
A BILL FOR AN ACT

RELATING TO MIDWIVES.

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

1 SECTION 1. The legislature finds that in April 2021,
2 traditional midwives received a public apology from the American
3 College of Nurse Midwives who acknowledged "that it can no
4 longer continue to attribute the white washing of midwifery to a
5 lack of qualifications or interest by Black and Indigenous
6 people. This fails to acknowledge that white supremacy acted as
7 suppressor, then law enforcer and 'teacher', then eliminator and
8 replacer of Black and Indigenous traditional midwives with white
9 midwives."

10 The legislature further finds that Act 32, Session Laws of
11 Hawaii 2019, stated that the "legislature notes that practicing
12 midwifery according to this Act does not impede one's ability to
13 incorporate or provide cultural practices."

14 The purpose of this Act is to correct the history of white
15 supremacy in midwifery by creating an exemption in chapter 457J,
16 Hawaii Revised Statutes, for traditional midwives from the
17 current midwifery licensing law.



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SECTION 2. Section 457J-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Traditional midwife" means a person who adheres to the core competencies of the National Aboriginal Council of Midwives and practices under the Hawaii Home Birth Elders Council."

SECTION 3. 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 person 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;

(3) A student midwife who is currently enrolled in a midwifery educational program under the direct supervision of a qualified midwife preceptor;



1 (4) A person rendering aid in an emergency where no fee
2 for the service is contemplated, charged, or received;
3 or

4 (5) A person acting as a birth attendant on or before
5 July 1, 2023, who:

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

9 (B) Does not advertise that the person is a licensed
10 midwife;

11 (C) Discloses to each client verbally and in writing
12 on a form adopted by the department, which shall
13 be received and executed by the person under the
14 birth attendant's care at the time care is first
15 initiated:

16 (i) That the person does not possess a
17 professional license issued by the State to
18 provide health or maternity care to women or
19 infants;



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(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



1 the form available for inspection upon request by
2 the department.

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

10 (c) Nothing in this chapter shall prohibit a person from
11 administering care to a person's spouse, domestic partner,
12 parent, sibling, or child.

13 (d) Nothing in this chapter shall:

14 (1) Prohibit healing practices by traditional midwives
15 engaged in traditional healing practices of prenatal,
16 maternal, and child care as identified in the National
17 Aboriginal Council of Midwives core competencies and
18 as recognized by the Hawaii Home Birth Elders Council,
19 or any successor organization; or

20 (2) Nothing in this chapter shall limit, alter, or
21 otherwise adversely impact the practice of traditional



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1 midwives pursuant to this chapter that does not impede
2 a person's ability to incorporate or provide cultural
3 practices."

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect upon its approval.

6
 INTRODUCED BY:

James S. Key
JAN 25 2022



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Report Title:

Traditional Midwives; Childbirth

Description:

Exempts traditional midwives from midwifery licensing requirements.

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