



Sen. William R. Haine

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1 AMENDMENT TO SENATE BILL 385

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 385 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Midwifery Licensure 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

1 midwifery, as defined in this Act. This Act shall be liberally  
2 construed to best carry out these purposes.

3 Section 10. Exemptions.

4 (a) This Act does not prohibit a person licensed under any  
5 other Act in this State from engaging in the practice for which  
6 he or she is licensed or from delegating services as provided  
7 for under that other Act.

8 (b) Nothing in this Act shall be construed to prohibit or  
9 require licensing under this Act, with regard to any of the  
10 following:

11 (1) The gratuitous rendering of services.

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

17 (3) Midwifery that is included in the educational  
18 programs of student midwives working under the direct  
19 supervision of a preceptor approved by the North American  
20 Registry of Midwives.

21 Section 15. Definitions. In this Act:

22 "Board" means the Illinois Midwifery Board.

23 "Certified Professional Midwife" means a person who has met  
24 the standards for certification set by the North American

1 Registry of Midwives and has been awarded the Certified  
2 Professional Midwife (CPM) credential.

3 "Department" means the Department of Financial and  
4 Professional Regulation.

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

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

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

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

23 Section 20. Title. A licensed Midwife may identify himself  
24 or herself as a Licensed Midwife or a Licensed Homebirth  
25 Midwife and may use the abbreviation L.M. A Licensed Midwife

1 who carries the CPM credential may alternately identify himself  
2 or herself as a Licensed Certified Professional Midwife or  
3 Licensed CPM and may use the abbreviation CPM, LM.

4 Section 25. Informed consent.

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

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

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

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

16 (4) A recommendation that the client obtain a physical  
17 examination from an appropriately licensed provider.

18 (5) 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 30. Vicarious liability. No other licensed  
23 midwife, doctor of medicine, doctor of osteopathy,  
24 acupuncturist, chiropractor, midwife, nurse-midwife, emergency

1 medical personnel, first responder, or hospital or agent  
2 thereof shall be liable for an injury resulting from an act or  
3 omission by a licensed midwife, even if he or she has consulted  
4 with or accepted a referral from the licensed midwife.

5 Except as otherwise provided by law, no licensed midwife,  
6 doctor of medicine, doctor of osteopathy, acupuncturist,  
7 chiropractor, midwife, nurse-midwife, emergency medical  
8 personnel, first responder, or hospital or agent thereof may be  
9 exempt from liability for his or her own subsequent and  
10 independent negligent, grossly negligent, or willful or wanton  
11 acts or omissions.

12 Section 35. Advertising.

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

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

22 Section 40. Powers and duties of the Department;  
23 rulemaking.

24 (a) The Department shall adopt all rules necessary for the

1 implementation and administration of this Act, including rules  
2 establishing criteria for licensure, professional conduct, and  
3 discipline; however, the Department must consult with the Board  
4 regarding rulemaking and review any responses and  
5 recommendations made by the Board. Initial rules concerning the  
6 licensed practice of midwifery must be adopted on or before  
7 January 1, 2008.

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

17 (c) Rules adopted by the Department must provide for the  
18 following:

19 (1) the scope of practice and services provided  
20 regarding the use of equipment, procedures, and  
21 medications;

22 (2) the administration by a licensed midwife of oxygen  
23 during the practice of midwifery;

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

26 (4) the administration during the practice of

1 midwifery, of oxytocin (Pitocin) and Methergine solely as  
2 postpartum anti-hemorrhagic agents, rhogam for the  
3 prevention of Rh sensitization, intravenous fluids for  
4 stabilization, vitamin K, eye prophylactics, and other  
5 drugs or procedures in keeping with current midwifery  
6 standards, as determined by the Department, and the  
7 procurement of prescriptions for such medications by a  
8 licensed midwife.

9 (d) The rules adopted by the Department under this Section  
10 may not:

11 (1) require a licensed midwife to have a midwifery  
12 degree or diploma;

13 (2) require a licensed midwife to practice midwifery  
14 under the supervision of or in collaboration with another  
15 healthcare provider;

16 (3) require a licensed midwife to enter into an  
17 agreement, written or otherwise, with another health care  
18 provider; and

19 (4) permit a licensed midwife to use forceps, a vacuum  
20 extraction, or Cytotec or its generic equivalent.

21 (e) The Department shall, on a quarterly basis, issue a  
22 status report to the Board of all complaints submitted to  
23 the Department related to the midwifery profession.

24 Section 45. Illinois Midwifery Board.

25 (a) There is created under the authority of the Department

1 the Illinois Midwifery Board, which shall consist of 7 members  
2 appointed by the Secretary, 4 of whom shall be licensed  
3 midwives, except that initial appointees must have at least 3  
4 years of experience in the practice of midwifery in an  
5 out-of-hospital setting and meet the qualifications for  
6 licensure set forth in this Act; one of whom shall be a  
7 physician licensed under the Medical Practice Act of 1987 who  
8 has at least 3 years of experience in providing home birth  
9 services or a certified nurse midwife (CNM) who has at least 3  
10 years of experience in providing home birth services; and 2 of  
11 whom shall be knowledgeable public members who have engaged a  
12 provider of midwifery services in an out-of-hospital birth  
13 setting. Board members shall serve 4-year terms, except that in  
14 the case of initial appointments, terms shall be staggered as  
15 follows: 3 members shall serve for 4 years, 2 members shall  
16 serve for 3 years, and 2 members shall serve for 2 years. The  
17 Board shall annually elect a chairperson and vice chairperson.

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

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

25 (d) The members of the Board shall be reimbursed for all  
26 legitimate, necessary, and authorized expenses incurred in



1 attending the meetings of the Board.

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

4 (f) A majority of the Board members currently appointed  
5 shall constitute a quorum. A vacancy in the membership of the  
6 Board shall not impair the right of a quorum to perform all of  
7 the duties of the Board.

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

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

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

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

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

24 (h) The Secretary shall give due consideration to all  
25 recommendations of the Board. If the Secretary takes action  
26 contrary to a recommendation of the Board, the Secretary must

1 promptly provide a written explanation of that action.

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

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

11 Section 50. Qualifications. A person is qualified for  
12 licensure as a midwife if that person meets each of the  
13 following qualifications:

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

15 (2) He or she has successfully completed a program of  
16 midwifery education approved by the North American  
17 Registry of Midwives or a successor organization which  
18 includes both didactic and clinical experience. The  
19 clinical component of that educational process must (i)  
20 include prenatal, intrapartal, and postpartal care as well  
21 as newborn care, (ii) be at least one year in duration, and  
22 (iii) be equivalent to 1,350 clinical contact hours under  
23 the direct supervision of one or more preceptors approved  
24 by the North American Registry of Midwives.

25 (3) He or she has passed a written and practical skills

1 examination for the practice of midwifery as administered  
2 by the North American Registry of Midwives or a successor  
3 organization.

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

7 Section 55. Conditional licensure. For a period of 5 years  
8 after the effective date of this Act, the Department may issue  
9 a conditional license to an applicant who submits acceptable  
10 proof to the Department that he or she has practiced midwifery  
11 prior to the effective date of this Act and has applied to the  
12 North American Registry of Midwives for certification as a  
13 Certified Professional Midwife. A conditional license issued  
14 under this Section shall automatically terminate 2 years after  
15 the date of issue unless the applicant has, by such time,  
16 successfully completed the certification examination provided  
17 by the North American Registry of Midwives.

18 Section 60. Application; temporary licensure.

19 (a) Application for an original license must be made to the  
20 Department in writing on forms prescribed by the Department and  
21 must be accompanied by the required fee, which shall be  
22 nonrefundable. The application shall require all information  
23 that, in the judgment of the Department, shall enable the  
24 Department to pass on the qualifications of an applicant for

1 licensure.

2 (b) Applicants for licensure under this Act have 3 years  
3 after the date of application to complete the application  
4 process. If the process has not been completed in 3 years, the  
5 application shall be denied and the fee forfeited, and the  
6 applicant must reapply and meet all requirements in effect at  
7 the time of reapplication.

8 (c) Pending the issuance of a license, the Department may  
9 grant an applicant a temporary license to practice midwifery as  
10 a licensed midwife if the Department is satisfied that the  
11 applicant holds an active, unencumbered license in good  
12 standing in another jurisdiction.

13 Section 65. Social Security Number on application. In  
14 addition to any other information required to be contained in  
15 the application, every application for an original, renewal,  
16 reinstated, or restored license under this Act shall include  
17 the applicant's Social Security Number.

18 Section 70. Licensure by endorsement. Upon the payment of  
19 any applicable licensure fees, the Department may issue a  
20 license under this Act to an applicant licensed, registered, or  
21 certified under the laws of another jurisdiction if the  
22 requirements for licensure, registration, or certification in  
23 that jurisdiction are, on the date of licensure, registration,  
24 or certification, substantially equivalent to the requirements

1 of this Act.

2 Section 75. Continuing education.

3 (a) The Department shall adopt rules of continuing  
4 education for persons licensed under this Act that require at  
5 least 25 hours of continuing education and 5 hours of peer  
6 review, per 3-year license renewal cycle.

7 (b) The rules shall require the licensed midwife to  
8 maintain CPM certification by meeting all the requirements set  
9 forth by the North American Registry of Midwives.

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

13 (d) Continuing education requirements may be waived in  
14 cases of extreme hardship, as defined by rules of the  
15 Department.

16 Section 80. Inactive status.

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

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

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

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

9           Section 85. Renewal, reinstatement, or restoration of  
10 licensure; military service.

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

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

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

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

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

15           Section 90. Roster. The Department shall maintain a roster  
16 of the names and addresses of all licensees and of all persons  
17 whose licenses have been suspended or revoked. This roster  
18 shall be available upon written request and payment of the  
19 required fee.

20           Section 95. Fees.

21           (a) The Department shall, by rule, provide for a schedule  
22 of fees for the administration and enforcement of this Act,  
23 including without limitation original licensure, renewal, and  
24 restoration, which fees shall be nonrefundable.

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

5           Section 100. Returned checks; fines. Any person who  
6 delivers a check or other payment to the Department that is  
7 returned to the Department unpaid by the financial institution  
8 upon which it is drawn shall pay to the Department, in addition  
9 to the amount already owed to the Department, a fine of \$50.  
10 The fines imposed by this Section are in addition to any other  
11 discipline provided under this Act for unlicensed practice or  
12 practice on a non-renewed license. The Department shall notify  
13 the person that fees and fines shall be paid to the Department  
14 by certified check or money order within 30 calendar days after  
15 the notification. If, after the expiration of 30 days from the  
16 date of the notification, the person has failed to submit the  
17 necessary remittance, the Department shall automatically  
18 terminate the license or deny the application, without hearing.  
19 If, after termination or denial, the person seeks a license, he  
20 or she shall apply to the Department for restoration or  
21 issuance of the license and pay all fees and fines due to the  
22 Department. The Department may establish a fee for the  
23 processing of an application for restoration of a license to  
24 defray all expenses of processing the application. The  
25 Secretary may waive the fines due under this Section in



1 individual cases where the Secretary finds that the fines would  
2 be unreasonable or unnecessarily burdensome.

3 Section 105. Unlicensed practice; civil penalty. Any  
4 person who practices, offers to practice, attempts to practice,  
5 or holds himself or herself out to practice midwifery or as a  
6 midwife without being licensed under this Act shall, in  
7 addition to any other penalty provided by law, pay a civil  
8 penalty to the Department in an amount not to exceed \$5,000 for  
9 each offense, as determined by the Department. The civil  
10 penalty shall be assessed by the Department after a hearing is  
11 held in accordance with the provisions set forth in this Act  
12 regarding the provision of a hearing for the discipline of a  
13 licensee. The civil penalty shall be paid within 60 days after  
14 the effective date of the order imposing the civil penalty. The  
15 order shall constitute a judgment and may be filed and  
16 execution had thereon in the same manner as any judgment from  
17 any court of record. The Department may investigate any  
18 unlicensed activity.

19 Section 110. Exemption from civil liability. Exemption  
20 from civil liability for emergency care and for services  
21 rendered without compensation is as provided in the Good  
22 Samaritan Act.

23 Section 115. Grounds for disciplinary action. The

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

7 (1 )Violations of this Act or its rules.

8 (2) Material misstatement in furnishing information to  
9 the Department.

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

14 (4) Making any misrepresentation for the purpose of  
15 obtaining a license.

16 (5) Professional incompetence or gross negligence.

17 (6) Gross malpractice.

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

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

22 (9) Engaging in dishonorable, unethical, or  
23 unprofessional conduct of a character likely to deceive,  
24 defraud, or harm the public.

25 (10) Habitual or excessive use or addiction to alcohol,  
26 narcotics, stimulants, or any other chemical agent or drug

1 that results in the inability to practice with reasonable  
2 judgment, skill, or safety.

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

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

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

19 (14) Abandonment of a patient without cause.

20 (15) Willfully making or filing false records or  
21 reports relating to a licensee's practice, including, but  
22 not limited to, false records filed with State agencies or  
23 departments.

24 (16) Physical illness or mental illness, including,  
25 but not limited to, deterioration through the aging process  
26 or loss of motor skill that results in the inability to

1 practice the profession with reasonable judgment, skill,  
2 or safety.

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

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

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

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

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

26 (22) Immoral conduct in the commission of any act, such

1 as sexual abuse, sexual misconduct, or sexual  
2 exploitation, related to the licensee's practice.

3 (23) Maintaining a professional relationship with any  
4 person, firm, or corporation when the licensed midwife  
5 knows or should know that a person, firm, or corporation is  
6 violating this Act.

7 (24) Failure to provide satisfactory proof of having  
8 participated in approved continuing education programs as  
9 determined by the Board and approved by the Secretary.  
10 Exceptions for extreme hardships are to be defined by the  
11 Department by rule.

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

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

1 that the licensee be allowed to resume his or her practice.

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

22 If the Department finds an individual unable to practice  
23 because of the reasons set forth in this subsection (d), the  
24 Department may require that individual to submit to care,  
25 counseling, or treatment by physicians approved or designated  
26 by the Department, as a condition, term, or restriction for

1 continued, reinstated, or renewed licensure to practice or, in  
2 lieu of care, counseling, or treatment, the Department may file  
3 a complaint to immediately suspend, revoke, or otherwise  
4 discipline the license of the individual. Any person whose  
5 license was granted, reinstated, renewed, disciplined, or  
6 supervised subject to such terms, conditions, or restrictions  
7 and who fails to comply with such terms, conditions, or  
8 restrictions shall be referred to the Secretary for a  
9 determination as to whether or not the person shall have his or  
10 her license suspended immediately, pending a hearing by the  
11 Department.

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

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

25 Section 120. Failure to pay restitution. The Department,

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

9 Section 125. Injunction; cease and desist order.

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

23 (b) If any person practices as a licensed midwife or holds  
24 himself or herself out as a licensed midwife without being  
25 licensed under the provisions of this Act then any licensed



1 midwife, any interested party, or any person injured thereby  
2 may, in addition to the Secretary, petition for relief as  
3 provided in subsection (a) of this Section.

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

13 Section 130. Violation; criminal penalty.

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

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

21 (c) Notwithstanding any other provision of this Act, all  
22 criminal fines, moneys, or other property collected or received  
23 by the Department under this Section or any other State or  
24 federal statute, including, but not limited to, property  
25 forfeited to the Department under Section 505 of the Illinois

1 Controlled Substances Act or Section 85 of the Methamphetamine  
2 Control and Community Protection Act, shall be deposited into  
3 the Professional Regulation Evidence Fund.

4 Section 135. Investigation; notice; hearing. The  
5 Department may investigate the actions of any applicant or of  
6 any person or persons holding or claiming to hold a license  
7 under this Act. Before refusing to issue or to renew or taking  
8 any disciplinary action regarding a license, the Department  
9 shall, at least 30 days prior to the date set for the hearing,  
10 notify in writing the applicant or licensee of the nature of  
11 any charges and that a hearing shall be held on a date  
12 designated. The Department shall direct the applicant or  
13 licensee to file a written answer with the Board under oath  
14 within 20 days after the service of the notice and inform the  
15 applicant or licensee that failure to file an answer shall  
16 result in default being taken against the applicant or licensee  
17 and that the license may be suspended, revoked, or placed on  
18 probationary status or that other disciplinary action may be  
19 taken, including limiting the scope, nature, or extent of  
20 practice, as the Secretary may deem proper. Written notice may  
21 be served by personal delivery or certified or registered mail  
22 to the respondent at the address of his or her last  
23 notification to the Department. If the person fails to file an  
24 answer after receiving notice, his or her license may, in the  
25 discretion of the Department, be suspended, revoked, or placed

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

12 Section 140. Formal hearing; preservation of record. The  
13 Department, at its expense, shall preserve a record of all  
14 proceedings at the formal hearing of any case. The notice of  
15 hearing, complaint, and all other documents in the nature of  
16 pleadings and written motions filed in the proceedings, the  
17 transcript of testimony, the report of the Board or hearing  
18 officer, and order of the Department shall be the record of the  
19 proceeding. The Department shall furnish a transcript of the  
20 record to any person interested in the hearing upon payment of  
21 the fee required under Section 2105-115 of the Department of  
22 Professional Regulation Law.

23 Section 145. Witnesses; production of documents; contempt.  
24 Any circuit court may upon application of the Department or its

1 designee or of the applicant or licensee against whom  
2 proceedings under Section 115 of this Act are pending, enter an  
3 order requiring the attendance of witnesses and their testimony  
4 and the production of documents, papers, files, books, and  
5 records in connection with any hearing or investigation. The  
6 court may compel obedience to its order by proceedings for  
7 contempt.

8 Section 150. Subpoena; oaths. The Department shall have the  
9 power to subpoena and bring before it any person in this State  
10 and to take testimony either orally or by deposition or both  
11 with the same fees and mileage and in the same manner as  
12 prescribed in civil cases in circuit courts of this State. The  
13 Secretary, the designated hearing officer, and every member of  
14 the Board has the power to administer oaths to witnesses at any  
15 hearing that the Department is authorized to conduct and any  
16 other oaths authorized in any Act administered by the  
17 Department. Any circuit court may, upon application of the  
18 Department or its designee or upon application of the person  
19 against whom proceedings under this Act are pending, enter an  
20 order requiring the attendance of witnesses and their  
21 testimony, and the production of documents, papers, files,  
22 books, and records in connection with any hearing or  
23 investigation. The court may compel obedience to its order by  
24 proceedings for contempt.

1           Section 155. Findings of fact, conclusions of law, and  
2 recommendations. At the conclusion of the hearing the Board  
3 shall present to the Secretary a written report of its findings  
4 of fact, conclusions of law, and recommendations. The report  
5 shall contain a finding as to whether or not the accused person  
6 violated this Act or failed to comply with the conditions  
7 required under this Act. The Board shall specify the nature of  
8 the violation or failure to comply and shall make its  
9 recommendations to the Secretary.

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

19           Section 160. Hearing officer. The Secretary may appoint any  
20 attorney duly licensed to practice law in the State of Illinois  
21 to serve as the hearing officer in any action for departmental  
22 refusal to issue, renew, or license an applicant or for  
23 disciplinary action against a licensee. The hearing officer  
24 shall have full authority to conduct the hearing. The hearing  
25 officer shall report his or her findings of fact, conclusions

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

11 Section 165. Service of report; motion for rehearing. In  
12 any case involving the discipline of a license, a copy of the  
13 Board's report shall be served upon the respondent by the  
14 Department, either personally or as provided in this Act for  
15 the service of the notice of hearing. Within 20 days after the  
16 service, the respondent may present to the Department a motion  
17 in writing for a rehearing that shall specify the particular  
18 grounds for rehearing. If no motion for rehearing is filed,  
19 then upon the expiration of the time specified for filing a  
20 motion, or if a motion for rehearing is denied, then upon the  
21 denial, the Secretary may enter an order in accordance with  
22 this Act. If the respondent orders from the reporting service  
23 and pays for a transcript of the record within the time for  
24 filing a motion for rehearing, the 20-day period within which  
25 the motion may be filed shall commence upon the delivery of the

1 transcript to the respondent.

2 Section 170. Rehearing. Whenever the Secretary is  
3 satisfied that substantial justice has not been done in the  
4 revocation, suspension, or refusal to issue or renew a license,  
5 the Secretary may order a rehearing by the same or another  
6 hearing officer or by the Board.

7 Section 175. Prima facie proof. An order or a certified  
8 copy thereof, over the seal of the Department and purporting to  
9 be signed by the Secretary, shall be prima facie proof of the  
10 following:

11 (1) that the signature is the genuine signature of the  
12 Secretary;

13 (2) that such Secretary is duly appointed and  
14 qualified; and

15 (3) that the Board and its members are qualified to  
16 act.

17 Section 180. Restoration of license. At any time after the  
18 suspension or revocation of any license, the Department may  
19 restore the license to the accused person, unless after an  
20 investigation and a hearing the Department determines that  
21 restoration is not in the public interest.

22 Section 185. Surrender of license. Upon the revocation or

1 suspension of any license, the licensee shall immediately  
2 surrender the license to the Department. If the licensee fails  
3 to do so, the Department shall have the right to seize the  
4 license.

5 Section 190. Summary suspension. The Secretary may  
6 summarily suspend the license of a licensee under this Act  
7 without a hearing, simultaneously with the institution of  
8 proceedings for a hearing provided for in this Act, if the  
9 Secretary finds that evidence in his or her possession  
10 indicates that continuation in practice would constitute an  
11 imminent danger to the public. In the event that the Secretary  
12 summarily suspends a license without a hearing, a hearing by  
13 the Department must be held within 30 days after the suspension  
14 has occurred.

15 Section 195. Certificate of record. The Department shall  
16 not be required to certify any record to the court or file any  
17 answer in court or otherwise appear in any court in a judicial  
18 review proceeding, unless there is filed in the court, with the  
19 complaint, a receipt from the Department acknowledging payment  
20 of the costs of furnishing and certifying the record. Failure  
21 on the part of the plaintiff to file a receipt in court shall  
22 be grounds for dismissal of the action.

23 Section 200. Administrative Review Law. All final



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

5 Section 205. Illinois Administrative Procedure Act. The  
6 Illinois Administrative Procedure Act is hereby expressly  
7 adopted and incorporated in this Act as if all of the  
8 provisions of such Act were included in this Act, except that  
9 the provision of subsection (d) of Section 10-65 of the  
10 Illinois Administrative Procedure Act that provides that at  
11 hearings the licensee has the right to show compliance with all  
12 lawful requirements for retention, continuation, or renewal of  
13 the license is specifically excluded. For purposes of this Act,  
14 the notice required under Section 10-25 of the Illinois  
15 Administrative Procedure Act is deemed sufficient when mailed  
16 to the last known address of a party.

17 Section 210. Home rule. Pursuant to paragraph (h) of  
18 Section 6 of Article VII of the Illinois Constitution of 1970  
19 the power to regulate and issue licenses for the practice of  
20 midwifery shall, except as may otherwise be provided within and  
21 pursuant to the provisions of this Act, be exercised by the  
22 State and may not be exercised by any unit of local government,  
23 including home rule units.

1 Section 215. Severability. The provisions of this Act are  
2 severable under Section 1.31 of the Statute on Statutes.

3 Section 900. 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 905. The Medical Practice Act of 1987 is amended by  
10 changing Section 4 as follows:

11 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

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

13 Sec. 4. Exemptions.

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

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

20 (2) persons rendering gratuitous services in cases of  
21 emergency; or

22 (3) persons treating human ailments by prayer or

1 spiritual means as an exercise or enjoyment of religious  
2 freedom.

3 (b) (Blank).

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

5 Section 910. The Nursing and Advanced Practice Nursing Act  
6 is amended by changing Section 5-15 as follows:

7 (225 ILCS 65/5-15)

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

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

20 This Act does not prohibit the following:

21 (a) The practice of nursing in Federal employment in  
22 the discharge of the employee's duties by a person who is  
23 employed by the United States government or any bureau,  
24 division or agency thereof and is a legally qualified and

1 licensed nurse of another state or territory and not in  
2 conflict with Sections 10-5, 10-30, and 10-45 of this Act.

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

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

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

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

15 (f) Persons from being employed as nursing aides,  
16 attendants, orderlies, and other auxiliary workers in  
17 private homes, long term care facilities, nurseries,  
18 hospitals or other institutions.

19 (g) The practice of practical nursing by one who has  
20 applied in writing to the Department in form and substance  
21 satisfactory to the Department, for a license as a licensed  
22 practical nurse and who has complied with all the  
23 provisions under Section 10-30, except the passing of an  
24 examination to be eligible to receive such license, until:  
25 the decision of the Department that the applicant has  
26 failed to pass the next available examination authorized by

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

16 (h) The practice of practical nursing by one who is a  
17 licensed practical nurse under the laws of another U.S.  
18 jurisdiction and has applied in writing to the Department,  
19 in form and substance satisfactory to the Department, for a  
20 license as a licensed practical nurse and who is qualified  
21 to receive such license under Section 10-30, until (1) the  
22 expiration of 6 months after the filing of such written  
23 application, (2) the withdrawal of such application, or (3)  
24 the denial of such application by the Department.

25 (i) The practice of professional nursing by one who has  
26 applied in writing to the Department in form and substance

1       satisfactory to the Department for a license as a  
2       registered professional nurse and has complied with all the  
3       provisions under Section 10-30 except the passing of an  
4       examination to be eligible to receive such license, until  
5       the decision of the Department that the applicant has  
6       failed to pass the next available examination authorized by  
7       the Department or has failed, without an approved excuse,  
8       to take the next available examination authorized by the  
9       Department or until the withdrawal of the application, but  
10      not to exceed 3 months. An applicant practicing  
11      professional nursing under this Section who passes the  
12      examination, however, may continue to practice under this  
13      Section until such time as he or she receives his or her  
14      license to practice or until the Department notifies him or  
15      her that the license has been denied. No applicant for  
16      licensure practicing under the provisions of this  
17      paragraph shall practice professional nursing except under  
18      the direct supervision of a registered professional nurse  
19      licensed under this Act. In no instance shall any such  
20      applicant practice or be employed in any supervisory  
21      capacity.

22           (j) The practice of professional nursing by one who is  
23      a registered professional nurse under the laws of another  
24      state, territory of the United States or country and has  
25      applied in writing to the Department, in form and substance  
26      satisfactory to the Department, for a license as a

1 registered professional nurse and who is qualified to  
2 receive such license under Section 10-30, until (1) the  
3 expiration of 6 months after the filing of such written  
4 application, (2) the withdrawal of such application, or (3)  
5 the denial of such application by the Department.

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

20 (l) Any person licensed in this State under any other  
21 Act from engaging in the practice for which she or he is  
22 licensed, including without limitation any person engaged  
23 in the practice of midwifery who is licensed under the  
24 Midwifery Licensure Act.

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

1           Disabilities Administrative Act.

2           An applicant for license practicing under the exceptions  
3 set forth in subparagraphs (g), (h), (i), and (j) of this  
4 Section shall use the title R.N. Lic. Pend. or L.P.N. Lic.  
5 Pend. respectively and no other.

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

7           Section 915. The Good Samaritan Act is amended by adding  
8 Section 41 as follows:

9           (745 ILCS 49/41 new)

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

18          Section 999. Effective date. This Act takes effect upon  
19 becoming law."