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# 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, and provides the required disclosures to clients that  
19 the individual is practicing midwifery in this State without a  
20 license to practice midwifery, and the client has provided  
21 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 an  
3 application for registration on a form prescribed by the  
4 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           **§ -13 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           SECTION 3. There is appropriated out of the compliance  
18 resolution fund established pursuant to section 26-9(o), Hawaii  
19 Revised Statutes, the sum of \$                               or so much thereof as  
20 may be necessary for fiscal year 2019-2020 and the same sum or



1 so much thereof as may be necessary for fiscal year 2020-2021 to  
2 implement the licensure of midwives as required by this Act.

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

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

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

14 SECTION 6. This Act shall take effect on July 1, 2050.

15



**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. Provides penalties for violation of registration and licensure requirements. Appropriates funds from the compliance resolution fund. Effective 7/1/2050. (SD2)

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