



Health Care Availability and Access Committee

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09500HB4440ham001

LRB095 14153 RAS 46701 a

1 AMENDMENT TO HOUSE BILL 4440

2 AMENDMENT NO. _____. Amend House Bill 4440 by replacing
3 everything after the enacting clause with the following:

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

1 needs of Illinois families.

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

4 (3) Direct-entry midwives have continued to provide
5 services to families in Illinois despite being unregulated
6 since 1963 and have participated in national credentialing
7 organized to meet professional standards.

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

20 (5) In recognition of major changes in health care
21 regulation and practice, the Pew Health Professions
22 Commission, through its Taskforce on Health Care Workforce
23 Regulation, recommends that "until national models for
24 scopes of practice can be developed and adopted, states
25 should explore and develop mechanisms for existing
26 professions to evolve their existing scopes of practice and

1 for new professions (or previously unregulated
2 professions) to emerge", and further recommends that "a
3 number of professions and disciplines that use
4 non-mainstream therapies safely and effectively should be
5 recognized and regulated as appropriate".

6 (6) In its April 1999 report, the Pew Health
7 Professions Commission, in conjunction with the Center for
8 the Health Professions, recommended that "midwives should
9 be recognized as independent and collaborative
10 practitioners" and recommended "legislative action that
11 ensures: appropriate entry-to-practice standards" and the
12 "elimination of requirements that midwives be directed or
13 supervised by other health care professionals".

14 (7) In its resolution, "Increasing access to
15 out-of-hospital maternity care services through
16 state-regulated and nationally-certified direct-entry
17 midwives", the American Public Health Association (i)
18 supports efforts to increase access to out-of-hospital
19 maternity care services and increase the range of quality
20 maternity care choices available to consumers, through
21 recognition that legally regulated and nationally
22 certified direct-entry midwives can serve clients desiring
23 safe, planned, out-of-hospital maternity care services,
24 and (ii) encourages the development and implementation of
25 guidelines for the licensing and certification of
26 direct-entry midwives and the practice of midwifery for use

1 by state and local health agencies, health planners,
2 maternity care providers, and professional organizations.

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

4 "Approved program of midwifery education" means an
5 education program accredited or pre-accredited by a
6 direct-entry midwifery accreditation agency recognized by the
7 United States Department of Education, such as the Midwifery
8 Education Accreditation Council (MEAC) or its successor.

9 "Certified professional midwife" means a person who has met
10 the standards for certification set by the North American
11 Registry of Midwives or its successor and has been awarded this
12 credential.

13 "Consultation" means the process whereby a licensed
14 midwife seeks the advice or opinion of a physician or another
15 member of a health care team.

16 "Council" means the Licensed Midwife Council.

17 "Department" means the Department of Financial and
18 Professional Regulation.

19 "Secretary" means the Secretary of Financial and
20 Professional Regulation.

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

25 "Licensed midwife" means a person who is licensed under

1 this Act.

2 "Midwifery" means the provision, on a continuing basis and
3 within a health care system that provides for consultation and
4 referral as needed, of the necessary care and education to
5 women during pregnancy, labor, and the postpartum and
6 interpartum periods; attending deliveries that the individual
7 is responsible for; and caring for the newborn infant.
8 "Midwifery" also includes the provision of additional primary
9 health care services to women and their families, which
10 include, but are not limited to, well-woman gynecological
11 services such as non-pharmacological family planning and
12 routine pap smears.

13 "North American Registry of Midwives" or "NARM" means the
14 international agency, or its successor, that has established
15 and has continued to administer certification for the
16 credentialing of certified professional midwives.

17 "Peer review" means an educational review process in
18 accordance with current NARM peer review standards that
19 includes a certificate of participation document.

20 "Referral" means the process whereby a licensed midwife
21 directs the client to a physician or other health care
22 professional for management of a particular problem or aspect
23 of the client's care.

24 Section 15. License required.

25 (a) Beginning July 1, 2009, no person shall practice

1 midwifery in this State without a license under this Act,
2 except as provided in Section 20.

3 (b) No person shall use in connection with the person's
4 name any letters, words, or insignia indicating or implying
5 that the person is a licensed midwife unless the person is
6 licensed in accordance with this Act. A person so licensed may
7 use the abbreviation "L.M." in connection with the person's
8 name.

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

12 (1) The gratuitous rendering of services.

13 (2) The rendering of services by a person if such
14 attendance is in accordance with the person's religious
15 faith and is rendered to persons with a similar religious
16 faith.

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

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

21 (5) Midwifery that is included in the educational
22 programs of student midwives enrolled in approved programs
23 of midwifery education.

24 Section 25. Licensed Midwife Council. There shall be

1 established within the Department of Financial and
2 Professional Regulation a Licensed Midwife Council composed of
3 7 members appointed by the Secretary. The appointed members of
4 the Council shall include 4 licensed midwives and 3 consumers.
5 A consumer is a person who (i) has never been a midwife nor
6 studied to be a midwife, (ii) has no financial interest in the
7 practice of midwifery or in any health care facility, agency,
8 or insurer, and (iii) has engaged a provider who practices or
9 has practiced as a midwife in an out-of-hospital birth setting.
10 Of the members first appointed to the Council, 3 members shall
11 be appointed for a term of 3 years, 2 members shall be
12 appointed for a term of 2 years, and 2 members shall be
13 appointed for a term of one year. Thereafter, all members shall
14 serve 3-year terms. In making appointments to the Council, the
15 Secretary shall consider the recommendations of individuals
16 and organizations directly involved with midwifery in this
17 State. A vacancy in an unexpired term shall be filled in the
18 same manner as the original appointment. The Secretary may
19 remove a Council member for misconduct, incapacity, or neglect
20 of duty, but only after notice and a public hearing, unless the
21 notice and hearing are waived by the member in writing. The
22 Council shall elect from its membership a chairperson. The
23 Council may meet as needed, but shall meet at least twice a
24 year.

25 Section 30. Powers of the Council. The Licensed Midwife

1 Council is authorized to:

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

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

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

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

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

19 Section 45. Powers and duties of the Department.

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

1 review and approval by the Council.

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

4 (1) license individuals who qualify for licensure; and

5 (2) issue quarterly reports to the Council on the
6 status of all formal complaints filed by the Department and
7 on significant issues as determined by the Council.

8 Section 50. Eligibility.

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

11 (1) holds the credential of certified professional
12 midwife;

13 (2) has completed an approved program of midwifery
14 education with a minimum of 1,800 contact hours or its
15 equivalent;

16 (3) is in good standing with the North American
17 Registry of Midwives;

18 (4) participates in peer review at least twice per
19 year; and

20 (5) provides the Department with an annually updated
21 informed consent document.

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

1 by the North American Registry of Midwives for certification.
2 Such license shall terminate automatically 2 years after the
3 date of registration unless the applicant has, by such time,
4 successfully completed the examination provided by the North
5 American Registry of Midwives.

6 Section 55. Scope of practice; informed consent.

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

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

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

22 Section 65. Renewals. A midwife license must be renewed
23 every 3 years. An applicant for renewal shall submit to the

1 Department (i) a renewal application and (ii) a renewal fee.

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

6 Section 75. Disciplinary action.

7 (a) A licensed midwife or applicant for licensure, renewal,
8 or reinstatement shall not engage in unprofessional conduct,
9 which includes:

10 (1) fraudulently procuring or using a license;

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

15 (3) using dishonest or misleading advertising;

16 (4) failing to comply with any statutes related to the
17 practice of midwifery;

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

20 (6) failing to provide, in a timely manner, copies of
21 all records of the care provided to a person after a
22 written request is received from the person who received
23 care; and

24 (7) engaging in gross or repeated malpractice.

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

6 Section 80. Penalties. A person who knowingly violates any
7 of the provisions of this Act is guilty of a Class A
8 misdemeanor.

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

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

19 Section 95. Women's rights regarding the birth of the baby.
20 Women have a right to give birth where and with whom they
21 choose. This Act does not prohibit the attendance at birth of
22 the mother's choice of family, friends, and other persons.

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

19 Section 105. No authority to make or promulgate rules.
20 Notwithstanding any other rulemaking authority that may exist,
21 neither the Governor nor any agency or agency head under the
22 jurisdiction of the Governor has any authority to make or
23 promulgate rules to implement or enforce the provisions of this
24 Act. If, however, the Governor believes that rules are

1 necessary to implement or enforce the provisions of this Act,
2 the Governor may suggest rules to the General Assembly by
3 filing them with the Clerk of the House and Secretary of the
4 Senate and by requesting that the General Assembly authorize
5 such rulemaking by law, enact those suggested rules into law,
6 or take any other appropriate action in the General Assembly's
7 discretion. Nothing contained in this Act shall be interpreted
8 to grant rulemaking authority under any other Illinois statute
9 where such authority is not otherwise explicitly given. For the
10 purposes of this Act, "rules" is given the meaning contained in
11 Section 1-70 of the Illinois Administrative Procedure Act, and
12 "agency" and "agency head" are given the meanings contained in
13 Sections 1-20 and 1-25 of the Illinois Administrative Procedure
14 Act to the extent that such definitions apply to agencies or
15 agency heads under the jurisdiction of the Governor.

16 Section 900. The Regulatory Sunset Act is amended by adding
17 Section 4.29 as follows:

18 (5 ILCS 80/4.29 new)

19 Sec. 4.29. Act repealed on January 1, 2019. The following
20 Act is repealed on January 1, 2019:

21 The Certified Professional Midwife Licensure Act.

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

1 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

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

3 Sec. 4. Exemptions.

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

5 (1) persons lawfully carrying on their particular
6 profession or business under any valid existing regulatory
7 Act of this State;

8 (2) persons rendering gratuitous services in cases of
9 emergency; or

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

13 (b) (Blank).

14 (c) Nothing in this Act shall be construed as prohibiting
15 the practice of midwifery by persons licensed under the
16 Certified Professional Midwife Licensure Act.

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

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

20 (225 ILCS 65/50-15) (was 225 ILCS 65/5-15)

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

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

23 (a) For the protection of life and the promotion of health,

1 and the prevention of illness and communicable diseases, any
2 person practicing or offering to practice advanced,
3 professional, or practical nursing in Illinois shall submit
4 evidence that he or she is qualified to practice, and shall be
5 licensed as provided under this Act. No person shall practice
6 or offer to practice advanced, professional, or practical
7 nursing in Illinois or use any title, sign, card or device to
8 indicate that such a person is practicing professional or
9 practical nursing unless such person has been licensed under
10 the provisions of this Act.

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

12 (1) The practice of nursing in Federal employment in
13 the discharge of the employee's duties by a person who is
14 employed by the United States government or any bureau,
15 division or agency thereof and is a legally qualified and
16 licensed nurse of another state or territory and not in
17 conflict with Sections 50-50, 55-10, 60-10, and 70-5 of
18 this Act.

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

22 (3) The furnishing of nursing assistance in an
23 emergency.

24 (4) The practice of nursing by a nurse who holds an
25 active license in another state when providing services to
26 patients in Illinois during a bonafide emergency or in

1 immediate preparation for or during interstate transit.

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

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

8 (7) The practice of practical nursing by one who is a
9 licensed practical nurse under the laws of another U.S.
10 jurisdiction and has applied in writing to the Department,
11 in form and substance satisfactory to the Department, for a
12 license as a licensed practical nurse and who is qualified
13 to receive such license under this Act, until (i) the
14 expiration of 6 months after the filing of such written
15 application, (ii) the withdrawal of such application, or
16 (iii) the denial of such application by the Department.

17 (8) The practice of advanced practice nursing by one
18 who is an advanced practice nurse under the laws of another
19 state, territory of the United States, or country and has
20 applied in writing to the Department, in form and substance
21 satisfactory to the Department, for a license as an
22 advanced practice nurse and who is qualified to receive
23 such license under this Act, until (i) the expiration of 6
24 months after the filing of such written application, (ii)
25 the withdrawal of such application, or (iii) the denial of
26 such application by the Department.

1 (9) The practice of professional nursing by one who is
2 a registered professional 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 a
6 registered professional nurse and who is qualified to
7 receive such license under Section 55-10, until (1) the
8 expiration of 6 months after the filing of such written
9 application, (2) the withdrawal of such application, or (3)
10 the denial of such application by the Department.

11 (10) The practice of professional nursing that is
12 included in a program of study by one who is a registered
13 professional nurse under the laws of another state or
14 territory of the United States or foreign country,
15 territory or province and who is enrolled in a graduate
16 nursing education program or a program for the completion
17 of a baccalaureate nursing degree in this State, which
18 includes clinical supervision by faculty as determined by
19 the educational institution offering the program and the
20 health care organization where the practice of nursing
21 occurs.

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

25 (12) Delegation to authorized direct care staff
26 trained under Section 15.4 of the Mental Health and

1 Developmental Disabilities Administrative Act consistent
2 with the policies of the Department.

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

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

9 (Source: P.A. 95-639, eff. 10-5-07; revised 12-7-07.)

10 Section 999. Effective date. This Act takes effect upon
11 becoming law."