
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 legislature finds that the nature of the
2 maternity and prenatal services provided by midwives could
3 potentially endanger the health and safety of women and newborns
4 under a midwife's care if the profession is not adequately
5 regulated. Public health and safety concerns substantially
6 outweigh any negative effects arising from regulation, including
7 the resulting restrictions on individuals entering the
8 profession of midwifery and any increase in the cost of
9 midwifery services caused by regulation of the profession. The
10 legislature further finds that the auditor, in its sunrise
11 analysis on the regulation of certified professional midwives,
12 applied the criteria for licensure in the Hawaii regulatory
13 licensing reform act. The auditor recommended that the
14 profession of midwifery be regulated and its practitioners be
15 licensed.

16 The legislature also finds that there are two national
17 pathways to certification for midwives. The American Midwifery



1 Certification Board is the certifying agency for certified nurse
2 midwives and certified midwives. The North American Registry of
3 Midwives is the certifying agency for certified professional
4 midwives. The legislature notes that the intent of this measure
5 is to establish regulations for certified midwives and certified
6 professional midwives, based on standards and best practices
7 adopted by the United States Midwifery Education, Regulation,
8 and Association coalition. The legislature also notes that
9 certified nurse midwives are already otherwise regulated by the
10 state board of nursing and are not intended to be covered by
11 this measure. Native Hawaiian healers engaged in traditional
12 Native Hawaiian healing practices, recognized as such by any
13 council convened by Papa Ola Lokahi, are also not intended to be
14 regulated by this measure, although the legislature notes that
15 traditional Native Hawaiian healers are encouraged to
16 participate in the licensing pathway, if they so choose.

17 The purpose of this Act is to establish mandatory licensing
18 for certified midwives and certified professional midwives in
19 Hawaii.



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

4 "CHAPTER

5 MIDWIVES

6 § -1 Definitions. As used in this chapter:

7 "Accreditation Commission for Midwifery Education" means
8 the organization established in 1982 and recognized by the
9 United States Department of Education as an accrediting agency
10 for midwifery education programs, whose graduates are eligible
11 for certification as certified midwives.

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

16 "Board" means the state board of midwifery established
17 under section -3.

18 "Certified midwife" means a midwife who has been certified
19 by the American Midwifery Certification Board.

20 "Certified professional midwife" means a midwife who has
21 been certified by the North American Registry of Midwives.



1 "Licensed certified midwife" means a certified midwife who
2 holds a current license issued by the board pursuant to this
3 chapter to engage in the practice of midwifery in Hawaii.

4 "Licensed certified professional midwife" means a certified
5 professional midwife who holds a current license issued by the
6 board pursuant to this chapter to engage in the practice of
7 midwifery in Hawaii.

8 "Midwifery Education Accreditation Council" means the
9 organization established in 1991 and recognized by the United
10 States Department of Education as an accrediting agency for
11 midwifery education programs and institutions, whose graduates
12 are eligible for certification as certified professional
13 midwives.

14 "Practice of midwifery" means providing well-woman and
15 maternity care for individuals and their newborns during the
16 antepartum, intrapartum, and postpartum periods.

17 "United States Midwifery Education, Regulation, and
18 Association Coalition" means the national coalition comprised of
19 representatives of national midwifery associations,
20 credentialing bodies, and education accreditation agencies,
21 including:



- 1 (1) Accreditation Commission for Midwifery Education;
- 2 (2) American College of Nurse-Midwives;
- 3 (3) American Midwifery Certification Board;
- 4 (4) Midwives Alliance of North America;
- 5 (5) Midwifery Education Accreditation Council;
- 6 (6) National Association of Certified Professional
- 7 Midwives; and
- 8 (7) North American Registry of Midwives.

9 § -2 Powers and duties. In addition to any other powers
10 and duties authorized by law, the board shall:

- 11 (1) Receive applications for licensure;
- 12 (2) Determine the qualifications of persons applying for
- 13 licensure;
- 14 (3) Grant licenses to qualified applicants;
- 15 (4) Establish procedures to renew, suspend, revoke, and
- 16 reinstate licenses;
- 17 (5) Establish and collect fees for the examination of
- 18 applicants for licensure and license renewal;
- 19 (6) Establish the minimum educational and continuing
- 20 educational requirements for licensure;



- 1 (7) Investigate complaints against licensed certified
- 2 midwives and licensed certified professional midwives;
- 3 (8) Undertake, when appropriate, disciplinary hearings;
- 4 and
- 5 (9) Subject to chapter 91, adopt, amend, or repeal rules,
- 6 as necessary to effectuate this chapter.

7 § -3 Board of midwifery; establishment, appointment,
8 membership. (a) There is established the board of midwifery
9 within the department of commerce and consumer affairs for
10 administrative purposes.

11 (b) The board shall consist of seven members as follows:

- 12 (1) One certified nurse midwife regulated by the state
- 13 board of nursing who shall be in current and active
- 14 practice of midwifery in the State for the duration of
- 15 appointment and who shall have actively practiced as a
- 16 certified nurse midwife in the State for at least
- 17 three years immediately preceding the appointment;
- 18 (2) Two licensed certified midwives who shall be in
- 19 current and active practice of midwifery in the State
- 20 for the duration of their appointment and who shall
- 21 have actively practiced as licensed certified midwives



1 in the State for at least three years immediately
2 preceding their appointment; provided that the two
3 certified midwives initially appointed under this
4 paragraph shall be licensed pursuant to this chapter
5 by January 1, 2021;

6 (3) Two licensed certified professional midwives who shall
7 be in current and active practice of midwifery in the
8 State for the duration of their appointment and who
9 shall have actively practiced as licensed certified
10 professional midwives in the State for at least three
11 years immediately preceding their appointment;
12 provided that the two certified professional midwives
13 initially appointed under this paragraph shall be
14 licensed pursuant to this chapter by January 1, 2021;

15 (4) One traditional Native Hawaiian healer engaged in
16 traditional practices of prenatal, maternal, and
17 childcare, as recognized by a kupuna council convened
18 pursuant to section 453-2(c); and

19 (5) One public member.

20 (c) The board shall select its own chairperson from among
21 its members.



1 (d) The term of office for members of the board shall be
2 four years. No member shall be appointed to more than two
3 consecutive terms or serve more than eight consecutive years.

4 (e) The governor may appoint and fill each vacancy on the
5 board pursuant to section 26-34.

6 § -4 **Scope of practice; standards.** (a) The board shall
7 establish scope of practice standards for the practice of
8 midwifery by licensed certified midwives and licensed certified
9 professional midwives. The scope of practice standards shall be
10 based on the definition and scope of practice established by the
11 United States Midwifery Education, Regulation, and Association
12 coalition for certified midwives and certified professional
13 midwives.

14 (b) The standards adopted by the board shall include
15 requirements for educational standards, ethical conduct, client
16 protection, disclosures, immunity from vicarious liability, and
17 recordkeeping.

18 § -5 **License; qualifications.** (a) No person shall
19 engage in the practice of midwifery in this State unless the
20 person holds a current license issued by the board pursuant to
21 this chapter. A license shall be granted to an applicant who



1 files a board-approved application for licensure, pays the
2 required application fees, and provides evidence to the board of
3 the following:

4 (1) Documentation of completion of an educational program
5 or pathway as follows:

6 (A) For certified midwives, documentation of
7 graduation from a midwifery educational program
8 accredited by the Accreditation Commission for
9 Midwifery Education; or

10 (B) For certified professional midwives,
11 documentation of completion of an educational
12 program or pathway accredited by the Midwifery
13 Education Accreditation Council;

14 (2) Documentation of certification from the appropriate
15 national certifying agency:

16 (A) For certified midwives, documentation of
17 certification by the American Midwifery
18 Certification Board; or

19 (B) For certified professional midwives,
20 documentation of credentialing by the North
21 American Registry of Midwives; and



1 (3) Successful completion of continuing education
2 requirements established by the board.

3 (b) All licenses for certified midwives issued pursuant to
4 this chapter shall be valid for five years from the date of
5 issuance.

6 (c) All licenses for certified professional midwives
7 issued pursuant to this chapter shall be valid for three years
8 from the date of issuance.

9 § -6 Fees; penalties. (a) Each applicant shall pay a
10 licensing fee of \$ upon application for a new or renewal
11 license. Fees collected pursuant to this section shall be
12 deposited into the compliance resolution fund established
13 pursuant to section 26-9(o).

14 (b) Any fine imposed by the board after a hearing
15 conducted pursuant to this chapter shall be no less than \$100
16 and no more than \$1,000 for a first violation. A second or
17 subsequent violation of this chapter shall be referred to the
18 department of the attorney general for criminal prosecution.
19 Any person who pleads guilty to or is found guilty of a second
20 or subsequent violation of this chapter shall be guilty of a
21 misdemeanor.



1 § -7 **Hearings.** (a) Unless otherwise provided by law,
2 in every case in which the board refuses to issue, renew,
3 restore, or reinstate a license under this chapter, or proposes
4 to take disciplinary action or other licensing sanctions against
5 a licensee, the board shall conduct an administrative proceeding
6 in accordance with chapter 91.

7 (b) In all proceedings before it, the board shall have the
8 same powers respecting administering oaths, compelling the
9 attendance of witnesses and the production of documentary
10 evidence, and examining witnesses as are possessed by circuit
11 courts. In case of disobedience by any person of any order of
12 the board, or of any subpoena issued by the board, or the
13 refusal of any witness to testify to any matter regarding which
14 the witness may be questioned lawfully, any circuit judge, on
15 application by the board, shall compel obedience as in the case
16 of disobedience of the requirements of a subpoena issued by a
17 circuit court, or a refusal to testify therein.

18 § -8 **Exemptions.** (a) This chapter shall not apply to
19 the following:

20 (1) Student midwives in training under the direct
21 supervision of licensed certified midwives;



- 1 (2) Certified nurse midwives regulated by the board of
2 nursing pursuant to chapter 457;
- 3 (3) A person administering care to a spouse, parent,
4 sibling, child, or other family member, including
5 hanai family;
- 6 (4) A person rendering aid in an emergency where no fee
7 for the service is contemplated, charged, or received;
- 8 (5) A person performing a service within the person's
9 authorized scope of practice of a profession that is
10 licensed, certified, or registered under other laws of
11 this State; and
- 12 (6) Traditional Native Hawaiian healers engaged in
13 traditional healing practices of prenatal, maternal,
14 and child care, as recognized by a council convened
15 pursuant to section 453-2(c).
- 16 (b) Nothing in this chapter shall limit, alter, or
17 otherwise adversely impact the practice of traditional Native
18 Hawaiian healing pursuant to the Constitution of the State of
19 Hawaii. Nothing in this chapter shall prevent a Native Hawaiian
20 healer from pursuing licensure under this chapter.



1 (c) Except as otherwise provided in this section, after
2 December 31, 2020, no person shall practice midwifery in the
3 State or hold themselves out as a certified midwife or certified
4 professional midwife without being licensed pursuant to this
5 chapter."

6 SECTION 3. (a) The department of commerce and consumer
7 affairs shall convene a working group of interested
8 stakeholders, including representatives from various midwifery
9 organizations, different midwifery backgrounds, Papa Ola Lokahi,
10 and the American Congress of Obstetricians and Gynecologists,
11 before the midwifery licensing goes into effect pursuant to
12 section 4 of this Act.

13 (b) The group shall consider matters related to the
14 following issues or concerns:

- 15 (1) Informed consent;
- 16 (2) Peer review as part of the re-credentialing process;
- 17 (3) A transport plan;
- 18 (4) Whether an additional person, apart from family
19 members, needs to be present during a home birth;
- 20 (5) Whether the Midwifery Bridge Certificate, issued by
21 the North American Registry of Midwives, is sufficient



1 for licensure as a certified professional midwife or
2 if recipients of this certificate should be viewed as
3 students or trainees and have a different licensure
4 status; and

5 (6) The potential for a path for licensure for lay
6 midwives who are neither certified midwives or
7 certified professional midwives.

8 (c) The working group shall submit a report to the
9 legislature, no later than twenty days prior to the regular
10 session of 2018, on the findings and recommendations of the
11 working group.

12 SECTION 4. (a) The board of midwifery established
13 pursuant to section 2 of this Act shall establish the midwifery
14 licensing program by July 1, 2019; provided that licenses for
15 certified midwives and certified professional midwives shall be
16 issued by the board beginning July 1, 2020.

17 (b) The board of midwifery shall submit a report to the
18 legislature, no later than twenty days prior to the regular
19 session of 2019, regarding the status of the licensing program
20 established pursuant to this Act.



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 this 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. This Act shall take effect on July 1, 2050.



Report Title:

Licensure; Midwives; Board of Midwifery; Certified Midwives;
Certified Professional Midwives

Description:

Establishes the board of midwifery to regulate the practice of midwifery by certified midwives and certified professional midwives. Requires licensing of certified midwives and certified professional midwives to commence beginning on July 1, 2020. Requires the department of commerce and consumer affairs to convene a working group of interested stakeholders and submit a report to the legislature. Effective July 1, 2050. (SD2)

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

