

Resolution

No. 24-183

APPROVING FOR INCLUSION IN THE 2025
MAUI COUNTY COUNCIL LEGISLATIVE
PACKAGE A STATE BILL RELATING TO
LICENSED MIDWIVES

WHEREAS, Act 32, Session Laws of Hawai'i 2019, created a licensure program to regulate midwives, as Chapter 457J, Hawai'i Revised Statutes, with the intention to “allow a woman to choose where and with whom she gives birth,” while providing the benefits of licensure; and

WHEREAS, the licensure program is set to end on June 30, 2025;
and

WHEREAS, as stated in Act 32, the Legislature that:

- “mothers and families seek out alternatives to hospital births and they find significant value in community or home birth services”; and
- “these services have been provided by individuals identifying themselves as traditional or cultural practitioners, midwives, certified professional midwives, lay midwives, direct entry midwives, birth keepers, or birth attendants”; and

WHEREAS, for many people, decisions about pregnancy and birth are informed by their personal or community history and culture, and pregnancy and birth are thus often experiences of great social, cultural, and spiritual significance, not just medical events; and

WHEREAS, there are a wide range of traditional practitioners—for example, pale keiki, traditional church midwives, lola, and senba—and birth-related service providers, including doulas, lactation consultants, birth coaches, chanters, nutrition support people, spiritual practitioners, and others whose care and advice are important in the well-being of birthing people and their families; and

WHEREAS, regulation of certified professional midwifery and certified midwifery, which use prescription drugs, modern

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instrumentation, and techniques such as intravenous fluid administration, would be reasonable and beneficial to consumers, with the addition of accessible pathways for qualified local Hawai'i practitioners to achieve licensure; and

WHEREAS, because of the additional licensing, certified professional midwives can offer the most comprehensive array of healthcare services to women, including gynecological exams, family planning, preconception and prenatal care, labor and delivery support, quality newborn and infant care, menopausal management, and reproductive education in fertility, nutrition, exercise, contraception, pregnancy health, and breastfeeding; and

WHEREAS, the implementation of Chapter 457J provided valuable insight into the complexity of community birth settings in Hawai'i and identified some of the urgent needs in this process, including safety, access to care, culture, integration, license equality, justice, and diversity; and

WHEREAS, continuing this licensure program will allow pregnant people to choose where and with whom they give birth, by ensuring the legality of all practices engaged with by any birthing person, while comprehensive solutions are built that address the complexity of community needs and cultural considerations in Hawai'i;

WHEREAS, the Council would like to propose that the Legislature allow all birth practitioners to practice legally, while continuing licensure for certified professional midwives and certified midwives; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the proposed State bill attached as Exhibit "A," relating to licensed midwives, is approved for inclusion in the 2025 Maui County Council Legislative Package; and
2. That certified copies of this Resolution be transmitted to the Mayor.

INTRODUCED BY:

Tamara A.M. Paltin

TAMARA PALTIN

A BILL FOR AN ACT

RELATING TO LICENSED MIDWIVES.

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

1 SECTION 1. The legislature finds that Act 32, Session laws of Hawaii 2019, created
2 a licensure program to regulate midwives, as HRS 457-J, with the intention to “allow a woman
3 to choose where and with whom she gives birth,” while providing the benefits of licensure.
4 This licensure program has run for five years and will sunset on June 30, 2025.

5 The 2019 legislature also found in Act 32 that (1) “mothers and families seek out
6 alternatives to hospital births and they find significant value in community or home birth
7 services” and that (2) “these services have been provided by individuals identifying themselves
8 as traditional or cultural practitioners, midwives, certified professional midwives, lay
9 midwives, direct entry midwives, birth keepers, or birth attendants.”

10 Under HRS 457-J, only certified professional midwives (CPMs) and certified midwives
11 (CMs) are eligible for licensure. Act 32 (2019) stated that, “by the end of the three-year period
12 (2022), the legislature intends to enact statutes that will incorporate all birth practitioners and
13 allow them to practice to the fullest extent under the law.” While significant efforts were made,
14 this goal has not yet been achieved. A temporary exemption for non-CPM/CM birth attendants
15 expired in 2023, which in effect has made nearly all unlicensed birth workers, cultural
16 practitioners and extended family attending births illegal, as intended exemptions were shown
17 to need further strengthening to be effective.

1 The purpose of this measure is to fulfill the legislature’s intent to allow all birth
2 practitioners to practice legally, while continuing licensure for CPMs and CMs. The legislature
3 finds that licensure for CPMs and CMs is beneficial, with the addition of locally-accessible
4 pathways to these practices, such as the Portfolio Evaluation Process (PEP) certified by the
5 North American Registry of Midwives (NARM), and certain technical updates, such as
6 alignment of CM statutory verbiage with established CM professional requirements.

7 The legislature also finds that for many people, decisions about pregnancy and birth are
8 informed by their personal or community history and culture, and are experiences of great
9 social, cultural, and spiritual significance, not primarily medical events. As such, there are a
10 wide range of traditional practitioners – for example, pale keiki, traditional church midwives,
11 lola, and senba – and birth-related service providers, including doulas, lactation consultants,
12 birth coaches, chanters, nutrition support people, spiritual practitioners, and others whose care
13 and advice are important in the well-being of birthing people and their families.

14 The legislature finds that the Midwife Licensing Program established by Act 32 (2019)
15 and enacted as HRS 457J was an important step toward recognizing the practice of professional
16 midwifery.

17 The legislature also finds that the implementation of HRS 457J provided valuable
18 insight into the complexity of community birth settings in Hawai’i. Some of the urgent needs
19 identified in this process include the following:

20 1. **Safety.** Research evidence highlighted by the Centers for Disease Control and
21 Prevention (CDC) and in *The White House Blueprint for Addressing the Maternal Health Crisis*
22 (June, 2022) suggests that legal access to culturally responsive care of the birthing person’s
23 choosing, including traditional practices of that person’s culture, is strongly correlated with

1 increased safety and well-being. Home birth with a skilled, unlicensed midwife has been found
2 to be safe and has not been found to be a contributor to the high maternal mortality rate in
3 Hawaii, or any other harm to health and safety. Effective communication during hospital
4 transport was also found to be an important factor in safety. Barriers may include, for example,
5 fear of legal danger that inhibits communication and information sharing, and might cause
6 parents to delay needed transport. Safety is therefore best served by protecting access to all
7 types of birthing assistance, and by developing and engaging long-range strategies that
8 effectively address proven barriers to safety.

9 2. *Access to care.* Maternal mortality was found by the CDC to be higher amongst
10 Native Hawaiians, Pacific Islanders, Black people, Native Americans, and Alaska Natives; and
11 recent data indicates that Native Hawaiians and other Pacific Islanders now have the highest
12 rates of all. Maternal mortality has not been associated with out-of-hospital birthing in any
13 way, and is strongly correlated to lack of access to culturally appropriate care and support.
14 There is also a severe lack of access to maternal health care overall in Hawai'i. Due to extreme
15 physician shortages, particularly in rural neighbor island communities, many neighbor island
16 pregnant people are forced to fly to Oahu in order to receive conventional prenatal care, and to
17 give birth, often with no family or other support. All three neighbor island counties (Hawaii,
18 Kauai, Maui) passed resolutions in 2023 “urging The Hawai'i State Legislature To Enact A
19 Statute Exempting Birth Attendants From State Licensure Requirements.” Access is best
20 served by keeping all care options legally accessible, while long-term solutions are developed
21 that address the complex needs of these communities.

22 3. *Culture.* The need for culturally responsive care has been highlighted in new data
23 and other scholarship within the last two years. This is associated with better maternal/infant

1 outcomes and with trust, which in itself is a significant factor in access to care. Act 32 states
2 “that practicing midwifery according to this Act does not impede one's ability to incorporate or
3 provide cultural practices.” However, the judiciary found that constitutionally protected cultural
4 practices were impeded, due to ambiguous language, administrative complexities and other
5 factors. The court ruling (July 23, 2024) highlighted the importance of protecting traditions that
6 might be lost, as well as the emergence of a new generation of local birth-related practitioners
7 from a variety of cultures and a wide range of practices. Cultural competency is best served by
8 protecting access to practitioners of all cultures, while long-term solutions are developed that
9 address the complex needs of our multicultural community.

10 4. **Integration.** Healthy relationships between birthing people, their attendants, and
11 medical personnel are imperative for maternal health, and especially for emergency situations.
12 Trust, mutual respect and collaborative care are of vital importance. Integration is best served
13 by ensuring legality of all types of practice that may be engaged in by any family, thereby
14 eliminating fears and legal dangers that could inhibit effective communication, access, and
15 information sharing. Mutually respectful integration strategies should be included in long-range
16 legislative planning.

17 5. **License Equality.** There are only eight Midwifery Education Accreditation Council
18 (MEAC) schools accredited in the United States and none are located in Hawaii. Requiring
19 certification that is prohibitively difficult for residents of Hawaii to obtain, while allowing
20 transfer of out-of-state licenses that may not have these requirements, disadvantages and
21 potentially displaces Hawai'i practitioners and limits patients' access to culturally informed
22 community-based care. No Kanaka Maoli (Native Hawaiians) have yet been licensed and only
23 one of 41 total licensed midwives was born and raised in Hawai'i. Over a fourth of the state's

1 licensed midwives do not reside in Hawai'i at all. Equitable balancing and assurance of access
2 to licensure for Hawai'i residents is important.

3 6. *Justice.* Since licensure began in 2019, new scholarly data clarified that people of
4 color experience systemic injustice at disproportionate rates. Meaningful choices about where,
5 how, and with whom to birth are constrained when those who are needed to help enact those
6 choices face legal penalties for doing so, and the birthing person could also be implicated. Fear
7 of systemic discrimination has resulted in some birthing people in Hawai'i choosing to give
8 birth with no assistance, rather than risk potential systemic repercussions from use of an
9 unlicensed provider. It is therefore urgent that systemic barriers to birth support be removed, to
10 ensure both safety and increased systemic justice.

11 7. *Diversity.* *The White House Blueprint for Addressing the Maternal Health Crisis*
12 (June, 2022) is clear that “The lack of diversity in clinical providers and non-clinical workers is
13 troubling, especially given studies that show how beneficial care from diverse providers can be,
14 especially for women of color.” A diversity of practices are needed in order to address the
15 current maternal health crisis in Hawai'i and meet the needs of Hawai'i's multicultural and
16 rural communities. Since licensure began in 2019, it has become clear that there is a very broad
17 spectrum of cultural, religious, and historically traditional birth practices in Hawai'i, outside of
18 licensed clinical midwife practice. Diversification of legally available options is urgently
19 needed to protect cultural practices, ensure reproductive autonomy, increase access to care, and
20 improve health outcomes and mortality rates.

21 The Hawaii Regulatory Licensing Reform Act, HRS Chapter 26H requires the State to
22 regulate professions only “when the health, safety, or welfare of the consumer may be
23 jeopardized by the nature of the service” based upon “evidence of abuses by providers of the

1 service” and other actual evidence “in determining whether regulation is desirable.” The
2 Hawaii regulatory licensing reform act also requires that, “Regulation shall not unreasonably
3 restrict entry into professions and vocations by all qualified persons,” and notes that “the
4 purpose of regulation shall be the protection of the public welfare and not that of the regulated
5 profession or vocation,” and that “Professional and vocational regulations shall be eliminated
6 when the legislature determines that they have no further benefits to consumers.”

7 The Legislature therefore finds that regulation of certified professional midwifery and
8 certified midwifery, which utilize prescription drugs, modern instrumentation, and techniques
9 such as intravenous fluid administration, would be reasonable and beneficial to consumers,
10 with the addition of accessible pathways for qualified local Hawai‘i practitioners to achieve
11 licensure. Regulation by the State of traditional and non-clinical practitioners and extended or
12 hānai family is not supported or required by the Hawaii Regulatory Licensing Reform Act.

13 The purpose of this measure is to allow a woman to choose where and with whom she
14 gives birth, by ensuring the legality of all practices engaged with by any birthing person, while
15 comprehensive solutions are built that address the complexity of community needs and cultural
16 considerations in Hawai‘i.

17 SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be
18 appropriately designated and to read as follows:

19 Section 1 - Purpose. To provide for the licensure of the certified midwife and the
20 certified professional midwife by the Department of Commerce and Consumer Affairs, to
21 identify the scope of practice for a licensed midwife, to allow a licensed midwife to provide
22 independent midwifery services in: hospitals, clinics, freestanding birthing facilities, the
23 community birth setting, and the home; to allow licensed midwives to be eligible for insurance

1 reimbursement; and to prohibit representation as a certified midwife or certified professional
2 midwife unless licensed.

3 **Section 2 - Definitions.**

4 "Accredited educational program in midwifery" means an academic and practical program of
5 midwifery accredited by the Accreditation Commission for Midwifery Education (ACME) for
6 certified midwives (CMs), or the Midwifery Education Accreditation Council (MEAC) for
7 certified professional midwives (CPMs).

8 "American Midwifery Certification Board (AMCB)" means the national certifying body for
9 Certified Midwives (CMs) and Certified Nurse-Midwives (CNMs).

10 "American College of Nurse-Midwives (ACNM)" means the professional association that
11 represents certified midwives (CMs) and certified nurse-midwives (CNMs) in the United
12 States.

13 "Certified Midwife (CM)" means a person who has graduated from a graduate-level midwifery
14 education program accredited by the Accreditation of Commission for Midwifery Education
15 (ACME) or its successor organization and holds a valid certification from the American
16 Midwifery Certification Board (AMCB) or its successor organization.

17 "Certified Professional Midwife (CPM)" means a person who has obtained a midwifery
18 education by completing a Midwifery Education Accreditation Council (MEAC) education
19 program; or by completing a midwifery apprenticeship under a North American Registry of
20 Midwives (NARM) registered preceptor, the Portfolio Evaluation Process (PEP), successfully
21 passing the NARM exam, and holds a valid certification from NARM or its successor
22 organization.

23 "Collaborate" means a process in which a practitioner cooperates and communicates with

1 healthcare professionals from different disciplines, based on the healthcare needs of the patient,
2 each providing distinct and complementary expertise to improve care.

3 “Department” means the Department of Commerce and Consumer Affairs for the State of
4 Hawai’i.

5 “Director” means the director of the Department of Commerce and Consumer Affairs.

6 “Expedited partner therapy” means the clinical practice of treating the sexual partners of clients
7 diagnosed with sexually transmitted infections by relaying prescriptions or providing
8 medications to the client to take to their partner without the licensed midwife first examining
9 the partner. (Auth: HRS §453-52)

10 “Licensed Midwife” means a person licensed under this chapter.

11 “Midwife Preceptor” means a licensed midwife, licensed maternal health professional, or
12 preceptor registered with a Midwifery Education Accreditation Council (MEAC) school, who
13 participates in the clinical education of individuals who are enrolled in a MEAC education
14 program, Accreditation Commission for Midwifery Education (ACME) education program or
15 directly working under a North American Registry of Midwives (NARM) Registered Preceptor
16 to acquire their Portfolio Evaluation Process requirements (PEP).

17 “Midwifery” means skilled, knowledgeable and compassionate care for childbearing women
18 [people], newborn infants and families across the continuum from prenatal, pregnancy, birth,
19 postpartum and the early weeks of life, as defined by the World Health Organization.

20 “Midwifery bridge certificate” is a certificate issued by North American Registry of Midwives
21 (NARM) to a Certified Professional Midwife who obtained certification through the Portfolio
22 Evaluation Process, upon the successful completion of additional accredited education
23 (minimum of 50 hours) in specific subjects as required by NARM. The bridge certificate

1 demonstrates a blended training pathway of both apprenticeship and accredited education.
2 “Midwifery Education Accreditation Council (MEAC)” means the independent, non-profit
3 organization recognized by the United States Department of Education as the accrediting
4 agency of the direct-entry midwifery institutions and programs.
5 “North American Registry of Midwives (NARM)” means the national certifying body for
6 Certified Professional Midwives.
7 “Portfolio evaluation process (PEP)” is an apprenticeship model educational process that
8 includes verification of knowledge and skills by qualified NARM preceptors. Completion of
9 this process qualifies an applicant to sit for the NARM written examination.
10 “Practice of certified midwifery” means midwifery as practiced by certified midwives (CMs),
11 encompasses the independent provision of care during pregnancy, childbirth, and the
12 postpartum period; sexual and reproductive health; gynecologic health; and family planning
13 services, including preconception care. Certified Midwives also provide primary care for
14 individuals from adolescence throughout the lifespan as well as care for the healthy newborn
15 and infant during the first 28 days of life.
16 “Practice of certified professional midwifery” means midwifery as practiced by certified
17 professional midwives (CPMs), encompasses the independent provision of care during
18 pregnancy, childbirth, and the postpartum period; sexual and reproductive health; gynecologic
19 health; and family planning services, including preconception care. Certified Professional
20 Midwives also provide primary care for the healthy newborn and infant during the first 12
21 weeks of life.
22 “Student midwife” means a person who is enrolled in an ACME accredited school, MEAC
23 midwifery educational program; or directly working under a NARM registered preceptor on

1 acquiring their PEP requirements for NARM certification.

2 “Traditional birth attendant” means a person who assists birthing people with traditional skills
3 and techniques, and is not licensed under this chapter.

4 “Unlicensed assistive person” means an individual who is not licensed to practice certified
5 midwifery or certified professional midwifery, but who competently provides tasks delegated
6 by a licensed midwife.

7 **Section 3 - Application and requirements for license as a midwife.** To obtain a
8 license under this chapter, the applicant shall provide:

9 (1) An application for licensure;

10 (2) The required fees;

11 (3) Proof of current, unencumbered certification as a:

12 (A) Certified midwife; or

13 (B) Certified professional midwife;

14 (4) For certified midwives, for a license to practice certified midwifery under this act, an
15 individual shall establish to the satisfaction of the Department that the individual:

16 A. Holds a valid graduate degree in midwifery from a program accredited by AMCB or
17 its successor;

18 B. Has successfully passed the certification exam from AMCB or its successor
19 organization; and

20 C. Is at least 21 years of age by the date of the licensure application.

21 (5) For certified professional midwives, for a license to practice certified professional
22 midwifery under this act, an individual shall provide proof of:

23 A. Successful completion of midwifery education and training that is either:

- 1 (i) Certification through an educational program or pathway accredited by the
- 2 Midwifery Education Accreditation Council; or
- 3 (ii) Certification through the North American Registry of Midwives portfolio
- 4 evaluation process (PEP) and a midwifery bridge certificate issued by the North
- 5 American Registry of Midwives for the certified professional midwife.

6 B. Licensure maintained in a state that does not require accredited education, and a
7 midwifery bridge certificate issued by NARM;

8 (6) If applicable, evidence of any licenses held or once held in other jurisdictions indicating the
9 status of the license and documenting any disciplinary proceedings pending or taken by any
10 jurisdiction;

11 (7) Information regarding any conviction of any crime which has not been annulled or
12 expunged; and

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

15 **Section 4 - Powers and duties of the director.** In addition to any other powers and
16 duties authorized by law, the director shall have the power and duties to:

17 (1) Grant permission to a person to use the title of "licensed midwife" pursuant to this chapter
18 and the rules adopted pursuant thereto;

19 (2) Adopt, amend, or repeal rules pursuant to chapter 91 to carry out the purposes of this
20 chapter;

21 (3) Administer, coordinate, and enforce this chapter and rules adopted pursuant thereto;

22 (4) Discipline a licensee for any cause described by this chapter or for any violation of rules or
23 refuse to license a person for failure to meet the licensing requirements or for any cause that

1 would be grounds for disciplining a licensee;

2 (5) Appoint an advisory committee to assist with the implementation of this chapter and the
3 rules adopted pursuant thereto. The advisory committee shall consist of the following:

4 (A) Three midwives who are certified professional midwives;

5 (B) Two members of the public; and

6 (C) One certified midwife; if none is available, a certified nurse midwife who works in
7 the community birth setting, if none is available a certified professional midwife; and

8 (6) Remove or otherwise modify the authorization to furnish or prescribe prescription drugs and
9 legend devices by rule under chapter 91. [L 2019, c 32, pt of §2]

10 **Section 5 - Scope of practice. Licensed Midwife. Certified Midwife. Certified**

11 **Professional Midwife. Licensed midwife scope:**

12 (1) A licensed midwife may not practice without a current and valid certification and license.

13 (2) A licensed certified midwife (CM) shall at all times practice within the scope of practice
14 and national standards as delineated by ACNM or its successor; a licensed certified
15 professional midwife (CPM) shall at all times practice within the scope of practice and national
16 standards as delineated by NARM or its successor.

17 (3) Clarifications of the scope of practice of a licensed midwife may be established by the
18 Department consistent with national standards of ACNM for the certified midwife, or NARM
19 for the certified professional midwife.

20 (4) The scope of practice of a licensed midwife includes;

21 a. Authorization to order and interpret medical laboratory and diagnostic tests, to
22 perform ultrasound scanning and to obtain equipment and supplies necessary for the
23 safe practice of midwifery;

- 1 b. Provide initial and ongoing comprehensive assessment, diagnosis, and
2 treatment;
- 3 c. Conduct physical examinations;
- 4 d. Promote individualized wellness education and counseling for health promotion,
5 disease prevention, risk assessment and management;
- 6 e. Collaborate in partnership with individuals and families in diverse settings such
7 as ambulatory care clinics, private offices, telehealth and other methods of remote care
8 delivery, community and public health systems, homes, hospitals, and birth centers; and
- 9 f. Order medical devices, durable medical equipment

10 (5) Unless authorized to practice as a licensed midwife under this act, a person shall not use or
11 imply the use of the words or term “licensed midwife,” or any similar title or description of
12 services with the intent to represent that the person practices midwifery as a licensed midwife.

13 *Certified midwife scope:* In addition to the scope of a licensed midwife, the certified
14 midwife (CM) may:

15 (1) Obtain prescriptive authority to independently prescribe medications including but not
16 limited to controlled substances, treatment of substance use disorder, and expedited partner
17 therapy;

18 (2) Admit, manage, and discharge patients to and from hospital or freestanding birthing
19 facilities;

20 (3) Assist in surgery, provided that this subparagraph shall only apply to licensed midwives
21 practicing as certified midwives; [HAR 89- C 16-89-81 (c 3:A-v)]; and

22 (4) Order home health services.

23 *Certified professional midwife scope:* In addition to the scope of a licensed midwife, the

1 certified professional midwife (CPM) may:

2 (1) Obtain authority to independently furnish medications including but not limited to
3 expedited partner therapy for sexually transmitted infections;

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

6 (3) Obtain medical devices, durable medical equipment and supplies necessary for the safe
7 practice of certified professional midwifery

8 (4) Furnish medications and devices that are used within the practice of midwifery.

9 **Section 6. Practice standards. Licensed Midwife.** Practice standards for licensed
10 midwives shall include, but shall not be limited to the:

11 (1) provision of evidence-informed, client-centered care in collaboration with the client
12 including referrals to other providers and services, as indicated;

13 2) adoption of ethical standards in support of individual rights and self-determination in a
14 context of family, community, and a system of healthcare;

15 (3) documentation of client charts to facilitate interprofessional communication and provide
16 clients with a means to access their healthcare records;

17 (4) participation in quality management such as peer review, continuing education, and data
18 analysis to improve midwifery practice.

19 **Section 7 - Delegation of tasks rules.** (1) Any licensed midwife may delegate any
20 task included in the midwife's licensed scope of practice subject to the requirements of this
21 section. A licensed midwife may delegate midwife tasks to licensed, certified, registered, or
22 unlicensed or unregulated (by the state) assistive personnel. In no event may a licensed midwife
23 delegate the authority to another person to select medications if the person is not, independent

1 of the delegation, authorized by law to select medications;

2 (2) Delegated tasks shall be within the area of responsibility of the delegating licensed midwife
3 and shall not require any delegate to exercise the judgment required of a licensed midwife;

4 (3) No delegation shall be made without the delegating licensed midwife making a
5 determination that, in their professional judgment, the delegated task can be properly and safely
6 performed by the delegate and that the delegation is commensurate with the patient's safety and
7 welfare;

8 (4) The delegating licensed midwife is solely responsible for determining the required degree of
9 supervision the delegate will need, after an evaluation of the appropriate factors, which shall
10 include, but are not to be limited to, the following:

11 (a) The stability of the condition of the patient;

12 (b) the training and ability of the delegate;

13 (c) the nature of the licensed midwife task being delegated;

14 (5) An employer of a licensed midwife may establish policies, procedures, protocols, or
15 standards of care that limit or prohibit delegations by licensed midwives in specified
16 circumstances; and

17 (6) The Department may promulgate rules pursuant to this section, including but not limited to
18 standards on the assessment of the proficiency of the delegate to perform delegated tasks, and
19 standards for accountability of any licensed midwife who delegates licensed midwife tasks.

20 **Section 8 - Prescriptive Authority. Certified Midwives. Limits on prescriptions.**

21 **Rules. Financial benefit for prescribing prohibited.**

22 (1) The Department may authorize the certified midwife who is in good standing without
23 disciplinary sanctions and who has fulfilled the requirements of this section and requirements

1 established by the Department pursuant to this section to prescribe controlled substances or
2 prescription drugs;

3 (2) A certified midwife may be granted authority to prescribe prescription drugs and controlled
4 substances to provide treatment to clients within the role and population focus of the certified
5 midwife, as applicable;

6 (3) A certified midwife who has been granted authority to prescribe prescription drugs and
7 controlled substances under the Department may advise the certified midwife's patients of their
8 option to have the symptom or purpose for which a prescription is being issued included on the
9 prescription order;

10 (4) Upon satisfaction of the requirements set forth by the Department of this section, the
11 Department may grant provisional prescriptive authority to a certified midwife. The provisional
12 prescriptive authority that is granted is limited to those patients and medications appropriate to
13 the certified midwife's role and population focus;

14 (5) The certified midwife shall maintain national certification, as specified in Section 3, unless
15 the Department grants an exception;

16 (6) A certified midwife who obtains prescriptive authority pursuant to this section shall be
17 assigned a specific identifier by the Department. This identifier shall be available to the
18 Hawai'i medical board and the state board of pharmacy. The Department shall establish a
19 mechanism to assure that the prescriptive authority of a certified midwife may be readily
20 verified;

21 (7) Prescriptive authority by a certified midwife is limited to those patients appropriate to the
22 certified midwife's scope of practice. Prescriptive authority may be limited or withdrawn and
23 the certified midwife may be subject to further disciplinary action if the certified midwife has

1 prescribed outside the certified midwife's scope of practice or for other than a therapeutic
2 purpose;

3 (8) Nothing in this section shall be construed to require a certified midwife to obtain
4 prescriptive authority to order anesthesia care;

5 (9) A certified midwife shall not accept any direct or indirect benefit from a pharmaceutical
6 manufacturer or pharmaceutical representative for prescribing a specific medication to a
7 patient. For the purposes of this section, a direct or indirect benefit does not include a benefit
8 offered to a certified midwife regardless of whether the specific medication is being prescribed;
9 and

10 (10) A pharmacist who dispenses drugs and devices to a midwife as authorized by this section
11 and in conformity with chapter 461 is not liable for any adverse reactions caused by the
12 midwife's administration of legend drugs and devices.

13 **Section 9 - Authority to furnish. Certified professional midwives. Financial benefit**
14 **for furnishing prohibited.**

15 (1) The Department may authorize the certified professional midwife who is in good standing
16 without disciplinary sanctions and who has fulfilled the requirements of this section and
17 requirements established by the Department pursuant to this section to furnish prescription
18 drugs and devices consistent with the practice of midwifery;

19 (2) A certified professional midwife may be granted authority to furnish prescription drugs to
20 provide treatment to clients within the role and population focus of the certified professional
21 midwife, as applicable;

22 (3) A certified professional midwife who has been granted authority to furnish prescription
23 drugs under the Department may advise the certified professional midwife's patients of their

1 option to have the symptom or purpose for which a medication is being issued included on the
2 order to furnish;

3 (4) A certified professional midwife who obtains authority to furnish prescription drugs
4 pursuant to this section shall be assigned a specific identifier by the Department. This identifier
5 shall be available to the Hawai'i medical board and the state board of pharmacy. The
6 Department shall establish a mechanism to assure that the authority to furnish of a certified
7 professional midwife may be readily verified;

8 (5) Authority to furnish prescription drugs by a certified professional midwife is limited to
9 those patients appropriate to the certified professional midwife's scope of practice. Authority to
10 furnish may be limited or withdrawn and the certified professional midwife may be subject to
11 further disciplinary action if the certified professional midwife has furnished a medication
12 outside the certified professional midwife's scope of practice or for other than a therapeutic
13 purpose;

14 (6) A certified professional midwife shall not accept any direct or indirect benefit from a
15 pharmaceutical manufacturer or pharmaceutical representative for furnishing a specific
16 medication to a patient. For the purposes of this section, a direct or indirect benefit does not
17 include a benefit offered to a certified professional midwife regardless of whether the specific
18 medication is being furnished; and

19 (7) A pharmacist who dispenses drugs and devices to a midwife as authorized by this section
20 and in conformity with chapter 461 is not liable for any adverse reactions caused by the
21 midwife's administration of legend drugs and devices.

22 **Section 10 - License required.**

23 (a) Beginning July 1, 2025, except as provided in this chapter, no person shall use the title

1 "licensed midwife," or the abbreviation "L.M.," or any other words, letters, abbreviations, or
2 insignia indicating or implying that the person is a licensed midwife, without a valid license
3 issued pursuant to this chapter.

4 (b) No person shall use the title "Certified Midwife" or "Certified Professional Midwife"
5 without a valid certification.

6 (c) Nothing in this section shall preclude a person holding a national certification as a midwife
7 from identifying the person as holding such certification, so long as the person is not professing
8 to be licensed to practice midwifery in the State unless that person is licensed in accordance
9 with this chapter.

10 (d) This chapter does not require licensure of an individual who is:

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

12 (2) A student midwife;

13 (3) Licensed and performing work within the scope of practice or duties of the person's
14 profession that overlaps with the practice of midwifery;

15 (4) A person providing limited perinatal support services that are not subject to state
16 licensure requirements, such as childbirth education, lactation support, or doula care;

17 (5) A person rendering emergency aid;

18 (6) A person administering care to a person's immediate or extended family, including
19 hānai family.

20 (7) A person with birth-related practices in connection with or in accordance with the
21 tenets and practice of any ethnic culture, provided that no person claims to practice as a
22 certified midwife, certified professional midwife or a licensed midwife;

23 (8) A person with birth-related practices in connection with healing by prayer or

1 spiritual means in accordance with the tenets and practice of any well recognized church
2 or religious denomination, provided that no person claims to practice as a certified
3 midwife, certified professional midwife or a licensed midwife;

4 (9) A person acting as a traditional birth attendant who:

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

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

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

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

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

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

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

17 (v) Any judgment, award, disciplinary sanction, order, or other
18 determination that adjudges or finds that the person has committed
19 misconduct or is criminally or civilly liable for conduct relating to
20 midwifery by a licensing or regulatory authority, territory, state, or any
21 other jurisdiction; and

22 (vi) A plan for transporting the client to the nearest hospital if a problem
23 arises during the client's care; and

1 (D) Maintains a copy of the form required by subparagraph (C) for at least ten
2 years and makes the form available for inspection upon request by the
3 Department.

4 (e) Nothing in this chapter shall prohibit traditional [Native Hawaiian] healing practices of
5 prenatal, maternal, and child care. Nothing in this chapter shall limit, alter, or otherwise
6 adversely impact any traditional Native Hawaiian customary practice related to pregnancy,
7 birth, or infancy pursuant to the Constitution of the State of Hawaii.

8 **Section 11 - Fees.**

9 (a) Each applicant shall pay a licensing fee upon application for an initial license or renewal of
10 a license. Fees collected pursuant to this section or by rule adopted under this section shall be
11 nonrefundable.

12 (b) Pursuant to section 26-9(l), the director may establish fees to restore a license, penalty fees,
13 and any other fees required for the administration of this chapter by rule.

14 (c) All fees collected pursuant to this chapter shall be deposited by the director to the credit of
15 the compliance resolution fund established pursuant to section 26-9(o).

16 (d) Fees assessed pursuant to this chapter shall be used to defray costs incurred by the
17 department in implementing this chapter.

18 (e) The director may assess fees as provided in this chapter and section 26-9 and,
19 notwithstanding any other law to the contrary, may change the amount of the fees required by
20 this section at any time without regard to chapter 91, if the director:

21 (1) Holds at least one public hearing to discuss and take testimony on the proposed fee change;
22 and

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

1 **Section 12 - Issuance of License.** The director may issue a license to any person who
2 meets all licensure requirements and pays the appropriate fees.

3 **Section 13 - Renewals.** Every license issued under this chapter shall be renewed
4 triennially on or before June 30th. Failure to renew a license shall result in a forfeiture of the
5 license. Licenses which have been so forfeited may be restored within one year of the
6 expiration date upon payment of renewal and penalty fees. Failure to restore a forfeited license
7 within one year of the date of its expiration shall result in the automatic termination of the
8 license. Relicensure after termination shall require the person to apply as a new applicant and
9 again satisfy all licensing requirements in place at the time of the new application.

10 **Section 14 - Reimbursement for licensed midwives.** A health benefit plan or health
11 insurance reimbursement program shall provide coverage for services rendered by a licensed
12 midwife for services within the scope of practice of certified midwifery or certified professional
13 midwifery, respectively, regardless of the location where such services are provided.

14 **Section 15 - Grounds for refusal to grant, renew, reinstate, or restore licenses and**
15 **for revocation, suspension, denial, or condition of licenses.** In addition to any other acts or
16 conditions provided by law, the director may refuse to grant, renew, reinstate, or restore, or
17 may deny, revoke, suspend, or condition in any manner, any license for any one or more of the
18 following acts or conditions on the part of the licensee or the applicant thereof:

19 (1) Failing to meet or maintain the conditions and requirements necessary to qualify for the
20 granting of a license;

21 (2) Failing to notify the department in writing that the licensee's certification as a certified
22 midwife or as a certified professional midwife is no longer current or unencumbered within
23 thirty days of the change in status;

- 1 (3) Engaging in false, fraudulent, or deceptive advertising, or making untruthful or improbable
2 statements;
- 3 (4) Being addicted to, dependent on, or a habitual user of a narcotic, barbiturate, amphetamine,
4 hallucinogen, opium, or cocaine, or other drugs or derivatives of a similar nature;
- 5 (5) Practicing as a licensed midwife while impaired by alcohol, drugs, physical disability, or
6 mental instability;
- 7 (6) Procuring a license through fraud, misrepresentation, or deceit;
- 8 (7) Engaging in professional misconduct as defined by the program in accordance with its own
9 rules, incompetence, gross negligence, or manifest incapacity in the practice of midwifery;
- 10 (8) Failing to maintain a record or history of competency, trustworthiness, fair dealing, and
11 financial integrity;
- 12 (9) Engaging in conduct or practice contrary to recognized standards of ethics for the practice
13 of midwifery;
- 14 (10) Violating any condition or limitation upon which a conditional license was issued;
- 15 (11) Engaging in business under a past or present license issued pursuant to this chapter in a
16 manner of negligence which results in causing injury to one or more members of the public;
- 17 (12) Failing to comply, observe, or adhere to any law in a manner such that the director deems
18 the applicant or licensee to be an unfit or improper person to hold a license;
- 19 (13) Having a revocation, suspension, or other disciplinary action by a territory, or by another
20 state or federal agency against a licensee or applicant for any reason provided by the licensing
21 laws or this section;
- 22 (14) Having a criminal conviction, whether by nolo contendere or otherwise, of a penal crime
23 directly related to the qualifications, functions, or duties of a licensed midwife;

1 (15) Failing to report in writing to the director any disciplinary decision issued against the
2 licensee or the applicant in another jurisdiction within thirty days of the disciplinary decision;

3 (16) Violating this chapter, any other applicable licensing laws, or any rule or order of the
4 director; or

5 (17) Using or removing without authorization controlled substances or drugs, including
6 diverting or attempting to divert drugs or controlled substances for unauthorized use.

7 **Section 16 - Penalties.** Any person who violates this chapter or rules adopted pursuant
8 thereto shall be subject to a fine of not more than \$1,000 for each separate offense.

9 **Section 17 - Task Force.** There is established a home birth task force under the
10 Department of Health.

11 (1) The task force shall consist of no more than fourteen members and shall include:

12 A. The director of commerce and consumer affairs, or the director's designee;

13 B. The director of health, or the director's designee;

14 C. A representative from the Hawaii section of the American College of Obstetricians and
15 Gynecologists or other Hawaii licensed physician;

16 D. A representative of the Department of Human Services Med-QUEST Division or a
17 designated representative of an insurance provider serving Med-QUEST;

18 E. A representative of Emergency Medical services (EMS);

19 F. A representative of the Hawai'i Hospital Association (HHA); and

20 G. Eight Members recommended by the Hawaii Home Birth Collective that represent the
21 following stakeholder groups: certified midwife; certified professional midwife; home birth
22 elder; traditional or cultural birth attendant; and a member of the public that has used home
23 birth services.

1 (2) The task force shall include representation from all counties. The task force may
2 recommend additional members with appropriate expertise, to be approved by the chairperson.

3 (3) The task force shall elect a chairperson from among the members of the task force.

4 (4) The task force shall discuss matters relating to home births and make recommendations to
5 improve coordination of care and information across the maternal health system. The
6 discussions shall include but not be limited to the following:

- 7 A. Education and training of birth practitioners;
- 8 B. Public health education and information regarding home birth practices;
- 9 C. Data and information regarding home birth and maternal and infant health;
- 10 D. Transport to medical care;
- 11 E. Proposed action to improve public health and safety.

12 (5) The members of the task force shall serve without compensation. No member of the task
13 force shall be made subject to section 84-17, Hawaii Revised Statutes, solely because of that
14 member's participation on the task force.

15 (6) The Department of Health shall provide administrative and clerical support required by the
16 task force.

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

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INTRODUCED BY: _____