
A BILL FOR AN ACT

RELATING TO MIDWIVES.

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

PART I

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



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

PART II

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

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Any professional or vocational regulatory program enacted after January 1, 1994, and listed in this section shall be repealed as specified in this section.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

~~[(b) Chapter 457J (midwives) shall be repealed on June 30, 2025.]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

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

"PART . CERTIFIED MIDWIVES AND CERTIFIED PROFESSIONAL
MIDWIVES

§457J-A Definitions. As used in this part, unless the 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) Holds a valid graduate degree in midwifery from a program accredited by the Accreditation Commission for Midwifery Education, or its successor;

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

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

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

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

(A) Becoming certified through an educational program that is accredited by the Midwifery Education Accreditation Council;

(B) Becoming certified by completing the portfolio evaluation process, obtaining a midwifery bridge certificate from the North American Registry of 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;



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

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

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

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

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

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

(1) Three certified professional midwives;

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

(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



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

§457J-G Limited prescriptive authority; certified midwives. (a) The department may authorize a certified midwife to prescribe certain controlled substances or prescription drugs; provided that the certified midwife:

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

(2) Has fulfilled the requirements of this part; and

(3) Has fulfilled any requirements established by the department pursuant to this part.

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

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

(d) A certified midwife having prescriptive authority shall maintain national certification, as required by section 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;



(C) A representative from emergency medical services;

(D) A representative from the Hawaii Hospital
Association;

(E) A representative from the Hawaii affiliate of the
American College of Nurse-Midwives, or another
certified midwife or certified nurse midwife who
is licensed in Hawaii;

(F) A representative from the Hawaii chapter of the
National Association of Certified Professional
Midwives; and

(G) Eight members recommended by the Hawaii Home
Birth Collective who represent the following
stakeholder groups:

(i) Certified midwives;

(ii) Certified professional midwives;

(iii) Home birth elders;

(iv) Traditional or cultural birthing attendants;
and

(v) Members of the public who have used home
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.



PART V

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

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

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

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

INTRODUCED BY:

Nedra 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.

