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## A BILL FOR AN ACT

RELATING TO MIDWIVES.

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

1 PART I

2 SECTION 1. The legislature finds that Act 32, Session Laws  
3 of Hawaii 2019 (Act 32), created a licensure program to regulate  
4 non-nurse midwives. The intent of the program was to provide  
5 the benefits of licensure while also "allow[ing] a woman to  
6 choose where and with whom she gives birth." The legislature  
7 noted in Act 32 that "mothers and families seek out alternatives  
8 to hospital births and they find significant value in community  
9 or home birth services." The legislature also found that "these  
10 services have been provided by individuals identifying  
11 themselves as traditional or cultural practitioners, midwives,  
12 certified professional midwives, lay midwives, direct entry  
13 midwives, birth keepers, or birth attendants." The licensure  
14 program established by Act 32, enacted as chapter 457J, Hawaii  
15 Revised Statutes (chapter 457J), has run for five years and will  
16 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 (2023),  
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 routes have been implemented.

11 Since the enactment of chapter 457J, forty midwives have  
12 been licensed, although currently, less than half of these  
13 provide full-time midwifery care. Of these forty newly licensed  
14 midwives, approximately twenty-two per cent do not currently  
15 reside in the State, none are Native Hawaiian, and ninety-seven  
16 per cent are not originally from Hawaii. In 2023, midwives  
17 other than certified nurse-midwives attended 1.9 per cent of all  
18 births, reflecting a seventy-three per cent increase in the use  
19 of midwives. At the same time, since chapter 457J took effect,  
20 the number of home births that were unattended or attended by  
21 unknown providers 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 acknowledges  
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 recognized for qualified  
19 local Hawaii practitioners to achieve licensure. Regulation by  
20 the State of the birth practices of traditional and non-clinical  
21 practitioners and extended or hanai family members is not





1 supported or required by the Hawaii Regulatory Licensing Reform  
2 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 "Accredited educational program in midwifery" means an  
2 academic and practical program of midwifery accredited by the  
3 Accreditation Commission for Midwifery Education for certified  
4 midwives or the Midwifery Education Accreditation Council for  
5 certified professional midwives.

6 "American Midwifery Certification Board means the national  
7 certifying body for certified midwives and certified  
8 nurse-midwives.

9 "American College of Nurse-Midwives" means the professional  
10 association that represents certified midwives and certified  
11 nurse-midwives in the United States.

12 "Certified midwife" means a person who has graduated from a  
13 graduate-level accredited educational program in midwifery,  
14 accredited by the Accreditation Commission for Midwifery  
15 Education or its successor organization, and who holds a valid  
16 certification from the American Midwifery Certification Board or  
17 its successor organization.

18 "Certified professional midwife" means a person who has  
19 obtained a midwifery education by completing an accredited  
20 educational program in midwifery, accredited by the Midwifery  
21 Education Accreditation Council, or by completing a midwifery



1 apprenticeship under a North American Registry of Midwives  
2 registered preceptor and the portfolio evaluation process,  
3 successfully passing the North American Registry of Midwives  
4 exam, and who holds a valid certification from the North  
5 American Registry of Midwives or its successor organization.

6 "Collaborate" means a process in which a practitioner  
7 cooperates and communicates with healthcare professionals from  
8 different disciplines, based on the healthcare needs of the  
9 patient, each providing distinct and complementary expertise to  
10 improve care.

11 "Department" means the department of commerce and consumer  
12 affairs.

13 "Director" means the director of commerce and consumer  
14 affairs.

15 "Expedited partner therapy" means the clinical practice of  
16 treating the sexual partner of a client diagnosed with a  
17 sexually transmitted infection by relaying prescriptions or  
18 providing medications for the client to take to their partner,  
19 without the prescribing healthcare provider first examining the  
20 partner.



1 "Legend drug" means a drug required by state law or  
2 pharmaceutical regulations to only be dispensed based on a  
3 prescription.

4 "Licensed midwife" means a person licensed under this  
5 chapter.

6 "Midwife preceptor" means a licensed midwife, licensed  
7 maternal health professional, or preceptor registered with a  
8 school accredited by the Midwifery Education Accreditation  
9 Council, who participates in the clinical education of persons  
10 who are:

- 11 (1) Enrolled in a school accredited by the Accreditation  
12 Commission for Midwifery Education;
- 13 (2) Enrolled in a midwifery education program offered by  
14 the Midwifery Education Accreditation Council; or
- 15 (3) Working directly under a midwife preceptor registered  
16 with the North American Registry of Midwives to  
17 acquire certification through the portfolio evaluation  
18 process.

19 "Midwifery" means the independent provision of care  
20 consistent with a midwife's training, education, and experience.



1 "Midwifery bridge certificate" means a certificate issued  
2 by the North American Registry of Midwives to a certified  
3 professional midwife who obtains certification through the  
4 portfolio evaluation process, upon the certified professional  
5 midwife's completion of at least fifty hours of additional  
6 accredited education in specific subjects, as required by the  
7 North American Registry of Midwives. The bridge certificate  
8 demonstrates a blended training pathway of both apprenticeship  
9 and accredited education.

10 "Midwifery Education Accreditation Council" means the  
11 independent, non-profit organization recognized by the United  
12 States Department of Education as the accrediting agency of  
13 direct-entry midwifery institutions and programs.

14 "National Association of Certified Professional Midwives"  
15 means the professional association that represents certified  
16 professional midwives.

17 "North American Registry of Midwives" means the national  
18 certifying body for certified professional midwives.

19 "Portfolio evaluation process" is an apprenticeship-model  
20 educational process that includes the verification of the  
21 applicant's knowledge and skills by a qualified North American



1 Registry of Midwives preceptor. Completion of this process  
2 qualifies an applicant to sit for the North American Registry of  
3 Midwives written examination.

4 "Practice of certified midwifery" means midwifery as  
5 practiced by a certified midwife and encompasses the independent  
6 provision of care during pregnancy, childbirth, and the  
7 postpartum period and care related to sexual and reproductive  
8 health, gynecology, family planning, and preconception. A  
9 certified midwife may also provide primary care for a person  
10 from adolescence throughout the person's lifespan, as well as  
11 for a healthy newborn or infant during the newborn or infant's  
12 first twenty-eight days of life.

13 "Practice of certified professional midwifery" means  
14 midwifery as practiced by a certified professional midwife and  
15 encompasses the independent provision of care during pregnancy,  
16 childbirth, and the postpartum period and care related to sexual  
17 and reproductive health, gynecology, family planning, and  
18 preconception. A certified professional midwife may also  
19 provide primary care for a healthy newborn or infant during the  
20 newborn or infant's first twelve weeks of life.

21 "Student midwife" means a person who is:



- 1 (1) Enrolled in a school accredited by the Accreditation
- 2 Commission for Midwifery Education;
- 3 (2) Enrolled in a midwifery education program offered by
- 4 the Midwifery Education Accreditation Council; or
- 5 (3) Working directly under a midwife preceptor registered
- 6 with the North American Registry of Midwives to
- 7 acquire certification through the portfolio evaluation
- 8 process.

9 "Traditional birth attendant" means a person who is not  
10 licensed under this part but who uses traditional skills and  
11 techniques to assist with the birthing process.

12 "Unlicensed assistive person" means a person who is not  
13 licensed to practice certified midwifery or certified  
14 professional midwifery but who can competently perform tasks  
15 delegated by a licensed midwife.

16 **§457J-B Midwives licensing program.** (a) To obtain a  
17 license under this part, the applicant shall provide:

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





1 (B) Certified professional midwife.

2 (b) To obtain a license to practice as a certified midwife  
3 pursuant to this part, in addition to meeting the requirements  
4 in subsection (a), the applicant shall establish to the  
5 satisfaction of the department that the person:

6 (1) Holds a valid graduate degree in midwifery from a  
7 program accredited by the Accreditation Commission for  
8 Midwifery Education, or its successor;

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

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

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

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

19 (A) Becoming certified through an educational program  
20 that is accredited by the Midwifery Education  
21 Accreditation Council and passing the



- 1 certification exam administered by the North
- 2 American Registry of Midwives or its successor;
- 3 (B) Becoming certified by completing the portfolio
- 4 evaluation process, obtaining a midwifery bridge
- 5 certificate from the North American Registry of
- 6 Midwives, and passing the certification exam
- 7 administered by the North American Registry of
- 8 Midwives, or its successor; or
- 9 (C) Maintaining a current license in a state that
- 10 does not require accredited education and
- 11 obtaining a midwifery bridge certificate issued
- 12 by the North American Registry of Midwives;
- 13 (2) If applicable, evidence of any licenses currently or
- 14 previously held in other jurisdictions, including
- 15 proof of the status of the license and documentation
- 16 of any disciplinary proceedings pending or taken by
- 17 the jurisdiction;
- 18 (3) Information regarding any criminal conviction that has
- 19 not been annulled or expunged; and



(4) Any other information the department may require to investigate the applicant's qualifications for licensure.

**§457J-C Powers and duties of the director.** In addition to any other powers and duties authorized by law, the director:

(1) Shall grant permission to a person to use the title "licensed midwife" pursuant to this part and any rules adopted pursuant to this part;

(2) Shall 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.



1        §457J-D Midwives licensing advisory committee. (a) The  
2 director shall establish a midwives licensing advisory committee  
3 to assist with the implementation of this part. The following  
4 members shall be selected by the director and invited to  
5 participate:

6        (1) Three certified professional midwives;

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

8            (A) A certified midwife;

9            (B) A certified nurse midwife who works in the  
10            community birth setting; or

11           (C) A certified professional midwife;

12        (3) Two members of the public, at least one of whom has  
13        used home birth services;

14        (4) One traditional birth attendant; and

15        (5) Two active practitioners of Native Hawaiian customary  
16        practices related to pregnancy, birth, and infancy.

17        (b) The committee shall elect a chairperson from among its  
18 members.

19        (c) The members of the advisory committee shall serve  
20 without compensation but shall be reimbursed for expenses,



1 including travel expenses, necessary for the performance of  
2 their duties.

3       **§457J-E Scope of practice; licensed midwives; licensed**  
4 **certified midwives; licensed certified professional midwives.**

5 (a) Except as provided in section 457J-J, no midwife may  
6 practice without a current and valid certification and license.

7 (b) Unless authorized to practice as a licensed midwife  
8 under this part, no person shall use or imply that they are a  
9 "licensed midwife," use any similar title or description of the  
10 person's services, or in any way represent that the person  
11 practices midwifery as a licensed midwife.

12 (c) Each licensed midwife shall at all times practice  
13 within the scope of applicable nationally established standards,  
14 including standards delineated by:

15 (1) The American College of Nurse-Midwives, or its  
16 successor, for a licensed certified midwife; and

17 (2) The North American Registry of Midwives, for a  
18 licensed certified professional midwife.

19 (d) The department shall adopt rules, pursuant to  
20 chapter 91, clarifying the scope of practice for a licensed



1 midwife; provided that the rules are consistent with applicable  
2 national standards pursuant to subsection (c).

3 (e) Notwithstanding any law to the contrary, a licensed  
4 midwife may:

5 (1) Authorize, order, and interpret medical laboratory and  
6 diagnostic tests, perform ultrasound screenings, and  
7 obtain equipment and supplies necessary for the safe  
8 practice of midwifery;

9 (2) Provide comprehensive initial and ongoing assessment,  
10 diagnosis, and treatment;

11 (3) Conduct physical examinations;

12 (4) Promote individualized wellness education and  
13 counseling for purposes of health promotion, disease  
14 prevention, risk assessment, and disease management;

15 (5) Collaborate with individuals and families in diverse  
16 settings, including ambulatory care clinics, private  
17 offices, community and public health systems,  
18 hospitals, birth centers, homes, and via telehealth  
19 and other forms of remote care;

20 (6) Order medical devices, including durable medical  
21 equipment;



(7) Provide evidence-based, client-centered care in collaboration with the client, including, as indicated, providing referrals to other providers and services;

(8) Adopt ethical standards in support of individual rights and self-determination in the context of family, community, and a system of healthcare;

(9) Document client charts to facilitate interprofessional communication and provide clients with a means to access the client's healthcare records; and

(10) Participate in quality management practices, such as peer review, continuing education, and data analysis to improve the practice of midwifery.

(f) Notwithstanding any law to the contrary, a licensed certified midwife may, in addition to practicing within the scope of subsection (e):

(1) Obtain prescriptive authority to independently prescribe medications, including controlled substances, medications for the treatment of a substance use disorder, and medications for expedited partner therapy;



1       (2) Admit, manage, and discharge patients to or from a  
2           hospital or freestanding birthing facility;

3       (3) Assist in surgery; provided that this paragraph shall  
4           apply only to certified nurse midwives; and

5       (4) Order home health services.

6       (g) Notwithstanding any law to the contrary, a licensed  
7 certified professional midwife may, in addition to practicing  
8 within the scope of subsection (e):

9       (1) Obtain limited prescriptive authority to obtain,  
10           administer, and independently prescribe medications  
11           and therapies for the prevention and treatment of  
12           outpatient conditions that do not constitute a  
13           significant deviation from normal midwifery care  
14           during pregnancy or the postpartum period, based on  
15           current evidence and practice, including medication  
16           for expedited partner therapy;

17       (2) Prescribe other medications and devices that are used  
18           within the safe practice of certified professional  
19           midwifery;





1           (3) Admit, manage, and discharge patients to and from a  
2           birthing facility or birthing home in the community  
3           setting; and

4           (4) Obtain medical devices, durable medical equipment, and  
5           any supplies necessary for the safe practice of  
6           certified professional midwifery.

7           **§457J-F Delegation of tasks.** (a) A licensed midwife may  
8           delegate to any licensed, certified, registered, or unlicensed  
9           assistive person, any tasks within the licensed midwife's scope  
10          of practice; provided that the authority to select medications  
11          shall not be delegated unless the delegate is independently  
12          authorized by law to select medications.

13          (b) No delegated task shall require the delegate to  
14          exercise the judgment required of a licensed midwife.

15          (c) Before delegating any task, the licensed midwife shall  
16          make a determination that, in the licensed midwife's  
17          professional judgement, the delegated task can be safely and  
18          properly performed by the delegate and that the delegation is in  
19          accordance with the patient's safety and welfare.



(d) The delegating licensed midwife shall be solely responsible for determining the degree of supervision the delegate requires, with consideration given to:

(1) The stability of the patient's condition;

(2) The delegate's training and abilities; and

(3) The nature of the task being delegated.

(e) The employer of a licensed midwife may establish policies, procedures, protocols, or standards of care that limit or prohibit the delegation of certain tasks by the licensed midwife, or the delegation of tasks in certain circumstances.

(f) The department shall adopt rules pursuant to chapter 91 as necessary to implement this section, including:

(1) Standards for assessing the proficiency of a delegate to perform certain tasks; and

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

**§457J-G 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;



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

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

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

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

12 (d) A certified midwife having prescriptive authority  
13 shall maintain national certification, as required by section  
14 457J-B, unless the department grants an exception.

15 (e) Each certified midwife granted prescriptive authority  
16 by the department shall be assigned a specific identifier, which  
17 shall be made available to the Hawaii medical board and the  
18 state board of pharmacy. The department shall establish a  
19 mechanism to ensure that the prescriptive authority of a  
20 certified midwife may be readily verified using this specific  
21 identifier.



1           (f) The prescriptive authority granted to a certified  
2 midwife may be limited or withdrawn, and the certified midwife  
3 may be subject to further disciplinary action, if the certified  
4 midwife prescribes outside the certified midwife's scope of  
5 practice, for patients other than those appropriate to the  
6 certified midwife's scope of practice, or for other than  
7 therapeutic purposes.

8           (g) Nothing in this section shall be construed to require  
9 a certified midwife to obtain prescriptive authority to order  
10 anesthesia care.

11           (h) No certified midwife shall accept any direct or  
12 indirect benefit from a pharmaceutical manufacturer or  
13 pharmaceutical representative for prescribing a specific  
14 medication to a patient. For purposes of this section, a direct  
15 or indirect benefit does not include a benefit offered to a  
16 certified midwife, regardless of whether a specified medication  
17 is prescribed.

18           (i) A pharmacist who dispenses drugs and devices to a  
19 certified midwife as authorized by this section and in  
20 conformity with chapter 461 shall not be liable for any adverse



1 reactions caused by the midwife's administration of legend drugs  
2 and devices.

3       **§457J-H Limited prescriptive authority; certified**  
4 **professional midwives.** (a) The department may authorize a  
5 certified professional midwife to prescribe certain legend drugs  
6 and devices provided that the certified professional midwife:

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

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

9       (3) Has fulfilled any requirements established by the

10               department pursuant to this part.

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

14       (c) A certified professional midwife to whom the  
15 department has granted limited prescriptive authority to  
16 prescribe legend drugs and devices may advise the certified  
17 professional midwife's patients of the option to have the  
18 symptom or purpose for which a prescription is being issued  
19 included on the prescription order.

20       (d) A certified professional midwife having limited  
21 prescriptive authority shall maintain national certification, as



1 required by section 457J-B, unless the department grants an  
2 exception.

3 (e) Each certified professional midwife granted limited  
4 prescriptive authority by the department shall be assigned a  
5 specific identifier, which shall be made available to the Hawaii  
6 medical board and the state board of pharmacy. The department  
7 shall establish a mechanism to ensure that the limited  
8 prescriptive authority of a certified professional midwife may  
9 be readily verified using this specific identifier.

10 (f) The limited prescriptive authority granted to a  
11 certified professional midwife may be limited or withdrawn, and  
12 the certified professional midwife may be subject to further  
13 disciplinary action, if the certified professional midwife  
14 prescribes outside the certified professional midwife's scope of  
15 practice, for patients other than those appropriate to the  
16 certified professional midwife's scope of practice, or for other  
17 than therapeutic purposes.

18 (g) No certified professional midwife shall accept any  
19 direct or 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 professional midwife, regardless of whether a  
3 specified medication is prescribed.

4 (h) A pharmacist who dispenses drugs and devices to a  
5 certified professional midwife as authorized by this section and  
6 in conformity with chapter 461 shall not be liable for any  
7 adverse reactions caused by the certified professional midwife's  
8 administration of legend drugs and devices.

9 (i) A certified professional midwife candidate seeking  
10 limited prescriptive authority shall complete additional study  
11 and training requirements as prescribed by the department, in  
12 collaboration with the midwives licensing advisory committee.  
13 The department shall adopt rules pursuant to chapter 91  
14 providing requirements for:

- 15 (1) The number of additional obstetrical pharmacology  
16 training hours consistent with the training hours  
17 required for other, similar prescribers; and  
18 (2) Additional training consistent with guidelines  
19 commensurate with other professions providing family  
20 planning and treating common prenatal and postpartum  
21 conditions and any other relevant sources.



(j) A certified professional midwife seeking a licensing extension to include medical devices and implants shall complete the requirements listed in subsection (i) and additional training requirements as prescribed by the department in collaboration with the midwives licensing advisory committee. The department shall adopt rules pursuant to chapter 91 providing requirements for:

(1) The minimum number of completed procedures under supervision;

(2) Completed trainings as required by the device manufacturers or an equivalent; and

(3) Additional training consistent with guidelines commensurate with other professions providing family planning and treating common prenatal and postpartum conditions, and any other relevant sources.

**§457J-I License required.** (a) Beginning July 1, 2025, except as provided in this part, no person in the State shall use the title "licensed midwife," or the abbreviation "L.M.," or any other words, letters, abbreviations, or insignia indicating or implying that the person is a licensed midwife, unless the 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 **§457J-J Exemptions.** This part does not require a  
9 midwifery license if the person is a:

10 (1) Certified nurse-midwife holding a valid license under  
11 chapter 457;

12 (2) Student midwife;

13 (3) Member of a profession that overlaps with the practice  
14 of midwifery who is licensed and performing work  
15 within the scope of the person's position and duties;

16 (4) Person providing limited perinatal support services  
17 that are not subject to state licensing requirements,  
18 including childbirth education, lactation support, or  
19 doula care;

20 (5) Person rendering emergency aid;



(6) Person administering care to the person's immediate or extended family, including hanai family;

(7) Person engaged in traditional Native Hawaiian healing practices of prenatal, maternal, or child care.

Nothing in this part shall prohibit, limit, or otherwise adversely impact any traditional Native Hawaiian customary practice related to pregnancy, birth, or infancy, pursuant to the Constitution of the State of Hawaii;

(8) Person engaged in birth-related practices in connection or accordance with the tenets and practices of any ethnic culture; provided that the person shall not claim to practice as a certified midwife, certified professional midwife, or licensed midwife unless licensed pursuant to this part;

(9) Person engaged in birth-related practices related to healing by prayer or spiritual means in connection or accordance with the tenets and practices of any well-recognized church or religious denomination; provided that the person shall not claim to practice as a certified midwife, certified professional



1 midwife, or licensed midwife unless licensed pursuant  
2 to this part; or

3 (10) Person acting as a traditional birth attendant who:

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

7 (B) Does not advertise themselves as a licensed  
8 midwife;

9 (C) Discloses to the client verbally and in writing  
10 at the time that care is first initiated:

11 (i) That the person does not possess a  
12 professional license issued by the State to  
13 provide health or maternity care to women or  
14 infants;

15 (ii) The person's education and training;

16 (iii) That person's education and training  
17 qualifications have not been reviewed by the  
18 State;

19 (iv) That the person is not authorized to  
20 acquire, carry, administer or direct others  
21 to administer legend drugs;



1 (v) The details of any judgement, award,  
2 disciplinary sanction, order, or other  
3 determination by a licensing or regulatory  
4 authority, territory of the United States,  
5 state, or any other jurisdiction, that  
6 adjudges or finds that the person has  
7 committed misconduct or is criminally or  
8 civilly liable for conduct relating to  
9 midwifery; and

10 (vi) A plan for transporting the client to the  
11 nearest hospital if a problem arises during  
12 the patient's care; and

13 (D) Maintains a copy of the written disclosure  
14 required by subparagraph (C) for at least ten  
15 years and makes the form available for inspection  
16 by the department upon request.

17 **§457J-K Fees.** (a) Each applicant shall pay a licensing  
18 fee upon application for an initial license or for the renewal  
19 of a license. Any fees collected pursuant to this section, or  
20 by rule adopted under this section, shall be nonrefundable.



1 (b) Pursuant to section 26-9(1), the director may  
2 establish fees to restore a license, penalty fees, and any other  
3 fees required for the administration of this part.

4 (c) All fees collected pursuant to this part shall be  
5 deposited into the compliance resolution fund established  
6 pursuant to section 26-9(o).

7 (d) Fees assessed pursuant to this part shall be used to  
8 defray costs incurred by the department in implementing this  
9 part.

10 (e) The director may assess fees as provided in this part  
11 and section 26-9 and, notwithstanding any other law to the  
12 contrary, may change the amount of the fees at any time without  
13 regard to chapter 91 if the director:

14 (1) Holds at least one public hearing to discuss the fee  
15 change and to receive testimony on the issue; and

16 (2) Provides public notice at least thirty days prior to  
17 the date of the public hearing.

18 **§457J-L Issuance of a license.** The director may issue a  
19 license to any person who meets all licensure requirements and  
20 pays the appropriate fees.



1       **§457J-M Renewal of a license.** (a) Each license issued  
2 under this part shall be renewed every three years on or before  
3 June 30. Failure to renew a license shall result in a  
4 forfeiture of the license.

5       (b) A license that has been forfeited may be restored  
6 within one year of the expiration date upon payment of renewal  
7 and penalty fees. Failure to restore a forfeited license within  
8 one year of the date of its expiration shall result in the  
9 automatic termination of the license.

10       (c) Re-licensure after termination shall require the  
11 person to apply as a new applicant and to again satisfy all  
12 licensing requirements that are in place at the time of the new  
13 application.

14       **§457J-N Grounds for refusal to grant, renew, reinstate, or**  
15 **restore a license or to revoke, suspend, deny, or place**  
16 **conditions on a license.** In addition to any other conditions  
17 provided by law, the director may refuse to grant, renew,  
18 reinstate, or restore a license, or may deny, revoke, suspend,  
19 or place conditions on a license if the applicant or licensee:



- 1       (1) Fails to meet or maintain the conditions and  
2               requirements necessary to qualify for the granting of  
3               a license;
- 4       (2) Fails to notify the department in writing within  
5               thirty days of the change in status if a licensee's  
6               certification as a certified midwife or certified  
7               professional midwife is no longer current or is  
8               encumbered;
- 9       (3) Engages in false, fraudulent, or deceptive  
10              advertising, or makes untruthful or improbable  
11              statements;
- 12      (4) Is addicted to, dependent on, or a habitual user of a  
13              narcotic, barbiturate, amphetamine, hallucinogen,  
14              opium, cocaine, or other drugs or drug derivatives of  
15              a similar nature;
- 16      (5) Practices as a licensed midwife while impaired by  
17              alcohol, drugs, a physical disability, or mental  
18              instability;
- 19      (6) Procures a license through fraud, misrepresentation,  
20              or deceit;



- 1       (7) Engages in professional misconduct as defined by the
- 2           licensing program in accordance with its own rules,
- 3           demonstrates gross negligence, or is manifestly
- 4           incapable in the practice of midwifery;
- 5       (8) Fails to maintain a record or history of competency,
- 6           trustworthiness, fair dealing, or financial integrity;
- 7       (9) Engages in conduct or practices contrary to recognized
- 8           standards of ethics for the practice of midwifery;
- 9       (10) Violates any condition or limitation upon which a
- 10           conditional license was issued;
- 11       (11) Engages in business under a past or present license
- 12           issued pursuant to this part in a negligent manner
- 13           that causes injury to one or more members of the
- 14           public;
- 15       (12) Fails to comply, observe, or adhere to any law in such
- 16           a manner that the director deems the applicant or
- 17           licensee to be an unfit or improper person to hold a
- 18           license;
- 19       (13) Is subject to a revocation, suspension, or other
- 20           disciplinary action by a territory of the United
- 21           States, or by another state or federal agency, based





1 on any reason provided by this state's licensing laws,  
2 including this part;

3 (14) Has been convicted, whether by nolo contendere or  
4 otherwise, of a penal offense substantially related to  
5 the qualifications, functions, or duties of a licensed  
6 midwife;

7 (15) Fails to notify the department in writing within  
8 thirty days of any disciplinary decision issued  
9 against the applicant or licensee in another  
10 jurisdiction;

11 (16) Violates this part, any other applicable licensing  
12 laws, or any rule or order of the director; or

13 (17) Uses or removes without authorization any controlled  
14 substances or drugs, or diverts or attempts to divert  
15 controlled substances or drugs for unauthorized use.

16 **§457J-O Reimbursement for licensed midwives.** Any health  
17 benefit plan or health insurance reimbursement, including the  
18 medicaid program, shall provide coverage for services rendered  
19 by a licensed midwife if the services rendered are within the  
20 scope of practice for a certified midwife or certified



1 professional midwife, without regard to the location where the  
2 services were provided.

3       **§457J-P Penalties.** Any person who violates this part or  
4 rules adopted pursuant to this part shall be subject to a fine  
5 of not more than \$1,000 for each separate offense.

6       **§457J-Q Annual reporting requirement.** No later than  
7 twenty days before the convening of each regular session, the  
8 department of commerce and consumer affairs shall submit to the  
9 legislature a report that shall include:

- 10       (1) The total number of midwives currently licensed in the  
11           State;
- 12       (2) The number of certified midwives newly licensed in the  
13           previous year;
- 14       (3) The number of licensed certified professional midwives  
15           who, in the previous year, passed the exam  
16           administered by the North American Registry of  
17           Midwives after completing an educational pathway  
18           accredited by the Midwifery Education Accreditation  
19           Council;
- 20       (4) The number of licensed certified professional midwives  
21           who, in the previous year, passed the exam



1 administered by the North American Registry of  
2 Midwives after completing the portfolio evaluation  
3 pathway;

4 (5) The total number of complaints filed in the previous  
5 year against midwives licensed in the State;

6 (6) The total number of complaints filed in the previous  
7 year against persons who engaged in certified  
8 midwifery and certified professional midwifery without  
9 a license;

10 (7) The total number of complaints filed in the previous  
11 year against traditional birth attendants who failed  
12 to comply with statutory requirements;

13 (8) The status and resolution of each complaint filed in  
14 the previous year; and

15 (9) Any recommendations for proposed legislation."

16 PART III

17 SECTION 4. (a) There is established a home birth task  
18 force, within the department of health for administrative  
19 purposes.

20 (b) Notwithstanding subsection (d), the task force shall  
21 comprise no more than seventeen members, including:



- 1 (1) The director of commerce and consumer affairs, or the  
2 director's designee;
- 3 (2) The director of health, or the director's designee;
- 4 (3) A representative from the med-QUEST division of the  
5 department of human services; and
- 6 (4) The following members, who shall be selected by the  
7 director of commerce and consumer affairs and invited  
8 to participate:
  - 9 (A) An active practitioner of Native Hawaiian  
10 customary practices related to pregnancy, birth,  
11 and infancy;
  - 12 (B) A representative from the Hawaii section of the  
13 American College of Obstetricians and  
14 Gynecologists, or another physician who is  
15 licensed in Hawaii;
  - 16 (C) A representative from emergency medical services;
  - 17 (D) A representative from the Hawaii Hospital  
18 Association;
  - 19 (E) A representative from the Hawaii affiliate of the  
20 American College of Nurse-Midwives, or another



1                   certified midwife or certified nurse midwife who  
2                   is licensed in Hawaii;  
3           (F)   A representative from the Hawaii chapter of the  
4                   National Association of Certified Professional  
5                   Midwives; and  
6           (G)   Eight members recommended by the Hawaii Home  
7                   Birth Collective who represent the following  
8                   stakeholder groups:  
9                   (i)   Certified midwives;  
10                  (ii)   Certified professional midwives;  
11                  (iii)   Home birth elders;  
12                  (iv)   Traditional or cultural birthing attendants;  
13                         and  
14                  (v)   Members of the public who have used home  
15                         birth services.  
16           (c)   The task force shall elect a chairperson from among  
17                   its members.  
18           (d)   The task force may recommend additional members having  
19                   appropriate expertise, to be approved by the chairperson.  
20           (e)   The task force shall include representation from all  
21                   counties.



1           (f) The task force shall discuss matters relating to home  
2 births and shall make recommendations to improve the  
3 coordination of care and sharing of information across the  
4 maternal health system. Issues discussed by the task force  
5 shall include:

6           (1) The education and training of birth practitioners;

7           (2) Public health education and information regarding home  
8 birth practices;

9           (3) Data and information regarding home births and  
10 maternal and infant health;

11          (4) Issues arising when transport is needed from home  
12 births to hospital care; and

13          (5) Proposed actions to improve public health and safety  
14 in relation to home births.

15          (g) The members of the task force shall serve without  
16 compensation but shall be reimbursed for expenses, including  
17 travel expenses, necessary for the performance of their duties.

18          (h) No member of the task force shall be made subject to  
19 section 84-17, Hawaii Revised Statutes, solely based on the  
20 member's participation on the task force.



1 (i) The department of health shall provide any  
2 administrative or clerical support required by the task force.

3 (j) The home birth task force shall submit a report of its  
4 findings and recommendations, including any proposed  
5 legislation, to the legislature no later than twenty days prior  
6 to the convening of the regular session of 2026.

7 (k) The home birth task force shall dissolve on  
8 June 30, 2026.

9 PART IV

10 SECTION 5. Chapter 457J, Hawaii Revised Statutes, is  
11 amended by designating sections 457J-1 to 457J-13 as part I,  
12 entitled "Midwives".

13 SECTION 6. Part I of Chapter 457J, Hawaii Revised  
14 Statutes, is repealed.

15 PART V

16 SECTION 7. In codifying the new sections added by section  
17 3 of this Act, the revisor of statutes shall substitute  
18 appropriate section numbers for the letters used in designating  
19 the new sections in this Act.



1       SECTION 8. 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 9. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

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

8

INTRODUCED BY:

Elle Cochran

JAN 22 2025





# H.B. NO. 1328

**Report Title:**

DCCA; Licensed Midwives; Licensed Certified Midwives; Licensed Certified Professional Midwives; Task Force; Reports

**Description:**

Continues 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.*

