

JAN 20 2023

A BILL FOR AN ACT

RELATING TO CHAPTER 457J, HAWAII REVISED STATUTES.

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

1 SECTION 1. The legislature finds that Act 32, Session Laws
2 of Hawaii 2019, (Act 32) established a three-year period to
3 allow birth attendants to define and develop common standards,
4 accountability measures, and disclosure requirements, with the
5 intent that at the end of the three-year period the legislature
6 would adopt further legislation to establish a pathway for
7 traditionally-trained, non-certified birth attendants to legally
8 practice in Hawaii.

9 However, the legislature recognizes that there are other
10 types of birth attendants who are not covered by the Native
11 Hawaiian midwife exemption through Papa Ola Lokahi, and that
12 neglecting to exempt other cultures from stringent, westernized
13 licensing requirements predominantly disenfranchises people of
14 color. The legislature further recognizes that traditionally-
15 trained birth attendants of all cultures are valued and
16 preferred by some consumers and that the type of birth attendant
17 utilized at a birth should be the birthing person's choice. All



1 birthing parents should have the right to choose their preferred
2 birth attendant.

3 Act 32 was originally drafted based on Oregon law, but the
4 Hawaii law is missing a critical exemption that would allow
5 licensed midwives to practice midwifery while still providing
6 culturally appropriate birthing care by individuals who are not
7 licensed. Under section 687.415 of the Oregon Revised Statutes,
8 a person can practice direct entry midwifery without a license
9 if that person does not use legend drugs and devices, does not
10 advertise as a midwife, and provides a board approved disclosure
11 statement to every client. Although the Hawaii law contains
12 similar provisions, the exemption is limited only to persons
13 acting as a birth attendant on or before July 1, 2023.

14 The legislature further finds that Act 32 inadvertently
15 omitted a category of certified professional midwives who are
16 certified by the North American Registry of Midwives but are
17 ineligible for licensure in Hawaii. The North American Registry
18 of Midwives offers two pathways to the certified professional
19 midwife certification: completing an independent course of study
20 and the North American Registry of Midwives portfolio evaluation
21 process, known as the PEP pathway; and completing a course of



1 study at a Midwifery Education Accreditation Council accredited
2 school, known as the MEAC pathway. Both pathways require
3 apprenticeship as well as acquisition of the same knowledge
4 base, confirmed by passing the same standardized test. As there
5 are no Midwifery Education Accreditation Council accredited
6 schools in Hawaii, the PEP pathway offers a more accessible way
7 for midwifery students in the State to obtain certification as
8 certified professional midwives. As it stands, only certified
9 professional midwives candidates who have taken the MEAC pathway
10 to certification are able to pursue licensure in Hawaii.
11 Inclusion of the PEP pathway in the licensure process would
12 rectify this oversight.

13 In midwifery, the certified professional midwives model of
14 care is only one of many. People of every faith, cultural
15 practice, and family lineage give birth. Since the beginning of
16 time, humans have developed nuanced birth beliefs and practices.
17 The type of midwifery provided by certified professional
18 midwives meets the needs of some, but not all, birthing parents.
19 More traditional models fill the gap by meeting needs which are
20 not met by obstetric or certified professional midwives care.
21 All models are still in demand, which has been demonstrated



1 repeatedly through large amounts of public testimony supporting
2 uncertified birth attendants.

3 Even within the State, maternal mortality outcomes are
4 significantly lower for Black, Filipino, Native Hawaiian, and
5 Pacific Islander birthing people. The fields of social science
6 and public health are proving that respect, dignity, and
7 personal accountability in health care decision making have a
8 positive impact on outcomes.

9 A birthing person's ability to choose where to give birth,
10 what model of care makes them feel safe, and who they want by
11 their side providing that care are absolutely integral to
12 safety, bodily autonomy, happiness, and comfort during birth.

13 The purpose of this Act is to:

14 (1) Permit persons acting as birth attendants after
15 July 1, 2023, to practice midwifery without a license;
16 and

17 (2) Include the North American Registry of Midwives
18 portfolio evaluation process as proof of a successful
19 completion of a formal midwifery education and
20 training program for certified professional midwives.



1 SECTION 2. This Act shall be known as "Sovereign's Law" in
2 honor of a twelve-year-old Native Hawaiian adolescent who
3 aspires to be a traditionally-trained midwife, to preserve the
4 practice and legal pathway of traditional midwifery for future
5 generations in Hawaii.

6 SECTION 3. Section 457J-6, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "[~~+~~]**S457J-6**[~~+~~] **Exemptions.** (a) A person may practice
9 midwifery without a license to practice midwifery if the person
10 is:

11 (1) A certified nurse-midwife holding a valid license
12 under chapter 457;

13 (2) Licensed and performing work within the scope of
14 practice or duties of the person's profession that
15 overlaps with the practice of midwifery;

16 (3) A student midwife who is [~~currently enrolled in a~~
17 ~~midwifery educational program under the direct~~] under
18 the supervision of a North American Registry of
19 Midwives qualified [midwife] preceptor[+] or a
20 Midwifery Education Accreditation Council qualified
21 preceptor;



S.B. NO. 1047

- 1 (4) A person rendering aid in an emergency where no fee
2 for the service is contemplated, charged, or received;
3 or
4 (5) A person acting as a birth attendant [~~on or before~~
5 ~~July 1, 2023,~~] who:
6 (A) Does not use legend drugs or devices, the use of
7 which requires a license under the laws of the
8 State;
9 (B) Does not advertise that the person is a licensed
10 midwife;
11 (C) Discloses to each client verbally and in writing
12 on a form adopted by the department, which shall
13 be received and executed by the person under the
14 birth attendant's care at the time care is first
15 initiated:
16 (i) That the person does not possess a
17 professional license issued by the State to
18 provide health or maternity care to women or
19 infants;



S.B. NO. 1047

- 1 (ii) That the person's education and
- 2 qualifications have not been reviewed by the
- 3 State;
- 4 (iii) The person's education and training;
- 5 (iv) That the person is not authorized to
- 6 acquire, carry, administer, or direct others
- 7 to administer legend drugs;
- 8 (v) Any judgment, award, disciplinary sanction,
- 9 order, or other determination that adjudges
- 10 or finds that the person has committed
- 11 misconduct or is criminally or civilly
- 12 liable for conduct relating to midwifery by
- 13 a licensing or regulatory authority,
- 14 territory, state, or any other jurisdiction;
- 15 and
- 16 (vi) A plan for transporting the client to the
- 17 nearest hospital if a problem arises during
- 18 the client's care; and
- 19 (D) Maintains a copy of the form required by
- 20 subparagraph (C) for at least ten years and makes



1 the form available for inspection upon request by
2 the department."

3 SECTION 4. Section 457J-8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~{~~§457J-8~~}~~ **Application for license as a midwife.** To
6 obtain a license under this chapter, the applicant shall
7 provide:

- 8 (1) An application for licensure;
- 9 (2) The required fees;
- 10 (3) Proof of current, unencumbered certification as a:
 - 11 (A) Certified professional midwife; or
 - 12 (B) Certified midwife;
- 13 (4) For certified professional midwives~~[, proof]~~ either:
 - 14 (A) Proof of a successful completion of a formal
 - 15 midwifery education and training program that is
 - 16 either:
 - 17 ~~{(A)}~~ (i) An educational program or pathway accredited
 - 18 by the Midwifery Education Accreditation
 - 19 Council; or
 - 20 ~~{(B)}~~ (ii) A midwifery bridge certificate issued
 - 21 by the North American Registry of Midwives



1 for certified professional midwife
2 applicants who either obtained certification
3 before January 1, 2020, through a non-
4 accredited pathway, or who have maintained
5 licensure in a state that does not require
6 accredited education; or

7 (B) A person who:

8 (i) Has obtained certification through the North
9 American Registry of Midwives portfolio
10 evaluation process;

11 (ii) Holds a midwifery bridge certificate issued
12 by the North American Registry of Midwives
13 for certified professional midwives; and

14 (iii) Has a current cardiopulmonary resuscitation
15 certification for adults and newborns and
16 for neonatal resuscitation;

17 (5) If applicable, evidence of any licenses held or once
18 held in other jurisdictions indicating the status of
19 the license and documenting any disciplinary
20 proceedings pending or taken by any jurisdiction;



S.B. NO. 1047

- 1 (6) Information regarding any conviction of any crime
2 which has not been annulled or expunged; and
3 (7) Any other information the department may require to
4 investigate the applicant's qualifications for
5 licensure."

6 SECTION 5. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 6. This Act shall take effect upon its approval.

9

INTRODUCED BY: _____



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S.B. NO.1047

Report Title:

Midwifery; Licensure; Birth Attendants; Exemptions; Training; Certification

Description:

Makes permanent the existing exemption for birth attendants to continue to practice without a license, under certain conditions. Expands qualifications for licensure to include the North American Registry of Midwives portfolio evaluation process.

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

