

HB6653



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB6653

by Rep. Julie Hamos

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.29 new

225 ILCS 60/4

225 ILCS 65/5-15

from Ch. 111, par. 4400-4

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, 2019. Amends the Medical Practice Act of 1987 and the Nurse Practice Act to make related changes. Effective immediately.

LRB095 21547 RAS 51366 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 a student
4 midwife working under the direction of a licensed midwife.

5 Section 15. Definitions. In this Act:

6 "Board" means the Illinois Midwifery Board.

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

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

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

15 "National Association of Certified Professional Midwives"
16 or "NACPM" means the professional organization, or its
17 successor, that promotes the growth and development of the
18 profession of certified professional midwives.

19 "North American Registry of Midwives" or "NARM" means the
20 accredited international agency, or its successor, that has
21 established and has continued to administer certification for
22 the credentialing of certified professional midwives.

23 "Practice of midwifery" means providing the necessary
24 supervision, care, education, and advice to women during the
25 antepartum, intrapartum, and postpartum period, conducting

1 deliveries independently, and caring for the newborn, with such
2 care including without limitation preventative measures, the
3 detection of abnormal conditions in the mother and the child,
4 the procurement of medical assistance, and the execution of
5 emergency measures in the absence of medical help. "Practice of
6 midwifery" includes non-prescriptive family planning.

7 "Secretary" means the Secretary of Financial and
8 Professional Regulation.

9 Section 20. Unlicensed practice. Beginning 3 years after
10 the effective date of this Act, no person may practice, attempt
11 to practice, or hold himself or herself out to practice as a
12 licensed midwife unless he or she is licensed as a midwife
13 under this Act.

14 Section 25. Title. A licensed midwife may identify himself
15 or herself as a Licensed Midwife or a Licensed Homebirth
16 Midwife and may use the abbreviation L.M. A licensed midwife
17 who carries the CPM credential may alternately identify himself
18 or herself as a Licensed Certified Professional Midwife or
19 Licensed CPM and may use the abbreviation LM, CPM.

20 Section 30. Informed consent.

21 (a) A licensed midwife shall, at an initial consultation
22 with a client, provide a copy of the rules under this Act and
23 disclose to the client orally and in writing all of the

1 following:

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

3 (2) Whether the licensed midwife has malpractice
4 liability insurance coverage and the policy limits of any
5 such coverage.

6 (3) A written protocol for the handling of medical
7 emergencies, including transportation to a hospital,
8 particular to each client.

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

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

15 Section 33. Vicarious liability. No other licensed
16 midwife, doctor of medicine, doctor of osteopathy,
17 acupuncturist, chiropractor, midwife, nurse midwife, emergency
18 medical personnel, first responder, or hospital or agent
19 thereof shall be liable for an injury resulting from an act or
20 omission by a licensed midwife, even if he or she has consulted
21 with or accepted a referral from the licensed midwife. Except
22 as otherwise provided by law, no licensed midwife, doctor of
23 medicine, doctor of osteopathy, acupuncturist, chiropractor,
24 midwife, nurse-midwife, emergency medical personnel, first
25 responder, or hospital or agent thereof may be exempt from

1 liability for his or her own subsequent and independent
2 negligent, grossly negligent, or willful or wanton acts or
3 omissions.

4 Section 35. Advertising.

5 (a) Any person licensed under this Act may advertise the
6 availability of professional midwifery services in the public
7 media or on premises where professional services are rendered,
8 if the advertising is truthful and not misleading and is in
9 conformity with any rules regarding the practice of a licensed
10 midwife.

11 (b) A licensee must include in every advertisement for
12 midwifery services regulated under this Act his or her title as
13 it appears on the license or the initials authorized under this
14 Act.

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

16 (a) Administration by the Department of this Act must be
17 consistent with standards regarding the practice of midwifery
18 established by the National Association of Certified
19 Professional Midwives or a successor organization whose
20 essential documents include without limitation subject matter
21 concerning scope of practice, standards of practice, informed
22 consent, appropriate consultation, collaboration or referral,
23 and acknowledgement of a woman's right to self determination
24 concerning her maternity care.

1 (b) Rules prescribed by the Department under this Act must
2 provide for the scope of practice, including all of the
3 following:

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

6 (A) offer each client routine prenatal care and
7 testing in accordance with current American College of
8 Obstetricians and Gynecologists guidelines;

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

13 (C) provide clients with labor support, fetal
14 monitoring, and routine assessment of vital signs once
15 active labor is established;

16 (D) supervise delivery of infant and placenta,
17 assess newborn and maternal well-being in immediate
18 postpartum, and perform Apgar scores;

19 (E) perform routine cord management and inspect
20 for the appropriate number of vessels;

21 (F) inspect the placenta and membranes for
22 completeness;

23 (G) inspect the perineum and vagina postpartum for
24 lacerations and stabilize;

25 (H) observe mother and newborn postpartum until
26 stable condition is achieved, but in no event for less

1 than 2 hours;

2 (I) instruct the mother, father, and other support
3 persons, both verbally and in writing, of the special
4 care and precautions for both mother and newborn in the
5 immediate postpartum period;

6 (J) reevaluate maternal and newborn well-being
7 within 36 hours after delivery.

8 (K) use universal precautions with all biohazard
9 materials;

10 (L) ensure that a birth certificate is accurately
11 completed and filed in accordance with State law;

12 (M) offer to obtain and submit a blood sample, in
13 accordance with the recommendations for metabolic
14 screening of the newborn;

15 (N) offer an injection of vitamin K for the
16 newborn, in accordance with the indication, dose, and
17 administration route set forth in this Section.

18 (O) within one week after delivery, offer a newborn
19 hearing screening to every newborn or refer the parents
20 to a facility with a newborn hearing screening program;

21 (P) within 2 hours after the birth, offer the
22 administration of anti-biotic ointment into the eyes
23 of the newborn, in accordance with State law on the
24 prevention of infant blindness; and

25 (Q) maintain adequate antenatal and perinatal
26 records of each client and provide records to

1 consulting licensed physicians and licensed certified
2 nurse-midwives, in accordance with the federal Health
3 Insurance Portability and Accountability Act.

4 (2) With regard to prescription drugs, devices, and
5 procedures, licensed midwives may administer the following
6 medications during the practice of midwifery:

7 (A) oxygen for the treatment of fetal distress;

8 (B) the following eye prophylactics: 0.5%
9 Erythromycin ophthalmic ointment or 1% Tetracycline
10 ophthalmic ointment for the prevention of neonatal
11 ophthalmia;

12 (C) Oxytocin or Pitocin as a postpartum
13 antihemorrhagic agent;

14 (D) Methylergonovine or Methergine for the
15 treatment of postpartum hemorrhage;

16 (E) Vitamin K for the prophylaxis of hemorrhagic
17 disease of the newborn;

18 (F) Rho(D) immune globulin for the prevention of
19 Rho(D) sensitization in Rho negative women;

20 (G) Lactated Ringers IV solution may be used for
21 maternal stabilization;

22 (H) Lidocain as a numbing agent for repair of
23 postpartum tears; and

24 (I) sterile water subcutaneous injections as a
25 non-pharmacological form of pain relief during the
26 first and second stages of labor.

1 The medication indications, dose, route of
2 administration and duration of treatment relating to the
3 administration of drugs and procedures identified under
4 this item (2) are as follows:

5 Medication: Oxygen

6 Indication: Fetal distress

7 Maternal dose: 6-8 L/minute

8 Route of Administration: Mask

9 Duration of Treatment: Until delivery or transfer to a
10 hospital is complete

11 Infant dose: 10-12 L/minute

12 Route of Administration: Bag and mask

13 Infant dose: 2-4 L/minute

14 Route of Administration: Mask

15 Duration of Treatment: 20 minutes or until transfer to a
16 hospital is complete

17 Medication: 0.5% Erythromycin ophthalmic ointment or 1%

18 Tetracycline ophthalmic ointment

19 Indication: Prophylaxis of Neonatal Ophthalmia

20 Dose: 1 cm ribbon in each eye from unit dose package

21 Route of Administration: Topical

22 Duration of Treatment: 1 dose

23 Medication: Oxytocin (Pitocin), 10 units/ml

24 Indication: Postpartum hemorrhage only, 10-20 units,

1 Dose: 1-2 ml

2 Route of Administration: Intramuscularly only

3 Duration of Treatment: 1-2 doses

4 Medication: Methylergonovine (Methergine), 0.2 mg/ml or
5 0.2 mg tabs

6 Indication: Postpartum hemorrhage only

7 Dose: 0.2 mg

8 Route of administration: Intramuscularly or orally single
9 dose

10 Duration of treatment: Every 6 hours, may repeat 3 times

11 Contraindicated in hypertension and Raynaud's Disease

12 Medication: Misoprostol (Cytotec), 100-200 mcg

13 Indication: Treatment of postpartum hemorrhage

14 Dose: 100-200mcg tablet

15 Route of administration: 100-1000mcg orally or rectally,
16 caution with Inflammatory Bowel Disease

17 Medication: Vitamin K, 1.0 mg/0.5 ml

18 Indication: Prophylaxis of hemorrhagic disease of the
19 newborn

20 Dose: 0.5-1.0 mg, 0.25-0.5 ml

21 Route of administration: Intramuscularly

22 Duration of treatment: Single dose

1 Medication: Rho(D) Immune Globulin

2 Indication: Prevention of Rho(D) sensitization in Rho(D)
3 negative women

4 Dose: Unit dose

5 Route of administration: Intramuscularly only

6 Duration of treatment: (i) Single dose at any gestation for
7 Rho(D) negative, antibody negative women within 72 hours
8 after spontaneous bleeding, (ii) single dose at 26-28 weeks
9 gestation for Rho(D) negative, antibody negative women,
10 and (iii) single dose for Rho(D) negative, antibody
11 negative women within 72 hours after delivery of Rho(D)
12 positive infant or infant with an unknown blood type

13 Medication: 5% dextrose in lactated Ringer's solution
14 (D5LR), unless unavailable or impractical in which case
15 0.9% sodium chloride may be administered Indication: To
16 achieve maternal stabilization during uncontrolled
17 postpartum hemorrhage or anytime blood loss is accompanied
18 by tachycardia, hypotension, decreased level of
19 consciousness, pallor or diaphoresis Route of
20 administration: First liter run in at a wide-open rate, the
21 second liter titrated to client's condition Duration of
22 treatment: IV catheter 18 gauge or greater (2 if hemorrhage
23 is severe)

24 Medication/Procedure: Sterile water papules

1 Indication: For labor pain in the first and second stages
2 of labor

3 Dose: 4 injections of 0.25 ml at each injection sight

4 Route of administration: 4 subcutaneous injections in the
5 small of the back

6 Duration of treatment: Every 2 hours until no longer
7 necessary or delivery

8 (3) With regard to consultation and referral, a
9 licensed midwife shall consult with a licensed physician or
10 a licensed certified nurse midwife providing obstetrical
11 care, whenever there are significant deviations, including
12 abnormal laboratory results, relative to a client's
13 pregnancy or to a neonate. If a referral to a physician or
14 certified nurse midwife is needed, the licensed midwife
15 shall refer the client to a physician or certified nurse
16 midwife and, if possible, remain in consultation with the
17 physician or certified nurse midwife until resolution of
18 the concern; however, consultation does not preclude the
19 possibility of an out-of-hospital birth. It is appropriate
20 for the licensed midwife to maintain care of the client to
21 the greatest degree possible, in accordance with the
22 client's wishes, during the pregnancy and, if possible,
23 during labor, birth and the postpartum period.

24 A licensed midwife shall consult with a physician
25 licensed to practice medicine in all of its branches, a
26 physician assistant licensed under the Physician Assistant

1 Act of 1987, or an advanced practice nurse licensed under
2 the Nurse Practice Act with regard to any mother who,
3 during antepartum, presents with or develops any of the
4 following risk factors or presents with or develops other
5 risk factors that, in the judgment of the licensed midwife,
6 warrant consultation:

7 (A) Pregnancy induced hypertension, as evidenced
8 by a blood pressure of 140/90 on 2 occasions greater
9 than 6 hours apart.

10 (B) Persistent, severe headaches, epigastric pain,
11 or visual disturbances.

12 (C) Persistent symptoms of urinary tract
13 infection.

14 (D) Significant vaginal bleeding before the onset
15 of labor not associated with uncomplicated spontaneous
16 abortion.

17 (E) Rupture of membranes prior to the 37th week
18 gestation.

19 (F) Noted abnormal decrease in or cessation of
20 fetal movement.

21 (G) Anemia resistant to supplemental therapy.

22 (H) Fever of 102 degrees F or 39 degrees C or
23 greater for more than 24 hours.

24 (I) Non-vertex presentation after 38 weeks
25 gestation.

26 (J) Hyperemesis or significant dehydration.

1 (K) ISO immunization, Rh negative sensitized,
2 positive titers, or any other positive antibody titer,
3 which may have a detrimental effect on the mother or
4 fetus.

5 (L) Elevated blood glucose levels unresponsive to
6 dietary management.

7 (M) Positive HIV antibody test.

8 (N) Primary genital herpes infection in pregnancy.

9 (O) Symptoms of malnutrition or anorexia or
10 protracted weight loss or failure to gain weight.

11 (P) Suspected deep vein thrombosis.

12 (Q) Documented placental anomaly or previa.

13 (R) Documented low lying placenta after 28 weeks
14 gestation.

15 (S) Labor prior to the 37th week of gestation.

16 (T) History of any prior uterine incision. A woman
17 who has had a previous low transverse cesarean section
18 (LTSC) with a subsequent vaginal birth may be
19 considered for home birth. A woman with a prior LTCS
20 and no subsequent vaginal birth after cesarean or other
21 uterine surgeries, may be managed antepartally with
22 consultation, but will be transferred to the
23 consultant's care for delivery.

24 (U) Lie other than vertex at term.

25 (V) Multiple gestation.

26 (W) Known fetal anomalies that may be affected by

1 the site of birth.

2 (X) Marked abnormal fetal heart tones.

3 (Y) Abnormal non-stress test or abnormal
4 biophysical profile.

5 (Z) Marked or severe poly or oligo hydramnios.

6 (AA) Evidence of intrauterine growth
7 restriction.

8 (BB) Significant abnormal ultrasound findings.

9 (CC) Gestation beyond 42 weeks by reliable
10 confirmed dates.

11 A licensed midwife shall consult with a licensed physician
12 or certified nurse-midwife with regard to any mother who,
13 during intrapartum, presents with or develops any of the
14 following risk factors or presents with or develops other
15 risk factors that, in the judgment of the licensed midwife,
16 warrant consultation:

17 (A) Rise in blood pressure above baseline, more
18 than 30/15 points or greater than 140/90.

19 (B) Persistent, severe headaches, epigastric pain,
20 or visual disturbances.

21 (C) Significant proteinuria or ketonuria.

22 (D) Fever over 100.6 degrees F or 38 degrees C in
23 absence of environmental factors.

24 (E) Ruptured membranes without onset of
25 established labor after 18 hours.

26 (F) Significant bleeding prior to delivery or any

1 abnormal bleeding, with or without abdominal pain; or
2 evidence of placental abruption.

3 (G) Lie not compatible with spontaneous vaginal
4 delivery or unstable fetal lie.

5 (H) Failure to progress after 5 hours of active
6 labor or following 2 hours of active second stage
7 labor.

8 (I) Signs or symptoms of maternal infection.

9 (J) Active genital herpes at onset of labor.

10 (K) Fetal heart tones with non-reassuring
11 patterns.

12 (L) Signs or symptoms of fetal distress.

13 (M) Thick meconium or frank bleeding with birth not
14 imminent.

15 (N) Client or licensed midwife desires physician
16 consultation or transfer.

17 A licensed midwife shall consult with a licensed
18 physician or certified nurse-midwife with regard to any
19 mother who, during postpartum, presents with or develops
20 any of the following risk factors or presents with or
21 develops other risk factors that, in the judgment of the
22 licensed midwife, warrant consultation:

23 (A) Failure to void within 6 hours of birth.

24 (B) Signs or symptoms of maternal shock.

25 (C) Febrile: 102 degrees F or 39 degrees C and
26 unresponsive to therapy for 12 hours.

1 (D) Abnormal lochia or signs or symptoms of uterine
2 sepsis.

3 (E) Suspected deep vein thrombosis.

4 (F) Signs of clinically significant depression.

5 A licensed midwife shall consult with a licensed
6 physician or licensed certified nurse-midwife with regard
7 to any neonate who is born with or develops any of the
8 following risk factors:

9 (A) Apgar score of 6 or less at 5 minutes without
10 significant improvement by 10 minutes.

11 (B) Persistent grunting respirations or retractions.

12 (C) Persistent cardiac irregularities.

13 (D) Persistent central cyanosis or pallor.

14 (E) Persistent lethargy or poor muscle tone.

15 (F) Abnormal cry.

16 (G) Birth weight less than 2300 grams.

17 (H) Jitteriness or seizures.

18 (I) Jaundice occurring before 24 hours or outside of
19 normal range.

20 (J) Failure to urinate within 24 hours of birth.

21 (K) Failure to pass meconium within 48 hours of birth.

22 (L) Edema.

23 (M) Prolonged temperature instability.

24 (N) Significant signs or symptoms of infection.

25 (O) Significant clinical evidence of glycemic
26 instability.

- 1 (P) Abnormal, bulging, or depressed fontanel.
- 2 (Q) Significant clinical evidence of prematurity.
- 3 (R) Medically significant congenital anomalies.
- 4 (S) Significant or suspected birth injury.
- 5 (T) Persistent inability to suck.
- 6 (U) Diminished consciousness.
- 7 (V) Clinically significant abnormalities in vital
8 signs, muscle tone or behavior.
- 9 (W) Clinically significant color abnormality,
10 cyanotic, or pale or abnormal perfusion.
- 11 (X) Abdominal distention or projectile vomiting.
- 12 (Y) Signs of clinically significant dehydration or
13 failure to thrive.
- 14 (4) The licensed midwife shall initiate immediate
15 transport according to the licensed midwife's emergency
16 plan, provide emergency stabilization until emergency
17 medical services arrive or transfer is completed,
18 accompany the client or follow the client to a hospital in
19 a timely fashion, provide pertinent information to the
20 receiving facility and complete an emergency transport
21 record. Any of the following conditions shall require
22 immediate notification to the licensed midwife's
23 collaborating health care professional and emergency
24 transfer to a hospital:
- 25 (A) Seizures or unconsciousness.
- 26 (B) Respiratory distress or arrest.

- 1 (C) Evidence of shock.
- 2 (D) Psychosis.
- 3 (E) Symptomatic chest pain or cardiac arrhythmias.
- 4 (F) Prolapsed umbilical cord.
- 5 (G) Shoulder dystocia not resolved by Advanced
6 Life Support in Obstetrics (ALSO) protocol.
- 7 (H) Symptoms of uterine rupture.
- 8 (I) Preeclampsia or eclampsia.
- 9 (J) Severe abdominal pain inconsistent with normal
10 labor.
- 11 (K) Chorioamnionitis.
- 12 (L) Clinically significant fetal heart rate
13 patterns or other manifestation of fetal distress.
- 14 (M) Presentation not compatible with spontaneous
15 vaginal delivery.
- 16 (N) Laceration greater than second degree perineal
17 or any cervical.
- 18 (O) Hemorrhage non-responsive to therapy.
- 19 (P) Uterine prolapse or inversion.
- 20 (Q) Persistent uterine atony.
- 21 (R) Anaphylaxis.
- 22 (S) Failure to deliver placenta after one hour if
23 there is no bleeding and fundus is firm.
- 24 (T) Sustained instability or persistent abnormal
25 vital signs.
- 26 (U) Other conditions or symptoms that could

1 threaten the life of the mother, fetus or neonate.

2 A licensed midwife may deliver a client with any of the
3 complications or conditions set forth in this item (4), if
4 no physician or other equivalent medical services are
5 available and the situation presents immediate harm to the
6 health and safety of the client, if the complication or
7 condition entails extraordinary and unnecessary human
8 suffering, or if delivery occurs during transport.

9 (5) With regard to collaboration, a licensed midwife
10 must form a formal collaborative relationship with a
11 medical doctor or doctor of osteopathy licensed under the
12 Illinois Medical Practice Act or a certified nurse midwife
13 licensed as an advanced practice nurse under the Illinois
14 Nurse Practice Act. This relationship must (i) include
15 documented quarterly review of all clients under the care
16 of the licensed midwife, (ii) include written protocols and
17 procedures for assessing risk and appropriateness for home
18 birth, (iii) provide supportive care when care is
19 transferred to another provider, if possible, and (iv)
20 consider the standards regarding practice of midwifery
21 established by the National Association of Certified
22 Professional Midwives, including referral of mother or
23 baby to appropriate professionals when either needs care
24 outside the midwife's scope of practice or expertise.

25 This relationship must not be construed to necessarily
26 require the personal presence of the collaborating care

1 provider at all times at the place where services are
2 rendered, as long as there is communication available for
3 consultation by radio, telephone, Internet, or
4 telecommunications.

5 (6) With regard to prohibited practices, a licensed
6 midwife may not do any of the following:

7 (A) Administer prescription pharmacological agents
8 intended to induce or augment labor.

9 (B) Administer prescription pharmacological agents
10 to provide pain management.

11 (C) Use vacuum extractors or forceps.

12 (D) Prescribe medications.

13 (E) Provide care to a woman who has had a cesarean
14 section or other uterine surgery, unless that woman has
15 had a successful subsequent vaginal birth after
16 cesarean section.

17 (F) Perform major surgical procedures including,
18 but not limited to, cesarean sections and
19 circumcisions.

20 (G) Knowingly accept responsibility for prenatal
21 or intrapartum care of a client with any of the
22 following risk factors:

23 (i) Chronic significant maternal cardiac,
24 pulmonary, renal or hepatic disease.

25 (ii) Malignant disease in an active phase.

26 (iii) Significant hematological disorders or

- 1 coagulopathies, or pulmonary embolism.
- 2 (iv) Insulin requiring diabetes mellitus.
- 3 (v) Known maternal congenital abnormalities
4 affecting childbirth.
- 5 (vi) Confirmed isoimmunization, Rh disease
6 with positive titer.
- 7 (vii) Active tuberculosis.
- 8 (viii) Active syphilis or gonorrhea.
- 9 (ix) Active genital herpes infection 2 weeks
10 prior to labor or in labor.
- 11 (x) Pelvic or uterine abnormalities affecting
12 normal vaginal births, including tumors and
13 malformations.
- 14 (xi) Alcoholism or abuse.
- 15 (xii) Drug addiction or abuse.
- 16 (xiii) Confirmed AIDS status.
- 17 (xiv) Uncontrolled current serious psychiatric
18 illness.
- 19 (xv) Social or familial conditions
20 unsatisfactory for out-of-hospital maternity care
21 services.
- 22 (xvi) Fetus with suspected or diagnosed
23 congenital abnormalities that may require
24 immediate medical intervention.
- 25 (c) The Department must, on a quarterly basis, issue a
26 status report to the Board of all complaints submitted to

1 the Department related to the midwifery profession.

2 Section 45. Illinois Midwifery Board.

3 (a) There is created under the authority of the Department
4 the Illinois Midwifery Board, which shall consist of 7 members
5 appointed by the Secretary, 4 of whom shall be licensed
6 midwives who carry the CPM credential, except that initial
7 appointees must have at least 3 years of experience in the
8 practice of midwifery in an out-of-hospital setting, be
9 certified by the North American Registry of Midwives, and meet
10 the qualifications for licensure set forth in this Act; one of
11 whom shall be an obstetrician licensed under the Medical
12 Practice Act of 1987 who has a minimum of 2 years of experience
13 working or consulting with home birth providers or,
14 alternately, a family practice physician licensed under the
15 Medical Practice Act of 1987 who has a minimum of 2 years of
16 experience providing home birth services; one of whom shall be
17 a certified nurse midwife who has at least 2 years of
18 experience in providing home birth services; and one of whom
19 shall be a knowledgeable public member who has given birth with
20 the assistance of a certified professional midwife in an
21 out-of-hospital birth setting. Board members shall serve
22 4-year terms, except that in the case of initial appointments,
23 terms shall be staggered as follows: 3 members shall serve for
24 4 years, 2 members shall serve for 3 years, and 2 members shall
25 serve for 2 years. The Board shall annually elect a chairperson

1 and vice chairperson.

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

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

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

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

14 (f) A majority of the Board members currently appointed
15 shall constitute a quorum. A vacancy in the membership of the
16 Board shall not impair the right of a quorum to perform all of
17 the duties of the Board.

18 (g) The Board shall provide the Department with
19 recommendations concerning the administration of this Act and
20 perform each of the following duties:

21 (1) Recommend to the Department the prescription and,
22 from time to time, the revision of any rules that may be
23 necessary to carry out the provisions of this Act,
24 including those that are designed to protect the health,
25 safety, and welfare of the public.

26 (2) Conduct hearings and disciplinary conferences on

1 disciplinary charges of licensees.

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

5 (4) Recommend the approval, denial of approval, and
6 withdrawal of approval of required education and
7 continuing educational programs.

8 (h) The Secretary shall give due consideration to all
9 recommendations of the Board. If the Secretary takes action
10 contrary to a recommendation of the Board, the Secretary must
11 promptly provide a written explanation of that action.

12 (i) The Board may recommend to the Secretary that one or
13 more licensed midwives be selected by the Secretary to assist
14 in any investigation under this Act. Compensation shall be
15 provided to any licensee who provides assistance under this
16 subsection (i), in an amount determined by the Secretary.

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

21 Section 50. Qualifications.

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

24 (1) He or she has earned an associate's degree or
25 higher, or the equivalent of an associate's degree or

1 higher, in either nursing or midwifery from an accredited
2 post-secondary institution or has earned a general
3 associates degree or its equivalent, including completion
4 of all of the following coursework from an accredited
5 post-secondary institution in the following denominations:

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

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

9 (C) Social and Behavioral Science (Sociology and
10 Psychology): 6 credit hours.

11 (D) Math: 3 credit hours.

12 (E) Nutrition: 3 credit hours.

13 (F) Pharmacology: 3 credit hours.

14 (2) He or she has successfully completed a program of
15 midwifery education approved by the North American
16 Registry of Midwives that includes both didactic and
17 clinical internship experience, the sum of which, on
18 average, takes 3 to 5 years to complete.

19 (3) He or she has passed an 8-hour written and
20 practical skills examination for the practice of midwifery
21 that has been developed following the standards set by the
22 National Commission for Certifying Agencies or a successor
23 organization and is administered by the North American
24 Registry of Midwives.

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

1 (b) Before August 31, 2010, a person seeking licensure as a
2 licensed midwife who has not met the educational requirements
3 set forth in this Section shall be qualified for licensure if
4 that person does all of the following:

5 (1) Submits evidence of having successfully passed the
6 national certification exam described in subsection (a) of
7 this Section prior to January 1, 2004.

8 (2) Submits evidence of certification in adult CPR and
9 infant CPR or neonatal resuscitation.

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

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

15 (5) Submits evidence of current certification in adult
16 and infant CRN or neonatal resuscitation.

17 (c) Nothing used in submitting evidence of practice of
18 midwifery when applying for licensure under this Act shall be
19 used as evidence or to take legal action against the applicant
20 regarding the practice of midwifery, nursing, or medicine prior
21 to the passage of this Act.

22 Section 55. Social Security Number on application. In
23 addition to any other information required to be contained in
24 the application, every application for an original, renewal,
25 reinstated, or restored license under this Act shall include

1 the applicant's Social Security Number.

2 Section 60. Continuing education.

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

8 (b) Rules adopted under this Act shall require the licensed
9 midwife to maintain CPM certification by meeting all the
10 requirements set forth by the North American Registry of
11 Midwives or to maintain CNM or CM certification by meeting all
12 the requirements set forth by the American Midwifery
13 Certification Board.

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

17 Section 65. Inactive status.

18 (a) A licensed midwife who notifies the Department in
19 writing on forms prescribed by the Department may elect to
20 place his or her license on an inactive status and shall be
21 excused from payment of renewal fees until he or she notifies
22 the Department in writing of his or her intent to restore the
23 license.

24 (b) A licensed midwife whose license is on inactive status

1 may not practice licensed midwifery in the State of Illinois.

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

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

10 Section 70. Renewal, reinstatement, or restoration of
11 licensure; military service.

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

14 (b) All renewal applicants shall provide proof of having
15 met the requirements of continuing education set forth by the
16 North American Registry of Midwives. The Department shall
17 provide for an orderly process for the reinstatement of
18 licenses that have not been renewed due to failure to meet
19 continuing education requirements.

20 (c) Any licensed midwife who has permitted his or her
21 license to expire or who has had his or her license on inactive
22 status may have his or her license restored by making
23 application to the Department and filing proof acceptable to
24 the Department of fitness to have the license restored and by
25 paying the required fees. Proof of fitness may include evidence

1 attesting to active lawful practice in another jurisdiction.

2 (d) The Department shall determine, by an evaluation
3 program, fitness for restoration of a license under this
4 Section and shall establish procedures and requirements for
5 restoration.

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

16 Section 75. Roster. The Department shall maintain a roster
17 of the names and addresses of all licensees and of all persons
18 whose licenses have been suspended or revoked. This roster
19 shall be available upon written request and payment of the
20 required fee.

21 Section 80. Fees.

22 (a) The Department shall provide for a schedule of fees for
23 the administration and enforcement of this Act, including
24 without limitation original licensure, renewal, and

1 restoration, which fees shall be nonrefundable.

2 (b) All fees collected under this Act shall be deposited
3 into the General Professions Dedicated Fund and appropriated to
4 the Department for the ordinary and contingent expenses of the
5 Department in the administration of this Act.

6 Section 85. Returned checks; fines. Any person who delivers
7 a check or other payment to the Department that is returned to
8 the Department unpaid by the financial institution upon which
9 it is drawn shall pay to the Department, in addition to the
10 amount already owed to the Department, a fine of \$50. The fines
11 imposed by this Section are in addition to any other discipline
12 provided under this Act for unlicensed practice or practice on
13 a non-renewed license. The Department shall notify the person
14 that fees and fines shall be paid to the Department by
15 certified check or money order within 30 calendar days after
16 the notification. If, after the expiration of 30 days from the
17 date of the notification, the person has failed to submit the
18 necessary remittance, the Department shall automatically
19 terminate the license or deny the application, without hearing.
20 If, after termination or denial, the person seeks a license, he
21 or she shall apply to the Department for restoration or
22 issuance of the license and pay all fees and fines due to the
23 Department. The Department may establish a fee for the
24 processing of an application for restoration of a license to
25 defray all expenses of processing the application. The

1 Secretary may waive the fines due under this Section in
2 individual cases where the Secretary finds that the fines would
3 be unreasonable or unnecessarily burdensome.

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

20 Section 95. Grounds for disciplinary action. The
21 Department may refuse to issue or to renew or may revoke,
22 suspend, place on probation, reprimand or take other
23 disciplinary action as the Department may deem proper,
24 including fines not to exceed \$5,000 for each violation, with

1 regard to any licensee or license for any one or combination of
2 the following causes:

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

4 (2) Material misstatement in furnishing information to
5 the Department.

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

10 (4) Making any misrepresentation for the purpose of
11 obtaining a license.

12 (5) Professional incompetence or gross negligence.

13 (6) Gross malpractice.

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

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

18 (9) Engaging in dishonorable, unethical, or
19 unprofessional conduct of a character likely to deceive,
20 defraud, or harm the public.

21 (10) Habitual or excessive use or addiction to alcohol,
22 narcotics, stimulants, or any other chemical agent or drug
23 that results in the inability to practice with reasonable
24 judgment, skill, or safety.

25 (11) Discipline by another U.S. jurisdiction or
26 foreign nation if at least one of the grounds for the

1 discipline is the same or substantially equivalent to those
2 set forth in this Act.

3 (12) Directly or indirectly giving to or receiving from
4 any person, firm, corporation, partnership, or association
5 any fee, commission, rebate, or other form of compensation
6 for any professional services not actually or personally
7 rendered. This shall not be deemed to include rent or other
8 remunerations paid to an individual, partnership, or
9 corporation by a licensed midwife for the lease, rental, or
10 use of space, owned or controlled by the individual,
11 partnership, corporation, or association.

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

15 (14) Abandonment of a patient without cause.

16 (15) Willfully making or filing false records or
17 reports relating to a licensee's practice, including, but
18 not limited to, false records filed with State agencies or
19 departments.

20 (16) Physical illness or mental illness, including,
21 but not limited to, deterioration through the aging process
22 or loss of motor skill that results in the inability to
23 practice the profession with reasonable judgment, skill,
24 or safety.

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

1 (18) Conviction by any court of competent
2 jurisdiction, either within or without this State, of any
3 violation of any law governing the practice of licensed
4 midwifery or conviction in this or another state of any
5 crime that is a felony under the laws of this State or
6 conviction of a felony in a federal court, if the
7 Department determines, after investigation, that the
8 person has not been sufficiently rehabilitated to warrant
9 the public trust.

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

12 (20) Being named as a perpetrator in an indicated
13 report by the Department of Healthcare and Family Services
14 under the Abused and Neglected Child Reporting Act and upon
15 proof by clear and convincing evidence that the licensee
16 has caused a child to be an abused child or a neglected
17 child, as defined in the Abused and Neglected Child
18 Reporting Act.

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

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

25 (23) Maintaining a professional relationship with any
26 person, firm, or corporation when the licensed midwife

1 knows or should know that a person, firm, or corporation is
2 violating this Act.

3 (24) Failure to provide satisfactory proof of having
4 participated in approved continuing education programs as
5 determined by the Board and approved by the Secretary.
6 Exceptions for extreme hardships are to be defined by the
7 Department.

8 (b) The Department may refuse to issue or may suspend the
9 license of any person who fails to (i) file a tax return or to
10 pay the tax, penalty, or interest shown in a filed return or
11 (ii) pay any final assessment of the tax, penalty, or interest,
12 as required by any tax Act administered by the Illinois
13 Department of Revenue, until the time that the requirements of
14 that tax Act are satisfied.

15 (c) The determination by a circuit court that a licensee is
16 subject to involuntary admission or judicial admission as
17 provided in the Mental Health and Developmental Disabilities
18 Code operates as an automatic suspension. The suspension shall
19 end only upon a finding by a court that the patient is no
20 longer subject to involuntary admission or judicial admission,
21 the issuance of an order so finding and discharging the
22 patient, and the recommendation of the Board to the Secretary
23 that the licensee be allowed to resume his or her practice.

24 (d) In enforcing this Section, the Department, upon a
25 showing of a possible violation, may compel any person licensed
26 to practice under this Act or who has applied for licensure or

1 certification pursuant to this Act to submit to a mental or
2 physical examination, or both, as required by and at the
3 expense of the Department. The examining physicians shall be
4 those specifically designated by the Department. The
5 Department may order an examining physician to present
6 testimony concerning the mental or physical examination of the
7 licensee or applicant. No information shall be excluded by
8 reason of any common law or statutory privilege relating to
9 communications between the licensee or applicant and the
10 examining physician. The person to be examined may have, at his
11 or her own expense, another physician of his or her choice
12 present during all aspects of the examination. Failure of any
13 person to submit to a mental or physical examination when
14 directed shall be grounds for suspension of a license until the
15 person submits to the examination if the Department finds,
16 after notice and hearing, that the refusal to submit to the
17 examination was without reasonable cause.

18 If the Department finds an individual unable to practice
19 because of the reasons set forth in this subsection (d), the
20 Department may require that individual to submit to care,
21 counseling, or treatment by physicians approved or designated
22 by the Department, as a condition, term, or restriction for
23 continued, reinstated, or renewed licensure to practice or, in
24 lieu of care, counseling, or treatment, the Department may file
25 a complaint to immediately suspend, revoke, or otherwise
26 discipline the license of the individual. Any person whose

1 license was granted, reinstated, renewed, disciplined, or
2 supervised subject to such terms, conditions, or restrictions
3 and who fails to comply with such terms, conditions, or
4 restrictions shall be referred to the Secretary for a
5 determination as to whether or not the person shall have his or
6 her license suspended immediately, pending a hearing by the
7 Department.

8 In instances in which the Secretary immediately suspends a
9 person's license under this Section, a hearing on that person's
10 license must be convened by the Department within 15 days after
11 the suspension and completed without appreciable delay. The
12 Department may review the person's record of treatment and
13 counseling regarding the impairment, to the extent permitted by
14 applicable federal statutes and regulations safeguarding the
15 confidentiality of medical records.

16 A person licensed under this Act and affected under this
17 subsection (d) shall be afforded an opportunity to demonstrate
18 to the Department that he or she can resume practice in
19 compliance with acceptable and prevailing standards under the
20 provisions of his or her license.

21 Section 100. Failure to pay restitution. The Department,
22 without further process or hearing, shall suspend the license
23 or other authorization to practice of any person issued under
24 this Act who has been certified by court order as not having
25 paid restitution to a person under Section 8A-3.5 of the

1 Illinois Public Aid Code or under Section 46-1 of the Criminal
2 Code of 1961. A person whose license or other authorization to
3 practice is suspended under this Section is prohibited from
4 practicing until restitution is made in full.

5 Section 105. Injunction; cease and desist order.

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

19 (b) If any person practices as a licensed midwife or holds
20 himself or herself out as a licensed midwife without being
21 licensed under the provisions of this Act, then any licensed
22 midwife, any interested party, or any person injured thereby
23 may, in addition to the Secretary, petition for relief as
24 provided in subsection (a) of this Section.

25 (c) Whenever, in the opinion of the Department, any person

1 violates any provision of this Act, the Department may issue a
2 rule to show cause why an order to cease and desist should not
3 be entered against that person. The rule shall clearly set
4 forth the grounds relied upon by the Department and shall
5 provide a period of 7 days after the date of the rule to file an
6 answer to the satisfaction of the Department. Failure to answer
7 to the satisfaction of the Department shall cause an order to
8 cease and desist to be issued immediately.

9 Section 110. Violation; criminal penalty.

10 (a) Whoever knowingly practices or offers to practice
11 midwifery in this State without being licensed for that purpose
12 or exempt under this Act shall be guilty of a Class A
13 misdemeanor and, for each subsequent conviction, shall be
14 guilty of a Class 4 felony.

15 (b) Any person who is found to have violated any other
16 provision of this Act is guilty of a Class A misdemeanor.

17 (c) Notwithstanding any other provision of this Act, all
18 criminal fines, moneys, or other property collected or received
19 by the Department under this Section or any other State or
20 federal statute, including, but not limited to, property
21 forfeited to the Department under Section 505 of the Illinois
22 Controlled Substances Act or Section 85 of the Methamphetamine
23 Control and Community Protection Act, shall be deposited into
24 the Professional Regulation Evidence Fund.

1 Section 115. Investigation; notice; hearing. The
2 Department may investigate the actions of any applicant or of
3 any person or persons holding or claiming to hold a license
4 under this Act. Before refusing to issue or to renew or taking
5 any disciplinary action regarding a license, the Department
6 shall, at least 30 days prior to the date set for the hearing,
7 notify in writing the applicant or licensee of the nature of
8 any charges and that a hearing shall be held on a date
9 designated. The Department shall direct the applicant or
10 licensee to file a written answer with the Board under oath
11 within 20 days after the service of the notice and inform the
12 applicant or licensee that failure to file an answer shall
13 result in default being taken against the applicant or licensee
14 and that the license may be suspended, revoked, or placed on
15 probationary status or that other disciplinary action may be
16 taken, including limiting the scope, nature, or extent of
17 practice, as the Secretary may deem proper. Written notice may
18 be served by personal delivery or certified or registered mail
19 to the respondent at the address of his or her last
20 notification to the Department. If the person fails to file an
21 answer after receiving notice, his or her license may, in the
22 discretion of the Department, be suspended, revoked, or placed
23 on probationary status, or the Department may take any
24 disciplinary action deemed proper, including limiting the
25 scope, nature, or extent of the person's practice or the
26 imposition of a fine, without a hearing, if the act or acts

1 charged constitute sufficient grounds for such action under
2 this Act. At the time and place fixed in the notice, the Board
3 shall proceed to hear the charges and the parties or their
4 counsel shall be accorded ample opportunity to present such
5 statements, testimony, evidence, and argument as may be
6 pertinent to the charges or to their defense. The Board may
7 continue a hearing from time to time.

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

19 Section 125. Witnesses; production of documents; contempt.
20 Any circuit court may upon application of the Department or its
21 designee or of the applicant or licensee against whom
22 proceedings under Section 95 of this Act are pending, enter an
23 order requiring the attendance of witnesses and their testimony
24 and the production of documents, papers, files, books, and

1 records in connection with any hearing or investigation. The
2 court may compel obedience to its order by proceedings for
3 contempt.

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

21 Section 135. Findings of fact, conclusions of law, and
22 recommendations. At the conclusion of the hearing the Board
23 shall present to the Secretary a written report of its findings
24 of fact, conclusions of law, and recommendations. The report

1 shall contain a finding as to whether or not the accused person
2 violated this Act or failed to comply with the conditions
3 required under this Act. The Board shall specify the nature of
4 the violation or failure to comply and shall make its
5 recommendations to the Secretary.

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

15 Section 140. Hearing officer. The Secretary may appoint any
16 attorney duly licensed to practice law in the State of Illinois
17 to serve as the hearing officer in any action for departmental
18 refusal to issue, renew, or license an applicant or for
19 disciplinary action against a licensee. The hearing officer
20 shall have full authority to conduct the hearing. The hearing
21 officer shall report his or her findings of fact, conclusions
22 of law, and recommendations to the Board and the Secretary. The
23 Board shall have 60 calendar days after receipt of the report
24 to review the report of the hearing officer and present its
25 findings of fact, conclusions of law, and recommendations to

1 the Secretary. If the Board fails to present its report within
2 the 60-day period, the Secretary may issue an order based on
3 the report of the hearing officer. If the Secretary disagrees
4 with the recommendation of the Board or the hearing officer, he
5 or she may issue an order in contravention of that
6 recommendation.

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

23 Section 150. Rehearing. Whenever the Secretary is
24 satisfied that substantial justice has not been done in the

1 revocation, suspension, or refusal to issue or renew a license,
2 the Secretary may order a rehearing by the same or another
3 hearing officer or by the Board.

4 Section 155. Prima facie proof. An order or a certified
5 copy thereof, over the seal of the Department and purporting to
6 be signed by the Secretary, shall be prima facie proof of the
7 following:

8 (1) that the signature is the genuine signature of the
9 Secretary;

10 (2) that such Secretary is duly appointed and
11 qualified; and

12 (3) that the Board and its members are qualified to
13 act.

14 Section 160. Restoration of license. At any time after the
15 suspension or revocation of any license, the Department may
16 restore the license to the accused person, unless after an
17 investigation and a hearing the Department determines that
18 restoration is not in the public interest.

19 Section 165. Surrender of license. Upon the revocation or
20 suspension of any license, the licensee shall immediately
21 surrender the license to the Department. If the licensee fails
22 to do so, the Department shall have the right to seize the
23 license.

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

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

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

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

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

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

22 Section 900. The Regulatory Sunset Act is amended by adding

1 Section 4.29 as follows:

2 (5 ILCS 80/4.29 new)

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

5 The Home Birth Safety Act.

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

8 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

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

10 Sec. 4. Exemptions.

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

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

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

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

22 (b) (Blank).

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

1 Section 910. The Nurse Practice Act is amended by changing
2 Section 5-15 as follows:

3 (225 ILCS 65/5-15)

4 (Section scheduled to be repealed on January 1, 2008)

5 Sec. 5-15. Policy; application of Act. For the protection
6 of life and the promotion of health, and the prevention of
7 illness and communicable diseases, any person practicing or
8 offering to practice professional and practical nursing in
9 Illinois shall submit evidence that he or she is qualified to
10 practice, and shall be licensed as provided under this Act. No
11 person shall practice or offer to practice professional or
12 practical nursing in Illinois or use any title, sign, card or
13 device to indicate that such a person is practicing
14 professional or practical nursing unless such person has been
15 licensed under the provisions of this Act.

16 This Act does not prohibit the following:

17 (a) The practice of nursing in Federal employment in
18 the discharge of the employee's duties by a person who is
19 employed by the United States government or any bureau,
20 division or agency thereof and is a legally qualified and
21 licensed nurse of another state or territory and not in
22 conflict with Sections 10-5, 10-30, and 10-45 of this Act.

23 (b) Nursing that is included in their program of study
24 by students enrolled in programs of nursing or in current

1 nurse practice update courses approved by the Department.

2 (c) The furnishing of nursing assistance in an
3 emergency.

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

8 (e) The incidental care of the sick by members of the
9 family, domestic servants or housekeepers, or care of the
10 sick where treatment is by prayer or spiritual means.

11 (f) Persons from being employed as nursing aides,
12 attendants, orderlies, and other auxiliary workers in
13 private homes, long term care facilities, nurseries,
14 hospitals or other institutions.

15 (g) The practice of practical nursing by one who has
16 applied in writing to the Department in form and substance
17 satisfactory to the Department, for a license as a licensed
18 practical nurse and who has complied with all the
19 provisions under Section 10-30, except the passing of an
20 examination to be eligible to receive such license, until:
21 the decision of the Department that the applicant has
22 failed to pass the next available examination authorized by
23 the Department or has failed, without an approved excuse,
24 to take the next available examination authorized by the
25 Department or until the withdrawal of the application, but
26 not to exceed 3 months. An applicant practicing practical

1 nursing under this Section who passes the examination,
2 however, may continue to practice under this Section until
3 such time as he or she receives his or her license to
4 practice or until the Department notifies him or her that
5 the license has been denied. No applicant for licensure
6 practicing under the provisions of this paragraph shall
7 practice practical nursing except under the direct
8 supervision of a registered professional nurse licensed
9 under this Act or a licensed physician, dentist or
10 podiatrist. In no instance shall any such applicant
11 practice or be employed in any supervisory capacity.

12 (h) The practice of practical nursing by one who is a
13 licensed practical nurse under the laws of another U.S.
14 jurisdiction and has applied in writing to the Department,
15 in form and substance satisfactory to the Department, for a
16 license as a licensed practical nurse and who is qualified
17 to receive such license under Section 10-30, 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 (i) The practice of professional nursing by one who has
22 applied in writing to the Department in form and substance
23 satisfactory to the Department for a license as a
24 registered professional nurse and has complied with all the
25 provisions under Section 10-30 except the passing of an
26 examination to be eligible to receive such license, until

1 the decision of the Department that the applicant has
2 failed to pass the next available examination authorized by
3 the Department or has failed, without an approved excuse,
4 to take the next available examination authorized by the
5 Department or until the withdrawal of the application, but
6 not to exceed 3 months. An applicant practicing
7 professional nursing under this Section who passes the
8 examination, however, may continue to practice under this
9 Section until such time as he or she receives his or her
10 license to practice or until the Department notifies him or
11 her that the license has been denied. No applicant for
12 licensure practicing under the provisions of this
13 paragraph shall practice professional nursing except under
14 the direct supervision of a registered professional nurse
15 licensed under this Act. In no instance shall any such
16 applicant practice or be employed in any supervisory
17 capacity.

18 (j) The practice of professional nursing by one who is
19 a registered professional nurse under the laws of another
20 state, territory of the United States or country and has
21 applied in writing to the Department, in form and substance
22 satisfactory to the Department, for a license as a
23 registered professional nurse and who is qualified to
24 receive such license under Section 10-30, until (1) the
25 expiration of 6 months after the filing of such written
26 application, (2) the withdrawal of such application, or (3)

1 the denial of such application by the Department.

2 (k) The practice of professional nursing that is
3 included in a program of study by one who is a registered
4 professional nurse under the laws of another state or
5 territory of the United States or foreign country,
6 territory or province and who is enrolled in a graduate
7 nursing education program or a program for the completion
8 of a baccalaureate nursing degree in this State, which
9 includes clinical supervision by faculty as determined by
10 the educational institution offering the program and the
11 health care organization where the practice of nursing
12 occurs. The educational institution will file with the
13 Department each academic term a list of the names and
14 origin of license of all professional nurses practicing
15 nursing as part of their programs under this provision.

16 (l) Any person licensed in this State under any other
17 Act from engaging in the practice for which she or he is
18 licensed, including without limitation any person engaged
19 in the practice of midwifery who is licensed under the Home
20 Birth Safety Act.

21 (m) Delegation to authorized direct care staff trained
22 under Section 15.4 of the Mental Health and Developmental
23 Disabilities Administrative Act.

24 An applicant for license practicing under the exceptions
25 set forth in subparagraphs (g), (h), (i), and (j) of this
26 Section shall use the title R.N. Lic. Pend. or L.P.N. Lic.

1 Pend. respectively and no other.

2 (Source: P.A. 93-265, eff. 7-22-03.)

3 Section 999. Effective date. This Act takes effect upon
4 becoming law.