew, reinstate or restore
4 and for revocation, suspension, denial, or condition of
5 licenses. In addition to any other acts or conditions provided
6 by law, the director may refuse to renew, reinstate or restore,
7 or may deny, revoke, suspend, or condition in any manner, any
8 license for any one or more of the following acts or conditions
9 on the part of the licensee or the applicant thereof:

10 (1) Failure to meet or maintain the conditions and
11 requirements necessary to qualify for the granting of
12 a license;

13 (2) Engaging in false, fraudulent, or deceptive
14 advertising, or making untruthful or improbable
15 statements;

16 (3) Being addicted to, dependent on, or a habitual user of
17 a narcotic, barbiturate, amphetamine, hallucinogen,
18 opium, or cocaine, or other drugs or derivatives of a
19 similar nature;



- 1 (4) Practicing as a licensed midwife while impaired by
2 alcohol, drugs, physical disability, or mental
3 instability;
- 4 (5) Procuring a license through fraud, misrepresentation,
5 or deceit;
- 6 (6) Aiding and abetting an unlicensed person to directly
7 or indirectly perform activities requiring a license;
- 8 (7) Professional misconduct, incompetence, gross
9 negligence, or manifest incapacity in the practice of
10 the licensed profession or vocation;
- 11 (8) Failure to maintain a record or history of competency,
12 trustworthiness, fair dealing, and financial
13 integrity;
- 14 (9) Conduct or practice contrary to recognized standards
15 of ethics for the practice of midwifery;
- 16 (10) Violating any condition or limitation upon which a
17 conditional or temporary license was issued;
- 18 (11) Engaging in business under a past or present license
19 issued pursuant to this chapter, in a manner causing
20 injury to one or more members of the public;



- 1 (12) Failure to comply, observe, or adhere to any law in a
2 manner such that the director deems the applicant or
3 holder to be an unfit or improper person to hold a
4 license;
- 5 (13) Revocation, suspension, or other disciplinary action
6 by another state or federal agency against a licensee
7 or applicant for any reason provided by the licensing
8 laws or this section;
- 9 (14) Criminal conviction, whether by nolo contendere or
10 otherwise, of a penal crime directly related to the
11 qualifications, functions, or duties of the licensed
12 midwife;
- 13 (15) Failure to report in writing to the director any
14 disciplinary decision issued against the licensee or
15 the applicant in another jurisdiction within thirty
16 days of the disciplinary decision;
- 17 (16) Employing, utilizing, or attempting to employ or
18 utilize at any time any person not licensed under this
19 chapter where licensure is required; or
- 20 (17) Violating this chapter, any other applicable licensing
21 laws, or any rule or order of the director.



1 § -12 Registration required. All currently practicing
2 midwives offering services shall file with the director of
3 commerce and consumer affairs an application for registration on
4 a form prescribed by the director which shall include:

- 5 (1) Number of births;
- 6 (2) Number of years practiced;
- 7 (3) Training; and
- 8 (4) Disclosure of bad outcomes;

9 provided that all currently practicing midwives must attain full
10 licensure pursuant to this chapter by January 1, 2024.

11 SECTION 3. There is appropriated out of the compliance
12 resolution fund established pursuant to section 26-9(o), Hawaii
13 Revised Statutes the sum of \$ or so much thereof as
14 may be necessary for fiscal year 2019-2020 and the same sum or
15 so much thereof as may be necessary for fiscal year 2020-2021 to
16 implement the licensure of midwives as required by this Act.

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

19 SECTION 4. 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 the 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 5. 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 6. This Act shall take effect on July 1, 2050.

8



Report Title:

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

Description:

Establishes licensure of midwives. Exempts Native Hawaiian healers from licensure requirements. Requires registration for current practicing midwives by 1/1/2024, and thereafter full licensure must be obtained. Provides provisional licensure until full licensure can be obtained. Appropriates funds from the compliance resolution fund. Effective 7/1/2050. (SD1)

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