



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4440

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.29 new

225 ILCS 60/4

225 ILCS 65/50-15

from Ch. 111, par. 4400-4

was 225 ILCS 65/5-15

Creates the Certified Professional Midwife Licensure Act. Provides for the regulation of persons providing midwifery services through licensure by the Department of Financial and Professional Regulation. Amends the Regulatory Sunset Act to repeal the new Act on January 1, 2019. Amends the Medical Practice Act of 1987 and the Nurse Practice Act to provide that those Acts do not prohibit the practice of midwifery by persons licensed under the Certified Professional Midwife Licensure Act. Effective immediately.

LRB095 14153 RAS 40016 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL 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
5 Certified Professional Midwife Licensure Act.

6 Section 5. Findings and purpose. This Act is intended to
7 establish a licensing procedure for certified professional
8 midwives in Illinois. The General Assembly finds and declares
9 the following:

10 (1) The intent of this Act is to encourage and enable
11 the practice of midwifery by certified professional
12 midwives so that this profession can be recognized and
13 regulated independently, according to the principles
14 recommended by the Pew Health Professions Commission and
15 the American Public Health Association, to increase the
16 availability of midwives to meet the maternal-child health
17 needs of Illinois families.

18 (2) Consumers continue to request the care of
19 direct-entry midwives.

20 (3) Direct-entry midwives have continued to provide
21 services to families in Illinois despite being unregulated
22 since 1963 and have participated in national credentialing
23 organized to meet professional standards.

1 (4) The Midwives Model of Care, as defined by the
2 Midwifery Task Force, includes (i) monitoring the
3 physical, psychological, and social well-being of the
4 mother throughout the childbearing cycle, (ii) providing
5 the mother with individualized education, counseling, and
6 prenatal care, continuous hands-on assistance during labor
7 and delivery, and postpartum support, (iii) minimizing
8 technological interventions, and (iv) identifying and
9 referring women who require obstetrical attention. The
10 application of this woman-centered model of care has been
11 proven to reduce the incidence of birth injury, trauma, and
12 Cesarean section.

13 (5) In recognition of major changes in health care
14 regulation and practice, the Pew Health Professions
15 Commission, through its Taskforce on Health Care Workforce
16 Regulation, recommends that "until national models for
17 scopes of practice can be developed and adopted, states
18 should explore and develop mechanisms for existing
19 professions to evolve their existing scopes of practice and
20 for new professions (or previously unregulated
21 professions) to emerge", and further recommends that "a
22 number of professions and disciplines that use
23 non-mainstream therapies safely and effectively should be
24 recognized and regulated as appropriate".

25 (6) In its April 1999 report, the Pew Health
26 Professions Commission, in conjunction with the Center for

1 the Health Professions, recommended that "midwives should
2 be recognized as independent and collaborative
3 practitioners" and recommended "legislative action that
4 ensures: appropriate entry-to-practice standards" and the
5 "elimination of requirements that midwives be directed or
6 supervised by other health care professionals".

7 (7) In its resolution, "Increasing access to
8 out-of-hospital maternity care services through
9 state-regulated and nationally-certified direct-entry
10 midwives", the American Public Health Association (i)
11 supports efforts to increase access to out-of-hospital
12 maternity care services and increase the range of quality
13 maternity care choices available to consumers, through
14 recognition that legally regulated and nationally
15 certified direct-entry midwives can serve clients desiring
16 safe, planned, out-of-hospital maternity care services,
17 and (ii) encourages the development and implementation of
18 guidelines for the licensing and certification of
19 direct-entry midwives and the practice of midwifery for use
20 by state and local health agencies, health planners,
21 maternity care providers, and professional organizations.

22 Section 10. Definitions. As used in this Act:

23 "Approved program of midwifery education" means an
24 education program accredited or pre-accredited by a
25 direct-entry midwifery accreditation agency recognized by the

1 United States Department of Education, such as the Midwifery
2 Education Accreditation Council (MEAC) or its successor.

3 "Certified professional midwife" means a person who has met
4 the standards for certification set by the North American
5 Registry of Midwives or its successor and has been awarded this
6 credential.

7 "Consultation" means the process whereby a licensed
8 midwife seeks the advice or opinion of a physician or another
9 member of a health care team.

10 "Council" means the Licensed Midwife Council.

11 "Department" means the Department of Financial and
12 Professional Regulation.

13 "Secretary" means the Secretary of Financial and
14 Professional Regulation.

15 "Informed consent" means a document that includes, but is
16 not limited to, disclosure of the midwife's education, skill
17 level, liability insurance coverage, and written plan for
18 medical emergencies.

19 "Licensed midwife" means a person who is licensed under
20 this Act.

21 "Midwifery" means the provision, on a continuing basis and
22 within a health care system that provides for consultation and
23 referral as needed, of the necessary care and education to
24 women during pregnancy, labor, and the postpartum and
25 interpartum periods; attending deliveries that the individual
26 is responsible for; and caring for the newborn infant.

1 "Midwifery" also includes the provision of additional primary
2 health care services to women and their families, which
3 include, but are not limited to, well-woman gynecological
4 services such as non-pharmacological family planning and
5 routine pap smears.

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

10 "Peer review" means an educational review process in
11 accordance with current NARM peer review standards that
12 includes a certificate of participation document.

13 "Referral" means the process whereby a licensed midwife
14 directs the client to a physician or other health care
15 professional for management of a particular problem or aspect
16 of the client's care.

17 Section 15. License required.

18 (a) Beginning July 1, 2008, no person shall practice
19 midwifery in this State without a license under this Act,
20 except as provided in Section 20.

21 (b) No person shall use in connection with the person's
22 name any letters, words, or insignia indicating or implying
23 that the person is a licensed midwife unless the person is
24 licensed in accordance with this Act. A person so licensed may
25 use the abbreviation "L.M." in connection with the person's

1 name.

2 Section 20. Exemptions. Nothing in this Act shall be
3 construed to prohibit or to require registration under this
4 Act, with regard to any of the following:

5 (1) The gratuitous rendering of services.

6 (2) The rendering of services by a person if such
7 attendance is in accordance with the person's religious
8 faith and is rendered to persons with a similar religious
9 faith.

10 (3) Certified nurse midwives authorized under the
11 Advanced Practice Nursing Board to practice in Illinois.

12 (4) Licensed physicians or other licensed health care
13 providers authorized to provide maternity care.

14 (5) Midwifery that is included in the educational
15 programs of student midwives enrolled in approved programs
16 of midwifery education.

17 Section 25. Licensed Midwife Council. There shall be
18 established within the Department of Financial and
19 Professional Regulation a Licensed Midwife Council composed of
20 7 members appointed by the Secretary. The appointed members of
21 the Council shall include 4 licensed midwives and 3 consumers.
22 A consumer is a person who (i) has never been a midwife nor
23 studied to be a midwife, (ii) has no financial interest in the
24 practice of midwifery or in any health care facility, agency,

1 or insurer, and (iii) has engaged a provider who practices or
2 has practiced as a midwife in an out-of-hospital birth setting.
3 Of the members first appointed to the Council, 3 members shall
4 be appointed for a term of 3 years, 2 members shall be
5 appointed for a term of 2 years, and 2 members shall be
6 appointed for a term of one year. Thereafter, all members shall
7 serve 3-year terms. In making appointments to the Council, the
8 Secretary shall consider the recommendations of individuals
9 and organizations directly involved with midwifery in this
10 State. A vacancy in an unexpired term shall be filled in the
11 same manner as the original appointment. The Secretary may
12 remove a Council member for misconduct, incapacity, or neglect
13 of duty, but only after notice and a public hearing, unless the
14 notice and hearing are waived by the member in writing. The
15 Council shall elect from its membership a chairperson. The
16 Council may meet as needed, but shall meet at least twice a
17 year.

18 Section 30. Powers of the Council. The Licensed Midwife
19 Council is authorized to:

20 (1) Recommend and approve the adoption and revision of
21 any rules that may be necessary to carry out the provisions
22 of this Act that are designed to protect the health,
23 safety, and welfare of the public. The rules shall include
24 the scope of practice and services provided regarding the
25 use of equipment, procedures, and medications.

1 (2) Conduct hearings and disciplinary conferences on
2 disciplinary charges of those licensed as provided in
3 Section 75 and those in violation of Section 15.

4 (3) Report to the Department, upon completion of a
5 hearing, the disciplinary actions recommended to be taken
6 against a person violating this Act.

7 (4) Approve, deny, or withdraw approval of required
8 education and continuing educational programs.

9 Section 35. Council members; immunity from suit. The
10 members of the Council are immune from suit in any action based
11 upon disciplinary proceedings or other acts performed as
12 members of the Council, except those involving willful or
13 wanton misconduct.

14 Section 40. Council members; compensation. Members of the
15 Council shall serve without compensation, but shall be
16 reimbursed for actual expenses necessarily incurred in the
17 discharge of their duties.

18 Section 45. Powers and duties of the Department.

19 (a) The Department shall exercise the powers and duties
20 necessary to effectuate the purposes of this Act. None of the
21 functions, powers, or duties of the Department with respect to
22 licensure shall be exercised by the Department except upon
23 review and approval by the Council.

1 (b) The Department shall have the authority and
2 responsibility to:

- 3 (1) license individuals who qualify for licensure;
4 (2) issue quarterly reports to the Council on the
5 status of all formal complaints filed by the Department and
6 on significant issues as determined by the Council; and
7 (3) promulgate rules for licensure of candidates
8 authorized to practice under this Act.

9 Section 50. Eligibility.

10 (a) A person is eligible to be licensed as a midwife if
11 that person meets the following qualifications:

- 12 (1) holds the credential of certified professional
13 midwife;
14 (2) has completed an approved program of midwifery
15 education with a minimum of 1,800 contact hours or its
16 equivalent;
17 (3) is in good standing with the North American
18 Registry of Midwives;
19 (4) participates in peer review at least twice per
20 year; and
21 (5) provides the Department with an annually updated
22 informed consent document.

23 (b) For a period of 5 years following the effective date of
24 this Act, the Council shall have the authority and discretion
25 to license applicants who have practiced midwifery prior to the

1 effective date of this Act and have had an application accepted
2 by the North American Registry of Midwives for certification.
3 Such license shall terminate automatically 2 years after the
4 date of registration unless the applicant has, by such time,
5 successfully completed the examination provided by the North
6 American Registry of Midwives.

7 Section 55. Scope of practice; informed consent.

8 (a) A licensed midwife may perform any of the midwifery
9 services and skills established by the North American Registry
10 of Midwives, including, but not limited to, antepartum,
11 intrapartum, and postpartum care of women; newborn assessment
12 and care of newborns; and well-woman gynecology and
13 non-prescriptive family planning. However, the midwife must
14 practice within the standards for practice and code of ethics
15 of the North American Registry of Midwives.

16 (b) A copy of the informed consent document, signed and
17 dated by the client, must be kept in each client's chart.

18 Section 60. Application for license. A person shall apply
19 for licensure as a midwife to the Secretary on a form furnished
20 by the Department. The application shall be accompanied by
21 payment of the specified fee and evidence that the person meets
22 the eligibility requirements of this Act.

23 Section 65. Renewals. A midwife license must be renewed

1 every 3 years. An applicant for renewal shall submit to the
2 Department (i) a renewal application on the prescribed form
3 furnished by the Department and (ii) a renewal fee as
4 prescribed by the Department.

5 Section 70. Fees. The Department shall have the authority
6 to (i) charge each candidate for licensure a fee, which must be
7 submitted with his or her application and (ii) charge each
8 licensed midwife a fee for renewal of his or her license.

9 Section 75. Disciplinary action.

10 (a) A licensed midwife or applicant for licensure, renewal,
11 or reinstatement shall not engage in unprofessional conduct,
12 which includes:

13 (1) fraudulently procuring or using a license;

14 (2) willfully making or filing false reports or
15 records, willfully impeding or obstructing the filing of
16 reports or records, or willfully failing to file required
17 reports or records in the practice of midwifery;

18 (3) using dishonest or misleading advertising;

19 (4) failing to comply with any statutes related to the
20 practice of midwifery;

21 (5) conviction of a crime related to the practice of
22 midwifery as described in this Act;

23 (6) failing to provide, in a timely manner, copies of
24 all records of the care provided to a person after a

1 written request is received from the person who received
2 care; and

3 (7) engaging in gross or repeated malpractice.

4 (b) After a hearing, and upon making a finding of
5 unprofessional conduct, the Licensed Midwife Council shall (i)
6 reprimand the licensed midwife or applicant, (ii) revoke the
7 license or refuse to issue or renew a license, or (iii) seek an
8 injunction against the continuation of the conduct.

9 Section 80. Penalties. A person who knowingly violates any
10 of the provisions of this Act is guilty of a Class A
11 misdemeanor.

12 Section 85. Reimbursement. A midwife licensed to practice
13 midwifery is eligible for compensation as a provider under the
14 Illinois Medicaid program and any other third party
15 reimbursement plan, including Medicare, subject to the laws of
16 this State and applicable federal law.

17 Section 90. Advertising. A person licensed under this Act
18 may advertise the availability of professional services in the
19 public media or on the premises where such professional
20 services are rendered, provided that the advertising is
21 truthful and not misleading.

22 Section 95. Women's rights regarding the birth of the baby.

1 Women have a right to give birth where and with whom they
2 choose. This Act does not prohibit the attendance at birth of
3 the mother's choice of family, friends, and other persons.

4 Section 100. Liability of licensed midwives. Licensed
5 midwives shall be liable for their acts or omissions in the
6 performance of the services that they provide, and no
7 physician, nurse, pre-hospital emergency personnel, or health
8 care institution shall be liable for any act or omission
9 resulting from the administration of services by any licensed
10 midwife. The provisions of this Section shall not relieve any
11 other licensed midwife, physician, nurse, pre-hospital
12 emergency personnel, or health care institution from liability
13 for any willful or wanton act or omission or any act or
14 omission constituting gross negligence, or under circumstances
15 where a licensed midwife has a business relationship with any
16 such licensed midwife, physician, nurse, pre-hospital
17 emergency personnel, or health care institution. A physician,
18 nurse, pre-hospital emergency personnel, or health care
19 institution shall not be deemed to have established a business
20 relationship solely by providing consultation or accepting a
21 referral from the midwife in accordance with this Act.

22 Section 105. Rules. The Department shall adopt rules for
23 the licensure of midwives under this Act by January 1, 2008.

1 Section 900. The Regulatory Sunset Act is amended by adding
2 Section 4.29 as follows:

3 (5 ILCS 80/4.29 new)

4 Sec. 4.29. Act repealed on January 1, 2019. The following
5 Act is repealed on January 1, 2019:

6 The Certified Professional Midwife Licensure Act.

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

9 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

10 (Section scheduled to be repealed on December 31, 2008)

11 Sec. 4. Exemptions.

12 (a) This Act does not apply to the following:

13 (1) persons lawfully carrying on their particular
14 profession or business under any valid existing regulatory
15 Act of this State;

16 (2) persons rendering gratuitous services in cases of
17 emergency; or

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

21 (b) (Blank).

22 (c) Nothing in this Act shall be construed as prohibiting
23 the practice of midwifery by persons licensed under the

1 Certified Professional Midwife Licensure Act.

2 (Source: P.A. 93-379, eff. 7-24-03.)

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

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

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

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

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

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

20 (1) The practice of nursing in Federal employment in
21 the discharge of the employee's duties by a person who is
22 employed by the United States government or any bureau,
23 division or agency thereof and is a legally qualified and
24 licensed nurse of another state or territory and not in

1 conflict with Sections 50-50, 55-10, 60-10, and 70-5 of
2 this Act.

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

6 (3) The furnishing of nursing assistance in an
7 emergency.

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

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

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

18 (7) The practice of practical nursing by one who is a
19 licensed practical nurse under the laws of another U.S.
20 jurisdiction and has applied in writing to the Department,
21 in form and substance satisfactory to the Department, for a
22 license as a licensed practical nurse and who is qualified
23 to receive such license under this Act, until (i) the
24 expiration of 6 months after the filing of such written
25 application, (ii) the withdrawal of such application, or
26 (iii) the denial of such application by the Department.

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

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

21 (10) The practice of professional nursing that is
22 included in a program of study by one who is a registered
23 professional nurse under the laws of another state or
24 territory of the United States or foreign country,
25 territory or province and who is enrolled in a graduate
26 nursing education program or a program for the completion

1 of a baccalaureate nursing degree in this State, which
2 includes clinical supervision by faculty as determined by
3 the educational institution offering the program and the
4 health care organization where the practice of nursing
5 occurs.

6 (11) Any person licensed in this State under any other
7 Act from engaging in the practice for which she or he is
8 licensed.

9 (12) Delegation to authorized direct care staff
10 trained under Section 15.4 of the Mental Health and
11 Developmental Disabilities Administrative Act consistent
12 with the policies of the Department.

13 (13) The practice of midwifery by persons licensed
14 under the Certified Professional Midwife Licensure Act.

15 ~~(13)~~ Nothing in this Act shall be construed to limit the
16 delegation of tasks or duties by a physician, dentist, or
17 podiatrist to a licensed practical nurse, a registered
18 professional nurse, or other persons.

19 (Source: P.A. 95-639, eff. 10-5-07.)

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