



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5370

Introduced 2/15/2012, by Rep. Maria Antonia Berrios - Kelly M. Cassidy

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.33 new

225 ILCS 60/4

225 ILCS 65/50-15

305 ILCS 5/5-5

from Ch. 111, par. 4400-4

was 225 ILCS 65/5-15

from Ch. 23, par. 5-5

Creates the Home Birth Safety Act. Provides for the licensure of midwives by the Department of Financial and Professional Regulation. Creates the Illinois Midwifery Board. Sets forth provisions concerning qualifications, grounds for disciplinary action, and administrative procedures. Amends the Regulatory Sunset Act to set a repeal date for the new Act of January 1, 2023. Also amends the Medical Practice Act of 1987, the Nurse Practice Act, and the Illinois Public Aid Code to make related changes. Effective immediately.

LRB097 19017 CEL 64256 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Home
5 Birth Safety Act.

6 Section 5. Purpose. The practice of midwifery in
7 out-of-hospital settings is hereby declared to affect the
8 public health, safety, and welfare and to be subject to
9 regulation in the public interest. The purpose of the Act is to
10 protect and benefit the public by setting standards for the
11 qualifications, education, training, and experience of those
12 who seek to obtain licensure and hold the title of Licensed
13 Midwife, to promote high standards of professional performance
14 for those licensed to practice midwifery in out-of-hospital
15 settings in this State, and to protect the public from
16 unprofessional conduct by persons licensed to practice
17 midwifery, as defined in this Act. This Act shall be liberally
18 construed to best carry out these purposes.

19 Section 10. Exemptions.

20 (a) This Act does not prohibit a person licensed under any
21 other Act in this State from engaging in the practice for which
22 he or she is licensed or from delegating services as provided

1 for under that other Act.

2 (b) Nothing in this Act shall be construed to prohibit or
3 require licensing under this Act, with regard to:

4 (1) the gratuitous rendering of services;

5 (2) the rendering of services by a person, if such
6 attendance is in accordance with the person's religious
7 faith and is rendered to persons with a similar religious
8 faith as an exercise and enjoyment of their religious
9 freedom; and

10 (3) a student midwife working under the direction of a
11 licensed midwife.

12 Section 15. Definitions. In this Act:

13 "Board" means the Illinois Midwifery Board.

14 "Certified professional midwife" means a person who has met
15 the standards for certification set by the North American
16 Registry of Midwives or a successor organization and has been
17 awarded the Certified Professional Midwife (CPM) credential.

18 "Collaboration" means a process involving 2 or more health
19 care professionals working together, each contributing one's
20 respective area of expertise to provide more comprehensive
21 patient care.

22 "Consultation" means the process whereby a licensed
23 midwife seeks the advice or opinion of another health care
24 professional.

25 "Department" means the Department of Financial and

1 Professional Regulation.

2 "Licensed midwife" means a person who has been granted a
3 license under this Act to engage in the practice of midwifery.

4 "National Association of Certified Professional Midwives"
5 or "NACPM" means the professional organization, or its
6 successor, that promotes the growth and development of the
7 profession of certified professional midwives.

8 "North American Registry of Midwives" or "NARM" means the
9 accredited international agency, or its successor, that has
10 established and has continued to administer certification for
11 the credentialing of certified professional midwives.

12 "Practice of midwifery" means providing the necessary
13 supervision, care, education, and advice to women during the
14 antepartum, intrapartum, and postpartum period, conducting
15 deliveries independently, and caring for the newborn, with such
16 care including without limitation preventative measures, the
17 detection of abnormal conditions in the mother and the child,
18 the procurement of medical assistance, and the execution of
19 emergency measures in the absence of medical help. "Practice of
20 midwifery" includes non-prescriptive family planning.

21 "Secretary" means the Secretary of Financial and
22 Professional Regulation.

23 "Written collaborative agreement" means a written
24 agreement between a licensed midwife and a collaborating
25 physician or advanced practice nurse.

1 Section 20. Unlicensed practice. Beginning January 1,
2 2013, no person may practice, attempt to practice, or hold
3 himself or herself out to practice as a licensed midwife unless
4 he or she is licensed as a midwife under this Act.

5 Section 25. Title. A licensed midwife may identify himself
6 or herself as a Licensed Midwife or a Licensed Home Birth
7 Midwife and may use the abbreviation L.M.

8 Section 30. Informed consent.

9 (a) A licensed midwife shall, at an initial consultation
10 with a client, provide a copy of the rules under this Act and
11 disclose to the client orally and in writing all of the
12 following:

13 (1) The licensed midwife's experience and training.

14 (2) Whether the licensed midwife has malpractice
15 liability insurance coverage and the policy limits of any
16 such coverage.

17 (3) A written protocol for the handling of medical
18 emergencies, including transportation to a hospital,
19 particular to each client.

20 (4) A notice that the client must obtain a physical
21 examination from a physician licensed to practice medicine
22 in all its branches, doctor of osteopathy, physician
23 assistant, or advanced practice nurse.

24 (b) A copy of the informed consent document, signed and

1 dated by the client, must be kept in each client's chart.

2 Section 33. Vicarious liability. No physician licensed to
3 practice medicine in all its branches or advanced practice
4 nurse shall be held liable for an injury solely resulting from
5 an act or omission by a licensed midwife occurring outside of a
6 hospital, doctor's office or health care facility.

7 Except as may otherwise be provided by law, nothing in this
8 Section shall exempt any physician licensed to practice
9 medicine in all its branches or advanced practice nurse from
10 liability for his or her own negligent, grossly negligent, or
11 willful or wanton acts or omissions.

12 Section 35. Advertising.

13 (a) Any person licensed under this Act may advertise the
14 availability of professional midwifery services in the public
15 media or on premises where professional services are rendered,
16 if the advertising is truthful and not misleading and is in
17 conformity with any rules regarding the practice of a licensed
18 midwife.

19 (b) A licensee must include in every advertisement for
20 midwifery services regulated under this Act his or her title as
21 it appears on the license or the initials authorized under this
22 Act.

23 Section 40. Powers and duties of the Department; rules.

1 (a) The Department shall exercise the powers and duties
2 prescribed by the Civil Administrative Code of Illinois for the
3 administration of licensing Acts and shall exercise such other
4 powers and duties necessary for effectuating the purposes of
5 this Act.

6 (b) The Secretary shall adopt rules consistent with the
7 provisions of this Act for the administration and enforcement
8 of the Act and for the payment of fees connected to the Act and
9 may prescribe forms that shall be issued in connection with the
10 Act. The rules shall include, but not be limited to, the
11 following:

12 (1) With regard to testing, care, and screening, a
13 licensed midwife shall:

14 (A) offer each client routine prenatal care and
15 testing in accordance with current American College of
16 Obstetricians and Gynecologists guidelines;

17 (B) provide all clients with a plan for 24-hour
18 on-call availability by a licensed midwife, certified
19 nurse-midwife, or licensed physician throughout
20 pregnancy, intrapartum, and 6 weeks postpartum;

21 (C) provide clients with labor support, fetal
22 monitoring, and routine assessment of vital signs once
23 active labor is established;

24 (D) supervise delivery of infant and placenta,
25 assess newborn and maternal well-being in immediate
26 postpartum, and perform Apgar scores;

1 (E) administer, if necessary, oxytocin (Pitocin)
2 solely as an anti-hemorrhagic agent, oxygen and
3 intravenous fluids for stabilization, and other drugs
4 or procedures as determined by the Department;

5 (F) perform routine cord management and inspect
6 for the appropriate number of vessels;

7 (G) inspect the placenta and membranes for
8 completeness;

9 (H) inspect the perineum and vagina postpartum for
10 lacerations and stabilize;

11 (I) observe mother and newborn postpartum until
12 stable condition is achieved, but in no event for less
13 than 2 hours;

14 (J) instruct the mother, father, and other support
15 persons, both verbally and in writing, of the special
16 care and precautions for both mother and newborn in the
17 immediate postpartum period;

18 (K) reevaluate maternal and newborn well-being
19 within 36 hours after delivery.

20 (L) use universal precautions with all biohazard
21 materials;

22 (M) ensure that a birth certificate is accurately
23 completed and filed in accordance with State law;

24 (N) offer to obtain and submit a blood sample, in
25 accordance with the recommendations for metabolic
26 screening of the newborn;

1 (O) offer an injection of vitamin K for the
2 newborn, in accordance with the indication, dose, and
3 administration route set by the Department in rules.

4 (P) within one week after delivery, offer a newborn
5 hearing screening to every newborn or refer the parents
6 to a facility with a newborn hearing screening program;

7 (Q) within 2 hours after the birth, offer the
8 administration of anti-biotic ointment into the eyes
9 of the newborn, in accordance with State law on the
10 prevention of infant blindness; and

11 (R) maintain adequate antenatal and perinatal
12 records of each client and provide records to
13 consulting licensed physicians and licensed certified
14 nurse-midwives, in accordance with the federal Health
15 Insurance Portability and Accountability Act.

16 (2) With regard to collaboration, a licensed midwife
17 must form a written collaborative agreement with a medical
18 doctor or doctor of osteopathy licensed under the Medical
19 Practice Act of 1987 or with a certified nurse midwife
20 licensed as an advanced practice nurse under the Nurse
21 Practice Act. This agreement must:

22 (A) include documented quarterly review of all
23 clients under the care of the licensed midwife;

24 (B) include written protocols and procedures for
25 assessing risk and appropriateness for homebirth,
26 provide supportive care when care is transferred to

1 another provider, if possible; and

2 (C) consider the standards regarding practice of
3 midwifery established by the National Association of
4 Certified Professional Midwives, including referral of
5 mother or baby to appropriate professionals when
6 either needs care outside the midwife's scope of
7 practice or expertise.

8 Collaboration does not require an employment
9 relationship between the collaborating physician or
10 certified nurse-midwife. Absent an employment
11 relationship, an agreement may not restrict the categories
12 of patients or third-party payment sources accepted by the
13 licensed midwife.

14 Nothing in this Act shall be construed to limit
15 delegation of tasks or duties by a physician or certified
16 nurse-midwife to a licensed midwife in accordance with
17 Section 54.2 of the Medical Practice Act of 1987 and
18 subsection (b) of Section 50-75 of the Nurse Practice Act.
19 Nothing in this Act shall be construed to limit the method
20 of delegation that may be authorized by any means,
21 including, but not limited to, oral, written, electronic,
22 standing orders, protocols, guidelines, or verbal orders.

23 This relationship must not be construed to necessarily
24 require the personal presence of the collaborating care
25 provider at all times at the place where services are
26 rendered, as long as there is communication available for

1 consultation by radio, telephone, Internet, or
2 telecommunications.

3 A copy of the signed, written collaborative agreement
4 must be available to the Department upon request from both
5 the licensed midwife and the collaborating physician or
6 certified nurse-midwife.

7 If a licensed midwife makes 10 failed attempts,
8 documented by certified mail, to secure a written
9 collaborative agreement, then he or she may practice
10 unencumbered.

11 (3) With regard to prohibited practices, a licensed
12 midwife may not do any of the following:

13 (A) Administer prescription pharmacological agents
14 intended to induce or augment labor.

15 (B) Administer prescription pharmacological agents
16 to provide pain management.

17 (C) Use vacuum extractors or forceps.

18 (D) Prescribe medications.

19 (E) Perform major surgical procedures including,
20 but not limited to, abortions, cesarean sections, and
21 circumcisions.

22 (c) The Department shall consult with the Board in adopting
23 rules. Notice of proposed rulemaking shall be transmitted to
24 the Board and the Department shall review the Board's response
25 and any recommendations made. The Department shall notify the
26 Board in writing with proper explanation of deviations from the

1 Board's recommendations and responses.

2 (d) The Department may at any time seek the advice and the
3 expert knowledge of the Board on any matter relating to the
4 administration of this Act.

5 (e) The Department shall issue quarterly a report to the
6 Board of the status of all complaints related to the profession
7 filed with the Department.

8 (f) Administration by the Department of this Act must be
9 consistent with standards regarding the practice of midwifery
10 established by the National Association of Certified
11 Professional Midwives or a successor organization whose
12 essential documents include without limitation subject matter
13 concerning scope of practice, standards of practice, informed
14 consent, appropriate consultation, collaboration or referral,
15 and acknowledgement of a woman's right to self determination
16 concerning her maternity care.

17 Section 45. Illinois Midwifery Board.

18 (a) There is created under the authority of the Department
19 the Illinois Midwifery Board, which shall consist of 7 members
20 appointed by the Secretary, 4 of whom shall be licensed
21 midwives who carry the CPM credential, except that initial
22 appointees must have at least 3 years of experience in the
23 practice of midwifery in an out-of-hospital setting, be
24 certified by the North American Registry of Midwives, and meet
25 the qualifications for licensure set forth in this Act; one of

1 whom shall be an obstetrician or a family practice physician
2 licensed under the Medical Practice Act of 1987 who has a
3 minimum of 2 years of experience providing home birth services
4 or consulting with home birth providers; one of whom shall be a
5 certified nurse midwife who has at least 2 years of experience
6 in providing home birth services; and one of whom shall be a
7 knowledgeable public member who has given birth with the
8 assistance of a certified professional midwife in an
9 out-of-hospital birth setting. Board members shall serve
10 4-year terms, except that in the case of initial appointments,
11 terms shall be staggered as follows: 3 members shall serve for
12 4 years, 2 members shall serve for 3 years, and 2 members shall
13 serve for 2 years. The Board shall annually elect a chairperson
14 and vice chairperson.

15 (b) Any appointment made to fill a vacancy shall be for the
16 unexpired portion of the term. Appointments to fill vacancies
17 shall be made in the same manner as original appointments. No
18 Board member may be reappointed for a term that would cause his
19 or her continuous service on the Board to exceed 9 years.

20 (c) Board membership must have reasonable representation
21 from different geographic areas of this State.

22 (d) The members of the Board shall be reimbursed for all
23 legitimate, necessary, and authorized expenses incurred in
24 attending the meetings of the Board.

25 (e) The Secretary may remove any member for cause at any
26 time prior to the expiration of his or her term.

1 (f) Four Board members shall constitute a quorum. A vacancy
2 in the membership of the Board shall not impair the right of a
3 quorum to perform all of the duties of the Board.

4 (g) The Board shall provide the Department with
5 recommendations concerning the administration of this Act and
6 perform each of the following duties:

7 (1) Recommend to the Department the prescription and,
8 from time to time, the revision of any rules that may be
9 necessary to carry out the provisions of this Act,
10 including those that are designed to protect the health,
11 safety, and welfare of the public.

12 (2) Conduct hearings and disciplinary conferences on
13 disciplinary charges of licensees.

14 (3) Report to the Department, upon completion of a
15 hearing, the disciplinary actions recommended to be taken
16 against a person found in violation of this Act.

17 (4) Recommend the approval, denial of approval, and
18 withdrawal of approval of required education and
19 continuing educational programs.

20 (h) The Secretary shall give due consideration to all
21 recommendations of the Board. If the Secretary takes action
22 contrary to a recommendation of the Board, the Secretary must
23 promptly provide a written explanation of that action.

24 (i) The Board may recommend to the Secretary that one or
25 more licensed midwives be selected by the Secretary to assist
26 in any investigation under this Act. Compensation shall be

1 provided to any licensee who provides assistance under this
2 subsection (i), in an amount determined by the Secretary.

3 (j) Members of the Board shall be immune from suit in an
4 action based upon a disciplinary proceeding or other activity
5 performed in good faith as a member of the Board, except for
6 willful or wanton misconduct.

7 Section 50. Qualifications.

8 (a) A person is qualified for licensure as a midwife if
9 that person meets each of the following qualifications:

10 (1) He or she has earned an associate's degree or
11 higher, or the equivalent of an associate's degree or
12 higher, in either nursing or midwifery from an accredited
13 post-secondary institution or has earned a general
14 associates degree or its equivalent, including completion
15 of all of the following coursework from an accredited
16 post-secondary institution in the following denominations:

17 (A) Laboratory Science (must include coursework in
18 Anatomy and Physiology and Microbiology): 12 credit hours.

19 (B) English or Communications: 6 credit hours.

20 (C) Social and Behavioral Science (Sociology and
21 Psychology): 6 credit hours.

22 (D) Math: 3 credit hours.

23 (E) Nutrition: 3 credit hours.

24 (F) Pharmacology: 3 credit hours.

25 (2) He or she has successfully completed a program of

1 midwifery education approved by the North American
2 Registry of Midwives that includes both didactic and
3 clinical internship experience, the sum of which, on
4 average, takes 3 to 5 years to complete.

5 (3) He or she has passed a written and practical skills
6 examination for the practice of midwifery that has been
7 developed following the standards set by the National
8 Commission for Certifying Agencies or a successor
9 organization and is administered by the North American
10 Registry of Midwives.

11 (4) He or she holds a valid CPM credential granted by
12 the North American Registry of Midwives.

13 (b) Before March 1, 2013, a person seeking licensure as a
14 licensed midwife who has not met the educational requirements
15 set forth in this Section shall be qualified for licensure if
16 that person does all of the following:

17 (1) Submits evidence of having successfully passed the
18 national certification exam described in subsection (a) of
19 this Section prior to January 1, 2006.

20 (2) Submits evidence of current certification in adult
21 CPR and in neonatal resuscitation.

22 (3) Has continually maintained active, up-to-date
23 recertification status as a certified professional midwife
24 with the North American Registry of Midwives.

25 (4) Submits evidence of practice for at least 5 years
26 as a midwife delivering in an out-of-hospital setting.

1 (c) Nothing used in submitting evidence of practice of
2 midwifery when applying for licensure under this Act shall be
3 used as evidence or to take legal action against the applicant
4 regarding the practice of midwifery, nursing, or medicine prior
5 to the passage of this Act.

6 Section 55. Social Security Number on application. In
7 addition to any other information required to be contained in
8 the application, every application for an original, renewal,
9 reinstated, or restored license under this Act shall include
10 the applicant's Social Security Number.

11 Section 60. Continuing education.

12 (a) The Department shall require all licensed midwives to
13 submit proof of the completion of at least 25 hours of
14 continuing education in classes approved by the North American
15 Registry of Midwives and 5 hours of peer review per 3-year
16 license renewal cycle.

17 (b) Rules adopted under this Act shall require the licensed
18 midwife to maintain CPM certification by meeting all the
19 requirements set forth by the North American Registry of
20 Midwives or its successor.

21 (c) Each licensee is responsible for maintaining records of
22 completion of continuing education and shall be prepared to
23 produce the records when requested by the Department.

1 Section 65. Inactive status.

2 (a) A licensed midwife who notifies the Department in
3 writing on forms prescribed by the Department may elect to
4 place his or her license on an inactive status and shall be
5 excused from payment of renewal fees until he or she notifies
6 the Department in writing of his or her intent to restore the
7 license.

8 (b) A licensed midwife whose license is on inactive status
9 may not practice licensed midwifery in the State of Illinois.

10 (c) A licensed midwife requesting restoration from
11 inactive status shall be required to pay the current renewal
12 fee and to restore his or her license, as provided by the
13 Department.

14 (d) Any licensee who engages in the practice of midwifery
15 while his or her license is lapsed or on inactive status shall
16 be considered to be practicing without a license, which shall
17 be grounds for discipline.

18 Section 70. Renewal, reinstatement, or restoration of
19 licensure; military service.

20 (a) The expiration date and renewal period for each license
21 issued under this Act shall be set by the Department.

22 (b) All renewal applicants shall provide proof of having
23 met the requirements of continuing education set forth by the
24 North American Registry of Midwives or its successor. The
25 Department shall provide for an orderly process for the

1 reinstatement of licenses that have not been renewed due to
2 failure to meet continuing education requirements.

3 (c) Any licensed midwife who has permitted his or her
4 license to expire or who has had his or her license on inactive
5 status may have his or her license restored by making
6 application to the Department and filing proof acceptable to
7 the Department of fitness to have the license restored and by
8 paying the required fees. Proof of fitness may include evidence
9 attesting to active lawful practice in another jurisdiction.

10 (d) The Department shall determine, by an evaluation
11 program, fitness for restoration of a license under this
12 Section and shall establish procedures and requirements for
13 restoration.

14 (e) Any licensed midwife whose license expired while he or
15 she was (i) in federal service on active duty with the Armed
16 Forces of the United States or the State Militia and called
17 into service or training or (ii) or received education under
18 the supervision of the United States preliminary to induction
19 into the military service may have his or her license restored
20 without paying any lapsed renewal fees, if, within 2 years
21 after honorable termination of service, training, or
22 education, he or she furnishes the Department with satisfactory
23 evidence to the effect that he or she has been so engaged.

24 Section 75. Roster. The Department shall maintain a roster
25 of the names and addresses of all licensees and of all persons

1 whose licenses have been suspended or revoked. This roster
2 shall be available upon written request and payment of the
3 required fee.

4 Section 80. Fees.

5 (a) The Department shall provide for a schedule of fees for
6 the administration and enforcement of this Act, including
7 without limitation original licensure, renewal, and
8 restoration, which fees shall be nonrefundable.

9 (b) All fees collected under this Act shall be deposited
10 into the General Professions Dedicated Fund and appropriated to
11 the Department for the ordinary and contingent expenses of the
12 Department in the administration of this Act.

13 Section 85. Returned checks; fines. Any person who delivers
14 a check or other payment to the Department that is returned to
15 the Department unpaid by the financial institution upon which
16 it is drawn shall pay to the Department, in addition to the
17 amount already owed to the Department, a fine of \$50. The fines
18 imposed by this Section are in addition to any other discipline
19 provided under this Act for unlicensed practice or practice on
20 a non-renewed license. The Department shall notify the person
21 that fees and fines shall be paid to the Department by
22 certified check or money order within 30 calendar days after
23 the notification. If, after the expiration of 30 days from the
24 date of the notification, the person has failed to submit the

1 necessary remittance, the Department shall automatically
2 terminate the license or deny the application, without hearing.
3 If, after termination or denial, the person seeks a license, he
4 or she shall apply to the Department for restoration or
5 issuance of the license and pay all fees and fines due to the
6 Department. The Department may establish a fee for the
7 processing of an application for restoration of a license to
8 defray all expenses of processing the application. The
9 Secretary may waive the fines due under this Section in
10 individual cases where the Secretary finds that the fines would
11 be unreasonable or unnecessarily burdensome.

12 Section 90. Unlicensed practice; civil penalty. Any person
13 who practices, offers to practice, attempts to practice, or
14 holds himself or herself out to practice midwifery or as a
15 midwife without being licensed under this Act shall, in
16 addition to any other penalty provided by law, pay a civil
17 penalty to the Department in an amount not to exceed \$5,000 for
18 each offense, as determined by the Department. The civil
19 penalty shall be assessed by the Department after a hearing is
20 held in accordance with the provisions set forth in this Act
21 regarding the provision of a hearing for the discipline of a
22 licensee. The civil penalty shall be paid within 60 days after
23 the effective date of the order imposing the civil penalty. The
24 order shall constitute a judgment and may be filed and
25 execution had thereon in the same manner as any judgment from

1 any court of record. The Department may investigate any
2 unlicensed activity.

3 Section 95. Grounds for disciplinary action.

4 (a) The Department may refuse to issue or to renew or may
5 revoke, suspend, place on probation, reprimand or take other
6 disciplinary action as the Department may deem proper,
7 including fines not to exceed \$5,000 for each violation, with
8 regard to any licensee or license for any one or combination of
9 the following causes:

10 (1) Violations of this Act or its rules.

11 (2) Material misstatement in furnishing information to
12 the Department.

13 (3) Conviction of any crime under the laws of any U.S.
14 jurisdiction that is (i) a felony, (ii) a misdemeanor, an
15 essential element of which is dishonesty, or (iii) directly
16 related to the practice of the profession.

17 (4) Making any misrepresentation for the purpose of
18 obtaining a license.

19 (5) Professional incompetence or gross negligence.

20 (6) Gross malpractice.

21 (7) Aiding or assisting another person in violating any
22 provision of this Act or its rules.

23 (8) Failing to provide information within 60 days in
24 response to a written request made by the Department.

25 (9) Engaging in dishonorable, unethical, or

1 unprofessional conduct of a character likely to deceive,
2 defraud, or harm the public.

3 (10) Habitual or excessive use or addiction to alcohol,
4 narcotics, stimulants, or any other chemical agent or drug
5 that results in the inability to practice with reasonable
6 judgment, skill, or safety.

7 (11) Discipline by another U.S. jurisdiction or
8 foreign nation if at least one of the grounds for the
9 discipline is the same or substantially equivalent to those
10 set forth in this Act.

11 (12) Directly or indirectly giving to or receiving from
12 any person, firm, corporation, partnership, or association
13 any fee, commission, rebate, or other form of compensation
14 for any professional services not actually or personally
15 rendered. This shall not be deemed to include rent or other
16 remunerations paid to an individual, partnership, or
17 corporation by a licensed midwife for the lease, rental, or
18 use of space, owned or controlled by the individual,
19 partnership, corporation, or association.

20 (13) A finding by the Department that the licensee,
21 after having his or her license placed on probationary
22 status, has violated the terms of probation.

23 (14) Abandonment of a patient without cause.

24 (15) Willfully making or filing false records or
25 reports relating to a licensee's practice, including, but
26 not limited to, false records filed with State agencies or

1 departments.

2 (16) Physical illness or mental illness, including,
3 but not limited to, deterioration through the aging process
4 or loss of motor skill that results in the inability to
5 practice the profession with reasonable judgment, skill,
6 or safety.

7 (17) Failure to provide a patient with a copy of his or
8 her record upon the written request of the patient.

9 (18) Conviction by any court of competent
10 jurisdiction, either within or without this State, of any
11 violation of any law governing the practice of licensed
12 midwifery or conviction in this or another state of any
13 crime that is a felony under the laws of this State or
14 conviction of a felony in a federal court, if the
15 Department determines, after investigation, that the
16 person has not been sufficiently rehabilitated to warrant
17 the public trust.

18 (19) A finding that licensure has been applied for or
19 obtained by fraudulent means.

20 (20) Being named as a perpetrator in an indicated
21 report by the Department of Healthcare and Family Services
22 under the Abused and Neglected Child Reporting Act and upon
23 proof by clear and convincing evidence that the licensee
24 has caused a child to be an abused child or a neglected
25 child, as defined in the Abused and Neglected Child
26 Reporting Act.

1 (21) Practicing or attempting to practice under a name
2 other than the full name shown on a license issued under
3 this Act.

4 (22) Immoral conduct in the commission of any act, such
5 as sexual abuse, sexual misconduct, or sexual
6 exploitation, related to the licensee's practice.

7 (23) Maintaining a professional relationship with any
8 person, firm, or corporation when the licensed midwife
9 knows or should know that a person, firm, or corporation is
10 violating this Act.

11 (24) Failure to provide satisfactory proof of having
12 participated in approved continuing education programs as
13 determined by the Board and approved by the Secretary.
14 Exceptions for extreme hardships are to be defined by the
15 Department.

16 (b) The Department may refuse to issue or may suspend the
17 license of any person who fails to (i) file a tax return or to
18 pay the tax, penalty, or interest shown in a filed return or
19 (ii) pay any final assessment of the tax, penalty, or interest,
20 as required by any tax Act administered by the Illinois
21 Department of Revenue, until the time that the requirements of
22 that tax Act are satisfied.

23 (c) The determination by a circuit court that a licensee is
24 subject to involuntary admission or judicial admission as
25 provided in the Mental Health and Developmental Disabilities
26 Code operates as an automatic suspension. The suspension shall

1 end only upon a finding by a court that the patient is no
2 longer subject to involuntary admission or judicial admission,
3 the issuance of an order so finding and discharging the
4 patient, and the recommendation of the Board to the Secretary
5 that the licensee be allowed to resume his or her practice.

6 (d) In enforcing this Section, the Department, upon a
7 showing of a possible violation, may compel any person licensed
8 to practice under this Act or who has applied for licensure or
9 certification pursuant to this Act to submit to a mental or
10 physical examination, or both, as required by and at the
11 expense of the Department. The examining physicians shall be
12 those specifically designated by the Department. The
13 Department may order an examining physician to present
14 testimony concerning the mental or physical examination of the
15 licensee or applicant. No information shall be excluded by
16 reason of any common law or statutory privilege relating to
17 communications between the licensee or applicant and the
18 examining physician. The person to be examined may have, at his
19 or her own expense, another physician of his or her choice
20 present during all aspects of the examination. Failure of any
21 person to submit to a mental or physical examination when
22 directed shall be grounds for suspension of a license until the
23 person submits to the examination if the Department finds,
24 after notice and hearing, that the refusal to submit to the
25 examination was without reasonable cause.

26 If the Department finds an individual unable to practice

1 because of the reasons set forth in this subsection (d), the
2 Department may require that individual to submit to care,
3 counseling, or treatment by physicians approved or designated
4 by the Department, as a condition, term, or restriction for
5 continued, reinstated, or renewed licensure to practice or, in
6 lieu of care, counseling, or treatment, the Department may file
7 a complaint to immediately suspend, revoke, or otherwise
8 discipline the license of the individual. Any person whose
9 license was granted, reinstated, renewed, disciplined, or
10 supervised subject to such terms, conditions, or restrictions
11 and who fails to comply with such terms, conditions, or
12 restrictions shall be referred to the Secretary for a
13 determination as to whether or not the person shall have his or
14 her license suspended immediately, pending a hearing by the
15 Department.

16 In instances in which the Secretary immediately suspends a
17 person's license under this Section, a hearing on that person's
18 license must be convened by the Department within 15 days after
19 the suspension and completed without appreciable delay. The
20 Department may review the person's record of treatment and
21 counseling regarding the impairment, to the extent permitted by
22 applicable federal statutes and regulations safeguarding the
23 confidentiality of medical records.

24 A person licensed under this Act and affected under this
25 subsection (d) shall be afforded an opportunity to demonstrate
26 to the Department that he or she can resume practice in

1 compliance with acceptable and prevailing standards under the
2 provisions of his or her license.

3 Section 100. Failure to pay restitution. The Department,
4 without further process or hearing, shall suspend the license
5 or other authorization to practice of any person issued under
6 this Act who has been certified by court order as not having
7 paid restitution to a person under Section 8A-3.5 of the
8 Illinois Public Aid Code or under Section 46-1 of the Criminal
9 Code of 1961. A person whose license or other authorization to
10 practice is suspended under this Section is prohibited from
11 practicing until restitution is made in full.

12 Section 105. Injunction; cease and desist order.

13 (a) If a person violates any provision of this Act, the
14 Secretary may, in the name of the People of the State of
15 Illinois, through the Attorney General or the State's Attorney
16 of any county in which the action is brought, petition for an
17 order enjoining the violation or enforcing compliance with this
18 Act. Upon the filing of a verified petition in court, the court
19 may issue a temporary restraining order, without notice or
20 bond, and may preliminarily and permanently enjoin the
21 violation. If it is established that the person has violated or
22 is violating the injunction, the court may punish the offender
23 for contempt of court. Proceedings under this Section shall be
24 in addition to, and not in lieu of, all other remedies and

1 penalties provided by this Act.

2 (b) If any person practices as a licensed midwife or holds
3 himself or herself out as a licensed midwife without being
4 licensed under the provisions of this Act, then any licensed
5 midwife, any interested party, or any person injured thereby
6 may, in addition to the Secretary, petition for relief as
7 provided in subsection (a) of this Section.

8 (c) Whenever, in the opinion of the Department, any person
9 violates any provision of this Act, the Department may issue a
10 rule to show cause why an order to cease and desist should not
11 be entered against that person. The rule shall clearly set
12 forth the grounds relied upon by the Department and shall
13 provide a period of 7 days after the date of the rule to file an
14 answer to the satisfaction of the Department. Failure to answer
15 to the satisfaction of the Department shall cause an order to
16 cease and desist to be issued immediately.

17 Section 110. Violation; criminal penalty.

18 (a) Whoever knowingly practices or offers to practice
19 midwifery in this State without being licensed for that purpose
20 or exempt under this Act shall be guilty of a Class A
21 misdemeanor and, for each subsequent conviction, shall be
22 guilty of a Class 4 felony.

23 (b) Notwithstanding any other provision of this Act, all
24 criminal fines, moneys, or other property collected or received
25 by the Department under this Section or any other State or

1 federal statute, including, but not limited to, property
2 forfeited to the Department under Section 505 of the Illinois
3 Controlled Substances Act or Section 85 of the Methamphetamine
4 Control and Community Protection Act, shall be deposited into
5 the Professional Regulation Evidence Fund.

6 Section 115. Investigation; notice; hearing. The
7 Department may investigate the actions of any applicant or of
8 any person or persons holding or claiming to hold a license
9 under this Act. Before refusing to issue or to renew or taking
10 any disciplinary action regarding a license, the Department
11 shall, at least 30 days prior to the date set for the hearing,
12 notify in writing the applicant or licensee of the nature of
13 any charges and that a hearing shall be held on a date
14 designated. The Department shall direct the applicant or
15 licensee to file a written answer with the Board under oath
16 within 20 days after the service of the notice and inform the
17 applicant or licensee that failure to file an answer shall
18 result in default being taken against the applicant or licensee
19 and that the license may be suspended, revoked, or placed on
20 probationary status or that other disciplinary action may be
21 taken, including limiting the scope, nature, or extent of
22 practice, as the Secretary may deem proper. Written notice may
23 be served by personal delivery or certified or registered mail
24 to the respondent at the address of his or her last
25 notification to the Department. If the person fails to file an

1 answer after receiving notice, his or her license may, in the
2 discretion of the Department, be suspended, revoked, or placed
3 on probationary status, or the Department may take any
4 disciplinary action deemed proper, including limiting the
5 scope, nature, or extent of the person's practice or the
6 imposition of a fine, without a hearing, if the act or acts
7 charged constitute sufficient grounds for such action under
8 this Act. At the time and place fixed in the notice, the Board
9 shall proceed to hear the charges and the parties or their
10 counsel shall be accorded ample opportunity to present such
11 statements, testimony, evidence, and argument as may be
12 pertinent to the charges or to their defense. The Board may
13 continue a hearing from time to time.

14 Section 120. Formal hearing; preservation of record. The
15 Department, at its expense, shall preserve a record of all
16 proceedings at the formal hearing of any case. The notice of
17 hearing, complaint, and all other documents in the nature of
18 pleadings and written motions filed in the proceedings, the
19 transcript of testimony, the report of the Board or hearing
20 officer, and order of the Department shall be the record of the
21 proceeding. The Department shall furnish a transcript of the
22 record to any person interested in the hearing upon payment of
23 the fee required under Section 2105-115 of the Department of
24 Professional Regulation Law.

1 Section 125. Witnesses; production of documents; contempt.
2 Any circuit court may upon application of the Department or its
3 designee or of the applicant or licensee against whom
4 proceedings under Section 95 of this Act are pending, enter an
5 order requiring the attendance of witnesses and their testimony
6 and the production of documents, papers, files, books, and
7 records in connection with any hearing or investigation. The
8 court may compel obedience to its order by proceedings for
9 contempt.

10 Section 130. Subpoena; oaths. The Department shall have the
11 power to subpoena and bring before it any person in this State
12 and to take testimony either orally or by deposition or both
13 with the same fees and mileage and in the same manner as
14 prescribed in civil cases in circuit courts of this State. The
15 Secretary, the designated hearing officer, and every member of
16 the Board has the power to administer oaths to witnesses at any
17 hearing that the Department is authorized to conduct and any
18 other oaths authorized in any Act administered by the
19 Department. Any circuit court may, upon application of the
20 Department or its designee or upon application of the person
21 against whom proceedings under this Act are pending, enter an
22 order requiring the attendance of witnesses and their
23 testimony, and the production of documents, papers, files,
24 books, and records in connection with any hearing or
25 investigation. The court may compel obedience to its order by

1 proceedings for contempt.

2 Section 135. Findings of fact, conclusions of law, and
3 recommendations. At the conclusion of the hearing the Board
4 shall present to the Secretary a written report of its findings
5 of fact, conclusions of law, and recommendations. The report
6 shall contain a finding as to whether or not the accused person
7 violated this Act or failed to comply with the conditions
8 required under this Act. The Board shall specify the nature of
9 the violation or failure to comply and shall make its
10 recommendations to the Secretary.

11 The report of findings of fact, conclusions of law, and
12 recommendations of the Board shall be the basis for the
13 Department's order. If the Secretary disagrees in any regard
14 with the report of the Board, the Secretary may issue an order
15 in contravention of the report. The finding is not admissible
16 in evidence against the person in a criminal prosecution
17 brought for the violation of this Act, but the hearing and
18 findings are not a bar to a criminal prosecution brought for
19 the violation of this Act.

20 Section 140. Hearing officer. The Secretary may appoint any
21 attorney duly licensed to practice law in the State of Illinois
22 to serve as the hearing officer in any action for departmental
23 refusal to issue, renew, or license an applicant or for
24 disciplinary action against a licensee. The hearing officer

1 shall have full authority to conduct the hearing. The hearing
2 officer shall report his or her findings of fact, conclusions
3 of law, and recommendations to the Board and the Secretary. The
4 Board shall have 60 calendar days after receipt of the report
5 to review the report of the hearing officer and present its
6 findings of fact, conclusions of law, and recommendations to
7 the Secretary. If the Board fails to present its report within
8 the 60-day period, the Secretary may issue an order based on
9 the report of the hearing officer. If the Secretary disagrees
10 with the recommendation of the Board or the hearing officer, he
11 or she may issue an order in contravention of that
12 recommendation.

13 Section 145. Service of report; motion for rehearing. In
14 any case involving the discipline of a license, a copy of the
15 Board's report shall be served upon the respondent by the
16 Department, either personally or as provided in this Act for
17 the service of the notice of hearing. Within 20 days after the
18 service, the respondent may present to the Department a motion
19 in writing for a rehearing that shall specify the particular
20 grounds for rehearing. If no motion for rehearing is filed,
21 then upon the expiration of the time specified for filing a
22 motion, or if a motion for rehearing is denied, then upon the
23 denial, the Secretary may enter an order in accordance with
24 this Act. If the respondent orders from the reporting service
25 and pays for a transcript of the record within the time for

1 filing a motion for rehearing, the 20-day period within which
2 the motion may be filed shall commence upon the delivery of the
3 transcript to the respondent.

4 Section 150. Rehearing. Whenever the Secretary is
5 satisfied that substantial justice has not been done in the
6 revocation, suspension, or refusal to issue or renew a license,
7 the Secretary may order a rehearing by the same or another
8 hearing officer or by the Board.

9 Section 155. Prima facie proof. An order or a certified
10 copy thereof, over the seal of the Department and purporting to
11 be signed by the Secretary, shall be prima facie proof of the
12 following:

13 (1) that the signature is the genuine signature of the
14 Secretary;

15 (2) that such Secretary is duly appointed and
16 qualified; and

17 (3) that the Board and its members are qualified to
18 act.

19 Section 160. Restoration of license. At any time after the
20 suspension or revocation of any license, the Department may
21 restore the license to the accused person, unless after an
22 investigation and a hearing the Department determines that
23 restoration is not in the public interest.

1 Section 165. Surrender of license. Upon the revocation or
2 suspension of any license, the licensee shall immediately
3 surrender the license to the Department. If the licensee fails
4 to do so, the Department shall have the right to seize the
5 license.

6 Section 170. Summary suspension. The Secretary may
7 summarily suspend the license of a licensee under this Act
8 without a hearing, simultaneously with the institution of
9 proceedings for a hearing provided for in this Act, if the
10 Secretary finds that evidence in his or her possession
11 indicates that continuation in practice would constitute an
12 imminent danger to the public. In the event that the Secretary
13 summarily suspends a license without a hearing, a hearing by
14 the Department must be held within 30 days after the suspension
15 has occurred.

16 Section 175. Certificate of record. The Department shall
17 not be required to certify any record to the court or file any
18 answer in court or otherwise appear in any court in a judicial
19 review proceeding, unless there is filed in the court, with the
20 complaint, a receipt from the Department acknowledging payment
21 of the costs of furnishing and certifying the record. Failure
22 on the part of the plaintiff to file a receipt in court shall
23 be grounds for dismissal of the action.

1 Section 180. Administrative Review Law. All final
2 administrative decisions of the Department are subject to
3 judicial review under the Administrative Review Law and its
4 rules. The term "administrative decision" is defined as in
5 Section 3-101 of the Code of Civil Procedure.

6 Section 185. Illinois Administrative Procedure Act. The
7 Illinois Administrative Procedure Act is hereby expressly
8 adopted and incorporated in this Act as if all of the
9 provisions of such Act were included in this Act, except that
10 the provision of subsection (d) of Section 10-65 of the
11 Illinois Administrative Procedure Act that provides that at
12 hearings the licensee has the right to show compliance with all
13 lawful requirements for retention, continuation, or renewal of
14 the license is specifically excluded. For purposes of this Act,
15 the notice required under Section 10-25 of the Illinois
16 Administrative Procedure Act is deemed sufficient when mailed
17 to the last known address of a party.

18 Section 190. Home rule. Pursuant to paragraph (h) of
19 Section 6 of Article VII of the Illinois Constitution of 1970,
20 the power to regulate and issue licenses for the practice of
21 midwifery shall, except as may otherwise be provided within and
22 pursuant to the provisions of this Act, be exercised by the
23 State and may not be exercised by any unit of local government,

1 including home rule units.

2 Section 195. Severability. The provisions of this Act are
3 severable under Section 1.31 of the Statute on Statutes.

4 Section 900. The Regulatory Sunset Act is amended by adding
5 Section 4.33 as follows:

6 (5 ILCS 80/4.33 new)

7 Sec. 4.33. Act repealed on January 1, 2023. The following
8 Act is repealed on January 1, 2023:

9 The Home Birth Safety Act.

10 Section 905. The Medical Practice Act of 1987 is amended by
11 changing Section 4 as follows:

12 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

13 (Section scheduled to be repealed on December 31, 2012)

14 Sec. 4. Exemptions. This Act does not apply to the
15 following:

16 (1) persons lawfully carrying on their particular
17 profession or business under any valid existing regulatory
18 Act of this State, including without limitation persons
19 engaged in the practice of midwifery who are licensed under
20 the Home Birth Safety Act;

21 (2) persons rendering gratuitous services in cases of

1 emergency; or

2 (3) persons treating human ailments by prayer or
3 spiritual means as an exercise or enjoyment of religious
4 freedom.

5 (Source: P.A. 96-7, eff. 4-3-09; 97-622, eff. 11-23-11.)

6 Section 910. The Nurse Practice Act is amended by changing
7 Section 50-15 as follows:

8 (225 ILCS 65/50-15) (was 225 ILCS 65/5-15)

9 (Section scheduled to be repealed on January 1, 2018)

10 Sec. 50-15. Policy; application of Act.

11 (a) For the protection of life and the promotion of health,
12 and the prevention of illness and communicable diseases, any
13 person practicing or offering to practice advanced,
14 professional, or practical nursing in Illinois shall submit
15 evidence that he or she is qualified to practice, and shall be
16 licensed as provided under this Act. No person shall practice
17 or offer to practice advanced, professional, or practical
18 nursing in Illinois or use any title, sign, card or device to
19 indicate that such a person is practicing professional or
20 practical nursing unless such person has been licensed under
21 the provisions of this Act.

22 (b) This Act does not prohibit the following:

23 (1) The practice of nursing in Federal employment in
24 the discharge of the employee's duties by a person who is

1 employed by the United States government or any bureau,
2 division or agency thereof and is a legally qualified and
3 licensed nurse of another state or territory and not in
4 conflict with Sections 50-50, 55-10, 60-10, and 70-5 of
5 this Act.

6 (2) Nursing that is included in the program of study by
7 students enrolled in programs of nursing or in current
8 nurse practice update courses approved by the Department.

9 (3) The furnishing of nursing assistance in an
10 emergency.

11 (4) The practice of nursing by a nurse who holds an
12 active license in another state when providing services to
13 patients in Illinois during a bonafide emergency or in
14 immediate preparation for or during interstate transit.

15 (5) The incidental care of the sick by members of the
16 family, domestic servants or housekeepers, or care of the
17 sick where treatment is by prayer or spiritual means.

18 (6) Persons from being employed as unlicensed
19 assistive personnel in private homes, long term care
20 facilities, nurseries, hospitals or other institutions.

21 (7) The practice of practical nursing by one who is a
22 licensed practical nurse under the laws of another U.S.
23 jurisdiction and has applied in writing to the Department,
24 in form and substance satisfactory to the Department, for a
25 license as a licensed practical nurse and who is qualified
26 to receive such license under this Act, until (i) the

1 expiration of 6 months after the filing of such written
2 application, (ii) the withdrawal of such application, or
3 (iii) the denial of such application by the Department.

4 (8) The practice of advanced practice nursing by one
5 who is an advanced practice nurse under the laws of another
6 state, territory of the United States, or country and has
7 applied in writing to the Department, in form and substance
8 satisfactory to the Department, for a license as an
9 advanced practice nurse and who is qualified to receive
10 such license under this Act, until (i) the expiration of 6
11 months after the filing of such written application, (ii)
12 the withdrawal of such application, or (iii) the denial of
13 such application by the Department.

14 (9) The practice of professional nursing by one who is
15 a registered professional nurse under the laws of another
16 state, territory of the United States or country and has
17 applied in writing to the Department, in form and substance
18 satisfactory to the Department, for a license as a
19 registered professional nurse and who is qualified to
20 receive such license under Section 55-10, until (1) the
21 expiration of 6 months after the filing of such written
22 application, (2) the withdrawal of such application, or (3)
23 the denial of such application by the Department.

24 (10) The practice of professional nursing that is
25 included in a program of study by one who is a registered
26 professional nurse under the laws of another state or

1 territory of the United States or foreign country,
2 territory or province and who is enrolled in a graduate
3 nursing education program or a program for the completion
4 of a baccalaureate nursing degree in this State, which
5 includes clinical supervision by faculty as determined by
6 the educational institution offering the program and the
7 health care organization where the practice of nursing
8 occurs.

9 (11) Any person licensed in this State under any other
10 Act from engaging in the practice for which she or he is
11 licensed, including without limitation any person engaged
12 in the practice of midwifery who is licensed under the Home
13 Birth Safety Act.

14 (12) Delegation to authorized direct care staff
15 trained under Section 15.4 of the Mental Health and
16 Developmental Disabilities Administrative Act consistent
17 with the policies of the Department.

18 (13) The practice, services, or activities of persons
19 practicing the specified occupations set forth in
20 subsection (a) of, and pursuant to a licensing exemption
21 granted in subsection (b) or (d) of, Section 2105-350 of
22 the Department of Professional Regulation Law of the Civil
23 Administrative Code of Illinois, but only for so long as
24 the 2016 Olympic and Paralympic Games Professional
25 Licensure Exemption Law is operable.

26 (14) County correctional personnel from delivering

1 prepackaged medication for self-administration to an
2 individual detainee in a correctional facility.

3 Nothing in this Act shall be construed to limit the
4 delegation of tasks or duties by a physician, dentist, or
5 podiatrist to a licensed practical nurse, a registered
6 professional nurse, or other persons.

7 (Source: P.A. 95-639, eff. 10-5-07; 95-876, eff. 8-21-08; 96-7,
8 eff. 4-3-09; 96-516, eff. 8-14-09; 96-1000, eff. 7-2-10.)

9 Section 990. The Illinois Public Aid Code is amended by
10 changing Section 5-5 as follows:

11 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

12 Sec. 5-5. Medical services. The Illinois Department, by
13 rule, shall determine the quantity and quality of and the rate
14 of reimbursement for the medical assistance for which payment
15 will be authorized, and the medical services to be provided,
16 which may include all or part of the following: (1) inpatient
17 hospital services; (2) outpatient hospital services; (3) other
18 laboratory and X-ray services; (4) skilled nursing home
19 services; (5) physicians' services whether furnished in the
20 office, the patient's home, a hospital, a skilled nursing home,
21 or elsewhere; (6) medical care, or any other type of remedial
22 care furnished by licensed practitioners, including the
23 services of certified professional midwives licensed pursuant
24 to the Home Birth Safety Act; (7) home health care services;

1 (8) private duty nursing service; (9) clinic services; (10)
2 dental services, including prevention and treatment of
3 periodontal disease and dental caries disease for pregnant
4 women, provided by an individual licensed to practice dentistry
5 or dental surgery; for purposes of this item (10), "dental
6 services" means diagnostic, preventive, or corrective
7 procedures provided by or under the supervision of a dentist in
8 the practice of his or her profession; (11) physical therapy
9 and related services; (12) prescribed drugs, dentures, and
10 prosthetic devices; and eyeglasses prescribed by a physician
11 skilled in the diseases of the eye, or by an optometrist,
12 whichever the person may select; (13) other diagnostic,
13 screening, preventive, and rehabilitative services, for
14 children and adults; (14) transportation and such other
15 expenses as may be necessary; (15) medical treatment of sexual
16 assault survivors, as defined in Section 1a of the Sexual
17 Assault Survivors Emergency Treatment Act, for injuries
18 sustained as a result of the sexual assault, including
19 examinations and laboratory tests to discover evidence which
20 may be used in criminal proceedings arising from the sexual
21 assault; (16) the diagnosis and treatment of sickle cell
22 anemia; and (17) any other medical care, and any other type of
23 remedial care recognized under the laws of this State, but not
24 including abortions, or induced miscarriages or premature
25 births, unless, in the opinion of a physician, such procedures
26 are necessary for the preservation of the life of the woman

1 seeking such treatment, or except an induced premature birth
2 intended to produce a live viable child and such procedure is
3 necessary for the health of the mother or her unborn child. The
4 Illinois Department, by rule, shall prohibit any physician from
5 providing medical assistance to anyone eligible therefor under
6 this Code where such physician has been found guilty of
7 performing an abortion procedure in a wilful and wanton manner
8 upon a woman who was not pregnant at the time such abortion
9 procedure was performed. The term "any other type of remedial
10 care" shall include nursing care and nursing home service for
11 persons who rely on treatment by spiritual means alone through
12 prayer for healing.

13 Notwithstanding any other provision of this Section, a
14 comprehensive tobacco use cessation program that includes
15 purchasing prescription drugs or prescription medical devices
16 approved by the Food and Drug Administration shall be covered
17 under the medical assistance program under this Article for
18 persons who are otherwise eligible for assistance under this
19 Article.

20 Notwithstanding any other provision of this Code, the
21 Illinois Department may not require, as a condition of payment
22 for any laboratory test authorized under this Article, that a
23 physician's handwritten signature appear on the laboratory
24 test order form. The Illinois Department may, however, impose
25 other appropriate requirements regarding laboratory test order
26 documentation.

1 The Department of Healthcare and Family Services shall
2 provide the following services to persons eligible for
3 assistance under this Article who are participating in
4 education, training or employment programs operated by the
5 Department of Human Services as successor to the Department of
6 Public Aid:

7 (1) dental services provided by or under the
8 supervision of a dentist; and

9 (2) eyeglasses prescribed by a physician skilled in the
10 diseases of the eye, or by an optometrist, whichever the
11 person may select.

12 Notwithstanding any other provision of this Code and
13 subject to federal approval, the Department may adopt rules to
14 allow a dentist who is volunteering his or her service at no
15 cost to render dental services through an enrolled
16 not-for-profit health clinic without the dentist personally
17 enrolling as a participating provider in the medical assistance
18 program. A not-for-profit health clinic shall include a public
19 health clinic or Federally Qualified Health Center or other
20 enrolled provider, as determined by the Department, through
21 which dental services covered under this Section are performed.
22 The Department shall establish a process for payment of claims
23 for reimbursement for covered dental services rendered under
24 this provision.

25 The Illinois Department, by rule, may distinguish and
26 classify the medical services to be provided only in accordance

1 with the classes of persons designated in Section 5-2.

2 The Department of Healthcare and Family Services must
3 provide coverage and reimbursement for amino acid-based
4 elemental formulas, regardless of delivery method, for the
5 diagnosis and treatment of (i) eosinophilic disorders and (ii)
6 short bowel syndrome when the prescribing physician has issued
7 a written order stating that the amino acid-based elemental
8 formula is medically necessary.

9 The Illinois Department shall authorize the provision of,
10 and shall authorize payment for, screening by low-dose
11 mammography for the presence of occult breast cancer for women
12 35 years of age or older who are eligible for medical
13 assistance under this Article, as follows:

14 (A) A baseline mammogram for women 35 to 39 years of
15 age.

16 (B) An annual mammogram for women 40 years of age or
17 older.

18 (C) A mammogram at the age and intervals considered
19 medically necessary by the woman's health care provider for
20 women under 40 years of age and having a family history of
21 breast cancer, prior personal history of breast cancer,
22 positive genetic testing, or other risk factors.

23 (D) A comprehensive ultrasound screening of an entire
24 breast or breasts if a mammogram demonstrates
25 heterogeneous or dense breast tissue, when medically
26 necessary as determined by a physician licensed to practice

1 medicine in all of its branches.

2 All screenings shall include a physical breast exam,
3 instruction on self-examination and information regarding the
4 frequency of self-examination and its value as a preventative
5 tool. For purposes of this Section, "low-dose mammography"
6 means the x-ray examination of the breast using equipment
7 dedicated specifically for mammography, including the x-ray
8 tube, filter, compression device, and image receptor, with an
9 average radiation exposure delivery of less than one rad per
10 breast for 2 views of an average size breast. The term also
11 includes digital mammography.

12 On and after January 1, 2012, providers participating in a
13 quality improvement program approved by the Department shall be
14 reimbursed for screening and diagnostic mammography at the same
15 rate as the Medicare program's rates, including the increased
16 reimbursement for digital mammography.

17 The Department shall convene an expert panel including
18 representatives of hospitals, free-standing mammography
19 facilities, and doctors, including radiologists, to establish
20 quality standards.

21 Subject to federal approval, the Department shall
22 establish a rate methodology for mammography at federally
23 qualified health centers and other encounter-rate clinics.
24 These clinics or centers may also collaborate with other
25 hospital-based mammography facilities.

26 The Department shall establish a methodology to remind

1 women who are age-appropriate for screening mammography, but
2 who have not received a mammogram within the previous 18
3 months, of the importance and benefit of screening mammography.

4 The Department shall establish a performance goal for
5 primary care providers with respect to their female patients
6 over age 40 receiving an annual mammogram. This performance
7 goal shall be used to provide additional reimbursement in the
8 form of a quality performance bonus to primary care providers
9 who meet that goal.

10 The Department shall devise a means of case-managing or
11 patient navigation for beneficiaries diagnosed with breast
12 cancer. This program shall initially operate as a pilot program
13 in areas of the State with the highest incidence of mortality
14 related to breast cancer. At least one pilot program site shall
15 be in the metropolitan Chicago area and at least one site shall
16 be outside the metropolitan Chicago area. An evaluation of the
17 pilot program shall be carried out measuring health outcomes
18 and cost of care for those served by the pilot program compared
19 to similarly situated patients who are not served by the pilot
20 program.

21 Any medical or health care provider shall immediately
22 recommend, to any pregnant woman who is being provided prenatal
23 services and is suspected of drug abuse or is addicted as
24 defined in the Alcoholism and Other Drug Abuse and Dependency
25 Act, referral to a local substance abuse treatment provider
26 licensed by the Department of Human Services or to a licensed

1 hospital which provides substance abuse treatment services.
2 The Department of Healthcare and Family Services shall assure
3 coverage for the cost of treatment of the drug abuse or
4 addiction for pregnant recipients in accordance with the
5 Illinois Medicaid Program in conjunction with the Department of
6 Human Services.

7 All medical providers providing medical assistance to
8 pregnant women under this Code shall receive information from
9 the Department on the availability of services under the Drug
10 Free Families with a Future or any comparable program providing
11 case management services for addicted women, including
12 information on appropriate referrals for other social services
13 that may be needed by addicted women in addition to treatment
14 for addiction.

15 The Illinois Department, in cooperation with the
16 Departments of Human Services (as successor to the Department
17 of Alcoholism and Substance Abuse) and Public Health, through a
18 public awareness campaign, may provide information concerning
19 treatment for alcoholism and drug abuse and addiction, prenatal
20 health care, and other pertinent programs directed at reducing
21 the number of drug-affected infants born to recipients of
22 medical assistance.

23 Neither the Department of Healthcare and Family Services
24 nor the Department of Human Services shall sanction the
25 recipient solely on the basis of her substance abuse.

26 The Illinois Department shall establish such regulations

1 governing the dispensing of health services under this Article
2 as it shall deem appropriate. The Department should seek the
3 advice of formal professional advisory committees appointed by
4 the Director of the Illinois Department for the purpose of
5 providing regular advice on policy and administrative matters,
6 information dissemination and educational activities for
7 medical and health care providers, and consistency in
8 procedures to the Illinois Department.

9 Notwithstanding any other provision of law, a health care
10 provider under the medical assistance program may elect, in
11 lieu of receiving direct payment for services provided under
12 that program, to participate in the State Employees Deferred
13 Compensation Plan adopted under Article 24 of the Illinois
14 Pension Code. A health care provider who elects to participate
15 in the plan does not have a cause of action against the State
16 for any damages allegedly suffered by the provider as a result
17 of any delay by the State in crediting the amount of any
18 contribution to the provider's plan account.

19 The Illinois Department may develop and contract with
20 Partnerships of medical providers to arrange medical services
21 for persons eligible under Section 5-2 of this Code.
22 Implementation of this Section may be by demonstration projects
23 in certain geographic areas. The Partnership shall be
24 represented by a sponsor organization. The Department, by rule,
25 shall develop qualifications for sponsors of Partnerships.
26 Nothing in this Section shall be construed to require that the

1 sponsor organization be a medical organization.

2 The sponsor must negotiate formal written contracts with
3 medical providers for physician services, inpatient and
4 outpatient hospital care, home health services, treatment for
5 alcoholism and substance abuse, and other services determined
6 necessary by the Illinois Department by rule for delivery by
7 Partnerships. Physician services must include prenatal and
8 obstetrical care. The Illinois Department shall reimburse
9 medical services delivered by Partnership providers to clients
10 in target areas according to provisions of this Article and the
11 Illinois Health Finance Reform Act, except that:

12 (1) Physicians participating in a Partnership and
13 providing certain services, which shall be determined by
14 the Illinois Department, to persons in areas covered by the
15 Partnership may receive an additional surcharge for such
16 services.

17 (2) The Department may elect to consider and negotiate
18 financial incentives to encourage the development of
19 Partnerships and the efficient delivery of medical care.

20 (3) Persons receiving medical services through
21 Partnerships may receive medical and case management
22 services above the level usually offered through the
23 medical assistance program.

24 Medical providers shall be required to meet certain
25 qualifications to participate in Partnerships to ensure the
26 delivery of high quality medical services. These

1 qualifications shall be determined by rule of the Illinois
2 Department and may be higher than qualifications for
3 participation in the medical assistance program. Partnership
4 sponsors may prescribe reasonable additional qualifications
5 for participation by medical providers, only with the prior
6 written approval of the Illinois Department.

7 Nothing in this Section shall limit the free choice of
8 practitioners, hospitals, and other providers of medical
9 services by clients. In order to ensure patient freedom of
10 choice, the Illinois Department shall immediately promulgate
11 all rules and take all other necessary actions so that provided
12 services may be accessed from therapeutically certified
13 optometrists to the full extent of the Illinois Optometric
14 Practice Act of 1987 without discriminating between service
15 providers.

16 The Department shall apply for a waiver from the United
17 States Health Care Financing Administration to allow for the
18 implementation of Partnerships under this Section.

19 The Illinois Department shall require health care
20 providers to maintain records that document the medical care
21 and services provided to recipients of Medical Assistance under
22 this Article. Such records must be retained for a period of not
23 less than 6 years from the date of service or as provided by
24 applicable State law, whichever period is longer, except that
25 if an audit is initiated within the required retention period
26 then the records must be retained until the audit is completed

1 and every exception is resolved. The Illinois Department shall
2 require health care providers to make available, when
3 authorized by the patient, in writing, the medical records in a
4 timely fashion to other health care providers who are treating
5 or serving persons eligible for Medical Assistance under this
6 Article. All dispensers of medical services shall be required
7 to maintain and retain business and professional records
8 sufficient to fully and accurately document the nature, scope,
9 details and receipt of the health care provided to persons
10 eligible for medical assistance under this Code, in accordance
11 with regulations promulgated by the Illinois Department. The
12 rules and regulations shall require that proof of the receipt
13 of prescription drugs, dentures, prosthetic devices and
14 eyeglasses by eligible persons under this Section accompany
15 each claim for reimbursement submitted by the dispenser of such
16 medical services. No such claims for reimbursement shall be
17 approved for payment by the Illinois Department without such
18 proof of receipt, unless the Illinois Department shall have put
19 into effect and shall be operating a system of post-payment
20 audit and review which shall, on a sampling basis, be deemed
21 adequate by the Illinois Department to assure that such drugs,
22 dentures, prosthetic devices and eyeglasses for which payment
23 is being made are actually being received by eligible
24 recipients. Within 90 days after the effective date of this
25 amendatory Act of 1984, the Illinois Department shall establish
26 a current list of acquisition costs for all prosthetic devices

1 and any other items recognized as medical equipment and
2 supplies reimbursable under this Article and shall update such
3 list on a quarterly basis, except that the acquisition costs of
4 all prescription drugs shall be updated no less frequently than
5 every 30 days as required by Section 5-5.12.

6 The rules and regulations of the Illinois Department shall
7 require that a written statement including the required opinion
8 of a physician shall accompany any claim for reimbursement for
9 abortions, or induced miscarriages or premature births. This
10 statement shall indicate what procedures were used in providing
11 such medical services.

12 The Illinois Department shall require all dispensers of
13 medical services, other than an individual practitioner or
14 group of practitioners, desiring to participate in the Medical
15 Assistance program established under this Article to disclose
16 all financial, beneficial, ownership, equity, surety or other
17 interests in any and all firms, corporations, partnerships,
18 associations, business enterprises, joint ventures, agencies,
19 institutions or other legal entities providing any form of
20 health care services in this State under this Article.

21 The Illinois Department may require that all dispensers of
22 medical services desiring to participate in the medical
23 assistance program established under this Article disclose,
24 under such terms and conditions as the Illinois Department may
25 by rule establish, all inquiries from clients and attorneys
26 regarding medical bills paid by the Illinois Department, which

1 inquiries could indicate potential existence of claims or liens
2 for the Illinois Department.

3 Enrollment of a vendor that provides non-emergency medical
4 transportation, defined by the Department by rule, shall be
5 conditional for 180 days. During that time, the Department of
6 Healthcare and Family Services may terminate the vendor's
7 eligibility to participate in the medical assistance program
8 without cause. That termination of eligibility is not subject
9 to the Department's hearing process.

10 The Illinois Department shall establish policies,
11 procedures, standards and criteria by rule for the acquisition,
12 repair and replacement of orthotic and prosthetic devices and
13 durable medical equipment. Such rules shall provide, but not be
14 limited to, the following services: (1) immediate repair or
15 replacement of such devices by recipients without medical
16 authorization; and (2) rental, lease, purchase or
17 lease-purchase of durable medical equipment in a
18 cost-effective manner, taking into consideration the
19 recipient's medical prognosis, the extent of the recipient's
20 needs, and the requirements and costs for maintaining such
21 equipment. Such rules shall enable a recipient to temporarily
22 acquire and use alternative or substitute devices or equipment
23 pending repairs or replacements of any device or equipment
24 previously authorized for such recipient by the Department.

25 The Department shall execute, relative to the nursing home
26 prescreening project, written inter-agency agreements with the

1 Department of Human Services and the Department on Aging, to
2 effect the following: (i) intake procedures and common
3 eligibility criteria for those persons who are receiving
4 non-institutional services; and (ii) the establishment and
5 development of non-institutional services in areas of the State
6 where they are not currently available or are undeveloped.

7 The Illinois Department shall develop and operate, in
8 cooperation with other State Departments and agencies and in
9 compliance with applicable federal laws and regulations,
10 appropriate and effective systems of health care evaluation and
11 programs for monitoring of utilization of health care services
12 and facilities, as it affects persons eligible for medical
13 assistance under this Code.

14 The Illinois Department shall report annually to the
15 General Assembly, no later than the second Friday in April of
16 1979 and each year thereafter, in regard to:

17 (a) actual statistics and trends in utilization of
18 medical services by public aid recipients;

19 (b) actual statistics and trends in the provision of
20 the various medical services by medical vendors;

21 (c) current rate structures and proposed changes in
22 those rate structures for the various medical vendors; and

23 (d) efforts at utilization review and control by the
24 Illinois Department.

25 The period covered by each report shall be the 3 years
26 ending on the June 30 prior to the report. The report shall

1 include suggested legislation for consideration by the General
2 Assembly. The filing of one copy of the report with the
3 Speaker, one copy with the Minority Leader and one copy with
4 the Clerk of the House of Representatives, one copy with the
5 President, one copy with the Minority Leader and one copy with
6 the Secretary of the Senate, one copy with the Legislative
7 Research Unit, and such additional copies with the State
8 Government Report Distribution Center for the General Assembly
9 as is required under paragraph (t) of Section 7 of the State
10 Library Act shall be deemed sufficient to comply with this
11 Section.

12 Rulemaking authority to implement Public Act 95-1045, if
13 any, is conditioned on the rules being adopted in accordance
14 with all provisions of the Illinois Administrative Procedure
15 Act and all rules and procedures of the Joint Committee on
16 Administrative Rules; any purported rule not so adopted, for
17 whatever reason, is unauthorized.

18 (Source: P.A. 96-156, eff. 1-1-10; 96-806, eff. 7-1-10; 96-926,
19 eff. 1-1-11; 96-1000, eff. 7-2-10; 97-48, eff. 6-28-11; 97-638,
20 eff. 1-1-12.)

21 Section 999. Effective date. This Act takes effect upon
22 becoming law.