

JAN 17 2020

A BILL FOR AN ACT

RELATING TO THE LICENSURE OF MIDWIVES.

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

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PART I

SECTION 1. The legislature finds that Act 32, Session Laws of Hawaii 2019, established, among other things, chapter 457J, Hawaii Revised Statutes, related to midwives, and the Hawaii home birth task force. The task force members included representatives from the department of commerce and consumer affairs, department of health, American College of Obstetricians and Gynecologists, and Healthcare Association of Hawaii, as well as certified professional midwives, certified nurse midwives, home birth elders, traditional midwives, and public members. The task force investigated issues relating to direct entry midwives and home births and submitted a report of its findings and recommendations to the legislature.

The purpose of this Act is to incorporate the recommendations of the Hawaii home birth task force as it relates to the licensing of midwives. Additionally, the legislature notes that practicing midwifery according to this



1 Act shall not impede one's ability to incorporate or provide
2 cultural practices.

3 SECTION 2. Section 457J-1, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§457J-1[+] Findings and purpose. The legislature
6 finds that:

7 (1) Midwives offer maternity and newborn care from the
8 antepartum period through the intrapartum period to
9 the postpartum period;

10 (2) The ~~[improper practice of midwifery poses a~~
11 ~~significant risk of harm to the mother or newborn, and~~
12 ~~may result in death, and]~~ term "midwife" is used by
13 all direct-entry midwives regardless of their
14 educational pathway or licensure status;

15 (3) ~~[The regulation of the practice of midwifery is~~
16 ~~reasonably necessary to protect the health, safety,~~
17 ~~and welfare of mothers and their newborns.]~~

18 Traditional midwives currently exist in Hawaii, define
19 themselves as traditional midwives, and are in demand
20 by the communities they serve. Traditional midwives
21 are recognized and defined by the Midwives Alliance of



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1 North America, and states, such as Oregon and Utah, as
2 well as Canada, formally recognize and perpetuate
3 their practices by creating pathways other than
4 licensure to allow traditional midwives to continue to
5 serve their communities;

6 (4) Available data for fetal and infant morbidity from
7 planned home birth indicate lower rates of
8 resuscitation, assisted ventilation, and neonatal
9 intensive care unit admission than planned hospital
10 births. Available data from vital records at the
11 department of health indicates that maternal and
12 infant mortality rates for planned home births in
13 Hawaii in 2017 and 2018 were zero. Comparative data
14 from the department of health clearly shows that home
15 to hospital transfers with significant mortality or
16 morbidity consequences for mother and infant are
17 exceedingly rare and do not occur daily in Hawaii
18 hospitals;

19 (5) Direct entry midwives in Hawaii can be classified into
20 two groups: those who hold certification (certified
21 midwives and certified professional midwives) and are



1 best regulated through licensure; and traditional
 2 midwives, who can be best regulated through exemption;
 3 and

4 (6) There is limited opportunity in Hawaii for the
 5 Midwifery Education and Accreditation Council,
 6 portfolio evaluation process, and the North American
 7 Registry of Midwives licensure pathways."

8 SECTION 3. Section 457J-2, Hawaii Revised Statutes, is
 9 amended as follows:

10 1. By adding four new definitions to be appropriately
 11 inserted and to read:

12 "Direct-entry midwife" means an independent practitioner
 13 educated in the discipline of midwifery through self-study,
 14 apprenticeship, a midwifery school, college, or university-based
 15 program distinct from the discipline of nursing and who is
 16 trained to provide the midwives model of care to healthy women
 17 and newborns throughout the childbearing cycle, primarily in
 18 out-of-hospital settings.

19 "Licensed midwife" means a person licensed under this
 20 chapter.



1 "Midwifery model of care" means monitoring the physical,
2 psychological, and social well-being of a birthing parent
3 throughout the childbearing cycle; providing them with
4 individualized education, counseling, and prenatal care,
5 continuous hands-on assistance during labor and delivery, and
6 postpartum support; minimizing technological interventions; and
7 referring birthing persons who require obstetrical attention.

8 "Traditional midwife" means an autonomous midwife who has
9 acquired the skills to care for pregnant people, babies, and
10 their families throughout pregnancy, birth, and postpartum
11 through a spiritual or cultural lineage, is recognized
12 nationally and internationally by the Midwifery Education
13 Accreditation Commission and Midwifery Alliance of North
14 America, and does not advertise as a certified or licensed
15 midwife."

16 2. By amending the definition of "qualified midwife
17 preceptor" to read:

18 "Qualified midwife preceptor" means [a] an exempt or
19 licensed and experienced midwife, or other maternal health
20 professional licensed in the State, who participates in the
21 clinical education of [~~individuals enrolled in a midwifery~~



1 ~~education program accredited by the Midwifery Education~~
2 ~~Accreditation Council or Accreditation Commission For Midwifery~~
3 ~~Education and who meets the criteria for midwife preceptors set~~
4 ~~forth by the applicable organization.] midwives."~~

5 3. By deleting the definition of "midwife":
6 ["~~Midwife~~" means a person licensed under this chapter.]

7 SECTION 4. Section 457J-3, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[~~§~~457J-3~~] [Midwives] Midwife licensing program.~~

10 There is established a [~~midwives] midwife licensing program~~
11 within the department to be administered by the director."

12 SECTION 5. Section 457J-4, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "[~~§~~457J-4~~] Powers and duties of the director. In~~
15 addition to any other powers and duties authorized by law, the
16 director shall have the power and duties to:

- 17 (1) Grant permission to a person to use the title of
18 [~~"midwife" or] "licensed midwife" and engage in the~~
19 practice of midwifery in this State pursuant to this
20 chapter and the rules adopted pursuant thereto;



- 1 (2) Adopt, amend, or repeal rules pursuant to chapter 91
2 to carry out the purposes of this chapter;
- 3 (3) Administer, coordinate, and enforce this chapter and
4 rules adopted pursuant thereto;
- 5 (4) Discipline a licensee for any cause described by this
6 chapter or for any violation of rules or refuse to
7 license a person for failure to meet the licensing
8 requirements or for any cause that would be grounds
9 for disciplining a licensee;
- 10 (5) Appoint an advisory committee to assist with the
11 implementation of this chapter and the rules adopted
12 pursuant thereto. The advisory committee shall
13 consist of the following:
- 14 (A) Three midwives who are certified professional
15 ~~[midwives or certified]~~ midwives;
- 16 (B) Two members of the public; and
- 17 (C) A certified ~~[nurse]~~ midwife~~[,]~~ if available; and
- 18 (6) Add, remove, or otherwise modify the authorized non-
19 controlled legend drugs and legend devices listed in
20 457J-11 by rule under chapter 91."



1 SECTION 6. Section 457J-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~+~~§457J-5~~+~~] License required. (a) Beginning July 1,
4 2020, except as provided in this chapter, no person shall
5 [~~engage in the practice of midwifery, or~~] use the title
6 [~~"midwife"~~] "licensed midwife" [~~]~~] or the abbreviation "L.M.",
7 or any other words, letters, abbreviations, or insignia
8 indicating or implying that the person is a licensed midwife
9 without a valid license issued pursuant to this chapter.

10 (b) Nothing in this section shall preclude a person
11 holding a national certification as a midwife from identifying
12 the person as holding such certification, so long as the person
13 is not [~~practicing midwifery or~~] professing to be [~~authorized to~~
14 ~~practice midwifery in the State~~] a licensed midwife unless that
15 person is licensed in accordance with this chapter."

16 SECTION 7. Section 457J-6, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) A person may practice midwifery without a license to
19 practice midwifery if the person is:

20 (1) A certified nurse-midwife holding a valid license
21 under chapter 457;



- 1 (2) Licensed and performing work within the scope of
2 practice or duties of the person's profession that
3 overlaps with the practice of midwifery;
- 4 (3) A student midwife who is [~~currently enrolled~~] studying
5 midwifery through self-study, apprenticeship, or
6 enrollment in a midwifery educational program under
7 the direct supervision of a qualified midwife
8 preceptor;
- 9 (4) A person rendering aid in an emergency where no fee
10 for the service is contemplated, charged, or received;
11 or
- 12 (5) A person acting as a [~~birth attendant on or before~~
13 ~~July 1, 2023,~~] traditional midwife, who:
- 14 (A) Does not use legend drugs or devices, the use of
15 which requires a license under the laws of the
16 State[+], with the exception of oxygen and a
17 department of commerce and consumer affairs
18 approved anti-hemorrhagic agent;
- 19 (B) Does not advertise that the person is a licensed
20 midwife; and



1 (C) Discloses to each client verbally and in writing
2 on a form [~~adopted by the department~~], which
3 shall be received and executed by the person
4 under the [~~birth attendant's~~] traditional
5 midwife's care at the time care is first
6 initiated:

7 (i) That the person does not possess a
8 professional license issued by the State to
9 provide health or maternity care to women or
10 infants;

11 (ii) That the person's education and
12 qualifications have not been reviewed by the
13 State;

14 (iii) The person's education and training;

15 (iv) That the person is not authorized to
16 acquire, carry, administer, or direct others
17 to administer legend drugs; and

18 [~~(v) Any judgment, award, disciplinary sanction,~~
19 ~~order, or other determination that adjudges~~
20 ~~or finds that the person has committed~~
21 ~~misconduct or is criminally or civilly~~



1 ~~liable for conduct relating to midwifery by~~
2 ~~a licensing or regulatory authority,~~
3 ~~territory, state, or any other jurisdiction,~~
4 and

5 ~~(vi)]~~ (v) A plan for transporting the client to
6 the nearest hospital if a problem arises
7 during the client's care[~~and~~

8 ~~(D)~~ Maintains a copy of the form required by
9 subparagraph (C) for at least ten years and makes
10 ~~the form available for inspection upon request by~~
11 ~~the department]."~~

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

14 " [†] §457J-8 [†] Application for license as a licensed
15 midwife. To obtain a license under this chapter, the applicant
16 shall provide:

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



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

4 (A) An educational program or pathway accredited by
5 the Midwifery Education Accreditation Council;
6 ~~[or]~~

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

14 (C) The North American Registry of Midwives entry-
15 level portfolio evaluation program;

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

20 (6) Information regarding any conviction of any crime
21 which has not been annulled or expunged; and



1 SECTION 12. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 13. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 14. This Act shall take effect upon its approval.
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Report Title:

Midwives; Licensure; Exemption

Description:

Amends various provisions related to the licensure of midwives. Allows certified nurse midwives and direct-entry midwives to refer to themselves as "midwives". Allows a traditional midwife to practice midwifery under certain conditions. Repeals the repeal date for chapter 457J, Hawaii Revised Statutes.

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

