

A Bill for an Act Relating to Midwives.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the State first began regulating midwives in 1931 by establishing a registration requirement, which subsequently progressed to certification and finally, licensure. However, the regulation of midwives was repealed when, in 1998, nurse-midwives were placed under the purview of the board of nursing. Despite the lack of regulation, many individuals continued to practice midwifery and many families in the community sought out midwifery services.

The legislature also finds that, per the Hawaii Regulatory Licensing Reform Act, the State is required to regulate professions or vocations where the health, safety, or welfare of the consumer may be jeopardized by the nature of the service offered by the provider. In 1998 and 2017, the legislature requested the state auditor to conduct a sunrise analysis to determine if regulation of midwives was warranted. While the sunrise analysis conducted in 1998 through 1999 and reported in Auditor's Report No. 99-14 determined that it was premature to regulate midwives at that time, that report and the 2017 Auditor's Report No. 17-01 both determined that the nature of the maternity and prenatal services provided by a midwife may endanger the health and safety of women and newborns under the midwife's care and, therefore, the profession of midwifery should be subject to regulation. The Auditor's Report No. 17-01 in particular recommended the legislature consider establishing a mandatory licensing framework for all midwives. Recognizing the potential for harm to public health and safety posed by the unregulated practice of midwifery, the legislature passed Act 32, Session Laws of Hawaii 2019 (Act 32), and established a regulatory framework for the practice of midwifery that was subsequently codified at chapter 457J, Hawaii Revised Statutes (chapter 457J). Since the passage of Act 32, approximately forty-one individuals have been licensed under chapter 457J. These regulations are set to sunset on June 30, 2025, unless the legislature takes action to continue the regulation of midwives.

The legislature further finds that, as part of its sunset analysis, and reported in Auditor's Summary Report No. 25-03 (2025), the auditor found that the practice of midwifery posed a clear and significant potential harm to the health and safety of the public and that the State's policies regarding the regulation of certain types of professions support the continued regulation of the practice of midwifery in the form of full licensure.

The legislature affirms that the practice of midwifery under this Act does not include Native Hawaiian traditional and customary practices. The legislature also affirms that practicing midwifery according to this Act does not impede one's ability to incorporate or provide cultural practices.

Accordingly, the purpose of this Act is to:

- (1) Make regulatory laws for the practice of midwifery permanent;
- (2) Clarify the scope of practice of midwifery and establish licensure requirements for certified midwives and certified professional midwives, including continuing education requirements;
- (3) Grant global signature authority to midwives;
- (4) Grant prescriptive authority to certified midwives and amend the list of approved legend drugs that may be administered by licensed midwives;

- (5) Establish peer review and data submission requirements for midwives;
- (6) Affirm that the practice of midwifery does not include Native Hawaiian traditional and customary practices;
- (7) Clarify exemptions from licensure and grounds for refusal to grant, renew, reinstate, or restore licenses or for revocation, suspension, denial, or condition of a license; and
- (8) Clarify medical record availability and retention requirements for the purposes of medical torts.

SECTION 2. Chapter 457J, Hawaii Revised Statutes, is amended by adding eight new sections to be appropriately designated and to read as follows:

“§457J-A Scope of practice of midwifery. (a) The scope of practice of midwifery means the full practice of midwifery, regardless of compensation or personal profit, as determined by the director, rules adopted by the director, and midwifery standards established or recognized by the director pursuant to this chapter. The scope of practice of midwifery shall be based on and be consistent with a midwife’s education and national certification, including but not limited to:

- (1) Evaluating the physical and psychosocial health status of clients through a comprehensive health history intake, physical examination, and risk assessment based on observation, inspection, palpation, percussion, and auscultation, of the client or clients and using diagnostic instruments and procedures;
- (2) Formulating a diagnosis;
- (3) Observation, assessment, development, implementation, and evaluation of a plan of care;
- (4) Providing education and counseling related to the health promotion, disease prevention, and health care of midwife clients, with a particular focus on a healthy pregnancy and childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of midwife clients;
- (5) Obtaining informed consent, as required by section 671-3, in accordance with the midwife’s professional requirements;
- (6) Supervision and teaching of other personnel;
- (7) Teaching of individuals, families, and groups;
- (8) Provision of midwifery services via telehealth;
- (9) Administration, evaluation, supervision, and coordination, including the delegation of administrative and technical clinical tasks, of midwifery practice;
- (10) Provision of health care to the client in collaboration with other members of the health care team as autonomous health care professionals providing the midwifery component of health care;
- (11) Serving as a consultant and resource of midwifery clinical knowledge and skills to those involved directly or indirectly in client care;
- (12) Operating within a health care system that provides for consultation, collaborative management, and referral with other health care professionals;
- (13) Referring clients who require care beyond the scope of practice of the midwife to an appropriate health care provider or health care facility, or both, equipped to address the client’s health care needs;
- (14) Initiating and maintaining accurate records;
- (15) Admitting and discharging clients for inpatient care at freestanding birthing facilities licensed in the State;

- (16) Participating in joint and periodic evaluation of services rendered such as peer review, including chart reviews, case reviews, client evaluations, and outcome of case statistics;
 - (17) Ordering, interpreting, and performing diagnostic, screening, and therapeutic examinations, tests, and procedures as authorized pursuant to this chapter and within the midwife's role, education, and certification, excluding the performance, supervision, and interpretation of procedures utilizing ionizing radiation; and
 - (18) Use of reasonable judgment in carrying out prescribed medical orders of a physician or osteopathic physician licensed pursuant to chapter 453 or an advanced practice registered nurse licensed pursuant to chapter 457, orders of a physician assistant licensed and practicing with physician supervision pursuant to chapter 453 and acting as the agent of the supervising physician, or orders of a midwife in accordance with this chapter.
- (b) The scope of practice of midwifery as a certified midwife includes but is not limited to:
- (1) Assessing and diagnosing clients and the prescription, selection, and administration of therapeutic measures, including over the counter drugs or legend drugs, or both, according to this chapter; the provision of expedited partner therapy pursuant to section 453-52; and controlled substances within the certified midwife's education, certification, and role and in accordance with this chapter;
 - (2) Complying with the Standards for the Practice of Midwifery, or successor document, of the American College of Nurse-Midwives and American Midwifery Certification Board, or successor organizations; provided that the American College of Nurse-Midwives and American Midwifery Certification Board shall have no legal authority over the director and shall have no legal authority or powers of oversight of the director in the exercise of the director's powers and duties authorized by law;
 - (3) Assisting in surgery; and
 - (4) Admitting and discharging clients for inpatient care at facilities licensed in the State as hospitals.
- (c) The scope of practice of midwifery as a certified professional midwife includes but is not limited to:
- (1) Assessing and diagnosing clients and the selection and administration of therapeutic measures according to the formulary authorized by section 457J-11 within the certified professional midwife's education, certification, and role; and
 - (2) Complying with the Essential Competencies for Midwifery Practice, or successor document, as defined by the International Confederation of Midwives, or successor organization; provided that the International Confederation of Midwives shall have no legal authority over the director and shall have no legal authority or powers of oversight of the director in the exercise of the director's powers and duties authorized by law.
- (d) A midwife shall comply with the requirements of this chapter; recognize limits of the midwife's training and experience and have transfer of care protocols for situations that exceed the scope of authorized practice; consult with or refer clients to other health care providers, as appropriate; and participate in data submission and peer review requirements adopted by the department; provided that peer review conducted outside of the department shall not

be used to replace investigations against a midwife licensed pursuant to this chapter by the regulated industries complaints office of the department.

§457J-B Care provided by midwives; requirements. (a) A midwife shall continually assess the appropriateness of the planned location of birth and shall refer to the American College of Nurse-Midwives Clinical Bulletin Number 61: Midwifery Provision of Home Birth Services (November 2015), or succeeding document, for guidance, taking into account the health and condition of the midwife's client; provided that the American College of Nurse-Midwives shall have no legal authority or powers of oversight over the director in the exercise of the director's powers and duties authorized by law.

(b) If the midwife determines that a condition of the midwife's client or clients is outside of the midwife's scope of practice, the midwife shall refer the client or clients to an appropriate health care provider or health care facility, or both, equipped to address the client's health care needs; provided that the midwife shall collaborate with the client or clients or the client's guardian to document what factors will necessitate a change in birth settings to an emergency setting in response to emerging conditions outside the scope of practice of the midwife.

(c) If the midwife is attending a birth at a location without a physician and an operating room and determines during the midwife's care that the client or clients face imminent morbidity or mortality, the midwife shall activate the 911 system and initiate transfer of care protocols.

(d) If the midwife transfers care of the midwife's client or clients during the intrapartum or immediate postpartum period, the midwife shall provide the receiving provider with, at minimum, the information regarding the midwife's client or clients listed on the transfer form adopted by the department. The transfer form may include reasons for the transfer, brief relevant clinical history, and planned mode of transport.

(e) If the midwife's client or the midwife's client's guardian declines assistance from appropriate licensed health care providers or the 911 system, the midwife shall continually urge the client or the client's guardian to transfer care to an appropriate licensed health care provider and may continue to provide care to save the life of the client or the newborn; provided that the midwife shall only perform actions within the midwife's scope of practice.

§457J-C License renewal continuing education requirement. (a) Beginning July 1, 2026, each midwife shall provide documentation of successful completion of thirty contact hours during the prior triennium of appropriate continuing education that is related to the practice of midwifery.

(b) Each licensee practicing as a certified midwife shall provide documentation of successful completion of continuing education that is from accredited colleges or universities or approved by an organization recognized by the Continuing Education Policy, or successor document, of the American Midwifery Certification Board, or successor organization; provided that a minimum of eight hours of continuing education shall be in pharmacology.

(c) Each licensee practicing as a certified professional midwife shall provide documentation of successful completion of continuing education that is from an accredited college or university or granted by an accrediting organization recognized by the North American Registry of Midwives, or successor organization; provided that six hours of continuing education shall include treatment of shock and intravenous therapy and suturing.

(d) This section shall not apply to a licensee who has graduated from a midwifery program approved by the director within the twelve months before the renewal date of the licensee's first license renewal period.

(e) The director may extend the deadline for compliance with the continuing education requirements established by this section on a case-by-case basis; provided that before the expiration of a license, the midwife seeking an extension shall submit a written request for the extension and any documentation required by the director to substantiate the reason for an extension of the deadline for compliance with the continuing education requirements established by this section.

(f) Each licensee shall maintain the licensee's continuing education records for no less than six years.

(g) The director may conduct random audits of licensees to determine compliance with the continuing education requirement. The director shall provide written notice of an audit to all licensees randomly selected for audit. Within sixty days of notification, the licensee shall provide the director with documentation verifying compliance with the continuing education requirement established by this section.

§457J-D Global signature authority. Midwives shall be authorized to sign, certify, or endorse all documents relating to health care provided for their clients within their scope of practice, including temporary disability insurance forms, verification and evaluation forms of the department of human services, and verification and authorization forms of the department of health; provided that nothing in this section shall be construed to expand the scope of practice of midwifery.

§457J-E Prescriptive authority. (a) Prescriptive authority shall be granted solely to midwives practicing as certified midwives and shall not be granted to midwives practicing as certified professional midwives. Midwives practicing as certified midwives shall only prescribe those drugs appropriate to midwifery care as recognized by the director and in accordance with the current exclusionary formulary defined by the board of nursing for advanced practice registered nurses.

(b) Only a midwife practicing as a certified midwife may communicate, represent, or imply in any manner, including through the use of a sign, card, or device, that the person is a midwife who is authorized to prescribe.

(c) A midwife practicing as a certified midwife shall comply with all applicable federal and state laws, regulations, and rules relating to the prescription, dispensing, and administration of drugs. A midwife practicing as a certified midwife shall only prescribe and administer over the counter drugs, legend drugs, and controlled substances pursuant to this chapter and chapter 329. A midwife practicing as a certified midwife may request, receive, and dispense a manufacturer's prepackaged samples of over the counter and non-controlled legend drugs to patients under the midwife's care; provided that the midwife practicing as a certified midwife shall not request, receive, or sign for samples of controlled substances. A midwife practicing as a certified midwife may prescribe, order, and dispense medical devices and equipment that are appropriate to the midwife's scope of practice and plan and initiate a therapeutic regimen that includes nutritional, diagnostic, and supportive services including home health care, hospice, and physical and occupational health.

(d) Prescriptions issued by a midwife practicing as a certified midwife shall be written in accordance with section 329-38.

(e) It shall be a violation of this chapter for a midwife practicing as a certified professional midwife to communicate, represent, or imply in any manner, including through the use of any sign, card, or device, that the person is a midwife with prescriptive authority.

§457J-F Reporting requirements. (a) Every midwife who does not possess professional liability insurance shall report in writing any settlement or arbitration award of a claim or action for damages for death or personal injury caused by negligence, error, or omission in practice, or the unauthorized rendering of professional services. The report shall be submitted to the director within thirty days after any written settlement agreement has been reduced to writing and signed by all the parties or within thirty days after service of the arbitration award on the parties.

(b) Failure to comply with this section shall be an offense punishable by a fine of no less than \$100 for the first offense, \$250 to \$500 for the second offense, and \$500 to \$1,000 for any subsequent offense.

§457J-G Peer review requirements; license renewal. (a) Beginning June 30, 2029, each midwife shall, as a condition of license renewal:

- (1) Participate in a Hawaii-based peer review during each triennium subject to the requirements of section 624-25.5;
- (2) Attest that the midwife has completed a peer review for a minimum of five of the midwife's clinical cases from the prior triennium, and if the intended place of birth of the clinical case presented was not a birth facility, the midwife shall complete that clinical case peer review with at least two midwives licensed in the State who were not involved in the clinical cases under review; and
- (3) Attest that the midwife has completed a peer review within ninety days of any case that includes conditions outside of the midwife's scope of practice; uterine rupture; or maternal or neonatal hospitalization for infection, blood transfusion, intensive care unit admission, infant failure to thrive, neonatal Apgar Score of less than seven at five minutes, emergent transfer of care, or mortality.

(b) If the midwife has served fewer than five clients in the prior triennium, the requirements of subsection (a)(2) may be waived upon a determination by the department; provided that if the requirements of subsection (a)(2) are waived, the midwife shall participate in the review of five cases of another midwife practicing in the State.

(c) The midwife shall receive written confirmation of participation in a Hawaii-based peer review process and shall maintain copies of the midwife's participation records.

§457J-H Data submission requirements; license renewal. (a) The department may require a midwife, as a condition of license renewal, to:

- (1) Submit data to an organization approved by the department for every gestational parent and newborn under the midwife's care when the intended place of birth at any point in care is not a birth facility. If a gestational parent declines to participate in the collection of data, the midwife shall follow the protocol established by the department; and
- (2) Attest that the midwife has submitted data annually during the prior triennium.

(b) The data submission requirements may be waived if the midwife attests that the midwife has not provided midwifery care to any clients during the prior triennium or that the intended place of birth for all clients of the midwife was a birth facility throughout the duration of care.

(c) The midwife shall receive written confirmation of participation in data submission from the department-approved organization and shall maintain copies of the midwife's participation records."

SECTION 3. 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 4. Section 329-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read:
"“Licensed midwife practicing as a certified midwife” means a person licensed under chapter 457J who is registered under this chapter to administer or prescribe a controlled substance; provided that a licensed midwife practicing as a certified midwife shall not be authorized to request, receive, or sign for professional controlled substance samples.”

2. By amending the definition of “designated member of the health care team” to read:

““Designated member of the health care team” includes physician assistants, advanced practice registered nurses, licensed midwives practicing as certified midwives, and covering physicians who are authorized under state law to prescribe drugs.”

3. By amending the definition of “practitioner” to read:

““Practitioner” means:

(1) A physician, dentist, veterinarian, scientific investigator, or other person licensed and registered under section 329-32 to distribute, dispense, or conduct research with respect to a controlled substance in the course of professional practice or research in this State;

(2) An advanced practice registered nurse with prescriptive authority licensed and registered under section 329-32 to prescribe and administer controlled substances in the course of professional practice in this State; ~~and~~

(3) A licensed midwife practicing as a certified midwife registered under section 329-32 to prescribe and administer controlled substances in the course of professional practice in this State; and

~~[(3)]~~ (4) A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this State.”

SECTION 5. Section 453-51, Hawaii Revised Statutes, is amended by amending the definition of “health professional” to read as follows:

““Health professional” means any of the following:

- (1) A person licensed or otherwise authorized by law to practice medicine or surgery under this chapter and whose scope of practice includes the diagnosis and treatment of sexually transmitted diseases;
- (2) An advanced practice registered nurse with prescriptive authority under chapter 457 and duly licensed in the State; [or]
- (3) A licensed midwife practicing as a certified midwife with prescriptive authority under chapter 457J and duly licensed in the State; or
- [(3)] (4) For the purpose of dispensing antibiotic therapy under this section, a pharmacist who is licensed or otherwise authorized to engage in the practice of pharmacy under chapter 461.”

SECTION 6. Section 457J-1, Hawaii Revised Statutes, is amended to read as follows:

“~~[[§457J-1]]~~ **Findings and purpose.** The legislature finds that:

- (1) Midwives offer reproductive health care and maternity and newborn care [from the antepartum period through the intrapartum period to the postpartum period;] to clients seeking midwifery services;
- (2) The improper practice of midwifery poses a significant risk of harm to ~~[the mother or newborn,]~~ any client receiving midwifery services and may result in death; and
- (3) The regulation of the practice of midwifery is reasonably necessary to protect the health, safety, and welfare of ~~[mothers]~~ persons choosing midwifery services and their newborns.”

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

1. By adding five new definitions to be appropriately inserted and to read:

““American College of Nurse-Midwives” means the professional association that represents and sets the standards for practice through core competencies and scope of practice for certified nurse-midwives and certified midwives in the United States.

““Birth facility” means a hospital or a freestanding birthing facility licensed in the State.

““Peer review” means the candid review and evaluation, subject to section 624-25.5, of the practice of midwifery. “Peer review” includes but is not limited to reviewing the care provided by midwives, making recommendations for quality improvement, and identifying areas where additional education or skills training is needed.

““Practice of midwifery” means the independent provision of care, including initial and ongoing comprehensive assessment, diagnosis, and treatment during pregnancy, childbirth, the postpartum period, and for healthy newborns; sexual and reproductive health; gynecologic health; and family planning services, including preconception care according to the midwife’s scope of practice for all persons seeking midwifery care in all settings through the performance of professional services commensurate with the educational preparation and demonstrated competency of the individual having specialized training, and skill based on the principles of the biological, physical, behavioral, and sociological sciences and midwifery theory, whereby the individual shall be accountable and responsible to the client for the quality of midwifery care rendered. “Practice of midwifery” does not include Native Hawaiian traditional and customary practices as protected under article XII, section 7, of the Hawaii State Constitution.

““Telehealth” means the use of telecommunications as defined in section 269-1, to encompass four modalities—store and forward technologies, remote

monitoring, live consultation, and mobile health—and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit client medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of: delivering enhanced health care services and information while a client is at an originating site and the midwife is at a distant site; establishing a midwife-client relationship; evaluating a client; or treating a client. Except as provided through an interactive telecommunications system, standard telephone contacts, facsimile transmissions, or e-mail text, in combination or alone, do not constitute telehealth services.”

2. By amending the definitions of “certified midwife” and “certified professional midwife” to read:

““Certified midwife” means a person who has graduated from a graduate-level accredited educational program in midwifery, accredited by the Accreditation Commission for Midwifery Education, or successor organization, and who holds a current and valid national certification as a certified midwife from the American Midwifery Certification Board, or any successor organization.

“Certified professional midwife” means a person who has graduated from an accredited educational program or pathway in midwifery, accredited by the Midwifery Education Accreditation Council, or successor organization, and who holds a current and valid national certification as a certified professional midwife from the North American Registry of Midwives, or any successor organization. A certified professional midwife who received their certification through a non-accredited educational pathway shall have obtained a midwifery bridge certificate from the North American Registry of Midwives, or any successor organization.”

3. By amending the definitions of “interconception” and “International Confederation of Midwives” to read:

““Interconception” means care provided to ~~[mothers]~~ birthing people between pregnancies to improve health outcomes for ~~[women,]~~ birthing people and newborns~~[, and children].~~

“International Confederation of Midwives” means the accredited non-governmental organization and representative of midwives and midwifery to organizations worldwide to achieve common goals in the care of ~~[mothers]~~ birthing people and newborns.”

4. By amending the definition of “postpartum” to read:

““Postpartum” means the period of time immediately after and up to ~~[eight]~~ six weeks following [the] birth [of the baby].”

5. By repealing the definition of “midwifery”:

~~[““Midwifery” means the provision of one or more of the following services:~~

- ~~(1) Assessment, monitoring, and care during pregnancy, labor, childbirth, postpartum and interconception periods, and for newborns, including ordering and interpreting screenings and diagnostic tests, and carrying out appropriate emergency measures when necessary;~~
- ~~(2) Supervising the conduct of labor and childbirth; and~~
- ~~(3) Provision of advice and information regarding the progress of childbirth and care for newborns and infants.”]~~

SECTION 8. Section 457J-6, Hawaii Revised Statutes, is amended to read as follows:

~~“[§457J-6]~~ **Exemptions.** (a) ~~[A person may practice midwifery without a license to practice midwifery if the]~~ This chapter shall not apply to a person who is:

- (1) A certified nurse-midwife holding a valid license under chapter 457;
- (2) Licensed and performing work within the scope of practice or duties of the person's profession that overlaps with the practice of midwifery; provided that the person does not use the title “midwife”, “licensed midwife”, or the abbreviation “L.M.”, or any other words, letters, abbreviations, or insignia indicating or implying that the person is a midwife;
- (3) A student ~~[midwife who is]~~ currently enrolled in a midwifery educational program and under the direct supervision of a qualified midwife preceptor; provided that the practice of midwifery is incidental to the program of study engaged by the student;
- ~~[(4) A person rendering aid in an emergency where no fee for the service is contemplated, charged, or received; or~~
- (5) A person acting as a birth attendant on or before July 1, 2023, who:
 - (A) ~~Does not use legend drugs or devices, the use of which requires a license under the laws of the State;~~
 - (B) ~~Does not advertise that the person is a licensed midwife;~~
 - (C) ~~Discloses to each client verbally and in writing on a form adopted by the department, which shall be received and executed by the person under the birth attendant's care at the time care is first initiated:~~
 - (i) ~~That the person does not possess a professional license issued by the State to provide health or maternity care to women or infants;~~
 - (ii) ~~That the person's education and qualifications have not been reviewed by the State;~~
 - (iii) ~~The person's education and training;~~
 - (iv) ~~That the person is not authorized to acquire, carry, administer, or direct others to administer legend drugs;~~
 - (v) ~~Any judgment, award, disciplinary sanction, order, or other determination that adjudges or finds that the person has committed misconduct or is criminally or civilly liable for conduct relating to midwifery by a licensing or regulatory authority, territory, state, or any other jurisdiction; and~~
 - (vi) ~~A plan for transporting the client to the nearest hospital if a problem arises during the client's care; and~~
 - (D) ~~Maintains a copy of the form required by subparagraph (C) for at least ten years and makes the form available for inspection upon request by the department.~~

~~(b) Nothing in this chapter shall prohibit healing practices by traditional Hawaiian healers engaged in traditional healing practices of prenatal, maternal, and child care as recognized by any council of kupuna convened by Papa Ola Lokahi. Nothing in this chapter shall limit, alter, or otherwise adversely impact the practice of traditional Native Hawaiian healing pursuant to the Constitution of the State of Hawaii.~~

- ~~(c) Nothing in this chapter shall prohibit a person from administering]~~
- (4) Practicing Native Hawaiian traditional and customary practices as protected under article XII, section 7, of the Hawaii State Constitution;

(5) Providing services in the case of emergency or the domestic administration of family remedies; or

(6) Administering care to [a] the person's spouse, domestic partner, parent, sibling, or child.

(b) It shall not be a violation of this chapter for a person invited by a patient to be present at a birth occurring at a location other than a birth facility; provided that the person shall not use the title "midwife", "licensed midwife", or engage in the practice of midwifery, unless otherwise licensed under this chapter.

(c) Nothing in this chapter shall be construed as establishing any criminal penalty."

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

"[H]§457J-8 [H] Application for license as a midwife. (a) To obtain a license under this chapter, the applicant shall provide:

(1) An application for licensure;

(2) The required fees;

~~[(3) Proof of current, unencumbered certification as a:~~

~~(A) Certified professional midwife; or~~

~~(B) Certified midwife;~~

~~(4) For certified professional midwives, proof of a successful completion of a formal midwifery education and training program that is either:~~

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

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

(3) A copy of current certification in adult and pediatric cardiopulmonary resuscitation by the American Heart Association, Red Cross, or American Safety and Health Institute Basic Life Support that includes a hands-on skill component; provided that the certification shall be current at the time of licensure and the licensee shall be responsible for maintaining current certification throughout the license period;

(4) A copy of current certification in a neonatal resuscitation program of the American Academy of Pediatrics that includes a hands-on skills component; provided that the certification shall be current at the time of licensure and the licensee shall be responsible for maintaining current certification throughout the license period;

(5) If applicable, evidence of any licenses held or once held in other jurisdictions indicating the status of the license and documenting any disciplinary proceedings pending or taken by any jurisdiction;

(6) Information regarding any conviction of any crime [which] that has not been annulled or expunged; [and]

(7) Any other information the department may require to investigate the applicant's qualifications for licensure[-];

(8) Any additional requirements adopted by the director; and

(9) Evidence of qualifications for licensure.

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

- (1) Proof of current, unencumbered certification as a certified midwife by the American Midwifery Certification Board or a successor organization;
 - (2) Proof of successful completion of a graduate-level midwifery program accredited by the Accreditation Commission for Midwifery Education, or successor organization, leading to a master's degree or higher as a midwife; and
 - (3) Proof of successful completion of at least thirty contact hours, as part of a master's degree program or higher from a college or university accredited by the Accreditation Commission for Midwifery Education, or successor organization, of advanced pharmacology education, including advanced pharmacotherapeutics that is integrated into the curriculum, within three years immediately preceding the date of application. If the advanced pharmacology education in a master's degree program was completed before the three-year time period immediately preceding the date of application, then one of the following shall be completed within the three-year time period immediately preceding the date of application for initial prescriptive authority:
 - (A) At least thirty contact hours of advanced pharmacology, including advanced pharmacotherapeutics, from a college or university accredited by the Accreditation Commission for Midwifery Education, or successor organization; or
 - (B) At least thirty contact hours of continuing education in advanced pharmacology, including advanced pharmacotherapeutics, approved by the Continuing Education Policy, or successor document, of the American Midwifery Certification Board, or successor organization; provided that the continuing education pharmacology contact hours shall be related to the applicant's scope of midwifery practice.
- (c) Evidence of qualifications for licensure as a certified professional midwife shall consist of the following:
- (1) Proof of current and valid certification as a certified professional midwife by the North American Registry of Midwives or a successor organization; and
 - (2) Proof of successful completion of a formal midwifery education and training program as follows:
 - (A) A midwifery educational program or pathway accredited by the Midwifery Education Accreditation Council, or successor organization, or another nationally recognized accrediting agency approved by the United States Department of Education; or
 - (B) A midwifery bridge certificate issued by the North American Registry of Midwives, or successor organization."

SECTION 10. Section 457J-10, Hawaii Revised Statutes, is amended to read as follows:

“~~§~~457J-10 Renewals. (a) Every license issued under this chapter shall be renewed triennially on or before June 30, with the first renewal deadline occurring on June 30, 2023. Failure to renew a license shall result in a forfeiture of the license. Licenses ~~[which]~~ that have been so forfeited may be restored within one year of the expiration date upon payment of renewal and penalty fees. Failure to restore a forfeited license within one year of the date of its expiration shall result in the automatic termination of the license. Relicensure after termination

shall require the person to apply as a new applicant and again satisfy all licensing requirements in place at the time of the new application.

- (b) For each license renewal, the licensee shall:
 - (1) Pay all required nonrefundable fees;
 - (2) Submit a completed renewal application;
 - (3) Provide documentation of successful completion during the prior triennium of appropriate continuing education as required pursuant to section 457J-C;
 - (4) Provide a copy of current certification in adult and pediatric cardiopulmonary resuscitation by the American Heart Association, Red Cross, or American Safety and Health Institute Basic Life Support that includes a hands-on skill component; provided that the certification shall be current at the time of renewal and the licensee shall be responsible for maintaining current certification throughout the license period;
 - (5) Provide a copy of current certification in a neonatal resuscitation program of the American Academy of Pediatrics that includes a hands-on skills component; provided that the certification shall be current at the time of renewal and the licensee shall be responsible for maintaining current certification throughout the license period;
 - (6) By June 30, 2029, and every triennium thereafter, complete the peer review requirements under section 457J-G; and
 - (7) Submit data to an organization approved by the department as may be required under section 457J-H.”

SECTION 11. Section 457J-11, Hawaii Revised Statutes, is amended to read as follows:

“[§457J-11] Authority to purchase and administer certain legend drugs and devices. (a) A midwife licensed under this chapter may purchase and administer non-controlled legend drugs and devices that are used in pregnancy, birth, postpartum care, newborn care, or resuscitation, and that are deemed integral to providing care to the public by the department.

- (b) Legend drugs authorized under subsection (a) are limited for:
 - (1) Neonatal use to prophylactic ophthalmic medications, vitamin K, epinephrine for neonatal resuscitation per neonatal resuscitation guidelines, and oxygen; and
 - (2) Maternal use to antibiotics for Group B Streptococcal antibiotic prophylaxis per guidelines adopted by the Centers for Disease Control and Prevention[;]; postpartum antihemorrhagics[;]; Rho(D) immune globulin[;]; epinephrine for anaphylactic reaction to an administered medication[;]; intravenous fluids[;]; amino amide local anesthetic[;]; nitrous oxide for pain relief when used in a birth facility and in accordance with facility policies; non-hormonal contraceptives; hormonal implants pursuant to any manufacturer certification requirements, as prescribed by a licensed health care provider with prescriptive authority under this chapter, chapter 453, or section 457-8.6; and oxygen.

Legend drugs authorized under subsection (a) shall not be used to induce, stimulate, or augment labor during the first or second stages of labor or before labor.

- (c) Legend devices authorized under subsection (a) are limited to devices for:
 - (1) Injection of medications;
 - (2) The administration of intravenous fluids;

- (3) Adult and infant resuscitation;
 - (4) Rupturing amniotic membranes;
 - (5) Repairing vaginal tears; ~~[and]~~
 - (6) Postpartum hemorrhage~~[-]; and~~
 - (7) Mechanical, non-pharmacologic cervical dilation when used at or after thirty-nine weeks gestation in pregnancy.
- (d) A pharmacist who dispenses drugs and devices to a midwife as authorized by this section and in conformity with chapter 461 is not liable for any adverse reactions caused by the midwife's administration of legend drugs and devices.
- (e) Nothing in this section shall preclude a midwife practicing as a certified professional midwife from carrying out the prescribed medical orders of a physician or osteopathic physician licensed pursuant to chapter 453 or advanced practice registered nurse licensed pursuant to chapter 457; orders of a physician assistant licensed and practicing with physician supervision pursuant to chapter 453, and acting as the agent of the supervising physician; or orders of a recognized midwife practicing as a certified midwife in accordance with this chapter."

SECTION 12. Section 457J-12, Hawaii Revised Statutes, is amended to read as follows:

~~“[§457J-12]~~ Grounds for refusal to grant, renew, reinstate, or restore licenses and for revocation, suspension, denial, or condition of licenses. In addition to any other acts or conditions provided by law, the director may refuse to grant, renew, reinstate, or restore, or may deny, revoke, suspend, or condition in any manner, any license for any one or more of the following acts or conditions on the part of the licensee or the applicant thereof:

- (1) Failing to meet or maintain the conditions and requirements necessary to qualify for the granting of a license;
- (2) Failing to notify the department in writing that the licensee's certification as a certified professional midwife or as a certified midwife is no longer current or unencumbered within thirty days of the change in status;
- (3) Engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable statements;
- (4) Being addicted to, dependent on, or a habitual user of ~~[a narcotic, barbiturate, amphetamine, hallucinogen, opium, or cocaine, or other drugs or derivatives of a similar nature;]~~ illicit substances, or abusing controlled substances, or both;
- (5) Practicing as a ~~[licensed]~~ midwife while impaired by, at minimum, alcohol, drugs, non-accommodated physical disability, or mental instability;
- (6) Procuring a license through fraud, misrepresentation, or deceit;
- (7) Aiding and abetting an unlicensed person to directly or indirectly perform activities requiring a license~~[-], notwithstanding the delegation of administrative and technical clinical tasks of midwifery practice;~~
- (8) Engaging in professional misconduct as defined by the program in accordance with its own rules, incompetence, gross negligence, or manifest incapacity in the practice of midwifery;
- (9) Failing to maintain a record or history of competency, trustworthiness, fair dealing, and financial integrity;
- (10) Engaging in conduct or practice contrary to recognized standards of ethics for the practice of midwifery;

- (11) Violating any condition or limitation upon which a conditional license was issued;
- (12) Engaging in business under a past or present license issued pursuant to this chapter, in a manner causing injury to one or more members of the public;
- (13) Failing to comply, observe, or adhere to any law in a manner such that the director deems the applicant or licensee to be an unfit or improper person to hold a license;
- (14) Having a revocation, suspension, or other disciplinary action by a territory, or by another state or federal agency against a licensee or applicant for any reason provided by the licensing laws or this section;
- (15) Having a criminal conviction, whether by nolo contendere or otherwise, of a penal crime directly related to the qualifications, functions, or duties of a ~~licensed~~ midwife;
- (16) Failing to report in writing to the director any disciplinary decision issued against the licensee or the applicant in another jurisdiction within thirty days of the disciplinary decision;
- (17) Employing, utilizing, or attempting to employ or utilize at any time any person not licensed under this chapter where licensure is required;
- (18) Violating this chapter, any other applicable licensing laws, or any rule or order of the director; ~~or~~
- (19) Using or removing without authorization controlled substances or drugs, including diverting or attempting to divert drugs or controlled substances for unauthorized use~~[-];~~
- (20) Failing to maintain current and valid certification in adult and pediatric cardiopulmonary resuscitation of by the American Heart Association, Red Cross, or American Safety and Health Institute Basic Life Support that includes a hands-on skill component; or
- (21) Failing to maintain current and valid certification in a neonatal resuscitation program of the American Academy of Pediatrics that includes a hands-on skills component.”

SECTION 13. Section 671-1, Hawaii Revised Statutes, is amended by amending the definition of “health care provider” to read as follows:

““Health care provider” means a physician, osteopathic physician, surgeon, or physician assistant licensed under chapter 453~~[-a]~~; podiatrist licensed under chapter 463E~~[-a]~~; health care facility as defined in section 323D-2~~[-]; midwife licensed under chapter 457J~~; and the employees of any of them. Health care provider shall not mean any nursing institution or nursing service conducted by and for those who rely upon treatment by spiritual means through prayer alone, or employees of the institution or service.”

SECTION 14. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 15. In codifying the new sections added by section 2 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 16. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

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

(Became law on May 2, 2025, without the Governor's signature, pursuant to Art. III, §16, State Constitution.)

Note

1. Edited pursuant to HRS §23G-16.5.