

1 "Certified professional midwife" means a person who is
2 certified by the North American Registry of Midwives or any
3 successor organization.

4 "Client" means a person under the care of a licensed
5 midwife, as well as the person's fetus and newborn child.

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

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

10 "Licensed midwife" means an individual who holds a current
11 license issued by the department pursuant to this chapter to
12 engage in the practice of midwifery in Hawaii and is a certified
13 professional midwife.

14 "Midwifery Education Accreditation Council" means the
15 organization established in 1991 and recognized by the United
16 States Department of Education as an accrediting agency for
17 midwifery education programs and institutions.

18 "Midwives Alliance of North America" means a professional
19 organization representing out-of-hospital birth midwives.



1 "National Association of Certified Professional Midwives"
2 means the membership organization that specifically represents
3 certified professional midwives in the United States.

4 "North American Registry of Midwives" means the
5 organization that sets standards for competency based
6 certification for certified professional midwives.

7 "Out-of-hospital" means taking place in a birth center or
8 home.

9 "Postpartum period" means the period not exceeding six
10 weeks from the date of delivery.

11 "Practice of midwifery" means providing well-woman and
12 maternity care for individuals and their newborns during the
13 antepartum, intrapartum, and postpartum periods.

14 "United States Midwifery Education, Regulation, and
15 Association" means a coalition comprising representatives of the
16 following national midwifery associations, credentialing bodies,
17 and education accreditation bodies: Accreditation Commission for
18 Midwifery Education, American College of Nurse Midwives,
19 American Midwifery Certification Board, Midwifery Education
20 Accreditation Council, Midwives Alliance of North America,



1 National Association of Certified Professional Midwives, and
2 North American Registry of Midwives.

3 § -2 Powers and duties. In addition to any other powers
4 and duties authorized by law, the director shall:

- 5 (1) Receive applications for licensure;
- 6 (2) Determine the qualifications of persons applying for
7 licensure;
- 8 (3) Grant licenses to qualified applicants;
- 9 (4) Establish procedures to renew, suspend, revoke, and
10 reinstate licenses;
- 11 (5) Establish and collect fees for the examination of
12 applicants for licensure and license renewal;
- 13 (6) Establish the minimum educational and continuing
14 educational requirements for licensure;
- 15 (7) Investigate complaints against licensed midwives;
- 16 (8) Undertake, when appropriate, disciplinary hearings;
17 and
- 18 (9) Subject to chapter 91, adopt, amend, or repeal rules,
19 as necessary to effectuate this chapter.

20 § -3 Advisory committee; appointment; term. (a) The
21 director shall appoint an advisory committee to serve as experts



1 to the department in licensing matters. The advisory committee
2 shall consist of seven members as follows:

3 (1) The director or the director's designee, who shall be
4 a nonvoting member;

5 (2) Four licensed midwives who shall be in current and
6 active practice of midwifery in the State for the
7 duration of their appointment and who shall have
8 actively practiced as licensed midwives in the State
9 for at least three years immediately preceding their
10 appointment, who shall be voting members; provided
11 that the initial members appointed pursuant to this
12 paragraph shall be three certified professional
13 midwives and one certified nurse midwife who each have
14 at least three years of experience in the practice of
15 midwifery and who are eligible to become licensed
16 pursuant to this chapter;

17 (3) One licensed physician, who has provided primary
18 maternity care for at least twenty births in the
19 twelve-month period prior to appointment, maintains
20 current hospital privileges, and has attended at least
21 one home birth, who shall be a nonvoting member; and



1 (4) One out-of-hospital birth consumer, who is either
2 currently under midwifery care and planning an out-of-
3 hospital birth or has had an out-of hospital-birth in
4 the past, who shall be a nonvoting member.

5 (b) Members of the committee shall serve four year terms.

6 (c) In the event of the death, resignation, or removal of
7 any committee member before the expiration of the member's term,
8 the vacancy shall be filled for the unexpired portion of the
9 term in the same manner as the original appointment.

10 (d) The committee shall elect a chairperson from among its
11 members. The committee shall meet at least annually to make
12 recommendations to the director and may hold additional meetings
13 at the call of the chairperson or at the written request of any
14 two members of the committee. Three voting members shall
15 constitute a quorum. The vote of the majority of members
16 present at a meeting in which a quorum is present shall
17 determine the action of the committee.

18 § -4 Scope of practice; formulary. (a) The director
19 shall establish scope of practice standards for the practice of
20 midwifery.

21 (b) The scope of practice standards shall include:



- 1 (1) Adoption of a drug formulary recommended by the
2 advisory committee and approved by the director; and
- 3 (2) Practice standards for antepartum, intrapartum,
4 postpartum, and newborn care that prohibit a licensed
5 midwife from providing care for a client with a
6 history of disorders, diagnoses, conditions, or
7 symptoms outside of the scope of practice recommended
8 by the advisory committee and approved by the director
9 pursuant to the standards of the National Association
10 of Certified Professional Midwives.
- 11 (c) The scope of practice standards:
- 12 (1) Shall not require a licensed midwife to practice under
13 the supervision of another health care provider,
14 except as a condition imposed as a result of
15 discipline by the department;
- 16 (2) Shall not require a licensed midwife to enter into an
17 agreement with another health care provider, except as
18 a condition imposed as a result of discipline by the
19 department;
- 20 (3) Shall not impose distance or time restrictions on
21 where a licensed midwife may practice;



1 (4) Shall not grant a licensed midwife prescriptive
2 privileges outside of the privilege of ordering,
3 obtaining, and administering medications on the
4 approved formulary; and

5 (5) Shall not allow a licensed midwife to perform
6 abortions.

7 § -5 License; qualifications. (a) A license to
8 practice midwifery pursuant to this chapter shall be granted to
9 an applicant who files a department-approved application for
10 licensure, pays the required application fees, and provides
11 evidence to the department of the following:

12 (1) Current certification as a certified professional
13 midwife by the North American Registry of Midwives or
14 a successor organization;

15 (2) Completion of an educational program or pathway
16 accredited by the Midwifery Education Accreditation
17 Council or having obtained the midwifery bridge
18 certificate issued by North American Registry of
19 Midwives;

20 (3) Documentation of a graduate letter from a Midwifery
21 Education Accreditation Council accredited school or



1 letter of completion of portfolio evaluation process;
2 and

3 (4) Successful completion of continuing education
4 requirements.

5 (b) All licenses issued under this chapter shall be valid
6 for two years from the date of issuance.

7 § -6 Fees; penalties. (a) Each applicant shall pay a
8 licensing fee of \$250 upon application for a new or renewal
9 license. Fees collected pursuant to this section shall be
10 deposited into the compliance resolution fund established
11 pursuant to section 26-9(o).

12 (b) Any fine imposed by the department after a hearing
13 conducted pursuant to this chapter shall be no less than \$100
14 and no more than \$1,000 for the first violation. A second or
15 subsequent violation of this chapter shall be referred to the
16 office of the attorney general for criminal prosecution. Any
17 person who pleads guilty to or is found guilty of a second or
18 subsequent violation of this chapter shall be guilty of a
19 misdemeanor.

20 § -7 Hearings. (a) Unless otherwise provided by law,
21 in every case in which the department refuses to issue, renew,



1 restore, or reinstate a license under this chapter, or proposes
2 to take disciplinary action or other licensing sanctions against
3 a licensee, the department shall conduct an administrative
4 proceeding in accordance with chapter 91.

5 (b) In all proceedings before it, the department and each
6 member thereof shall have the same powers respecting
7 administering oaths, compelling the attendance of witnesses and
8 the production of documentary evidence, and examining witnesses
9 as are possessed by circuit courts. In case of disobedience by
10 any person of any order of the department or of a member
11 thereof, or of any subpoena issued by it or a member, or the
12 refusal of any witness to testify to any matter regarding which
13 the witness may be questioned lawfully, any circuit judge, on
14 application by the department or a member thereof, shall compel
15 obedience as in the case of disobedience of the requirements of
16 a subpoena issued by a circuit court, or a refusal to testify
17 therein.

18 § -8 Exemptions. This chapter shall not apply to the
19 following:

20 (1) Certified nurse midwives authorized by the board of
21 nursing to practice in Hawaii, unless the certified



- 1 nurse midwife chooses to become concurrently licensed
2 under this chapter. Certified nurse midwives with
3 concurrent licensure shall be subject to chapter 457,
4 as well as this chapter;
- 5 (2) Student midwives in training under the direct
6 supervision of licensed midwives as required by North
7 American Registry of Midwives;
- 8 (3) A person administering care to a spouse or parent;
- 9 (4) A person rendering aid in an emergency where no fee
10 for the service is contemplated, charged, or received;
11 and
- 12 (5) Other than as provided in paragraph (1), the practice
13 of a profession by persons who are licensed,
14 certified, or registered under other laws of this
15 State and are performing services within their
16 authorized scope of practice.
- 17 § -9 Client protection. A licensed midwife shall not:
- 18 (1) Disregard a client's dignity or right to privacy as to
19 the client's person, condition, possessions, or
20 medical record;



- 1 (2) Breach any legal requirement of confidentiality with
- 2 respect to a client, unless ordered by a court of law;
- 3 (3) Submit a birth certificate known by the licensed
- 4 midwife to be false or fraudulent, or willfully make
- 5 or file false or incomplete reports or records in the
- 6 practice of midwifery;
- 7 (4) Fail to provide information sufficient to allow a
- 8 client to give fully informed consent;
- 9 (5) Engage in the practice of midwifery while impaired
- 10 because of the use of alcoholic beverages or drugs; or
- 11 (6) Violate any other standards of conduct as determined
- 12 by the department.

13 § -10 Disclosure; record keeping. (a) Before

14 initiating care, a licensed midwife shall obtain a signed

15 informed consent agreement from each client, acknowledging

16 receipt, at minimum, of the current North American Registry of

17 Midwives required Informed Disclosure for Midwifery Care.

18 (b) All licensed midwives shall maintain a record of

19 signed informed consent agreements for each client pursuant to

20 section 622-58.



1 § -11 Immunity from vicarious liability. No licensed
2 medical provider or facility providing medical care or treatment
3 to a person due to an emergency arising during childbirth as a
4 consequence of care received by a licensed midwife shall be held
5 liable for any civil damages as a result of such medical care or
6 treatment unless the damages result from the licensed medical
7 provider or facility's provision of or failure to provide
8 medical care or treatment under circumstances demonstrating a
9 reckless disregard for the consequences so as to affect the life
10 or health of another. A physician who consults with a licensed
11 midwife but who does not examine or treat a client of the
12 midwife shall not be deemed to have created a physician-patient
13 relationship with the client."

14 SECTION 3. If any provision of this Act, or the
15 application thereof to any person or circumstance, is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.



1 SECTION 4. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 5. This Act shall take effect on July 1, 2070.



Report Title:

Licensure; Midwife

Description:

Regulates certified professional midwives. (HB1899 HD1)

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