

JAN 19 2018

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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:**

PART I

SECTION 1. The legislature finds that one of the challenges faced by the country's health care system is providing quality care to segments of the population who do not have access to essential services because of geographic limitations. Further, the legislature finds that mothers have accessed midwifery services throughout history and that using midwifery care to deliver maternal child health care is an effective way of overcoming certain barriers to accessing care, particularly for communities located in rural and remote areas. This is especially important in Hawaii, where residents on the neighbor islands and in rural areas do not have the same level of access to maternal child health care as residents in urban areas of Oahu.

The legislature further finds that midwifery services are used extensively across the country with no compromise in



1 quality of care when the services are within the scope of  
2 practice of a midwife provider.

3 The legislature additionally finds that licensing the  
4 midwife profession will empower consumer choice, reduce access  
5 disparities, enhance provider availability, and improve quality  
6 of maternal child health care.

7 As determined by Senate Concurrent Resolution No. 64, S.D.1  
8 (1998), the subsequent sunrise Auditor's Report No. 99-14  
9 (1999), House Concurrent Resolution No. 65, H.D.1 (2016), and  
10 the subsequent sunrise Auditor's Report No. 17-01 (2017), the  
11 legislature finds that it is necessary to establish a regulatory  
12 process for the entire midwifery profession.

13 The purpose of this Act is to regulate midwives engaged in  
14 the practice of midwifery care by establishing licensure  
15 requirements and regulatory requirements under the department of  
16 commerce and consumer affairs.

17 PART II

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



1 "CHAPTER

2 MIDWIVES

3 § -1 Definitions. As used in this chapter:

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

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

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

18 "Certified professional midwife" means a person who holds a  
19 current and valid national certification as a Certified  
20 Professional Midwife from the North American Registry of  
21 Midwives, or any successor organization.



# S.B. NO. 2294

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       "International Confederation of Midwives" means the  
8 accredited non-governmental organization and representative of  
9 midwives and midwifery to organizations worldwide to achieve  
10 common goals in the care of mothers and newborns.

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

13       (1) Who engages in the practice of midwifery and uses the  
14 title of "Licensed Midwife";

15       (2) Who has been issued a license under this chapter; and

16       (3) Whose license is in effect and not revoked, suspended,  
17 or encumbered.

18       "Midwife" means a person who has successfully completed a  
19 midwifery educational pathway that is recognized in the United  
20 States and meets or exceeds the International Confederation of  
21 Midwives Essential Competencies for Basic Midwifery Practice and



1 the framework of the International Confederation of Midwives  
2 Global Standards for Midwifery Education, has demonstrated  
3 competency in the practice of midwifery by passing a national  
4 midwifery certification exam offered as part of a National  
5 Commission for Certifying Agencies accredited credentialing  
6 program, holds a current certified professional midwife,  
7 certified midwife and/or certified nurse-midwife credential, and  
8 who has acquired the requisite qualifications to be legally  
9 licensed to practice midwifery and use the title 'midwife'.

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

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

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



1 "North American Registry of Midwives" means the  
2 organization that sets national standards for the certified  
3 professional midwife credential.

4 "The practice of midwifery as a licensed midwife" means  
5 providing independent primary care services and management of  
6 the health care for persons with female reproductive systems,  
7 focusing particularly on family planning, gynecological needs,  
8 pregnancy, childbirth, the postpartum period, and care of the  
9 newborn through the performance of professional services  
10 commensurate with the educational preparation and demonstrated  
11 competency of the individual having specialized knowledge,  
12 judgment, and skill based on the principles of the biological,  
13 physical, behavioral, and sociological sciences and midwifery  
14 theory, whereby the individual shall be accountable and  
15 responsible to the consumer for the quality of midwifery care  
16 rendered. The foregoing may include but shall not be limited to  
17 observation, assessment, development, implementation, and  
18 evaluation of a plan of care, health counseling, supervision and  
19 teaching of other personnel, and teaching of individuals,  
20 families, and groups; provision of midwifery services via  
21 telehealth; administration, supervision, coordination,



1 delegation, and evaluation of midwifery practice; provision of  
2 healthcare to the client in collaboration with other members of  
3 the healthcare team as autonomous health care professionals  
4 providing the midwifery component of health care; or use of  
5 reasonable judgment in carrying out prescribed medical orders of  
6 a licensed physician or osteopathic physician licensed in  
7 accordance with chapter 453 or 460; orders of an advanced  
8 practice registered nurse licensed in accordance with chapter  
9 457; orders of a physician assistant licensed and practicing  
10 with physician supervision pursuant to chapter 453 and acting as  
11 the agent of the supervising physician; or the orders of a  
12 licensed midwife in accordance with this chapter.

13 "Qualified midwife preceptor" means a licensed and  
14 experienced midwife, or other health professional licensed in  
15 the State, who participates in the clinical education of  
16 individuals enrolled in a midwifery education program accredited  
17 by the Accreditation Commission for Midwifery Education or  
18 Midwifery Education Accreditation Council and who meets the  
19 criteria for midwife preceptors set forth by the organization.

20 "Telehealth" means the practice defined in section 453-1.3.



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

4           §   -3   **License required.** (a) Except as provided in this  
5 chapter, no person shall engage in the practice of midwifery,  
6 nor use the title "Licensed Midwife" or "Midwife" or the  
7 abbreviation "L.M.", or any other words, letters, abbreviations,  
8 or insignia indicating or implying that the person is a licensed  
9 midwife without a valid license issued pursuant to this chapter.

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

16           §   -4   **Exemptions.** (a) This chapter shall not apply to  
17 any of the following:

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

20           (2) A student midwife providing midwifery services who is  
21 currently enrolled in a midwifery educational program





1 under the direct supervision of a qualified midwife  
2 preceptor;

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

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

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 the State.

12 (b) Nothing in this chapter shall prohibit healing  
13 practices by traditional Hawaiian healers engaged in traditional  
14 healing practices of prenatal, maternal, and child care as  
15 recognized and certified by any kupuna council convened by Papa  
16 Ola Lokahi. 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.



1       §   -5   Powers and duties of the director. In addition to  
2 any other powers and duties authorized by law, the director  
3 shall have the powers and duties to:

- 4       (1)   Adopt, amend, or repeal rules pursuant to chapter 91  
5             as the director finds necessary to carry out this  
6             chapter;
- 7       (2)   Issue and renew licenses pursuant to this chapter and  
8             deny or refuse to renew licenses for failure to comply  
9             with this chapter;
- 10       (3)   Suspend or revoke any license for any violation of  
11             this chapter, chapter 436B, or rules adopted by the  
12             director pursuant to this chapter;
- 13       (4)   Reinstate licenses pursuant to this chapter;
- 14       (5)   Establish fees;
- 15       (6)   Discipline a licensed midwife on grounds specified by  
16             this chapter or chapter 436B or for any violation of  
17             rules adopted by the director pursuant to this  
18             chapter;
- 19       (7)   Administer, coordinate, and enforce this chapter; and
- 20       (8)   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 five  
2           persons that shall be composed of:

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

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

11          §   -6 Fees. (a) Each applicant shall pay a licensing  
12 fee upon application for a new or renewal license. Fees  
13 collected pursuant to this section or by rule adopted under this  
14 section shall be non-refundable.

15          (b) The director may establish fees for the restoration of  
16 a license, penalty fees, and any other fees required for the  
17 administration of this chapter by rule pursuant to chapter 91.

18          §   -7 Application for license as a midwife. (a) The  
19 department shall issue a license under this chapter to an  
20 applicant if the applicant provides:

21          (1) An application for licensure;



1 (2) The required application fees;

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

4 (4) Evidence of qualifications for licensure.

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

7 (1) Proof of current, unencumbered certification as a  
8 certified midwife by the American Midwifery  
9 Certification Board or a successor organization;

10 (2) Proof of successful completion of an Accreditation  
11 Commission for Midwifery Education graduate-level  
12 midwifery program with a significant educational and  
13 practical concentration on the direct care of clients  
14 leading to a master's degree or higher as a midwife;  
15 and

16 (3) Proof of successful completion of at least thirty  
17 contact hours, as part of a master's degree program or  
18 higher from an Accreditation Commission for Midwifery  
19 Education accredited college or university, of  
20 advanced pharmacology education, including advanced  
21 pharmacotherapeutics that is integrated into the



1 curriculum, within the three-year time period  
2 immediately preceding the date of application. If the  
3 advanced pharmacology education in a master's degree  
4 program was completed prior to the three-year time  
5 period immediately preceding the date of application,  
6 then one of the following shall be completed within  
7 the three-year time period immediately preceding the  
8 date of application for initial prescriptive  
9 authority:

- 10 (A) At least thirty contact hours of advanced  
11 pharmacology, including advanced  
12 pharmacotherapeutics, from an Accreditation  
13 Commission for Midwifery Education accredited  
14 college or university; or
- 15 (B) At least thirty contact hours of continuing  
16 education in advanced pharmacology, including  
17 advanced pharmacotherapeutics, approved by an  
18 organization recognized by the American Midwifery  
19 Certification Board's, or successor  
20 organization's, Continuing Education Policy. The  
21 continuing education pharmacology contact hours



1 must be related to the applicant's scope of  
2 midwifery practice.

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

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

8 (2) Proof of successful completion of a formal midwifery  
9 education and training program as follows:

10 (A) An educational program or pathway accredited by  
11 the Midwifery Education Accreditation Council; or

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

19 (3) Proof of a current, unencumbered recognition or  
20 license as a licensed midwife in all other states or  
21 jurisdiction of the United States in which the



1 applicant has a current and active recognition or  
2 license as a licensed midwife or similar designation;

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

6 (5) Documentation from the appropriate agencies or parties  
7 regarding any criminal conviction of which the  
8 applicant is the subject that has not been annulled or  
9 expunged. This includes, but is not limited to,  
10 certified copies of any court records, orders, or  
11 other documents that state the facts and statutes upon  
12 which the applicant was convicted, the judgment of the  
13 court with regard to the conviction, the sentence  
14 imposed, the actual terms of the sentence, and whether  
15 sentence was completed.

16 § -8 **Renewal of license.** (a) All licenses issued under  
17 this chapter shall be valid for three years from the date of  
18 issuance and shall be renewed upon the payment of a renewal fee  
19 within sixty days before the expiration of the license. Failure  
20 to renew a license shall result in forfeiture of that license.  
21 Licenses that have been forfeited may be restored within one



1 year of the forfeiture date upon payment of renewal and  
2 restoration fees. Failure to restore a forfeited license within  
3 one year shall result in the automatic termination of the  
4 license. A person whose license has been terminated pursuant to  
5 this section shall be required to reapply for a new license as a  
6 new applicant.

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

8 (1) Pay all required non-refundable fees;

9 (2) Provide proof of current certification:

10 (A) As a certified midwife by the American Midwifery  
11 Certification Board or a successor organization;  
12 or

13 (B) As a certified professional midwife by the North  
14 American Registry of Midwives or a successor  
15 organization;

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

19 (4) Provide certified documentation from agencies or  
20 parties relating to any disciplinary action ordered by  
21 or pending before any regulatory board in any state or





1 jurisdiction of the United States within the three  
2 years prior to application for renewal of recognition;  
3 and

- 4 (5) Provide information, including but not limited to,  
5 certified documents from appropriate agencies and  
6 persons regarding any criminal conviction within the  
7 past three years which has not been annulled or  
8 expunged.

9 § -9 Grounds for refusal to renew, reinstate, or restore  
10 a license and for revocation, suspension, denial, or condition  
11 of a license. In addition to any other acts or conditions  
12 provided by law, the director may refuse to renew, reinstate, or  
13 restore and may deny, revoke, suspend, or condition in any  
14 manner any license for any one or more of the following acts or  
15 conditions on the part of a licensee or license applicant:

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

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



- 1           (3) Engaging in the practice of midwifery while impaired
- 2           by alcohol, drugs, non-accommodated physical
- 3           disability, or mental instability;
- 4           (4) Procuring a license to practice midwifery through
- 5           fraud, misrepresentation, or deceit;
- 6           (5) Aiding and abetting an unlicensed person to directly
- 7           or indirectly perform activities requiring a license
- 8           to practice midwifery;
- 9           (6) Engaging in unprofessional conduct, incompetence,
- 10          gross negligence, or manifest incapacity in the
- 11          practice of midwifery;
- 12          (7) Engaging in conduct or a practice contrary to
- 13          recognized standards of ethics for the practice of
- 14          midwifery;
- 15          (8) Violating any condition or limitation imposed on a
- 16          license to practice midwifery by the director;
- 17          (9) Violating any condition or limitation imposed on a
- 18          license to practice midwifery by the director;
- 19          (10) Engaging in the practice of midwifery in a manner that
- 20          causes injury to one or more members of the public;



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

4 (12) Having a license revoked or suspended or other  
5 disciplinary action by any state or federal agency for  
6 any reason that is provided by the applicable  
7 licensing laws or by this section;

8 (13) Having been convicted or pleaded nolo contendere to a  
9 crime directly related to the qualifications,  
10 functions, or duties of the practice of midwifery;

11 (14) Failing to report in writing to the director any  
12 disciplinary decision issued against the licensee or  
13 applicant in another jurisdiction within thirty days  
14 of the disciplinary decision;

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

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

20 § -10 Global signature authority. Licensed midwives are  
21 authorized to sign, certify, or endorse all documents relating



1 to health care within their scope of practice provided for their  
2 clients, including workers' compensation verification documents,  
3 verification and evaluation forms of the department of human  
4 services and department of education, verification and  
5 authorization forms of the department of health, and physical  
6 examination forms; provided that nothing in this section shall  
7 be construed to expand the scope of practice of licensed  
8 midwives.

9           §     -11 Penalties Any person who violates this chapter  
10 shall be subject to a fine of not more than \$1,000 for each  
11 separate offense. Each day of each violation shall constitute a  
12 separate offense. The director may initiate a civil action to  
13 collect the fine imposed under this chapter in accordance with  
14 rules adopted by the director."

## PART III

16           SECTION 3. The department of commerce and consumer affairs  
17 shall adopt interim rules to carry out the purposes of this Act  
18 without regard to chapter 91, Hawaii Revised Statutes, to read  
19 as follows:



## 1 "SUBCHAPTER 1

## 2 CONTINUING EDUCATION REQUIREMENTS

3 §16- - License renewal continuing education  
4 requirement. Licensed midwife applicants must provide  
5 documentation of successful completion during the prior  
6 triennium of ten contact hours of appropriate continuing  
7 education, which shall be in pharmacology and include  
8 pharmacotherapeutics, related to the practice of midwifery from  
9 accredited colleges or universities, or:

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

15 (2) If applicant is a certified professional midwife,  
16 continuing education approved by an organization  
17 recognized by the North American Registry of  
18 Midwives', or successor organization's,  
19 Recertification Application Packet Continuing  
20 Education Unit Category 1. Certified professional



1 midwives are required to include treatment of shock/IV  
2 therapy and suturing in their continuing education.

3 SUBCHAPTER 2

4 UNPROFESSIONAL CONDUCT

5 §16- - Unprofessional conduct. Midwifery behavior  
6 which fails to conform to legal standards and accepted standards  
7 of the midwife profession and which reflect adversely on the  
8 health and welfare of the public shall constitute unprofessional  
9 conduct.

10 §16- - Types of unprofessional conduct. The types of  
11 unprofessional conduct covered in this provision shall include,  
12 but are not limited to, the following:

- 13 (1) Submitting information to the director pursuant to an  
14 application or licensure, renewal of licensure, or  
15 reinstatement of licensure which is fraudulent,  
16 deceitful, or contains misrepresentations regarding  
17 the applicant's or licensee's educational background,  
18 passing of a certifying examination, pending  
19 disciplinary actions, or licensure status;
- 20 (2) Impersonating any applicant, or acting as proxy for  
21 the applicant in any midwife certifying examination,



1           allowing any person to use one's midwife license, or  
2           the aiding, abetting, or assisting an individual to  
3           violate or circumvent this chapter;

4           (3) Practicing midwifery within the State without a valid  
5           current license, or after the temporary license has  
6           expired;

7           (4) Misrepresenting that the person is a licensed midwife,  
8           verbally or in writing, when the person does not  
9           possess the appropriate license;

10          (5) Failing to report to the director any revocation,  
11          suspension, or other disciplinary actions against the  
12          applicant or licensee by another state or jurisdiction  
13          of the United States for any act or omission which  
14          would constitute unprofessional conduct in that  
15          jurisdiction;

16          (6) Performing unsafe client care or failing to conform to  
17          professional standards required of a midwife which  
18          poses a danger to the welfare of a client which shall  
19          include:

20           (A) Intentionally or negligently causing physical or  
21           emotional injury to a client;



- 1 (B) Administering medication and treatment in a
- 2 careless or negligent manner;
- 3 (C) Failing to take appropriate action or to follow
- 4 policies and procedures in the practice setting
- 5 designed to safeguard the client;
- 6 (D) Failing to take appropriate action in
- 7 safeguarding a client from incompetent health
- 8 care practices;
- 9 (E) Performing midwifery techniques or procedures
- 10 without proper education and training;
- 11 (F) Violating the confidentiality of information or
- 12 knowledge concerning the client or failing to
- 13 safeguard the client's right to privacy; and
- 14 (G) Leaving a midwifery assignment or abandoning a
- 15 client without properly notifying appropriate
- 16 personnel; and
- 17 (7) Engaging in any act inconsistent with the practice of
- 18 midwifery as defined in this chapter for that of a
- 19 licensed midwifery including:





- 1 (A) Engaging in conduct which evidences a lack of  
2 ability or fitness to discharge the duty owed by  
3 the licensee to a client;
- 4 (B) Practicing midwifery when physical or mental  
5 ability to practice is impaired by alcohol or  
6 drugs, or because of other physical,  
7 psychological, or mental impediment;
- 8 (C) Willfully, or deliberately, falsifying or  
9 altering a client's, healthcare facility's, or  
10 employee's record;
- 11 (D) Unauthorized use or removal of drugs, supplies,  
12 or property from a client or healthcare facility,  
13 institution or other work place location, or  
14 diverting or attempting to divert drugs or  
15 controlled substances for unauthorized use or  
16 appropriating money, supplies, or equipment;
- 17 (E) Possessing, obtaining, furnishing, or  
18 administering prescription drugs to any person,  
19 including self, except as directed by a person  
20 authorized by law to prescribe drugs; and



1 (F) Failing to supervise persons to whom midwifery  
2 functions have been delegated under one's  
3 supervision.

4 SUBCHAPTER 3

5 SCOPE OF PRACTICE FOR LICENSED MIDWIVES

6 §16- - Practice. (a) "Practice of a certified  
7 midwife" means the full scope of midwifery, regardless of  
8 compensation or personal profit, that incorporates caring for  
9 all clients in all settings and is guided by the scope of  
10 practice authorized by this chapter, the rules of the director,  
11 and midwifery standards established or recognized by the  
12 director including but not limited to:

- 13 (1) Advanced assessment and the diagnosis, prescription,  
14 selection, and administration of therapeutic measures  
15 including over the counter drugs, legend drugs,  
16 expedited partner therapy provided for in chapter 432,  
17 HRS, notwithstanding the definition of health  
18 professional in chapter 432, HRS, and controlled  
19 substances within the licensed midwife practicing as  
20 certified midwife's education, certification, and  
21 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 its powers and duties authorized by law.

(b) "Practice of 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 licensed midwife practicing as a 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 its powers and duties authorized by law.

(c) A licensed midwife shall comply with the requirements of this chapter; recognized limits of the licensed midwife's knowledge and experience and planning for the management of situations that exceed the scope of authorized practice; and consult with or refer clients to other healthcare providers, as appropriate.

(d) The practice of midwifery by licensed midwives is based on and is consistent with their education and national certification, which includes, but is 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,



- 1 inspection, palpation, percussion, and auscultation,  
2 and using diagnostic instruments and procedures;
- 3 (2) Directing the midwifery care given by other personnel  
4 associated with the healthcare team;
- 5 (3) Providing education and counseling related to the  
6 health care for persons with female reproductive  
7 systems, focusing particularly on pregnancy,  
8 childbirth, the postpartum period, care of the  
9 newborn, and the family planning and gynecological  
10 needs of persons with female reproductive systems;
- 11 (4) Ordering, interpreting, and performing diagnostic,  
12 screening, and therapeutic examinations, tests and  
13 procedures;
- 14 (5) Formulating a diagnosis;
- 15 (6) Initiating and maintaining accurate records and  
16 authorizing appropriate regulatory and other legal  
17 documents; and
- 18 (7) Providing informed consent in adherence with the  
19 licensee's professional requirements, which must, at  
20 minimum, include information pursuant to section 671-  
21 3(b), (d) and (e), HRS;



- 1       (8)   Serving as a consultant and resource of advanced  
2           clinical knowledge and skills to those involved  
3           directly or indirectly in client care;
- 4       (9)   Operating within a health care system that provides  
5           for consultation, collaborative management, and  
6           referral with other healthcare professionals;
- 7       (10)  Referring clients who require care beyond the scope of  
8           practice of the licensed midwife to an appropriate  
9           health care provider;
- 10      (11)  Assisting in surgery (only licensed midwives  
11           practicing as certified midwives);
- 12      (12)  Admitting and discharging clients for inpatient care  
13           at facilities licensed as hospitals and birth centers  
14           in the State;
- 15      (13)  Participating in joint and periodic evaluation of  
16           services rendered such as peer review, including chart  
17           reviews, case reviews, client evaluations, and  
18           outcomes of case statistics; and
- 19      (14)  Participating in policy analysis and development of  
20           new policy initiatives in the area of practice



1 specialty to improve quality of health care services  
2 and consumer access to services.

3 (e) Licensed midwives must continually assess the  
4 appropriateness of the planned location of birth, and will refer  
5 to the American College of Nurse-Midwives' 2015 Clinical  
6 Bulletin: Midwifery Provision of Home Birth Services, or  
7 succeeding document, for guidance, taking into account the  
8 health and condition of the mother and baby.

9 (f) If the licensed midwife determines that a condition of  
10 the mother or baby is outside of the licensee's scope of  
11 practice, then the licensed midwife shall refer the client to an  
12 appropriate health care provider.

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

17 (h) If the licensed midwife transfers care of the mother  
18 or baby during the intrapartum or immediate postpartum period,  
19 the licensee shall provide the receiving provider with, at  
20 minimum, the information listed on the Community Birth Transfer  
21 State of Hawaii form.



(i) If the mother or baby's guardian refuses assistance from appropriate licensed health care providers or the 911 emergency system, the licensed midwife must 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 and can only perform actions within the technical ability of the licensed midwife.

## SUBCHAPTER 4

PRESCRIPTIVE AUTHORITY FOR LICENSED MIDWIVES PRACTICING AS  
CERTIFIED MIDWIVES

11           §16-    Prescriptive authority. (a) Only licensed  
12 midwives practicing as certified midwives can be granted  
13 prescriptive authority. Licensed midwives practicing as  
14 certified midwives shall only prescribe drugs appropriate to  
15 midwifery care as recognized by the director and in accordance  
16 with the current exclusionary formulary defined by the board of  
17 nursing for advanced practice registered nurses; the  
18 exclusionary formulary lists the drugs or categories of drugs  
19 that shall not be prescribed.

20 (b) Only a licensed midwife practicing as a certified  
21 midwife shall be able to use any sign, card, or device to





1 indicate or in any way imply, that the person is a licensed  
2 midwife who is authorized to prescribe.

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

9 (d) Prescriptions by a licensed midwife practicing as a  
10 certified midwife shall be written in accordance with section  
11 16-95-82.

12 (e) Nothing in this section shall preclude a licensed  
13 midwife practicing as a certified midwife from carrying out the  
14 prescribed medical orders of a licensed physician, osteopath, or  
15 advanced practice registered nurse licensed in accordance with  
16 chapter 453 or 457, HRS; orders of a physician assistant  
17 licensed and practicing with physician supervision pursuant to  
18 chapter 453, HRS, and acting as the agent of the supervising  
19 physician; or the orders of a recognized licensed midwife  
20 practicing as a certified midwife in accordance with this  
21 chapter.



## SUBCHAPTER 5

AUTHORITY TO OBTAIN AND ADMINISTER LEGEND DRUGS AND DEVICES FOR  
LICENSED MIDWIVES PRACTICING AS CERTIFIED PROFESSIONAL MIDWIVES

## §16- - Authority for certified professional midwives.

(a) Licensed midwives practicing as certified professional midwives do not possess prescriptive authority. Licensed midwives practicing as certified professional midwives are 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 for postpartum;
- (4) Vitamin K;
- (5) Rho (D) immune globulin;
- (6) Intravenous fluids;
- (7) Local anesthetic;
- (8) Group beta streptococcus prophylaxis antibiotics;
- (9) Epinephrine for anaphylactic reaction to an administered medication and neonatal resuscitation;
- (10) Non-hormonal contraceptives; and



1       (11) Hormonal implants pursuant to any manufacturer  
2               certification requirements, as prescribed by a  
3               licensed provider with prescriptive authority.

4       (b) A licensed midwife practicing as a certified  
5 professional midwife may obtain formulary drugs as allowed by  
6 law.

7       (c) A licensed midwife practicing as certified  
8 professional midwife must:

9       (1) Store all formulary drugs in secure areas suitable for  
10            preventing unauthorized access and for ensuring a  
11            proper environment for the preservation of the drugs.  
12            However, licensed midwives practicing as certified  
13            professional midwives may carry formulary drugs to a  
14            community based setting while providing care within  
15            the course and scope of the practice of midwifery.

16           The licensed midwife practicing as a certified  
17           professional midwife must promptly return the  
18           formulary drugs to the secure area when the licensed  
19           midwife has finished using them for client care; and

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



1 (d) Nothing in this section shall preclude a licensed  
2 midwife practicing as a certified professional midwife from  
3 carrying out the prescribed medical orders of a licensed  
4 physician, osteopath, or advanced practice registered nurse  
5 licensed in accordance with chapter 453 or 457, HRS; orders of a  
6 physician assistant licensed and practicing with physician  
7 supervision pursuant to chapter 453, HRS, and acting as the  
8 agent of the supervising physician; or the orders of a  
9 recognized licensed midwife practicing as a certified midwife in  
10 accordance with this chapter."

11 The department of commerce and consumer affairs may adopt  
12 additional interim rules to carry out the purposes of this Act  
13 without regard to chapter 91, Hawaii Revised Statutes, provided  
14 that the department shall hold at least one public hearing prior  
15 to the adoption of additional interim rules.

16 PART IV

17 SECTION 4. (a) To ensure that the licensed midwife  
18 program is implemented in a timely manner, the department of  
19 commerce and consumer affairs may contract for an implementation  
20 coordinator or team to assist with the implementation of this  
21 Act.



1 (b) The minimum qualifications for the implementation  
2 coordinator or team shall be the following:

3 (1) Knowledge and understanding of midwifery accrediting  
4 agencies and certifying bodies; and

5 (2) Demonstrated strong written and oral communication  
6 skills.

7 (c) The scope of work developed pursuant to subsection (a)  
8 shall require, at a minimum, the implementation coordinator or  
9 team to:

10 (1) Develop a comprehensive plan for the implementation of  
11 this Act, including consideration of an appropriate  
12 authorization fee structure;

13 (2) Assist in developing any policies and procedures,  
14 including administrative rules, required for the  
15 implementation of this Act;

16 (3) Assist the director of commerce and consumer affairs  
17 to meet the reporting requirements of section 9 of  
18 this Act; and

19 (4) Assist the director of commerce and consumer affairs  
20 in establishing a staffing structure and recruiting of  
21 staff to carry out the purposes of this Act.



1 (d) The department of commerce and consumer affairs shall  
2 be responsible for awarding and overseeing the contract for the  
3 implementation coordinator or team. The term of the contract  
4 shall be for one year; provided that the department of commerce  
5 and consumer affairs and the implementation coordinator or team  
6 may enter into supplemental contracts as the department of  
7 commerce and consumer affairs deems necessary to carry out the  
8 purposes of this Act.

9 (e) Chapter 103D, Hawaii Revised Statutes, shall not apply  
10 to the contracting of the implementation coordinator or team.

11 SECTION 5. There is appropriated out of the compliance  
12 resolution fund the sum of \$ or so much thereof as may  
13 be necessary for fiscal year 2018-2019 for the contracting of an  
14 implementation coordinator or team pursuant to section 4 of this  
15 Act.

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

18 SECTION 6. The director of commerce and consumer affairs  
19 shall submit a report of its findings and recommendations,  
20 including any proposed legislation, to the legislature no later  
21 than twenty days prior to the convening of the regular sessions



1 of 20 and 20 . The report shall include but not be limited  
2 to:

- 3 (1) The status of any rulemaking, including interim rules,  
4 the department of commerce and consumer affairs has  
5 undertaken;
- 6 (2) The number of licensed midwives that have applied for  
7 licensure under this Act;
- 8 (3) A summary of all complaints, if any, received by the  
9 department of commerce and consumer affairs against  
10 any midwives licensed pursuant to this Act;
- 11 (4) A summary of all investigations, if any, conducted by  
12 the department of commerce and consumer affairs  
13 pursuant to this Act;
- 14 (5) An update on the department of commerce and consumer  
15 affairs' efforts in implementing the provisions of  
16 this Act;
- 17 (6) An update of the department of commerce and consumer  
18 affairs' budget as it relates to the implementation of  
19 this Act; and
- 20 (7) Any proposed amendments to the authorization fee  
21 structure.



## PART V

SECTION 7. 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 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 9. This Act shall take effect upon its approval; provided that Part III of this Act shall sunset on January 1, 2025.

INTRODUCED BY:

Ross H. Beh  
By Request





# S.B. NO. 2294

**Report Title:**

Midwives; Licensure; Appropriation; Interim Rules

**Description:**

Establishes the criteria for licensure of midwives by the Department of Commerce and Consumer Affairs. Provides for interim rules for continuing education requirements, standards of professional conduct, prescriptive authority, and penalties for violations. Appropriates funds.

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

