A BILL FOR AN ACT
RELATING TO THE LICENSURE OF MIDWIVES.

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

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

The legislature further finds that midwifery is known as the first profession and throughout history has been associated with a level of training and skill recognized by the community. Midwifery has progressed over time as knowledge about women's bodies has expanded and birth outcomes have improved. The term "midwife" connotes an expectation of care by consumers and the community. Essential competencies for basic midwifery practice throughout the world have been established to meet the global needs of families and to ensure consumers receive a basic level of care by a person providing a service under the title "midwife."
Hawaii has a history of regulating midwifery with registration in 1931 that progressed to certification and then licensure; midwifery regulation was repealed in 1998 when nurse-midwives were placed under the Board of Nursing. The lapse in regulation of midwifery was not intentional by legislators or the State.

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

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

"CHAPTER MIDWIVES

§ -1 Definitions. As used in this chapter:

"Accreditation Commission for Midwifery Education" means the United States Department of Education-recognized commission
that provides accreditation and pre-accreditation of
certificates, post-baccalaureates, graduate degrees, and
pre-certificate programs in nurse-midwifery and midwifery.

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

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

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

"Certified professional midwife" means a person who holds a
current and valid national certification as a Certified
Professional Midwife from the North American Registry of
Midwives, or any successor organization.
"Client" means a person under the care of a licensed midwife, as well as the person's fetus and newborn child.

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

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

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

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

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

1. Who engages in the practice of midwifery and uses the title of "Licensed Midwife";

2. Who has been issued a license under this chapter; and

3. Whose license is in effect and not revoked, suspended, or encumbered.

"Midwife" means a person who has successfully completed a midwifery educational pathway that is recognized in the United...
States and meets or exceeds the International Confederation of Midwives Essential Competencies for Basic Midwifery Practice and the framework of the International Confederation of Midwives Global Standards for Midwifery Education; has demonstrated competency in the practice of midwifery by passing a national midwifery certification exam offered as part of a National Commission for Certifying Agencies accredited credentialing program; holds a current certified professional midwife, certified midwife and/or certified nurse-midwife credential; and who has acquired the requisite qualifications to be legally licensed to practice midwifery and use the title "midwife".

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

"Midwife technical supportive services" means simple routine medical tasks and procedures that may be safely performed by a midwife assistant who has limited training and
functions under the supervision of a midwife currently licensed in this State.

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

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

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

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

"North American Registry of Midwives" means the organization that sets national standards for the certified professional midwife credential.
"Qualified midwife preceptor" means a licensed and experienced midwife, or other recognized maternal-health professional licensed in this State, who participates in the clinical education of individuals enrolled in a midwifery education program accredited by the Accreditation Commission for Midwifery Education or Midwifery Education Accreditation Council and who meets the criteria for midwife preceptors set forth by the organization.

"Telehealth" means the use of telecommunications as that term is defined in section 269-1 including but not limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit client health care information, including diagnostic-quality digital images and laboratory results for health care interpretation and diagnosis, for the purpose of delivering enhanced health care services and information to parties separated by distance. Standard telephone contacts, facsimile transmissions, or electronic mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this chapter.
"United States Midwifery Education, Regulation, and Association" means the national coalition that provides recommended principles and language for midwifery regulation and is comprised of representatives of the following national midwifery associations, credentialing bodies, and education accrediting agencies, including the:

1. Accreditation Commission for Midwifery Education;
2. American College of Nurse-Midwives;
3. American Midwifery Certification Board;
4. International Center for Traditional Childbearing
5. Midwives Alliance of North America;
6. Midwifery Education Accreditation Council;
7. National Association of Certified Professional Midwives; and the

§ 2 Scope of practice. (a) Practice as a licensed midwife means providing independent primary care services and management of health care for persons with female reproductive systems, focusing particularly on family planning, gynecological needs, essentially healthy pregnancy and childbirth, the postpartum period, and care of the newborn through the
performance of professional services commensurate with the
educational preparation and demonstrated competency of the
individual having specialized knowledge, judgment, and skill
based on the principles of the biological, physical, behavioral,
and sociological sciences and midwifery theory, whereby the
individual shall be accountable and responsible to the consumer
for the quality of midwifery care rendered.

Practice as a licensed midwife includes but is not limited
to observation, assessment, development, implementation, and
evaluation of a plan of care; health counseling; supervision and
teaching of other personnel; and teaching of individuals,
families, and groups; provision of midwifery services via
telehealth; administration, supervision, coordination,
delegation, and evaluation of midwifery practice; provision of
health care to the client in collaboration with other members of
the health care team as autonomous health care professionals
providing the midwifery component of health care; or use of
reasonable judgment in carrying out prescribed medical orders of
a licensed physician or osteopathic physician licensed pursuant
to chapter 453, an advanced practice registered nurse licensed
pursuant to chapter 457; orders of a physician assistant
licensed and practicing with physician supervision pursuant to chapter 453 and acting as the agent of the supervising physician; or the orders of a licensed midwife in accordance with this chapter.

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

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

(2) The Standards of Practice of the American College of Nurse-Midwives and American Midwifery Certification Board, or successor organizations; provided that the American College of Nurse-Midwives shall have no legal
authority over the director and shall have no legal
authority or powers of oversight of the director in
the exercise of the director's powers and duties
authorized by law.

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

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

(2) The Job Analysis and the Comprehensive Skills,
Knowledge and Abilities Essential for the Competent
Midwifery Practice defined by the North American
Registry of Midwives, or successor organization,
provided that the North American Registry of Midwives
shall have no legal authority over the director and
shall have no legal authority or powers of oversight
of the director in the exercise of the director's
powers and duties authorized by law.

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

(1) Evaluating the physical and psychosocial health status
of clients through a comprehensive health history and
physical examination, using skills of observation,
inspection, palpation, percussion, and auscultation,
and using diagnostic instruments and procedures;

(2) Directing the midwifery care given by other personnel
associated with the health care team;

(3) Providing education and counseling related to the
health care for persons with female reproductive
systems, focusing particularly on essentially healthy
pregnancy and childbirth, the postpartum period, care
of the newborn, and the family planning and
gynecological needs of persons with female
reproductive systems;
(4) Ordering, interpreting, and performing diagnostic, screening, and therapeutic examinations, tests and procedures;

(5) Formulating a diagnosis;

(6) Initiating and maintaining accurate records and authorizing appropriate regulatory and other legal documents;

(7) Providing informed consent in adherence with the licensee's professional requirements, as required by section 671-3;

(8) Serving as a consultant and resource of advanced clinical knowledge and skills to those involved directly or indirectly in client care;

(9) Operating within a health care system that provides for consultation, collaborative management, and referral with other health care professionals;

(10) Referring clients who require care beyond the scope of practice of the licensed midwife to an appropriate health care provider;
(11) Assisting in surgery; provided that this paragraph shall only apply to licensed midwives practicing as certified midwives;

(12) Admitting and discharging clients for inpatient care at facilities licensed in the State as:

(A) Hospitals; provided that this subparagraph shall only apply to licensed midwives practicing as certified midwives; and

(B) Birth centers;

(13) Participating in joint and periodic evaluation of services rendered such as peer review, including chart reviews, case reviews, client evaluations, and outcome of case statistics; and

(14) Participating in policy analysis and development of new policy initiatives in the area of practice specialty to improve quality of health care services and consumer access to services.

(e) A licensed midwife shall comply with the requirements of this chapter; participate in data collection and peer review requirements adopted by the department; recognize limits of the licensed midwife's knowledge and experience and plan for the
management of situations that exceed the scope of authorized practice; and consult with or refer clients to other health care providers, as appropriate.

§ -3 Care provided by licensed midwives; requirements.

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

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

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

(d) If the licensed midwife transfers care of the mother, baby, or both, during the intrapartum or immediate postpartum period, the licensee shall provide the receiving provider with,
at minimum, the information listed on the transfer form adopted
by the department.

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

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

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

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

(2) Issue and renew licenses pursuant to this chapter and
deny or refuse to renew licenses for failure to comply
with this chapter;
(3) Suspend or revoke any license for any violation of this chapter, chapter 436B, or rules adopted by the director pursuant to this chapter;

(4) Reinstate licenses pursuant to this chapter;

(5) Establish fees;

(6) Discipline a licensed midwife on grounds specified by this chapter or chapter 436B or for any violation of rules adopted by the director pursuant to this chapter;

(7) Administer, coordinate, and enforce this chapter; and

(8) Appoint an advisory committee to assist with the implementation of this chapter and the rules adopted thereto. The advisory committee shall consist of the following:

(A) Three midwives, with a minimum of one practicing in a hospital setting and one practicing in a community setting; and

(B) Two public members who have either received midwifery services or have an interest in the rights of consumers of midwifery services and who
have never been a primary attendant or assistant at a birth.

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

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

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

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

(2) A student midwife providing midwifery services who is currently enrolled in a midwifery educational program
under the direct supervision of a qualified midwife preceptor;

(3) A person administering care to a spouse, parent, sibling, or child;

(4) A person rendering aid in an emergency where no fee for the service is contemplated, charged, or received;

(5) The practice of a profession by individuals who are licensed, certified, or registered under the laws of the State who are performing services within their authorized scope of practice; or

(6) A person acting as a traditional birth attendant who is a person without formal education and training whose cultural or religious traditions have historically included the attendance of traditional birth attendants at births; provided that the traditional birth attendant:

(A) Assists at births only in that distinct cultural or religious group;

(B) Does not obtain, carry, administer, use or direct others to use, legend drugs or devices, which require a license under the laws of this State;
(C) Does not advertise that the person is a midwife; and

(D) Discloses to each client verbally and in writing on a form adopted by the department:

(i) That the person does not possess a professional license issued by the State;

(ii) That the person's education and qualifications have not been reviewed by the State;

(iii) That the person is not authorized to acquire, carry, administer, or direct others to administer potentially lifesaving medications;

(iv) That the client will not have recourse through the State authorized complaint process;

(v) The types of midwives who are licensed by the State; and

(vi) A plan for transporting the client to the nearest hospital if a problem arises during the client's care.
This exemption shall not extend to persons who are currently certified or have been certified by a national midwifery organization; qualified midwife preceptors; or persons whose health professional license has been surrendered, suspended, or revoked within the State, any other state, or any other jurisdiction of the United States.

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

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

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

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

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

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

(1) An application for licensure;

(2) The required application fees;

(3) Any additional requirements adopted by the director; and

(4) Evidence of qualifications for licensure.

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

(1) Proof of current, unencumbered certification as a certified midwife by the American Midwifery Certification Board or a successor organization;
(2) Proof of successful completion of an Accreditation Commission for Midwifery Education graduate-level midwifery program with a significant educational and practical concentration on the direct care of clients leading to a master's degree or higher as a midwife; and

(3) Proof of successful completion of at least thirty contact hours, as part of a master's degree program or higher from an Accreditation Commission for Midwifery Education-accredited college or university, of advanced pharmacology education, including advanced pharmacotherapeutics that is integrated into the curriculum, within three years immediately preceding the date of application. If the advanced pharmacology education in a master's degree program was completed prior to the three-year time period immediately preceding the date of application, then one of the following shall be completed within the three-year time period immediately preceding the date of application for initial prescriptive authority:
(A) At least thirty contact hours of advanced pharmacology, including advanced pharmacotherapeutics, from an Accreditation Commission for Midwifery Education-accredited college or university; or

(B) At least thirty contact hours of continuing education in advanced pharmacology, including advanced pharmacotherapeutics, approved by an organization recognized by the American Midwifery Certification Board's, or the successor organization's, Continuing Education Policy. The continuing education pharmacology contact hours must be related to the applicant's scope of midwifery practice.

(c) Evidence of qualifications for licensure as a certified professional midwife shall be the following:

(1) Proof of current and valid certification as a certified professional midwife by the North American Registry of Midwives or a successor organization;

(2) Proof of successful completion of a formal midwifery education and training program as follows:
(A) An educational program or pathway accredited by the Midwifery Education Accreditation Council; or

(B) A midwifery bridge certificate issued by the North American Registry of Midwives for certified professional midwife applicants who either obtained certification before January 1, 2020, through a non-accredited pathway or who have maintained licensure in a state that does not require an accredited education;

(3) Proof of a current, unencumbered recognition or license as a licensed midwife in all other states or jurisdictions of the United States in which the applicant has a current and active recognition or license as a licensed midwife or similar designation;

(4) Documentation relating to any disciplinary action ordered by or pending before any board or program in any state or jurisdiction of the United States; and

(5) Documentation from the appropriate agencies or parties regarding any criminal conviction that has not been annulled or expunged of which the applicant is the subject, including but not limited to:
(A) Certified copies of any court records, orders, or other documents that state the facts and statutes upon which the applicant was convicted;

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

(C) Whether the sentence was completed.

§ -10 Renewal of license. (a) Licenses issued pursuant to this chapter shall be renewed triennially on or before June 30, with the first renewal deadline occurring on June 30. Licenses shall be renewed upon the payment of a renewal fee within sixty days before the expiration of the license. Failure to renew a license shall result in forfeiture of that license. Forfeited licenses may be restored within one year of the forfeiture date upon payment of renewal and restoration fees. Failure to restore a forfeited license within one year shall result in the automatic termination of the license. A person whose license has been terminated pursuant to this section shall be required to reapply for a new license as a new applicant.

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

(1) Pay all required nonrefundable fees;
(2) Provide proof of current certification:
   
   (A) As a certified midwife by the American Midwifery Certification Board or a successor organization;
   
   or
   
   (B) As a certified professional midwife by the North American Registry of Midwives or a successor organization;

(3) Provide documentation of successful completion during the prior triennium of appropriate continuing education as defined by rules adopted by the director;

(4) Provide certified documentation from agencies or parties relating to any disciplinary action ordered by or pending before any regulatory board in any state or jurisdiction of the United States within the three years prior to application for renewal of recognition; and

(5) Provide information including but not limited to certified documents from appropriate agencies and persons regarding any criminal conviction within the past three years that has not been annulled or expunged.
§ 11 License Renewal continuing education requirement.

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

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

(2) If applicant is a certified professional midwife, continuing education approved by an organization recognized by the North American Registry of Midwives', or successor organizations, Recertification Application Packet Continuing Education Unit Category 1. Certified professional midwives shall be required to include treatment of shock/intravenous therapy and suturing in their continuing education.
§ -12 Grounds for refusal to renew, reinstate or restore a license and for revocation, suspension, denial, or condition of a license. In addition to any other acts or conditions provided by law, the director may refuse to renew, reinstate, or restore, and may deny, revoke, suspend, or condition, in any manner, any license for any one or more of the following acts or conditions on the part of a licensee or license applicant:

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

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

(3) Engaging in the practice of midwifery while impaired by alcohol, drugs, non-accommodated physical disability, or mental instability;

(4) Procuring a license to practice midwifery through fraud, misrepresentation, or deceit;

(5) Aiding and abetting an unlicensed person to directly or indirectly perform activities requiring a license to practice midwifery;
(6) Engaging in unprofessional conduct, incompetence, gross negligence, or manifest incapacity in the practice of midwifery;

(7) Engaging in conduct or a practice contrary to recognized standards of ethics for the practice of midwifery;

(8) Violating any condition or limitation imposed on a license to practice midwifery by the director;

(9) Engaging in the practice of midwifery in a manner that causes injury to one or more members of the public;

(10) Failing to comply with, observe, or adhere to any law in a manner that causes the director to determine that the applicant or holder is unfit to hold a license;

(11) Having a license revoked or suspended or other disciplinary action by any state, jurisdiction of the United States, or federal agency for any reason that is provided by the applicable licensing laws or by this section;

(12) Having been convicted or pleaded nolo contendere to a crime directly related to the qualifications, functions, or duties of the practice of midwifery;
(13) Failing to report in writing to the director any disciplinary decision issued against the licensee or applicant in another jurisdiction within thirty days of the disciplinary decision;

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

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

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

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

(2) Impersonating any applicant, acting as proxy for the applicant in any midwife certifying examination,
allowing any person to use one's midwife license, or
the aiding, abetting, or assisting an individual to
violate or circumvent this chapter;
(3) Practicing midwifery within the State without a valid
and current license;
(4) Misrepresenting that the person is a licensed midwife,
verbally or in writing, when the person does not
possess the appropriate license;
(5) Failing to report to the director any notice of
revocation, suspension, or other disciplinary actions
against the applicant or licensee by another state or
jurisdiction of the United States;
(6) Performing unsafe client care or failing to conform to
professional standards required of a midwife which
poses a danger to the welfare of a client including:
(A) Intentionally or negligently causing physical or
emotional injury to a client;
(B) Administering medication and treatment in a
careless or negligent manner;
(C) Failing to take appropriate action or follow policies and procedures in the practice setting designed to safeguard the client;

(D) Failing to take appropriate action in safeguarding a client from incompetent health care practices;

(E) Performing midwifery techniques or procedures without proper education and training;

(F) Violating the confidentiality of information or knowledge concerning the client or failing to safeguard the client's dignity and right to privacy; and

(G) Leaving a midwifery assignment or abandoning a client without properly notifying appropriate personnel; and

(7) Engaging in any act inconsistent with the practice of midwifery as defined in this chapter for that of a licensed midwife including:

(A) Engaging in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client;
(B) Practicing midwifery when physical or mental ability to practice is impaired by alcohol or drugs, or because of other physical, psychological, or mental impediment;

(C) Willfully, or deliberately, falsifying or altering a client's, health care facility's, or employee's record;

(D) Unauthorized use or removal of drugs, supplies, or property from a client or health care facility, institution, or other work place location; diverting or attempting to divert drugs or controlled substances for unauthorized use; or appropriating money, supplies, or equipment;

(E) Possessing, obtaining, furnishing, or administering prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs; and

(F) Failing to supervise persons to whom midwifery functions have been delegated under the licensed midwife's supervision.
§ 14 Global signature authority. Licensed midwives shall be authorized to sign, certify, or endorse all documents relating to health care within their scope of practice provided for their clients, including workers' compensation verification documents, temporary disability insurance forms, verification and evaluation forms of the department of human services and department of education, verification and authorization forms of the department of health, and physical examination forms; provided that nothing in this section shall be construed to expand the scope of practice of licensed midwives.

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

§ 16 Prescriptive Authority. (a) Only licensed midwives practicing as certified midwives shall be granted prescriptive authority. Licensed midwives practicing as certified midwives shall only prescribe drugs appropriate to midwifery care as recognized by the director and in accordance
with the current exclusionary formulary defined by the board of
nursing for advanced practice registered nurses.

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

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

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

(e) Nothing in this section shall preclude a licensed
midwife practicing as a certified midwife from carrying out the
prescribed medical orders of a licensed physician or osteopathic
physician licensed in accordance with chapter 453, or advanced
practice registered nurse licensed pursuant to chapter 457;
orders of a physician assistant licensed and practicing with
physician supervision pursuant to chapter 453 and acting as the
agent of the supervising physician; or the orders of a
recognized licensed midwife practicing as a certified midwife in
accordance with this chapter.

§ -17 Authority for certified professional midwives.
(a) Licensed midwives practicing as certified professional
midwives shall not possess prescriptive authority. Licensed
midwives practicing as certified professional midwives shall be
authorized to obtain and administer the following non-controlled
legend drugs or devices during the practice of midwifery:

(1) Oxygen;
(2) Neonatal eye prophylaxis;
(3) Anti-hemorrhagic agents and devices for postpartum;
(4) Vitamin K;
(5) Rho (D) immune globulin;
(6) Intravenous fluids;
(7) Amino amide local anesthetic;
(8) Group beta streptococcus prophylaxis antibiotics per
guidelines adopted by the Centers for Disease Control
and Prevention;
(9) Epinephrine for neonatal resuscitation per Neonatal Resuscitation guidelines and anaphylactic reaction to an administered medication;

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

(11) Non-hormonal contraceptives; and

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

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

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

(1) Store all formulary drugs in secure areas suitable for preventing unauthorized access and for ensuring a proper environment for the preservation of the drugs; provided that licensed midwives practicing as certified professional midwives may carry formulary
drugs to a community setting while providing care within the course and scope of the practice of midwifery; provided further that the licensed midwife practicing as a certified professional midwife shall promptly return the formulary drugs to the secure area when the licensed midwife has finished using them for client care; and

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

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

SECTION 3. Section 26H-4, Hawaii Revised Statutes, is amended to read as follows:
§26H-4 Repeal dates for newly enacted professional and vocational regulatory programs. (a) Any professional or vocational regulatory program enacted after January 1, 1994, and listed in this section shall be repealed as specified in this section. The auditor shall perform an evaluation of the program, pursuant to section 26H-5, prior to its repeal date.

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

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

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

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

The sums appropriated shall be expended by the department of commerce and consumer affairs for the purposes of this Act.
SECTION 5. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

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

SECTION 7. New statutory material is underscored.

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