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# A BILL FOR AN ACT

RELATING TO MIDWIVES.

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

PART I

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SECTION 1. The legislature finds that Act 32, Session Laws of Hawaii 2019 (Act 32), created a licensure program to regulate non-nurse midwives. The intent of the program was to provide the benefits of licensure while also "allow[ing] a woman to choose where and with whom she gives birth." The legislature noted in Act 32 that "mothers and families seek out alternatives to hospital births and they find significant value in community or home birth services." The legislature also found that "these services have been provided by individuals identifying themselves as traditional or cultural practitioners, midwives, certified professional midwives, lay midwives, direct entry midwives, birth keepers, or birth attendants." The licensure program established by Act 32, enacted as chapter 457J, Hawaii Revised Statutes (chapter 457J), has run for five years and will 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 (2022),  
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 exemptions have been implemented.

11 Since the enactment of chapter 457J, more than forty  
12 midwives have been licensed, although currently, less than half  
13 of these provide full-time midwifery care. Of these forty newly  
14 licensed midwives, approximately twenty-two per cent do not  
15 currently reside in the State, none are Native Hawaiian, and  
16 ninety-seven per cent are not originally from Hawaii. In 2023,  
17 midwives attended 1.9 per cent of all births, reflecting a  
18 seventy-three per cent increase in the use of midwives. At the  
19 same time, since chapter 457J took effect, the number of home  
20 births that were unattended or attended by unknown providers  
21 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 creates  
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 made available for  
19 qualified local Hawaii practitioners to achieve licensure.  
20 Regulation by the State of the birth practices of traditional  
21 and non-clinical practitioners and extended or hanai family



1 members is not supported or required by the Hawaii Regulatory  
2 Licensing Reform 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 "American Midwifery Certification Board means the national  
2 certifying body for certified midwives and certified  
3 nurse-midwives.

4 "American College of Nurse-Midwives" means the professional  
5 association that represents certified midwives and certified  
6 nurse-midwives in the United States.

7 "Department" means the department of commerce and consumer  
8 affairs.

9 "Director" means the director of commerce and consumer  
10 affairs.

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

17 "Legend drug" means a drug required by state law or  
18 pharmaceutical regulations to only be dispensed based on a  
19 prescription.

20 "Midwife preceptor" means a licensed midwife, licensed  
21 maternal health professional, or preceptor registered with a



1 school accredited by the Midwifery Education Accreditation  
2 Council, who participates in the clinical education of persons  
3 who are:

4 (1) Enrolled in a school accredited by the Accreditation  
5 Commission for Midwifery Education;

6 (2) Enrolled in a midwifery education program offered by  
7 the Midwifery Education Accreditation Council; or

8 (3) Working directly under a midwife preceptor registered  
9 with the North American Registry of Midwives to  
10 acquire certification through the portfolio evaluation  
11 process and by meeting other requirements for  
12 certification by the North American Registry of  
13 Midwives.

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

16 "Midwifery bridge certificate" means a certificate issued  
17 by the North American Registry of Midwives to a certified  
18 professional midwife who obtains certification through the  
19 portfolio evaluation process, upon the certified professional  
20 midwife's completion of at least fifty hours of additional  
21 accredited education in specific subjects, as required by the



1 North American Registry of Midwives. The bridge certificate  
2 demonstrates a blended training pathway of both apprenticeship  
3 and accredited education.

4 "Midwifery Education Accreditation Council" means the  
5 independent, non-profit organization recognized by the United  
6 States Department of Education as the accrediting agency of  
7 direct-entry midwifery institutions and programs.

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

10 "Portfolio evaluation process" is an apprenticeship-model  
11 educational process that includes the verification of the  
12 applicant's knowledge and skills by a qualified North American  
13 Registry of Midwives preceptor. Completion of this process  
14 qualifies an applicant to sit for the North American Registry of  
15 Midwives written examination.

16 "Practice of midwifery" means midwifery as practiced by a  
17 certified midwife and encompasses the independent provision of  
18 care during pregnancy, childbirth, and the postpartum period and  
19 care related to sexual and reproductive health, gynecology,  
20 family planning, and preconception. A certified midwife may  
21 also provide primary care for a person from adolescence



1 throughout the person's lifespan, as well as for a healthy  
2 newborn or infant during the newborn or infant's first  
3 twenty-eight days of life.

4 "Practice of certified professional midwifery" means  
5 midwifery as practiced by a certified professional midwife and  
6 encompasses the independent provision of care during pregnancy,  
7 childbirth, and the postpartum period and care related to sexual  
8 and reproductive health, gynecology, family planning, and  
9 preconception. A certified midwife may also provide primary  
10 care for a healthy newborn or infant during the newborn or  
11 infant's first twelve weeks of life.

12 "Student midwife" means a person who is:

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



1 certification by the North American Registry of  
2 Midwives.

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

6 "Unlicensed assistive person" means a person who is not  
7 licensed to practice certified midwifery or certified  
8 professional midwifery but who can competently perform tasks  
9 delegated by a licensed midwife.

10 §457J-B Midwives licensing program. (a) To obtain a  
11 license under this part, the applicant shall provide:

- 12 (1) An application for licensure;
- 13 (2) The required fees; and
- 14 (3) Proof of current, unencumbered certification as a:
  - 15 (A) Certified midwife; or
  - 16 (B) Certified professional midwife.

17 (b) To obtain a license to practice as a certified midwife  
18 pursuant to this part, in addition to meeting the requirements  
19 in subsection (a), the applicant shall establish to the  
20 satisfaction of the department that the person:



- 1           (1) Holds a valid graduate degree in midwifery from a  
2           program accredited by the Accreditation Commission for  
3           Midwifery Education, or its successor;
- 4           (2) Has successfully passed the certification exam  
5           administered by the American Midwifery Certification  
6           Board, or its successor; and
- 7           (3) Is at least twenty-one years of age by the date the  
8           licensure application is submitted.
- 9           (c) To obtain a license to practice as a certified  
10 professional midwife under this part, in addition to meeting the  
11 requirements in subsection (a), the applicant shall provide:
- 12           (1) Proof that the person has successfully completed  
13           midwifery education and training by:
- 14           (A) Becoming certified through an educational program  
15           that is accredited by the Midwifery Education  
16           Accreditation Council;
- 17           (B) Becoming certified by completing the portfolio  
18           evaluation process, obtaining a midwifery bridge  
19           certificate from the North American Registry of  
20           Midwives, and passing the certification exam



1 administered by the North American Registry of  
2 Midwives, or its successor; or

3 (C) Maintaining a current license in a state that  
4 does not require accredited education and  
5 obtaining a midwifery bridge certificate issued  
6 by the North American Registry of Midwives;

7 (2) If applicable, evidence of any licenses currently or  
8 previously held in other jurisdictions, including  
9 proof of the status of the license and documentation  
10 of any disciplinary proceedings pending or taken by  
11 the jurisdiction;

12 (3) Information regarding any criminal conviction that has  
13 not been annulled or expunged; and

14 (4) Any other information the department may require to  
15 investigate the applicant's qualifications for  
16 licensure.

17 §457J-C Powers and duties of the director. In addition to  
18 any other powers and duties authorized by law, the director:

19 (1) May grant permission to a person to use the title  
20 "licensed midwife" pursuant to this part and any rules  
21 adopted pursuant to this part;



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

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

5 (4) Shall discipline a licensee for any cause described by  
6 this part and any violation of the rules adopted  
7 pursuant to this part;

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

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

14 §457J-D Midwives licensing advisory committee. (a) The  
15 director shall establish a midwives licensing advisory committee  
16 to assist with the implementation of this part. The following  
17 members shall be selected by the director and invited to  
18 participate:

19 (1) Three certified professional midwives;

20 (2) One member who is, in order of preference:

21 (A) A certified midwife;



- 1 (B) A certified nurse midwife who works in the
- 2 community birth setting; or
- 3 (C) A certified professional midwife;
- 4 (3) Two members of the public, at least one of whom has
- 5 used home birth services;
- 6 (4) One traditional birth attendant; and
- 7 (5) Two active practitioners of Native Hawaiian customary
- 8 practices related to pregnancy, birth, and infancy.
- 9 (b) The committee shall elect a chairperson from among its
- 10 members.

11 (c) The members of the advisory committee shall serve  
12 without compensation but shall be reimbursed for expenses,  
13 including travel expenses, necessary for the performance of  
14 their duties.

15 §457J-E Scope of practice; licensed midwives; licensed  
16 certified midwives; licensed certified professional midwives.

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

19 (b) Unless authorized to practice as a licensed midwife  
20 under this part, no person shall use or imply that they are a  
21 "licensed midwife," use any similar title or description of the



1 person's services, or in any way represent that the person  
2 practices midwifery as a licensed midwife.

3 (c) Each midwife shall at all times practice within the  
4 scope of applicable nationally established standards, including  
5 standards delineated by:

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

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

10 (d) The department may adopt rules, pursuant to  
11 chapter 91, clarifying the scope of practice for a licensed  
12 midwife; provided that the rules are consistent with applicable  
13 national standards pursuant to subsection (c).

14 (e) Notwithstanding any law to the contrary, a licensed  
15 midwife may:

16 (1) Order and interpret medical laboratory and diagnostic  
17 tests, perform ultrasound screenings, and obtain  
18 equipment and supplies necessary for the safe practice  
19 of midwifery;

20 (2) Provide comprehensive initial and ongoing assessment,  
21 diagnosis, and treatment;



- 1           (3) Conduct physical examinations;
- 2           (4) Promote individualized wellness education and
- 3                 counseling for purposes of health promotion, disease
- 4                 prevention, risk assessment, and disease management;
- 5           (5) Collaborate with individuals and families in diverse
- 6                 settings, including ambulatory care clinics, private
- 7                 offices, community and public health systems,
- 8                 hospitals, birth centers, and via telehealth and other
- 9                 forms of remote care;
- 10          (6) Order medical devices, including durable medical
- 11                 equipment;
- 12          (7) Provide evidence-based, client-centered care in
- 13                 collaboration with the client, including, as
- 14                 indicated, providing referrals to other providers and
- 15                 services;
- 16          (8) Adopt ethical standards in support of individual
- 17                 rights and self-determination in the context of
- 18                 family, community, and a system of healthcare;
- 19          (9) Document client charts to facilitate interprofessional
- 20                 communication and provide clients with a means to
- 21                 access the client's healthcare records; and



1 (10) Participate in quality management practices, such as  
2 peer review, continuing education, and data analysis  
3 to improve the practice of midwifery.

4 (f) Notwithstanding any law to the contrary, a licensed  
5 certified midwife may, in addition to practicing within the  
6 scope of subsection (e):

7 (1) Obtain limited prescriptive authority to independently  
8 prescribe medications, including controlled  
9 substances, medications for the treatment of a  
10 substance use disorder, and medications for expedited  
11 partner therapy;

12 (2) Admit, manage, and discharge patients to or from a  
13 hospital or freestanding birthing facility;

14 (3) Assist in surgery; provided that this paragraph shall  
15 apply only to certified nurse midwives; and

16 (4) Order home health services.

17 (g) Notwithstanding any law to the contrary, a licensed  
18 certified professional midwife may, in addition to practicing  
19 within the scope of subsection (e):

20 (1) Obtain limited prescriptive authority to obtain,  
21 administer, and independently prescribe medications



1 and therapies for the prevention and treatment of  
2 outpatient conditions that do not constitute a  
3 significant deviation from normal midwifery care  
4 during pregnancy or the postpartum period, based on  
5 current evidence and practice, including medication  
6 for expedited partner therapy;

7 (2) Prescribe other medications and devices that are used  
8 within the safe practice of certified professional  
9 midwifery;

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

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

16 **§457J-F Delegation of tasks.** (a) A licensed midwife may  
17 delegate to any licensed, certified, registered, or unlicensed  
18 assistive person, any tasks within the licensed midwife's scope  
19 of practice; provided that the authority to select medications  
20 shall not be delegated unless the delegate is independently  
21 authorized by law to select medications.



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

3 (c) Before delegating any task, the licensed midwife shall  
4 make a determination that, in the licensed midwife's  
5 professional judgement, the delegated task can be safely and  
6 properly performed by the delegate and that the delegation is in  
7 accordance with the patient's safety and welfare.

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

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

14 (e) The employer of a licensed midwife may establish  
15 policies, procedures, protocols, or standards of care that limit  
16 or prohibit the delegation of certain tasks by the licensed  
17 midwife, or the delegation of tasks in certain circumstances.

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

- 20 (1) Standards for assessing the proficiency of a delegate  
21 to perform certain tasks; and



1           (2) Accountability standards for a licensed midwife who  
2           delegates tasks.

3           **§457J-G Limited prescriptive authority; certified**  
4 **midwives.** (a) The department may authorize a certified midwife  
5 to prescribe certain controlled substances or prescription  
6 drugs; provided that the certified 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 midwife shall be limited to the midwife's scope of practice and  
13 for patients appropriate to the scope of practice.

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

19           (d) A certified midwife having prescriptive authority  
20 shall maintain national certification, as required by section  
21 457J-B, unless the department grants an exception.



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

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

15           (g) Nothing in this section shall be construed to require  
16 a certified midwife to obtain prescriptive authority to order  
17 anesthesia care.

18           (h) No certified midwife shall accept any direct or  
19 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 midwife, regardless of whether a specified medication  
3 is prescribed.

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

9 §457J-H Limited prescriptive authority; certified  
10 professional midwives. (a) The department may authorize a  
11 certified professional midwife to prescribe certain controlled  
12 substances or prescription drugs; provided that the certified  
13 professional midwife:

- 14 (1) Is in good standing, without disciplinary sanctions;  
15 (2) Has fulfilled the requirements of this part; and  
16 (3) Has fulfilled any requirements established by the  
17 department pursuant to this part.

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



1 (c) A certified professional midwife to whom the  
2 department has granted the authority to prescribe prescription  
3 drugs and controlled substances may advise the certified  
4 professional midwife's patients of the option to have the  
5 symptom or purpose for which a prescription is being issued  
6 included on the prescription order.

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

10 (e) Each certified professional midwife granted  
11 prescriptive authority by the department shall be assigned a  
12 specific identifier, which shall be made available to the Hawaii  
13 medical board and the state board of pharmacy. The department  
14 shall establish a mechanism to ensure that the prescriptive  
15 authority of a certified professional midwife may be readily  
16 verified using this specific identifier.

17 (f) The prescriptive authority granted to a certified  
18 professional midwife may be limited or withdrawn, and the  
19 certified professional midwife may be subject to further  
20 disciplinary action, if the certified professional midwife  
21 prescribes outside the certified professional midwife's scope of



1 practice, for patients other than those appropriate to the  
2 certified professional midwife's scope of practice, or for other  
3 than therapeutic purposes.

4 (g) No certified professional midwife shall accept any  
5 direct or indirect benefit from a pharmaceutical manufacturer or  
6 pharmaceutical representative for prescribing a specific  
7 medication to a patient. For purposes of this section, a direct  
8 or indirect benefit does not include a benefit offered to a  
9 certified professional midwife, regardless of whether a  
10 specified medication is prescribed.

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

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 (d) Nothing in this part shall be construed to prohibit  
9 traditional Native Hawaiian healing practices related to  
10 prenatal, maternal, or child care. Nothing in this part shall  
11 be construed to limit, alter, or otherwise adversely impact any  
12 traditional Native Hawaiian practices related to pregnancy or  
13 birth that are protected by the Constitution of the State of  
14 Hawaii.

15 (e) This part does not require a midwifery license if the  
16 person is a:

17 (1) Certified nurse-midwife holding a valid license under  
18 chapter 457;

19 (2) Student midwife;



- 1 (3) Member of a profession that overlaps with the practice  
2 of midwifery who is licensed and performing work  
3 within the scope of the person's position and duties;
- 4 (4) Person providing limited perinatal support services  
5 that are not subject to state licensing requirements,  
6 including childbirth education, lactation support, or  
7 doula care;
- 8 (5) Person rendering emergency aid;
- 9 (6) Person administering care to the person's immediate or  
10 extended family, including hanai family;
- 11 (7) Person engaged in birth-related practices in  
12 connection or accordance with the tenets and practices  
13 of any ethnic culture; provided that the person shall  
14 not claim to practice as a certified midwife,  
15 certified professional midwife, or licensed midwife  
16 unless licensed pursuant to this part;
- 17 (8) Person engaged in birth-related practices related to  
18 healing by prayer or spiritual means in connection or  
19 accordance with the tenets and practices of any  
20 well-recognized church or religious denomination;  
21 provided that the person shall not claim to practice



1 as a certified midwife, certified professional  
2 midwife, or licensed midwife unless licensed pursuant  
3 to this part;

4 (9) Person acting as a traditional birth attendant who:

5 (A) Does not use legend drugs or devices, the use of  
6 which requires a license under the laws of the  
7 State;

8 (B) Does not advertise themselves as a licensed  
9 midwife;

10 (C) Discloses to the patient verbally and in writing  
11 at the time that care is first initiated:

12 (i) That the person does not possess a  
13 professional license issued by the State to  
14 provide health or maternity care to women or  
15 infants;

16 (ii) The person's education and training;

17 (iii) That person's education and training  
18 qualifications have not been reviewed by the  
19 State;



- 1                   (iv) That the person is not authorized to
- 2                   acquire, carry, administer or direct others
- 3                   to administer legend drugs;
- 4                   (v) The details of any judgement, award,
- 5                   disciplinary sanction, order, or other
- 6                   determination by a licensing or regulatory
- 7                   authority, territory of the United States,
- 8                   state, or any other jurisdiction, that
- 9                   adjudges or finds that the person has
- 10                  committed misconduct or is criminally or
- 11                  civilly liable for conduct relating to
- 12                  midwifery; and
- 13                  (vi) A plan for transporting the patient to the
- 14                  nearest hospital if a problem arises during
- 15                  the patient's care; and
- 16                  (D) Maintains a copy of the written disclosure
- 17                  required by subparagraph (C) for at least ten
- 18                  years and makes the form available for inspection
- 19                  by the department upon request.
- 20                  §457J-J Fees. (a) Each applicant shall pay a licensing
- 21                  fee upon application for an initial license or for the renewal



1 of a license. Any fees collected pursuant to this section, or  
2 by rule adopted under this section, shall be nonrefundable.

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

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

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

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

- 16 (1) Holds at least one public hearing to discuss the fee  
17 change and to receive testimony on the issue; and  
18 (2) Provides public notice at least thirty days prior to  
19 the date of the public hearing.



1           §457J-K Issuance of a license. The director may issue a  
2 license to any person who meets all licensure requirements and  
3 pays the appropriate fees.

4           §457J-L Renewal of a license. (a) Each license issued  
5 under this part shall be renewed every three years on or before  
6 June 30. Failure to renew a license shall result in a  
7 forfeiture of the license.

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

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

17           §457J-M Grounds for refusal to grant, renew, reinstate, or  
18 restore a license or to revoke, suspend, deny, or place  
19 conditions on a license. In addition to any other conditions  
20 provided by law, the director may refuse to grant, renew,



1 reinstate, or restore a license, or may deny, revoke, suspend,  
2 or place conditions on a license if the applicant or licensee:

3 (1) Fails to meet or maintain the conditions and  
4 requirements necessary to qualify for the granting of  
5 a license;

6 (2) Fails to notify the department in writing within  
7 thirty days of the change in status if a licensee's  
8 certification as a certified midwife or certified  
9 professional midwife is no longer current or is  
10 encumbered;

11 (3) Engages in false, fraudulent, or deceptive  
12 advertising, or makes untruthful or improbable  
13 statements;

14 (4) Is addicted to, dependent on, or a habitual user of a  
15 narcotic, barbiturate, amphetamine, hallucinogen,  
16 opium, cocaine, or other drugs or drug derivatives of  
17 a similar nature;

18 (5) Practices as a licensed midwife while impaired by  
19 alcohol, drugs, a physical disability, or mental  
20 instability;



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



- 1           (13) Is subject to a revocation, suspension, or other  
2           disciplinary action by a territory of the United  
3           States, or by another state or federal agency, based  
4           on any reason provided by this state's licensing laws,  
5           including this part;
- 6           (14) Has been convicted, whether by nolo contendere or  
7           otherwise, of a penal offense substantially related to  
8           the qualifications, functions, or duties of a licensed  
9           midwife;
- 10          (15) Fails to notify the department in writing within  
11          thirty days of any disciplinary decision issued  
12          against the applicant or licensee in another  
13          jurisdiction;
- 14          (16) Violates this part, any other applicable licensing  
15          laws, or any rule or order of the director; or
- 16          (17) Uses or removes without authorization any controlled  
17          substances or drugs, or diverts or attempts to divert  
18          controlled substances or drugs for unauthorized use.
- 19          §457J-N Reimbursement for licensed midwives. Any health  
20          benefit plan or health insurance reimbursement, including the  
21          medicaid program, shall provide coverage for services rendered



1 by a licensed midwife if the services rendered are within the  
2 scope of practice for a certified midwife or certified  
3 professional midwife, without regard to the location where the  
4 services were provided.

5       **§457J-O Penalties.** Any person who violates this part or  
6 rules adopted pursuant to this part shall be subject to a fine  
7 of not more than \$1,000 for each separate offense, in addition  
8 to any disciplinary actions taken by the director.

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

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



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



PART III

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

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

(1) The director of commerce and consumer affairs, or the director's designee;

(2) The director of health, or the director's designee;

(3) A representative from the med-QUEST division of the department of human services; and

(4) The following members, who shall be selected by the director of commerce and consumer affairs and invited to participate:

(A) An active practitioner of Native Hawaiian customary practices related to pregnancy, birth, and infancy;

(B) A representative from the Hawaii section of the American College of Obstetricians and Gynecologists, or another physician who is licensed in Hawaii;



- 1 (C) A representative from emergency medical services;
- 2 (D) A representative from the Hawaii Hospital
- 3 Association;
- 4 (E) A representative from the Hawaii affiliate of the
- 5 American College of Nurse-Midwives, or another
- 6 certified midwife or certified nurse midwife who
- 7 is licensed in Hawaii;
- 8 (F) A representative from the Hawaii chapter of the
- 9 National Association of Certified Professional
- 10 Midwives; and
- 11 (G) Eight members recommended by the Hawaii Home
- 12 Birth Collective who represent the following
- 13 stakeholder groups:
  - 14 (i) Certified midwives;
  - 15 (ii) Certified professional midwives;
  - 16 (iii) Home birth elders;
  - 17 (iv) Traditional or cultural birthing attendants;
  - 18 and
  - 19 (v) Members of the public who have used home
  - 20 birth services.



1 (c) The task force shall elect a chairperson from among  
2 its members.

3 (d) The task force may recommend additional members having  
4 appropriate expertise, to be approved by the chairperson.

5 (e) The task force shall include representation from all  
6 counties.

7 (f) The task force shall discuss matters relating to home  
8 births and shall make recommendations to improve the  
9 coordination of care and sharing of information across the  
10 maternal health system. Issues discussed by the task force  
11 shall include:

12 (1) The education and training of birth practitioners;

13 (2) Public health education and information regarding home  
14 birth practices;

15 (3) Data and information regarding home births and  
16 maternal and infant health;

17 (4) Issues arising when transport is needed from home  
18 births to hospital care; and

19 (5) Proposed actions to improve public health and safety  
20 in relation to home births.



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

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

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

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

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

15 PART IV

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

19 SECTION 6. Part I of Chapter 457J, Hawaii Revised  
20 Statutes, is repealed.



1 PART V

2 SECTION 7. In codifying the new sections added by section  
3 3 of this Act, the revisor of statutes shall substitute  
4 appropriate section numbers for the letters used in designating  
5 the new sections in this Act.

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

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

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

13

INTRODUCED BY: Nedie K. Nelson  
BY REQUEST

JAN 16 2025



# H.B. NO. 407

**Report Title:**

Maui County Council Package; DCCA; Licensed Midwives; Licensed Certified Midwives; Licensed Certified Professional Midwives; Task Force; Reports

**Description:**

Establishes 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.*

