

JAN 22 2021

A BILL FOR AN ACT

RELATING TO MIDWIVES.

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

1 SECTION 1. Section 457J-2, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By adding four new definitions to be appropriately
4 inserted and to read:

5 "Direct-entry midwife" means an independent practitioner
6 educated in the discipline of midwifery through self-study,
7 apprenticeship, a midwifery school, college, or university-based
8 program distinct from the discipline of nursing and who is
9 trained to provide the midwives model of care to healthy women
10 and newborns throughout the childbearing cycle, primarily in
11 out-of-hospital settings.

12 "Licensed midwife" means a person licensed under this
13 chapter.

14 "Midwifery model of care" means monitoring the physical,
15 psychological, and social well-being of a birthing parent
16 throughout the childbearing cycle; providing them with
17 individualized education, counseling, and prenatal care,



1 continuous hands-on assistance during labor and delivery, and
2 postpartum support; minimizing technological interventions; and
3 referring birthing persons who require obstetrical attention.

4 "Traditional midwife" means an autonomous midwife who has
5 acquired the skills to care for pregnant people, babies, and
6 their families throughout pregnancy, birth, and postpartum
7 through a spiritual or cultural lineage, is recognized
8 nationally and internationally by the Midwifery Education
9 Accreditation Commission and Midwifery Alliance of North
10 America, and does not advertise as a certified or licensed
11 midwife."

12 2. By amending the definition of "qualified midwife
13 preceptor" to read:

14 "Qualified midwife preceptor" means [a] an exempt or
15 licensed and experienced midwife, or other maternal health
16 professional licensed in the State, who participates in the
17 clinical education of [~~individuals enrolled in a midwifery~~
18 ~~education program accredited by the Midwifery Education~~
19 ~~Accreditation Council or Accreditation Commission For Midwifery~~
20 ~~Education and who meets the criteria for midwife preceptors set~~
21 ~~forth by the applicable organization.] midwives."~~



1 3. By deleting the definition of "midwife":

2 ["~~Midwife~~ means a person licensed under this chapter."]

3 SECTION 2. Section 457J-3, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~{}~~ §457J-3 ~~{}~~ ~~[Midwives]~~ Midwife licensing program.

6 There is established a ~~[midwives]~~ midwife licensing program
7 within the department to be administered by the director.

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

10 "~~{}~~ §457J-4 ~~{}~~ **Powers and duties of the director.** In
11 addition to any other powers and duties authorized by law, the
12 director shall have the power and duties to:

13 (1) Grant permission to a person to use the title of
14 ~~["midwife" or]~~ "licensed midwife" and engage in the
15 practice of midwifery in this State pursuant to this
16 chapter and the rules adopted pursuant thereto;

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

19 (3) Administer, coordinate, and enforce this chapter and
20 rules adopted pursuant thereto;



1 (4) Discipline a licensee for any cause described by this
2 chapter or for any violation of rules or refuse to
3 license a person for failure to meet the licensing
4 requirements or for any cause that would be grounds
5 for disciplining a licensee;

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

10 (A) Three midwives who are certified professional
11 ~~[midwives or certified]~~ midwives;

12 (B) Two members of the public; and

13 (C) A certified ~~[nurse]~~ midwife~~[,]~~, if available; and

14 (6) Add, remove, or otherwise modify the authorized non-
15 controlled legend drugs and legend devices listed in
16 457J-11 by rule under chapter 91."

17 SECTION 4. Section 457J-5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~[†]~~§457J-5~~[†]~~ **License required.** (a) Beginning July 1,
20 2020, except as provided in this chapter, no person shall
21 ~~[engage in the practice of midwifery, or]~~ use the title



1 ~~["midwife",]~~ "licensed midwife" ~~[,]~~ or the abbreviation "L.M.",
2 or any other words, letters, abbreviations, or insignia
3 indicating or implying that the person is a licensed midwife
4 without a valid license issued pursuant to this chapter.

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

11 SECTION 5. Section 457J-6, Hawaii Revised Statutes, is
12 amended by amending subsections (a) and (b) to read as follows:

13 "(a) A person may practice midwifery without a license to
14 practice midwifery if the person is:

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

17 (2) Licensed and performing work within the scope of
18 practice or duties of the person's profession that
19 overlaps with the practice of midwifery;



- 1 (3) A student midwife who is currently enrolled in a
2 midwifery educational program under the direct
3 supervision of a qualified midwife preceptor;
- 4 (4) A person rendering aid in an emergency where no fee
5 for the service is contemplated, charged, or received;
6 or
- 7 (5) A person acting as a [~~birth attendant on or before~~
8 ~~July 1, 2023,~~] direct-entry midwife, who:
- 9 (A) Does not use legend drugs or devices, the use of
10 which requires a license under the laws of the
11 State[~~+~~], with the exception of oxygen and a
12 department of commerce and consumer affairs
13 approved anti-hemorrhagic agent;
- 14 (B) Does not advertise that the person is a licensed
15 midwife;
- 16 (C) Discloses to each client verbally and in writing
17 on a form adopted by the department, which shall
18 be received and executed by the person under the
19 [~~birth attendant's~~] direct-entry midwife's care
20 at the time care is first initiated:



- 1 (i) That the person does not possess a
- 2 professional license issued by the State to
- 3 provide health or maternity care to women or
- 4 infants;
- 5 (ii) That the person's education and
- 6 qualifications have not been reviewed by the
- 7 State;
- 8 (iii) The person's education and training;
- 9 (iv) That the person is not authorized to
- 10 acquire, carry, administer, or direct others
- 11 to administer legend drugs;
- 12 (v) Any judgment, award, disciplinary sanction,
- 13 order, or other determination that adjudges
- 14 or finds that the person has committed
- 15 misconduct or is criminally or civilly
- 16 liable for conduct relating to midwifery by
- 17 a licensing or regulatory authority,
- 18 territory, state, or any other jurisdiction;
- 19 and



1 (vi) A plan for transporting the client to the
2 nearest hospital if a problem arises during
3 the client's care; and

4 (D) Maintains a copy of the form required by
5 subparagraph (C) for at least ten years and makes
6 the form available for inspection upon request by
7 the department.

8 (b) Nothing in this chapter shall prohibit healing
9 practices by ~~traditional~~:

10 (1) Traditional Hawaiian healers engaged in traditional
11 healing practices of prenatal, maternal, and child
12 care as recognized by any council of kupuna convened
13 by Papa Ola Lokahi[-]; or

14 (2) Traditional midwives as defined in section 457J-2.

15 Nothing in this chapter shall limit, alter, or otherwise
16 adversely impact the practice of traditional Native Hawaiian
17 healing pursuant to the Constitution of the State of Hawaii."

18 SECTION 6. Section 457J-8, Hawaii Revised Statutes, is
19 amended by amending the title to read as follows:

20 "[~~§~~457J-8[~~§~~] Application for license as a licensed
21 midwife."



1 SECTION 7. Section 457J-11, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) A licensed midwife licensed under this chapter may
5 purchase and administer non-controlled legend drugs and devices
6 that are used in pregnancy, birth, postpartum care, newborn
7 care, or resuscitation, and that are deemed integral to
8 providing care to the public by the department."

9 2. By amending subsection (d) to read:

10 "(d) A pharmacist who dispenses drugs and devices to a
11 licensed midwife as authorized by this section and in conformity
12 with chapter 461 is not liable for any adverse reactions caused
13 by the licensed midwife's administration of legend drugs and
14 devices."

15 SECTION 8. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 9. This Act shall take effect upon its approval.

18

"INTRODUCED BY: _____



S.B. NO. 893

Report Title:

Midwives; Licensure; Direct-entry Midwives; Traditional
Midwives; Exemption

Description:

Amends various provisions related to the licensure of midwives.
Allows direct-entry midwives to practice midwifery under certain
conditions.

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

