
A BILL FOR AN ACT

RELATING TO MIDWIVES.

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

1 PART I

2 SECTION 1. The legislature finds that Act 32, Session Laws
3 of Hawaii 2019 (Act 32), created a licensure program to regulate
4 non-nurse midwives. The intent of the program was to provide
5 the benefits of licensure while also "allow[ing] a woman to
6 choose where and with whom she gives birth." The legislature
7 noted in Act 32 that "mothers and families seek out alternatives
8 to hospital births and they find significant value in community
9 or home birth services." The legislature also found that "these
10 services have been provided by individuals identifying
11 themselves as traditional or cultural practitioners, midwives,
12 certified professional midwives, lay midwives, direct entry
13 midwives, birth keepers, or birth attendants." The licensure
14 program established by Act 32, enacted as chapter 457J, Hawaii
15 Revised Statutes (chapter 457J), has run for five years and will
16 sunset on June 30, 2025.



1 Under chapter 457J, only certified midwives and certified
2 professional midwives are eligible for licensure. However,
3 Act 32 noted that "by the end of the three-year period (2023),
4 the legislature intends to enact statutes that will incorporate
5 all birth practitioners and allow them to practice to the
6 fullest extent under the law." While significant efforts were
7 made, this goal has not yet been achieved. A temporary
8 exemption for birth attendants other than certified midwives or
9 certified professional midwives expired in 2023, and no other
10 routes have been implemented.

11 Since the enactment of chapter 457J, forty midwives have
12 been licensed, although currently, less than half of these
13 provide full-time midwifery care. Of these forty newly licensed
14 midwives, approximately twenty-two per cent do not currently
15 reside in the State, none are Native Hawaiian, and ninety-seven
16 per cent are not originally from Hawaii. In 2023, midwives
17 other than certified nurse-midwives attended 1.9 per cent of all
18 births, reflecting a seventy-three per cent increase in the use
19 of midwives. At the same time, since chapter 457J took effect,
20 the number of home births that were unattended or attended by
21 unknown providers have increased by forty-two per cent.



1 The intent of this Act is to continue licensure for
2 certified midwives and certified professional midwives, while
3 fulfilling the legislature's original intent to allow all birth
4 practitioners to practice legally. The legislature finds that
5 licensure for certified midwives and certified professional
6 midwives is beneficial only if the legislature also acknowledges
7 locally accessible pathways to these certifications and
8 clarifies the full scope of practice for certified midwives
9 based on national standards.

10 The legislature recognizes that, for many people, decisions
11 about pregnancy and birth are informed by their personal or
12 community history and culture and are experiences of great
13 social, cultural, and spiritual significance. For many people,
14 pregnancy and birth are not primarily medical events. As such,
15 there are a wide range of traditional birth practitioners - for
16 example, pale keiki, lola, and sanba - as well as birth-related
17 service providers like doulas, lactation consultants, birth
18 coaches, and others whose care and advice are important to the
19 well-being of birthing people and their families.

20 The legislature believes that the midwife licensing program
21 established by Act 32 was an important step toward recognizing



1 the practice of non-nurse midwifery; however, some changes are
2 still needed. In its review of chapter 457J and its
3 implications, the Hawaii home birth task force's final report
4 reflected unanimous agreement on the need for improved
5 understanding of out-of-hospital births, as well as relationship
6 building. The report also emphasized the need to allow
7 traditional midwives and other birth practitioners to continue
8 to serve their communities.

9 The legislature notes that the implementation of
10 chapter 457J provided valuable insight into the complexity of
11 community birth settings in Hawaii. Some of the urgent needs
12 identified in this process include the following:

13 (1) Safety. Research highlighted by the United States
14 Centers for Disease Control and Prevention and in the
15 White House Blueprint for Addressing the Maternal
16 Health Crisis (June 2022) suggests that legal access
17 to culturally responsive care of the birthing person's
18 choosing, including traditional practices of that
19 person's culture, is strongly correlated with increased
20 safety and well-being. Removing barriers to this care
21 is essential. Home birth with either a licensed or



1 traditional midwife has been found to be safe, whereas
2 illegality jeopardizes safety. For example, if
3 complications arise during a home birth, effective
4 communication during the hospital transport is
5 important. Stigma associated with the illegality of
6 using a chosen birth attendant may cause parents to
7 delay transport or withhold information, impeding
8 communication between providers. Safety is therefore
9 best served by protecting access to all types of
10 birthing assistance.

11 (2) Access to care. There is a severe lack of overall
12 access to maternal health care in Hawaii, which must
13 be considered in the context of environment and
14 culture. Due to extreme provider shortages and
15 limited facilities, many pregnant people on neighbor
16 islands are forced to fly off-island in order to give
17 birth, often with no family or other support. Many
18 pregnant and birthing people have no realistic access
19 to prenatal or postpartum care. In response to this
20 crisis, all three neighbor island counties (Hawaii,
21 Kauai, and Maui) passed resolutions in 2023 urging the



1 legislature to "enact a statute exempting birth
2 attendants from state licensure requirements". Native
3 Hawaiians and other Pacific Islanders have the highest
4 rates of maternal mortality in the United States,
5 according to recent data from the United States
6 Centers for Disease Control and Prevention. These
7 statistics have not been associated with
8 out-of-hospital births but are strongly correlated
9 with a lack of access to culturally competent care.
10 Access is best served by keeping all care options
11 legally accessible, while long-term comprehensive
12 solutions are developed.

13 (3) Culture. The need for genuine cultural care, as well
14 as for the revitalization of Indigenous traditions and
15 self-determination has been highlighted in data and
16 scholarship produced within the last two years. While
17 Act 32 states that "practicing midwifery according to
18 [the law] does not impede one's ability to incorporate
19 or provide cultural practices," the State's courts
20 have found that, in practice, the transmission of
21 constitutionally protected customs was impeded, and it



1 emphasized the importance of protecting endangered
2 Indigenous traditions that might be lost. The
3 emergence of a new generation of local birth-related
4 practitioners carrying the traditions of a diverse
5 variety of cultures has also been identified as
6 important.

7 (4) Licensing equality. In the entire United States,
8 there are only two schools for certified midwives
9 accredited by the Accreditation Commission for
10 Midwifery Education and eight schools for certified
11 professional midwives accredited by the Midwifery
12 Education Accreditation Council. None of these
13 schools are located in Hawaii. Limiting certification
14 pathways to those that are prohibitively difficult for
15 residents of Hawaii to pursue displaces Hawaii
16 practitioners and limits patients' access to
17 culturally informed, community-based care. Balancing
18 equities by assuring access to licensure for Hawaii
19 residents is important.

20 The Hawaii Regulatory Licensing Reform Act, codified as
21 chapter 26H, Hawaii Revised Statutes, requires the State to



1 regulate professions only "when the health, safety, or welfare
2 of the consumer may be jeopardized by the nature of the
3 service". The analysis must be based on "evidence of abuses by
4 providers of the service" and other actual evidence to determine
5 whether regulation is desirable. Chapter 26H also requires that
6 any professional regulations "not unreasonably restrict entry
7 into professions and vocations by all qualified persons." The
8 law notes that "the purpose of regulation shall be the
9 protection of the public welfare and not that of the regulated
10 profession or vocation". The law also requires regulations to
11 be eliminated "when the legislature determines that they have no
12 further benefits to consumers".

13 Based on this analysis, the legislature finds that the
14 regulation of certified midwives and certified professional
15 midwives, who utilize prescription drugs, modern
16 instrumentations, and techniques such as intravenous fluid
17 administration, is reasonable and beneficial to consumers;
18 provided that additional pathways are recognized for qualified
19 local Hawaii practitioners to achieve licensure. Regulation by
20 the State of the birth practices of traditional and non-clinical
21 practitioners and extended or hanai family members is not



1 supported or required by the Hawaii Regulatory Licensing Reform
2 Act.

3 The legislature's intent is to allow a person to choose
4 where and with whom they give birth by ensuring the legality of
5 all practices used by any birthing person, while also building
6 comprehensive solutions that address the complexity of community
7 needs and cultural considerations in Hawaii.

8 Accordingly, the purpose of this Act is to:

- 9 (1) Provide for the continued licensure of certified
10 midwives and certified professional midwives by the
11 department of commerce and consumer affairs;
- 12 (2) Identify the scope of practice for a licensed midwife,
13 including the ability to provide independent midwifery
14 services in hospitals, clinics, freestanding birthing
15 facilities, community birthing settings, and the home;
- 16 (3) Clarify that the services of licensed midwives are
17 eligible for insurance reimbursement;
- 18 (4) Prohibit persons from identifying as certified
19 midwives or certified professional midwives, unless
20 those persons are appropriately licensed; and



1 (5) Temporarily re-establish the home birth task force to
2 provide additional recommendations on issues related
3 to home births.

4 PART II

5 SECTION 2. Section 26H-4, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "**§26H-4 Repeal dates for newly enacted professional and**
8 **vocational regulatory programs.** ~~[(a)]~~ Any professional or
9 vocational regulatory program enacted after January 1, 1994, and
10 listed in this section shall be repealed as specified in this
11 section. The auditor shall perform an evaluation of the
12 program, pursuant to section 26H-5, before its repeal date.

13 ~~[(b) Chapter 457J (midwives) shall be repealed on June 30,~~
14 ~~2025.]"~~

15 SECTION 3. Chapter 457J, Hawaii Revised Statutes, is
16 amended by adding a new part to be appropriately designated and
17 to read as follows:

18 "**PART . CERTIFIED MIDWIVES AND CERTIFIED PROFESSIONAL**
19 **MIDWIVES**

20 **§457J-A Definitions.** As used in this part, unless the
21 context otherwise requires:



1 "Accredited educational program in midwifery" means an
2 academic and practical program of midwifery accredited by the
3 Accreditation Commission for Midwifery Education for certified
4 midwives or the Midwifery Education Accreditation Council for
5 certified professional midwives.

6 "American Midwifery Certification Board means the national
7 certifying body for certified midwives and certified
8 nurse-midwives.

9 "American College of Nurse-Midwives" means the professional
10 association that represents certified midwives and certified
11 nurse-midwives in the United States.

12 "Certified midwife" means a person who has graduated from a
13 graduate-level accredited educational program in midwifery,
14 accredited by the Accreditation Commission for Midwifery
15 Education or its successor organization, and who holds a valid
16 certification from the American Midwifery Certification Board or
17 its successor organization.

18 "Certified professional midwife" means a person who has
19 obtained a midwifery education by completing an accredited
20 educational program in midwifery, accredited by the Midwifery
21 Education Accreditation Council, or by completing a midwifery



1 apprenticeship under a North American Registry of Midwives
2 registered preceptor and the portfolio evaluation process,
3 successfully passing the North American Registry of Midwives
4 exam, and who holds a valid certification from the North
5 American Registry of Midwives or its successor organization.

6 "Collaborate" means a process in which a practitioner
7 cooperates and communicates with healthcare professionals from
8 different disciplines, based on the healthcare needs of the
9 patient, each providing distinct and complementary expertise to
10 improve care.

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

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

15 "Expedited partner therapy" means the clinical practice of
16 treating the sexual partner of a client diagnosed with a
17 sexually transmitted infection by relaying prescriptions or
18 providing medications for the client to take to their partner,
19 without the prescribing healthcare provider first examining the
20 partner.



1 "Legend drug" means a drug required by state law or
2 pharmaceutical regulations to only be dispensed based on a
3 prescription.

4 "Licensed midwife" means a person licensed under this
5 chapter.

6 "Midwife preceptor" means a licensed midwife, licensed
7 maternal health professional, or preceptor registered with a
8 school accredited by the Midwifery Education Accreditation
9 Council, who participates in the clinical education of persons
10 who are:

- 11 (1) Enrolled in a school accredited by the Accreditation
12 Commission for Midwifery Education;
- 13 (2) Enrolled in a midwifery education program offered by
14 the Midwifery Education Accreditation Council; or
- 15 (3) Working directly under a midwife preceptor registered
16 with the North American Registry of Midwives to
17 acquire certification through the portfolio evaluation
18 process.

19 "Midwifery" means the independent provision of care
20 consistent with a midwife's training, education, and experience.



1 "Midwifery bridge certificate" means a certificate issued
2 by the North American Registry of Midwives to a certified
3 professional midwife who obtains certification through the
4 portfolio evaluation process, upon the certified professional
5 midwife's completion of at least fifty hours of additional
6 accredited education in specific subjects, as required by the
7 North American Registry of Midwives. The bridge certificate
8 demonstrates a blended training pathway of both apprenticeship
9 and accredited education.

10 "Midwifery Education Accreditation Council" means the
11 independent, non-profit organization recognized by the United
12 States Department of Education as the accrediting agency of
13 direct-entry midwifery institutions and programs.

14 "National Association of Certified Professional Midwives"
15 means the professional association that represents certified
16 professional midwives.

17 "North American Registry of Midwives" means the national
18 certifying body for certified professional midwives.

19 "Portfolio evaluation process" is an apprenticeship-model
20 educational process that includes the verification of the
21 applicant's knowledge and skills by a qualified North American



1 Registry of Midwives preceptor. Completion of this process
2 qualifies an applicant to sit for the North American Registry of
3 Midwives written examination.

4 "Practice of certified midwifery" means midwifery as
5 practiced by a certified midwife and encompasses the independent
6 provision of care during pregnancy, childbirth, and the
7 postpartum period and care related to sexual and reproductive
8 health, gynecology, family planning, and preconception. A
9 certified midwife may also provide primary care for a person
10 from adolescence throughout the person's lifespan, as well as
11 for a healthy newborn or infant during the newborn or infant's
12 first twenty-eight days of life.

13 "Practice of certified professional midwifery" means
14 midwifery as practiced by a certified professional midwife and
15 encompasses the independent provision of care during pregnancy,
16 childbirth, and the postpartum period and care related to sexual
17 and reproductive health, gynecology, family planning, and
18 preconception. A certified professional midwife may also
19 provide primary care for a healthy newborn or infant during the
20 newborn or infant's first twelve weeks of life.

21 "Student midwife" means a person who is:



- 1 (1) Enrolled in a school accredited by the Accreditation
- 2 Commission for Midwifery Education;
- 3 (2) Enrolled in a midwifery education program offered by
- 4 the Midwifery Education Accreditation Council; or
- 5 (3) Working directly under a midwife preceptor registered
- 6 with the North American Registry of Midwives to
- 7 acquire certification through the portfolio evaluation
- 8 process.

9 "Traditional birth attendant" means a person who is not
10 licensed under this part but who uses traditional skills and
11 techniques to assist with the birthing process.

12 "Unlicensed assistive person" means a person who is not
13 licensed to practice certified midwifery or certified
14 professional midwifery but who can competently perform tasks
15 delegated by a licensed midwife.

16 **§457J-B Midwives licensing program.** (a) To obtain a
17 license under this part, the applicant shall provide:

- 18 (1) An application for licensure;
- 19 (2) The required fees; and
- 20 (3) Proof of current, unencumbered certification as a:
 - 21 (A) Certified midwife; or



1 (B) Certified professional midwife.

2 (b) To obtain a license to practice as a certified midwife
3 pursuant to this part, in addition to meeting the requirements
4 in subsection (a), the applicant shall establish to the
5 satisfaction of the department that the person:

6 (1) Holds a valid graduate degree in midwifery from a
7 program accredited by the Accreditation Commission for
8 Midwifery Education, or its successor;

9 (2) Has successfully passed the certification exam
10 administered by the American Midwifery Certification
11 Board, or its successor; and

12 (3) Is at least twenty-one years of age by the date the
13 licensure application is submitted.

14 (c) To obtain a license to practice as a certified
15 professional midwife under this part, in addition to meeting the
16 requirements in subsection (a), the applicant shall provide:

17 (1) Proof that the person has successfully completed
18 midwifery education and training by:

19 (A) Becoming certified through an educational program
20 that is accredited by the Midwifery Education
21 Accreditation Council and passing the



- 1 certification exam administered by the North
2 American Registry of Midwives or its successor;
- 3 (B) Becoming certified by completing the portfolio
4 evaluation process, obtaining a midwifery bridge
5 certificate from the North American Registry of
6 Midwives, and passing the certification exam
7 administered by the North American Registry of
8 Midwives, or its successor; or
- 9 (C) Maintaining a current license in a state that
10 does not require accredited education and
11 obtaining a midwifery bridge certificate issued
12 by the North American Registry of Midwives;
- 13 (2) If applicable, evidence of any licenses currently or
14 previously held in other jurisdictions, including
15 proof of the status of the license and documentation
16 of any disciplinary proceedings pending or taken by
17 the jurisdiction;
- 18 (3) Information regarding any criminal conviction that has
19 not been annulled or expunged; and



1 (4) Any other information the department may require to
2 investigate the applicant's qualifications for
3 licensure.

4 **§457J-C Powers and duties of the director.** In addition to
5 any other powers and duties authorized by law, the director:

6 (1) Shall grant permission to a person to use the title
7 "licensed midwife" pursuant to this part and any rules
8 adopted pursuant to this part;

9 (2) Shall adopt, amend, or repeal rules pursuant to
10 chapter 91 to carry out the purposes of this part;

11 (3) Shall administer, coordinate, and enforce this part
12 and any rules adopted pursuant to this part;

13 (4) Shall discipline a licensee for any cause described by
14 this part and any violation of the rules adopted
15 pursuant to this part;

16 (5) May refuse to license a person for failure to meet the
17 licensing requirements or for any cause that would be
18 grounds for disciplining a licensee; and

19 (6) Shall appoint an advisory committee pursuant to
20 section 457J-D to assist with the implementation of
21 this part and any rules adopted pursuant to this part.



1 **§457J-D Midwives licensing advisory committee.** (a) The
2 director shall establish a midwives licensing advisory committee
3 to assist with the implementation of this part. The following
4 members shall be selected by the director and invited to
5 participate:

- 6 (1) Three certified professional midwives;
- 7 (2) One member who is, in order of preference:
- 8 (A) A certified midwife;
- 9 (B) A certified nurse midwife who works in the
10 community birth setting; or
- 11 (C) A certified professional midwife;
- 12 (3) Two members of the public, at least one of whom has
13 used home birth services;
- 14 (4) One traditional birth attendant; and
- 15 (5) Two active practitioners of Native Hawaiian customary
16 practices related to pregnancy, birth, and infancy.
- 17 (b) The committee shall elect a chairperson from among its
18 members.
- 19 (c) The members of the advisory committee shall serve
20 without compensation but shall be reimbursed for expenses,



1 including travel expenses, necessary for the performance of
2 their duties.

3 **§457J-E Scope of practice; licensed midwives; licensed**
4 **certified midwives; licensed certified professional midwives.**

5 (a) Except as provided in section 457J-J, no midwife may
6 practice without a current and valid certification and license.

7 (b) Unless authorized to practice as a licensed midwife
8 under this part, no person shall use or imply that they are a
9 "licensed midwife," use any similar title or description of the
10 person's services, or in any way represent that the person
11 practices midwifery as a licensed midwife.

12 (c) Each licensed midwife shall at all times practice
13 within the scope of applicable nationally established standards,
14 including standards delineated by:

15 (1) The American College of Nurse-Midwives, or its
16 successor, for a licensed certified midwife; and

17 (2) The North American Registry of Midwives, for a
18 licensed certified professional midwife.

19 (d) The department shall adopt rules, pursuant to
20 chapter 91, clarifying the scope of practice for a licensed



1 midwife; provided that the rules are consistent with applicable
2 national standards pursuant to subsection (c).

3 (e) Notwithstanding any law to the contrary, a licensed
4 midwife may:

5 (1) Authorize, order, and interpret medical laboratory and
6 diagnostic tests, perform ultrasound screenings, and
7 obtain equipment and supplies necessary for the safe
8 practice of midwifery;

9 (2) Provide comprehensive initial and ongoing assessment,
10 diagnosis, and treatment;

11 (3) Conduct physical examinations;

12 (4) Promote individualized wellness education and
13 counseling for purposes of health promotion, disease
14 prevention, risk assessment, and disease management;

15 (5) Collaborate with individuals and families in diverse
16 settings, including ambulatory care clinics, private
17 offices, community and public health systems,
18 hospitals, birth centers, homes, and via telehealth
19 and other forms of remote care;

20 (6) Order medical devices, including durable medical
21 equipment;



- 1 (7) Provide evidence-based, client-centered care in
2 collaboration with the client, including, as
3 indicated, providing referrals to other providers and
4 services;
- 5 (8) Adopt ethical standards in support of individual
6 rights and self-determination in the context of
7 family, community, and a system of healthcare;
- 8 (9) Document client charts to facilitate interprofessional
9 communication and provide clients with a means to
10 access the client's healthcare records; and
- 11 (10) Participate in quality management practices, such as
12 peer review, continuing education, and data analysis
13 to improve the practice of midwifery.
- 14 (f) Notwithstanding any law to the contrary, a licensed
15 certified midwife may, in addition to practicing within the
16 scope of subsection (e):
- 17 (1) Obtain prescriptive authority to independently
18 prescribe medications, including controlled
19 substances, medications for the treatment of a
20 substance use disorder, and medications for expedited
21 partner therapy;



- 1 (2) Admit, manage, and discharge patients to or from a
2 hospital or freestanding birthing facility;
- 3 (3) Assist in surgery; provided that this paragraph shall
4 apply only to certified nurse midwives; and
- 5 (4) Order home health services.
- 6 (g) Notwithstanding any law to the contrary, a licensed
7 certified professional midwife may, in addition to practicing
8 within the scope of subsection (e):
- 9 (1) Obtain limited prescriptive authority to obtain,
10 administer, and independently prescribe medications
11 and therapies for the prevention and treatment of
12 outpatient conditions that do not constitute a
13 significant deviation from normal midwifery care
14 during pregnancy or the postpartum period, based on
15 current evidence and practice, including medication
16 for expedited partner therapy;
- 17 (2) Prescribe other medications and devices that are used
18 within the safe practice of certified professional
19 midwifery;



1 (3) Admit, manage, and discharge patients to and from a
2 birthing facility or birthing home in the community
3 setting; and

4 (4) Obtain medical devices, durable medical equipment, and
5 any supplies necessary for the safe practice of
6 certified professional midwifery.

7 **§457J-F Delegation of tasks.** (a) A licensed midwife may
8 delegate to any licensed, certified, registered, or unlicensed
9 assistive person, any tasks within the licensed midwife's scope
10 of practice; provided that the authority to select medications
11 shall not be delegated unless the delegate is independently
12 authorized by law to select medications.

13 (b) No delegated task shall require the delegate to
14 exercise the judgment required of a licensed midwife.

15 (c) Before delegating any task, the licensed midwife shall
16 make a determination that, in the licensed midwife's
17 professional judgement, the delegated task can be safely and
18 properly performed by the delegate and that the delegation is in
19 accordance with the patient's safety and welfare.



1 (d) The delegating licensed midwife shall be solely
2 responsible for determining the degree of supervision the
3 delegate requires, with consideration given to:

- 4 (1) The stability of the patient's condition;
- 5 (2) The delegate's training and abilities; and
- 6 (3) The nature of the task being delegated.

7 (e) The employer of a licensed midwife may establish
8 policies, procedures, protocols, or standards of care that limit
9 or prohibit the delegation of certain tasks by the licensed
10 midwife, or the delegation of tasks in certain circumstances.

11 (f) The department shall adopt rules pursuant to
12 chapter 91 as necessary to implement this section, including:

- 13 (1) Standards for assessing the proficiency of a delegate
14 to perform certain tasks; and
- 15 (2) Accountability standards for a licensed midwife who
16 delegates tasks.

17 **§457J-G Prescriptive authority; certified midwives.** (a)

18 The department may authorize a certified midwife to prescribe
19 certain controlled substances or prescription drugs; provided
20 that the certified midwife:

- 21 (1) Is in good standing, without disciplinary sanctions;



1 (2) Has fulfilled the requirements of this part; and
2 (3) Has fulfilled any requirements established by the
3 department pursuant to this part.

4 (b) Any prescriptive authority granted to a certified
5 midwife shall be limited to the midwife's scope of practice and
6 for patients appropriate to the scope of practice.

7 (c) A certified midwife to whom the department has granted
8 the authority to prescribe prescription drugs and controlled
9 substances may advise the certified midwife's patients of the
10 option to have the symptom or purpose for which a prescription
11 is being issued included on the prescription order.

12 (d) A certified midwife having prescriptive authority
13 shall maintain national certification, as required by section
14 457J-B, unless the department grants an exception.

15 (e) Each certified midwife granted prescriptive authority
16 by the department shall be assigned a specific identifier, which
17 shall be made available to the Hawaii medical board and the
18 state board of pharmacy. The department shall establish a
19 mechanism to ensure that the prescriptive authority of a
20 certified midwife may be readily verified using this specific
21 identifier.



1 (f) The prescriptive authority granted to a certified
2 midwife may be limited or withdrawn, and the certified midwife
3 may be subject to further disciplinary action, if the certified
4 midwife prescribes outside the certified midwife's scope of
5 practice, for patients other than those appropriate to the
6 certified midwife's scope of practice, or for other than
7 therapeutic purposes.

8 (g) Nothing in this section shall be construed to require
9 a certified midwife to obtain prescriptive authority to order
10 anesthesia care.

11 (h) No certified midwife shall accept any direct or
12 indirect benefit from a pharmaceutical manufacturer or
13 pharmaceutical representative for prescribing a specific
14 medication to a patient. For purposes of this section, a direct
15 or indirect benefit does not include a benefit offered to a
16 certified midwife, regardless of whether a specified medication
17 is prescribed.

18 (i) A pharmacist who dispenses drugs and devices to a
19 certified midwife as authorized by this section and in
20 conformity with chapter 461 shall not be liable for any adverse



1 reactions caused by the midwife's administration of legend drugs
2 and devices.

3 **§457J-H Limited prescriptive authority; certified**

4 **professional midwives.** (a) The department may authorize a
5 certified professional midwife to prescribe certain legend drugs
6 and devices provided that the certified professional midwife:

- 7 (1) Is in good standing, without disciplinary sanctions;
- 8 (2) Has fulfilled the requirements of this part; and
- 9 (3) Has fulfilled any requirements established by the
10 department pursuant to this part.

11 (b) Any prescriptive authority granted to a certified
12 professional midwife shall be limited to the midwife's scope of
13 practice and for patients appropriate to the scope of practice.

14 (c) A certified professional midwife to whom the
15 department has granted limited prescriptive authority to
16 prescribe legend drugs and devices may advise the certified
17 professional midwife's patients of the option to have the
18 symptom or purpose for which a prescription is being issued
19 included on the prescription order.

20 (d) A certified professional midwife having limited
21 prescriptive authority shall maintain national certification, as



1 required by section 457J-B, unless the department grants an
2 exception.

3 (e) Each certified professional midwife granted limited
4 prescriptive authority by the department shall be assigned a
5 specific identifier, which shall be made available to the Hawaii
6 medical board and the state board of pharmacy. The department
7 shall establish a mechanism to ensure that the limited
8 prescriptive authority of a certified professional midwife may
9 be readily verified using this specific identifier.

10 (f) The limited prescriptive authority granted to a
11 certified professional midwife may be limited or withdrawn, and
12 the certified professional midwife may be subject to further
13 disciplinary action, if the certified professional midwife
14 prescribes outside the certified professional midwife's scope of
15 practice, for patients other than those appropriate to the
16 certified professional midwife's scope of practice, or for other
17 than therapeutic purposes.

18 (g) No certified professional midwife shall accept any
19 direct or indirect benefit from a pharmaceutical manufacturer or
20 pharmaceutical representative for prescribing a specific
21 medication to a patient. For purposes of this section, a direct



1 or indirect benefit does not include a benefit offered to a
2 certified professional midwife, regardless of whether a
3 specified medication is prescribed.

4 (h) A pharmacist who dispenses drugs and devices to a
5 certified professional midwife as authorized by this section and
6 in conformity with chapter 461 shall not be liable for any
7 adverse reactions caused by the certified professional midwife's
8 administration of legend drugs and devices.

9 (i) A certified professional midwife candidate seeking
10 limited prescriptive authority shall complete additional study
11 and training requirements as prescribed by the department, in
12 collaboration with the midwives licensing advisory committee.
13 The department shall adopt rules pursuant to chapter 91
14 providing requirements for:

15 (1) The number of additional obstetrical pharmacology
16 training hours consistent with the training hours
17 required for other, similar prescribers; and

18 (2) Additional training consistent with guidelines
19 commensurate with other professions providing family
20 planning and treating common prenatal and postpartum
21 conditions and any other relevant sources.



1 (j) A certified professional midwife seeking a licensing
2 extension to include medical devices and implants shall complete
3 the requirements listed in subsection (i) and additional
4 training requirements as prescribed by the department in
5 collaboration with the midwives licensing advisory committee.
6 The department shall adopt rules pursuant to chapter 91
7 providing requirements for:

- 8 (1) The minimum number of completed procedures under
9 supervision;
- 10 (2) Completed trainings as required by the device
11 manufacturers or an equivalent; and
- 12 (3) Additional training consistent with guidelines
13 commensurate with other professions providing family
14 planning and treating common prenatal and postpartum
15 conditions, and any other relevant sources.

16 **§457J-I License required.** (a) Beginning July 1, 2025,
17 except as provided in this part, no person in the State shall
18 use the title "licensed midwife," or the abbreviation "L.M.," or
19 any other words, letters, abbreviations, or insignia indicating
20 or implying that the person is a licensed midwife, unless the
21 person holds a valid license issued pursuant to this part.



1 (b) No person shall use the title "certified midwife" or
2 "certified professional midwife" without a valid certification.

3 (c) Nothing in this section shall preclude a person
4 holding a national midwife certification from identifying as a
5 person holding this certification; provided that the person
6 shall not profess to be licensed to practice midwifery in Hawaii
7 unless the person is licensed in accordance with this part.

8 **§457J-J Exemptions.** This part does not require a
9 midwifery license if the person is a:

- 10 (1) Certified nurse-midwife holding a valid license under
11 chapter 457;
- 12 (2) Student midwife;
- 13 (3) Member of a profession that overlaps with the practice
14 of midwifery who is licensed and performing work
15 within the scope of the person's position and duties;
- 16 (4) Person providing limited perinatal support services
17 that are not subject to state licensing requirements,
18 including childbirth education, lactation support, or
19 doula care;
- 20 (5) Person rendering emergency aid;



- 1 (6) Person administering care to the person's immediate or
2 extended family, including hanai family;
- 3 (7) Person engaged in traditional Native Hawaiian healing
4 practices of prenatal, maternal, or child care.
5 Nothing in this part shall prohibit, limit, or
6 otherwise adversely impact any traditional Native
7 Hawaiian customary practice related to pregnancy,
8 birth, or infancy, pursuant to the Constitution of the
9 State of Hawaii;
- 10 (8) Person engaged in birth-related practices in
11 connection or accordance with the tenets and practices
12 of any ethnic culture; provided that the person shall
13 not claim to practice as a certified midwife,
14 certified professional midwife, or licensed midwife
15 unless licensed pursuant to this part;
- 16 (9) Person engaged in birth-related practices related to
17 healing by prayer or spiritual means in connection or
18 accordance with the tenets and practices of any
19 well-recognized church or religious denomination;
20 provided that the person shall not claim to practice
21 as a certified midwife, certified professional



- 1 midwife, or licensed midwife unless licensed pursuant
2 to this part; or
- 3 (10) Person acting as a traditional birth attendant who:
- 4 (A) Does not use legend drugs or devices, the use of
5 which requires a license under the laws of the
6 State;
- 7 (B) Does not advertise themselves as a licensed
8 midwife;
- 9 (C) Discloses to the client verbally and in writing
10 at the time that care is first initiated:
- 11 (i) That the person does not possess a
12 professional license issued by the State to
13 provide health or maternity care to women or
14 infants;
- 15 (ii) The person's education and training;
- 16 (iii) That person's education and training
17 qualifications have not been reviewed by the
18 State;
- 19 (iv) That the person is not authorized to
20 acquire, carry, administer or direct others
21 to administer legend drugs;



1 (v) The details of any judgement, award,
2 disciplinary sanction, order, or other
3 determination by a licensing or regulatory
4 authority, territory of the United States,
5 state, or any other jurisdiction, that
6 adjudges or finds that the person has
7 committed misconduct or is criminally or
8 civilly liable for conduct relating to
9 midwifery; and

10 (vi) A plan for transporting the client to the
11 nearest hospital if a problem arises during
12 the patient's care; and

13 (D) Maintains a copy of the written disclosure
14 required by subparagraph (C) for at least ten
15 years and makes the form available for inspection
16 by the department upon request.

17 **§457J-K Fees.** (a) Each applicant shall pay a licensing
18 fee upon application for an initial license or for the renewal
19 of a license. Any fees collected pursuant to this section, or
20 by rule adopted under this section, shall be nonrefundable.



1 (b) Pursuant to section 26-9(1), the director may
2 establish fees to restore a license, penalty fees, and any other
3 fees required for the administration of this part.

4 (c) All fees collected pursuant to this part shall be
5 deposited into the compliance resolution fund established
6 pursuant to section 26-9(o).

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

10 (e) The director may assess fees as provided in this part
11 and section 26-9 and, notwithstanding any other law to the
12 contrary, may change the amount of the fees at any time without
13 regard to chapter 91 if the director:

14 (1) Holds at least one public hearing to discuss the fee
15 change and to receive testimony on the issue; and

16 (2) Provides public notice at least thirty days prior to
17 the date of the public hearing.

18 **§457J-L Issuance of a license.** The director may issue a
19 license to any person who meets all licensure requirements and
20 pays the appropriate fees.



1 **§457J-M Renewal of a license.** (a) Each license issued
2 under this part shall be renewed every three years on or before
3 June 30. Failure to renew a license shall result in a
4 forfeiture of the license.

5 (b) A license that has been forfeited may be restored
6 within one year of the expiration date upon payment of renewal
7 and penalty fees. Failure to restore a forfeited license within
8 one year of the date of its expiration shall result in the
9 automatic termination of the license.

10 (c) Re-licensure after termination shall require the
11 person to apply as a new applicant and to again satisfy all
12 licensing requirements that are in place at the time of the new
13 application.

14 **§457J-N Grounds for refusal to grant, renew, reinstate, or**
15 **restore a license or to revoke, suspend, deny, or place**
16 **conditions on a license.** In addition to any other conditions
17 provided by law, the director may refuse to grant, renew,
18 reinstate, or restore a license, or may deny, revoke, suspend,
19 or place conditions on a license if the applicant or licensee:



- 1 (1) Fails to meet or maintain the conditions and
2 requirements necessary to qualify for the granting of
3 a license;
- 4 (2) Fails to notify the department in writing within
5 thirty days of the change in status if a licensee's
6 certification as a certified midwife or certified
7 professional midwife is no longer current or is
8 encumbered;
- 9 (3) Engages in false, fraudulent, or deceptive
10 advertising, or makes untruthful or improbable
11 statements;
- 12 (4) Is addicted to, dependent on, or a habitual user of a
13 narcotic, barbiturate, amphetamine, hallucinogen,
14 opium, cocaine, or other drugs or drug derivatives of
15 a similar nature;
- 16 (5) Practices as a licensed midwife while impaired by
17 alcohol, drugs, a physical disability, or mental
18 instability;
- 19 (6) Procures a license through fraud, misrepresentation,
20 or deceit;



- 1 (7) Engages in professional misconduct as defined by the
2 licensing program in accordance with its own rules,
3 demonstrates gross negligence, or is manifestly
4 incapable in the practice of midwifery;
- 5 (8) Fails to maintain a record or history of competency,
6 trustworthiness, fair dealing, or financial integrity;
- 7 (9) Engages in conduct or practices contrary to recognized
8 standards of ethics for the practice of midwifery;
- 9 (10) Violates any condition or limitation upon which a
10 conditional license was issued;
- 11 (11) Engages in business under a past or present license
12 issued pursuant to this part in a negligent manner
13 that causes injury to one or more members of the
14 public;
- 15 (12) Fails to comply, observe, or adhere to any law in such
16 a manner that the director deems the applicant or
17 licensee to be an unfit or improper person to hold a
18 license;
- 19 (13) Is subject to a revocation, suspension, or other
20 disciplinary action by a territory of the United
21 States, or by another state or federal agency, based



1 on any reason provided by this state's licensing laws,
2 including this part;

3 (14) Has been convicted, whether by nolo contendere or
4 otherwise, of a penal offense substantially related to
5 the qualifications, functions, or duties of a licensed
6 midwife;

7 (15) Fails to notify the department in writing within
8 thirty days of any disciplinary decision issued
9 against the applicant or licensee in another
10 jurisdiction;

11 (16) Violates this part, any other applicable licensing
12 laws, or any rule or order of the director; or

13 (17) Uses or removes without authorization any controlled
14 substances or drugs, or diverts or attempts to divert
15 controlled substances or drugs for unauthorized use.

16 **§457J-O Reimbursement for licensed midwives.** Any health
17 benefit plan or health insurance reimbursement, including the
18 medicaid program, shall provide coverage for services rendered
19 by a licensed midwife if the services rendered are within the
20 scope of practice for a certified midwife or certified



1 professional midwife, without regard to the location where the
2 services were provided.

3 **§457J-P Penalties.** Any person who violates this part or
4 rules adopted pursuant to this part shall be subject to a fine
5 of not more than \$1,000 for each separate offense.

6 **§457J-Q Annual reporting requirement.** No later than
7 twenty days before the convening of each regular session, the
8 department of commerce and consumer affairs shall submit to the
9 legislature a report that shall include:

- 10 (1) The total number of midwives currently licensed in the
11 State;
- 12 (2) The number of certified midwives newly licensed in the
13 previous year;
- 14 (3) The number of licensed certified professional midwives
15 who, in the previous year, passed the exam
16 administered by the North American Registry of
17 Midwives after completing an educational pathway
18 accredited by the Midwifery Education Accreditation
19 Council;
- 20 (4) The number of licensed certified professional midwives
21 who, in the previous year, passed the exam



- 1 administered by the North American Registry of
2 Midwives after completing the portfolio evaluation
3 pathway;
- 4 (5) The total number of complaints filed in the previous
5 year against midwives licensed in the State;
- 6 (6) The total number of complaints filed in the previous
7 year against persons who engaged in certified
8 midwifery and certified professional midwifery without
9 a license;
- 10 (7) The total number of complaints filed in the previous
11 year against traditional birth attendants who failed
12 to comply with statutory requirements;
- 13 (8) The status and resolution of each complaint filed in
14 the previous year; and
- 15 (9) Any recommendations for proposed legislation."

16 PART III

17 SECTION 4. (a) There is established a home birth task
18 force, within the department of health for administrative
19 purposes.

20 (b) Notwithstanding subsection (d), the task force shall
21 comprise no more than seventeen members, including:



- 1 (1) The director of commerce and consumer affairs, or the
2 director's designee;
- 3 (2) The director of health, or the director's designee;
- 4 (3) A representative from the med-QUEST division of the
5 department of human services; and
- 6 (4) The following members, who shall be selected by the
7 director of commerce and consumer affairs and invited
8 to participate:
- 9 (A) An active practitioner of Native Hawaiian
10 customary practices related to pregnancy, birth,
11 and infancy;
- 12 (B) A representative from the Hawaii section of the
13 American College of Obstetricians and
14 Gynecologists, or another physician who is
15 licensed in Hawaii;
- 16 (C) A representative from emergency medical services;
- 17 (D) A representative from the Hawaii Hospital
18 Association;
- 19 (E) A representative from the Hawaii affiliate of the
20 American College of Nurse-Midwives, or another



- 1 certified midwife or certified nurse midwife who
2 is licensed in Hawaii;
- 3 (F) A representative from the Hawaii chapter of the
4 National Association of Certified Professional
5 Midwives; and
- 6 (G) Eight members recommended by the Hawaii Home
7 Birth Collective who represent the following
8 stakeholder groups:
- 9 (i) Certified midwives;
 - 10 (ii) Certified professional midwives;
 - 11 (iii) Home birth elders;
 - 12 (iv) Traditional or cultural birthing attendants;
 - 13 and
 - 14 (v) Members of the public who have used home
15 birth services.
- 16 (c) The task force shall elect a chairperson from among
17 its members.
- 18 (d) The task force may recommend additional members having
19 appropriate expertise, to be approved by the chairperson.
- 20 (e) The task force shall include representation from all
21 counties.



1 (f) The task force shall discuss matters relating to home
2 births and shall make recommendations to improve the
3 coordination of care and sharing of information across the
4 maternal health system. Issues discussed by the task force
5 shall include:

- 6 (1) The education and training of birth practitioners;
7 (2) Public health education and information regarding home
8 birth practices;
9 (3) Data and information regarding home births and
10 maternal and infant health;
11 (4) Issues arising when transport is needed from home
12 births to hospital care; and
13 (5) Proposed actions to improve public health and safety
14 in relation to home births.

15 (g) The members of the task force shall serve without
16 compensation but shall be reimbursed for expenses, including
17 travel expenses, necessary for the performance of their duties.

18 (h) No member of the task force shall be made subject to
19 section 84-17, Hawaii Revised Statutes, solely based on the
20 member's participation on the task force.



1 (i) The department of health shall provide any
2 administrative or clerical support required by the task force.

3 (j) The home birth task force shall submit a report of its
4 findings and recommendations, including any proposed
5 legislation, to the legislature no later than twenty days prior
6 to the convening of the regular session of 2026.

7 (k) The home birth task force shall dissolve on
8 June 30, 2026.

9 PART IV

10 SECTION 5. Chapter 457J, Hawaii Revised Statutes, is
11 amended by designating sections 457J-1 to 457J-13 as part I,
12 entitled "Midwives".

13 SECTION 6. Part I of Chapter 457J, Hawaii Revised
14 Statutes, is repealed.

15 PART V

16 SECTION 7. In codifying the new sections added by section
17 3 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.



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

4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect upon its approval;
7 provided that section 2 shall take effect on June 29, 2025.

8

INTRODUCED BY:

Elle Cochran

JAN 22 2025



H.B. NO. 1328

Report Title:

DCCA; Licensed Midwives; Licensed Certified Midwives; Licensed Certified Professional Midwives; Task Force; Reports

Description:

Continues a licensing scheme for licensed certified midwives and licensed certified professional midwives, to be overseen by the Department of Commerce and Consumer Affairs. Re-establishes the home birth task force to provide recommendations on issues related to home births. Dissolves the task force on 6/30/2026. Requires reports to the Legislature.

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

