

Honolulu, Hawaii

FEB 14 , 2025

RE: H.B. No. 1194

H.D. 1

Honorable Nadine K. Nakamura
Speaker, House of Representatives
Thirty-Third State Legislature
Regular Session of 2025
State of Hawaii

Madame:

Your Committees on Health and Consumer Protection & Commerce,
to which was referred H.B. No. 1194 entitled:

"A BILL FOR AN ACT RELATING TO MIDWIVES,"

beg leave to report as follows:

The purpose of this measure is to:

- (1) Make midwife regulatory laws 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 prescriptive authority to certified midwives and amend the list of approved legend drugs that may be administered;
- (4) Establish peer review and data submission requirements;
- (5) Clarify exemptions from licensure and grounds for refusal to renew, reinstate, or restore licenses; and
- (6) Clarify medical record availability and retention requirements for the purposes of medical torts.



Your Committees received testimony in support of this measure from Zen Den Midwifery; Hawaii Medical Association; Healthcare Association of Hawaii; Midwives Alliance of Hawai'i; American College of Obstetricians and Gynecologists - Hawai'i Section; Early Childhood Action Strategy; Banyan Birth; Uncle Bens LLC; Hawaii Chapter of the American Academy of Pediatrics; and numerous individuals. Your Committees received testimony in opposition to this measure from one member of the Maui County Council; Hawai'i Home Birth Collective; Hawai'i Affiliate of the American College of Nurse-Midwives; Libertarian Party of Hawaii; More Than Maternity LLC; Malama Na Pua o Haumea; 'Ōhi'a Midwifery & Wellness Midwives; Birth Believers; Center for Reproductive Rights; Aoki Birthing Care; SHINE Sisterhood Initiative; Pacific Birth Collective; North American Registry of Midwives; Pihana ka 'Ikena; Lāhainā Strong; Democratic Party of Hawai'i; Physio Wellness LLC; Maui Midwifery; Chamber of Sustainable Commerce; Native Hawaiian Legal Corporation; ACLU Hawai'i; Mothering Justice; Hale Kealaula, LLC; and numerous individuals. Your Committees received comments on this measure from the Department of Commerce and Consumer Affairs; Hawai'i State Center for Nursing; Papa Ola Lokahi; and American Society of Radiologic Technologists.

Your Committees find that midwives are maternal health care providers whose services play a critical role in maternal health outcomes, particularly among pregnant individuals who wish to have a home birth. Your Committees further find that pregnancy and childbirth create an inherent risk to the health, safety, and welfare of the birthing parent and the newborn.

Your Committees also find 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. 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, which established a regulatory framework for the practice of midwifery that was subsequently codified as chapter 457J, Hawaii Revised Statutes. These regulations are set to sunset on June 30, 2025, unless the Legislature takes action to continue the regulation of midwives.



Your Committees additionally find 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 midwives. Accordingly, your Committees believe that the continued regulation of the practice of midwifery is necessary to protect the health and safety of expectant parents and newborns in Hawaii.

Your Committees have amended this measure by:

- (1) Adding a preamble;
- (2) Clarifying the scope of practice of midwifery as a certified midwife and as a certified professional midwife;
- (3) Clarifying that transfer of care protocols for midwives include transferring a client to an appropriate health care facility to address the client's health care needs if the midwife determines that a client requires care outside of the midwife's scope of practice;
- (4) Clarifying the types of cases that are subject to peer review;
- (5) Deleting language requiring the Department of Commerce and Consumer Affairs to verify compliance with the peer review and data collection requirements established by this measure beginning June 30, 2029;
- (6) Deleting language requiring practitioners acting as traditional Hawaiian healers engaged in traditional practices to provide a disclosure form to their clients;
- (7) Adding a definition for "accredited birth facility";
- (8) Deleting the definition for "community birth";
- (9) Deleting language specifying the types of traditional Hawaiian healing practices that do not fall under the definition of "practice of midwifery";



- (10) Restoring existing statutory language that states the licensure requirements for midwives shall not apply to Certified Nurse Midwives and persons who are licensed and performing work within the scope of practice or duties of the person's profession that overlaps with the practice of midwifery;
- (11) Clarifying that persons providing traditional Hawaiian healing practices as either a traditional Hawaiian healer under Article XII, Section 7 of the Hawaii State Constitution or a person recognized as a traditional Hawaiian healer by any kupuna council convened by Papa Ola Lokahi are exempt from the requirements of chapter 457J, Hawaii Revised Statutes;
- (12) Requiring a current certification in cardiopulmonary resuscitation and neonatal resuscitation for an adult and infant/child that includes a hands-on skill component as a requirement for initial licensure and license renewal;
- (13) Clarifying that a midwifery educational program for licensure of a certified professional midwife may be accredited by either the Midwifery Education Accreditation Council or another nationally recognized accrediting agency approved by the United States Department of Education;
- (14) Changing the effective date to July 1, 3000, to encourage further discussion; and
- (15) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

As affirmed by the records of votes of the members of your Committees on Health and Consumer Protection & Commerce that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 1194, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1194, H.D. 1, and be referred to your Committee on Finance.



Respectfully submitted on
behalf of the members of the
Committees on Health and
Consumer Protection & Commerce,



SCOT Z. MATSUYOSHI, Chair

GREGG TAKAYAMA, Chair

HSCR 794

Bill/Resolution No.: HB 1194	Committee Referral: HLT/CPC, FIN	Date: Feb 10, 2025		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
HLT Members	Ayes	Ayes (WR)	Nays	Excused
1. TAKAYAMA, Gregg (C)	X			
2. KEOHOKAPU-LEE LOY, Sue L. (VC)	X			
3. AMATO, Terez		X		
4. CHUN, Cory M.	X			
5. MARTEN, Lisa	X			
6. OLDS, Ikaika		X		
7. TAKENOUCHI, Jenna	X			
8. ALCOS III, David			X	
9. GARCIA, Diamond			X	
TOTAL (9)	5	2	2	
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: _____				
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO				

HSR 794

Bill/Resolution No.: HB 1194		Committee Referral: HLT/CPC, FIN		Date: 2/10/25	
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.					
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)					
CPC Members	Ayes	Ayes (WR)	Nays	Excused	
1. MATAYOSHI, Scot Z. (C)	✓				
2. CHUN, Cory M. (VC)	✓				
3. ILAGAN, Greggor	✓				
4. ICHIYAMA, Linda	✓				
5. IWAMOTO, Kim Coco			✓		
6. KONG, Sam Satoru		✓			
7. LOWEN, Nicole E.	✓				
8. MARTEN, Lisa	✓				
9. TAM, Adrian K.	✓				
10. PIERICK, Elijah				✓	
TOTAL (10)	7	1	1	1	
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align: center;">committee acronym(s)</div>					
Vice Chair's or designee's signature: _____					
Distribution: Original (White) – Committee Duplicate (Yellow) – Chief Clerk's Office Duplicate (Pink) – HMSO					