

Contacts:

Pacific Birth Collective

director@pacificbirthcollective.org

Hawaii Home Birth Collective

hawaiihomebirthcollective@gmail.com

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FOR IMMEDIATE RELEASE

ATTORNEY GENERAL: MIDWIFERY LICENSURE LAW CRIMINALIZES ACTIVITIES BY BIRTH ATTENDANTS, DOULAS, & EXTENDED FAMILY; LAHAINA REP. PROPOSES FIX.

The Hawaii State Attorney General's office issued a letter last week providing guidance and clarifications regarding Hawaii's current midwifery licensure law, [HRS 457J](#). The letter confirms that anyone who provides "[advice and information regarding the progress of childbirth and care for newborns and infants](#)" or "[care during pregnancy, labor, childbirth, post-partum and interconception periods.](#)" must be a licensed professional, or meet criteria for a listed [exemption](#). Doulas, lactation consultants, and almost any friend or extended family member giving advice about pregnancy or childcare, or caring for a pregnant or laboring woman, could [face fines](#) or [criminal penalties under the law](#).

The letter confirms that current [exemptions](#) under [HRS 457J](#) are limited to immediate family, other licensed professionals, and people who render aid in an emergency. The law does not grant exemptions to grandparents, cousins or hanai family members, and does not exempt unlicensed birth attendants such as doulas or other birth workers, even if they are not being paid. Under [HRS 457 J-13](#), anyone engaging in a "midwifery" activity without a license shall be subject to fines of \$1000 per day of violation. The AG letter also confirms that violations of the midwifery law will be considered misdemeanors under HRS [436B- 27\(b\)](#). A misdemeanor is a criminal offense that can result in jail time.

State Representative Elle Cochran, who represents Lahaina, has proposed [HB2649](#) to address this problem by clarifying the definition of "Midwifery" in HRS 457J to mean "clinical assessment, monitoring and care," and adding exemptions for cultural and religious practitioners and extended family. Senator Maile Shimabukuro has proposed [SB2969](#) as a companion measure.

[HRS 457 J criminalizes midwifery care that families already rely on.](#)

In the months following the devastating fires in Lahaina, pregnant women turned to community Resilience hubs for information and care, and were often supported with skill and compassion by [traditional practitioners](#). Many of those practitioners are affected by the midwifery licensure law. Cochran worked alongside these practitioners through months of relief efforts, and heard many urgent requests from her community to end the criminalization of traditional midwifery.

Rep. Cochran shares, “If it weren’t for these traditional practitioners on the ground, it’s disturbing to think of the detrimental effects for the mothers who had nowhere to turn and who already were traumatized by the fire. They were trapped, couldn’t get access to a medical facility – and to think that the care provided by these practitioners in the community would be technically illegal under the current law! It’s unacceptable and the reason I proposed this bill.”

Native Hawaiians are disproportionately affected by criminalization. No Kanaka Maoli (native Hawaiian) midwives have yet been licensed, and only one of the [41 licensed midwives](#) was born and raised in Hawai‘i. An [exemption](#) for Native Hawaiian Healing practitioners recognized by a kupuna council under Papa Ola Lokahi was included in the midwifery licensure law, but no birth practitioners have been recognized. Stringent limitations to [specific healing practices](#) (lā‘au lapa‘au, lomilomi, lā‘au kahea and ho‘oponopono), limited [regional](#) jurisdictions, and a [required association with a Federally Qualified health Center](#), along with incompatible traditional cultural protocols on the part of some practitioners, have thwarted efforts thus far. A broader exemption for “traditional Native Hawaiian healing pursuant to the Constitution of the State of Hawaii,” was also included, but the Attorney General’s letter notes that “it is not clear what, if any, cultural practices are exempted from midwifery licensure.” This could potentially mean that Hawaiian practitioners could be investigated, cited or arrested, but might have grounds to eventually assert specific rights in court.

Native Hawaiians/Pacific Islanders ([NHPI](#)) have the single [highest maternal mortality](#) rate of [any ethnic group](#) in the US. These disparities in pregnancy-related death are [caused by systemic inequalities](#), not by home births or midwives. [Communities facing maternal health inequities need more access to care and support](#), not less. Factors such as cultural understanding, empowerment, and follow-up care (common [reasons](#) that NHPI women choose home birth) have been shown to be [protective](#).

Criminalizing traditional midwives is [not making pregnant people safer](#). Birthing families know who they trust and feel safe with. When unlicensed midwives and birth attendants are criminalized, some families are more reluctant to transfer to a hospital if a need arises, and communication with other healthcare providers is severely compromised. This can lead to dangerous delays and undermine trust and cooperation between birthing people and providers.

Many of the midwives now criminalized by HRS 475 J served communities with limited access to healthcare. Licensed Midwife Tara Compehos, on Hawaii Island, describes the lack of access to care in the Puna area:

" There are really only 2 licensed midwives who are licensed under HRS 457J and currently practicing within 75 miles of Puna. I used to partner with a traditional birth attendant who is a deeply entrenched member of the Puna community, with a great deal of cultural competency and very skilled. But in 2020 she stopped practicing because the CPM model of care wasn't culturally congruent to her or her community. Mostly she felt she couldn't risk criminalization."

Community advocates have called HRS 457J “dangerous and discriminatory,” citing multiple barriers to licensure, including the extreme inaccessibility of MEAC- accredited midwifery schools for residents of Hawai‘i. [Whitney Herrelson](#), a licensed midwife from Maui explains, “During my training, there weren’t enough preceptors on Maui, and so I had to travel to the continent for the majority of my clinical rotations. This tacked on thousands to my already expensive degree.”

Birth professionals excluded from licensure have worked with decision makers to propose more inclusive solutions, but the process has failed them. [Act 32 \(2019\)](#), which created midwifery licensure, intended “to enact statutes that will incorporate all birth practitioners and allow them to practice to the fullest extent under the law,” and mandated a Task Force to make recommendations for legislation. However, none of the task force’s recommendations were enacted, and [all of the midwifery-related bills proposed over the past four years have failed](#), leaving traditional birth attendants - - and others giving advice about pregnancy and babies — in [violation](#) of HRS 457-J’s restrictive requirements.

Other governing bodies have expressed concerns about the criminalization of traditional midwives and other birth workers in Hawai‘i and offered support for remediation efforts. All three neighbor island Counties, where [rural access to care is most challenging](#), passed resolutions last year "urging the legislature to permanently exempt birth attendants from licensure laws," which the [Hawaii State Association of Counties \(HSAC\)](#) included in its 2024 recommendations. Meanwhile, the [United Nations Human Rights Committee](#) heard testimony about the impact of HRS 457 J during its 2023 review of the United States and recommended that the U.S. address areas where “midwifery is severely restricted, banned or even criminalized, limiting the availability of culturally sensitive and respectful maternal health care for those with low incomes, those living in rural areas, people of African descent and members of Indigenous communities.”

Kaua‘i Council Member Addison Bulosan shares, "as a first time expecting father, this directly inhibits myself and other fathers-to-be, to access the wealth of well-qualified health providers to learn and create the best outcomes for our child's birth and ongoing care for our mothers, children, and fathers. Especially accessing Native Hawaiian birthing practices that are safe, effective, and well-educated. We must create better access to quality care and not restrict it in order to create better health outcomes for our community.”