

SB0385



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0385

Introduced 2/7/2007, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 80/4.28 new
745 ILCS 49/41 new

Creates the Midwifery Licensure Act. Provides for the licensure of midwives by the Department of Financial and Professional Regulation. Grants rulemaking authority to the Department and provides that the rules shall include the establishment of criteria for licensure, professional conduct, and discipline. Creates the Illinois Midwifery Board. Sets forth provisions concerning informed consent, qualifications, licensure, title, continuing education, exemption from civil liability, and vicarious liability. Amends the Regulatory Sunset Act to set a repeal date for the new Act of January 1, 2018. Amends the Good Samaritan Act to provide for the exemption from civil liability.

LRB095 09142 RAS 29335 b

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
5 Midwifery Licensure Act.

6 Section 5. Purpose. The General Assembly finds that
7 midwifery practices affect public health, safety, and welfare
8 and declares that the purpose of this Act is to protect and
9 benefit the public by setting standards of qualifications,
10 education, training, and experience for licensed midwives, to
11 promote high standards of professional performance for those
12 licensed to practice midwifery in out-of-hospital settings in
13 this State, and to protect the public from unprofessional
14 conduct by persons licensed to practice midwifery.

15 Section 10. Definitions. In this Act:

16 "Board" means the Illinois Midwifery Board

17 "Certified Professional Midwife" means a person who has met
18 the standards for certification set by the North American
19 Registry of Midwives or its successor and has been awarded the
20 Certified Professional Midwife (CPM) credential.

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

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

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

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

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

19 Section 15. Exemptions. This Act does not apply to any of
20 the following:

21 (1) Gratuitous services.

22 (2) Services granted as an expression of religious
23 freedom.

24 (3) Midwifery that is included in the educational
25 programs of student midwives working under the direct

1 supervision of a preceptor midwife approved by the North
2 American Registry of Midwives.

3 Section 20. Powers and duties of the Department.

4 (a) The Department shall adopt all rules necessary for the
5 implementation and administration of this Act, including rules
6 establishing criteria for licensure, professional conduct, and
7 discipline; however, the Department must consult with the Board
8 regarding rulemaking and review any responses and
9 recommendations made by the Board. The rules adopted by the
10 Department must provide for the following:

11 (1) the scope of practice and services provided
12 regarding the use of equipment, procedures, and
13 medications.

14 (2) the administration by a licensed midwife of oxygen
15 during the practice of midwifery;

16 (3) the issuance of temporary permits to practice
17 midwifery pending qualification for licensure; and

18 (4) the administration during the practice of
19 midwifery, of oxytocin (Pitocin) and Methergine solely as
20 postpartum anti-hemorrhagic agents, rhogam for the
21 prevention of Rh sensitization, intravenous fluids for
22 stabilization, lidocaine, vitamin K, eye prophylactics,
23 and other drugs or procedures in keeping with current
24 midwifery standards, as determined by the Department, and
25 the procurement of prescriptions for such medications by a

1 licensed midwife.

2 (b) The rules adopted by the Department under this Section
3 may not:

4 (1) require a licensed midwife to practice midwifery
5 under the supervision of, or in collaboration with, another
6 healthcare provider;

7 (2) require a licensed midwife to enter into an
8 agreement written or otherwise, with another health care
9 provider; and

10 (3) permit a licensed midwife to use forceps, a vacuum
11 extraction, or Cytotec.

12 Section 25. Illinois Midwifery Board.

13 (a) There is created under the authority of the Department
14 the Illinois Midwifery Board, which shall consist of 7 members
15 appointed by the Secretary, 4 of whom shall be licensed
16 midwives, except that initial appointees must have at least 3
17 years of experience in the practice of midwifery in an
18 out-of-hospital setting and meet the qualifications for
19 licensure set forth in this Act; one of whom shall be a
20 physician licensed under the Medical Practice Act of 1987 who
21 has at least 3 years of experience in providing home birth
22 services or a certified nurse midwife (CNM) who has at least 3
23 years of experience in providing home birth services; and 2 of
24 whom shall be knowledgeable public members who have engaged a
25 provider of midwifery services in an out-of-hospital birth

1 setting. Board members shall serve 3-year terms, except that in
2 the case of initial appointments, terms shall be staggered as
3 follows: 3 members shall serve for 3 years, 2 members shall
4 serve for 2 years, and 2 members shall serve for one year. No
5 Board member may serve more than 3 consecutive terms. The Board
6 shall annually elect a chairperson and vice chairperson.

7 (b) The Board shall provide the Department with
8 recommendations concerning the administration of this Act and
9 perform each of the following duties:

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

15 (2) Conduct hearings and disciplinary conferences on
16 disciplinary charges of licensees.

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

20 (4) Recommend the approval, denial of approval, and
21 withdrawal of approval of required education and
22 continuing educational programs.

23 (c) The Secretary shall give due consideration to all
24 recommendations of the Board. If the Secretary takes action
25 contrary to a recommendation of the Board, the Secretary must
26 promptly provide a written explanation of that action.

1 (d) The Board may recommend to the Secretary that one or
2 more licensed midwives be selected by the Secretary to assist
3 in any investigation under this Act. Compensation be provided
4 to any licensee who provides assistance under this subsection
5 (d).

6 Section 30. Informed consent.

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

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

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

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

18 (4) Any other information required by the Department by
19 rule.

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

22 Section 35. Qualifications. A person is qualified for
23 licensure as a midwife if that person meets each of the
24 following qualifications:

1 (1) He or she is at least 18 years of age.

2 (2) He or she has successfully completed a program of
3 midwifery education approved by the North American
4 Registry of Midwives or a successor organization which
5 includes both didactic and clinical experience. The
6 clinical component of that educational process must (i)
7 include prenatal, intrapartal, and postpartal care as well
8 as newborn care and (ii) be at least one year in duration
9 and equivalent to 1350 clinical contact hours under the
10 direct supervision of one or more preceptors approved by
11 the North American Registry of Midwives.

12 (3) He or she has passed a written and practical skills
13 examination for the practice of midwifery as administered
14 by the North American Registry of Midwives or a successor
15 organization.

16 (4) He or she holds a valid credential of Certified
17 Professional Midwife granted by the North American
18 Registry of Midwives or a successor organization.

19 Section 40. Conditional licensure. The Department may
20 issue a midwifery license under this Act to an individual who
21 submits evidence acceptable to the Department that he or she
22 has experience in the practice of midwifery and has applied to
23 the North American Registry of Midwives for certification as a
24 Certified Professional Midwife. Any person issued a license by
25 the Department under this Section shall have 2 years after the

1 date of issuance of the license to complete the North American
2 Registry of Midwives certification process. If certification
3 status has not been attained at the completion of the 2-year
4 period, the Department shall revoke the license issued under
5 this Section.

6 Section 45. Licensure by endorsement. Upon the payment of
7 any applicable licensure fees, the Department may issue a
8 license under this Act to an applicant licensed, registered, or
9 certified under the laws of another jurisdiction if the
10 requirements for licensure, registration, or certification in
11 that jurisdiction are, on the date of licensure, registration,
12 or certification, substantially equivalent to the requirements
13 of this Act.

14 Section 50. 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 CPM, LM.

20 Section 55. Continuing education. The Department shall
21 adopt rules concerning continuing education requirements for
22 licensees. These rules must require licensees under this Act to
23 maintain Certified Professional Midwife certification by

1 meeting all of the requirements set forth by the North American
2 Registry of Midwives or a successor organization, which include
3 the completion of 30 hours of continuing education per 3-year
4 certification renewal cycle. A licensee shall be responsible
5 for maintaining records of completion of continuing education
6 and shall be prepared to produce the records when requested by
7 the Department.

8 Section 60. Exemption from civil liability. Exemption from
9 civil liability for emergency care is as provided in the Good
10 Samaritan Act.

11 Section 65. Vicarious liability. No other licensed
12 midwife, doctor of medicine, doctor of osteopathy, doctor of
13 acupuncture, chiropractor, midwife, midwife-midwife, emergency
14 medical personnel, first responder, or hospital or agent
15 thereof, shall be liable for an injury resulting from an act or
16 omission by a licensed midwife, even if he or she has consulted
17 with or accepted a referral from the licensed midwife. Except
18 as otherwise provided by law, no licensed midwife, doctor of
19 medicine, doctor of osteopathy, doctor of acupuncture,
20 chiropractor, midwife, midwife-midwife, emergency medical
21 personnel, first responder, or hospital or agent thereof, may
22 be exempt from liability for their own subsequent and
23 independent negligent, grossly negligent, or willful and
24 wanton acts or omissions.

1 Section 70. Severability. The provisions of this Act are
2 severable under Section 1.31 of the Statute on Statutes.

3 Section 90. The Regulatory Sunset Act is amended by adding
4 Section 4.28 as follows:

5 (5 ILCS 80/4.28 new)

6 Sec. 4.28. Act repealed on January 1, 2018. The following
7 Act is repealed on January 1, 2018:

8 The Midwifery Licensure Act.

9 Section 95. The Good Samaritan Act is amended by adding
10 Section 41 as follows:

11 (745 ILCS 49/41 new)

12 Sec. 41. Midwives; exemption from civil liability for
13 emergency care. Any person licensed as a midwife under the
14 Midwifery Licensure Act who in good faith provides emergency
15 care without fee to a person shall not, as a result of her or
16 his acts or omissions, except for willful or wanton misconduct
17 on the part of the person, in providing the care, be liable for
18 civil damages.