



Sen. William R. Haine

Filed: 2/27/2007

09500SB0385sam002

LRB095 09142 RAS 32055 a

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 17. Unlicensed practice. Beginning 2 years after
24 the effective date of this Act, no person may practice, attempt
25 to practice, or hold himself or herself out to practice as a

1 licensed midwife unless he or she is licensed as a midwife
2 under this Act.

3 Section 20. Title. A licensed Midwife may identify himself
4 or herself as a Licensed Midwife or a Licensed Homebirth
5 Midwife and may use the abbreviation L.M. A Licensed Midwife
6 who carries the CPM credential may alternately identify himself
7 or herself as a Licensed Certified Professional Midwife or
8 Licensed CPM and may use the abbreviation CPM, LM.

9 Section 25. Informed consent.

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

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

15 (2) Whether the licensed midwife has malpractice
16 liability insurance coverage and the policy limits of any
17 such coverage.

18 (3) A written protocol for the handling of medical
19 emergencies, including transportation to a hospital,
20 particular to each client.

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

23 (5) Any other information required by the Department by
24 rule.

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

3 Section 30. Vicarious liability. No other licensed
4 midwife, doctor of medicine, doctor of osteopathy,
5 acupuncturist, chiropractor, midwife, nurse-midwife, emergency
6 medical personnel, first responder, or hospital or agent
7 thereof shall be liable for an injury resulting from an act or
8 omission by a licensed midwife, even if he or she has consulted
9 with or accepted a referral from the licensed midwife.

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

17 Section 35. Advertising.

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

23 (b) A licensee must include in every advertisement for
24 midwifery services regulated under this Act his or her title as

1 it appears on the license or the initials authorized under this
2 Act.

3 Section 40. Powers and duties of the Department;
4 rulemaking.

5 (a) The Department shall adopt all rules necessary for the
6 implementation and administration of this Act, including rules
7 establishing criteria for licensure, professional conduct, and
8 discipline; however, the Department must consult with the Board
9 regarding rulemaking and review any responses and
10 recommendations made by the Board. Initial rules concerning the
11 licensed practice of midwifery must be adopted on or before
12 January 1, 2008.

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

22 (c) Rules adopted by the Department must provide for the
23 following:

24 (1) the scope of practice and services provided
25 regarding the use of equipment, procedures, and

1 medications;

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

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

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

15 (d) The rules adopted by the Department under this Section
16 may not:

17 (1) require a licensed midwife to have a midwifery
18 degree or diploma;

19 (2) require a licensed midwife to practice midwifery
20 under the supervision of or in collaboration with another
21 healthcare provider;

22 (3) require a licensed midwife to enter into an
23 agreement, written or otherwise, with another health care
24 provider; and

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

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

4 Section 45. Illinois Midwifery Board.

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

23 (b) Any appointment made to fill a vacancy shall be for the
24 unexpired portion of the term. Appointments to fill vacancies
25 shall be made in the same manner as original appointments. No

1 Board member may be reappointed for a term that would cause his
2 or her continuous service on the Board to exceed 9 years.

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

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

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

10 (f) A majority of the Board members currently appointed
11 shall constitute a quorum. A vacancy in the membership of the
12 Board shall not impair the right of a quorum to perform all of
13 the duties of the Board.

14 (g) The Board shall provide the Department with
15 recommendations concerning the administration of this Act and
16 perform each of the following duties:

17 (1) Recommend to the Department the adoption and, from
18 time to time, the revision of any rules that may be
19 necessary to carry out the provisions of this Act,
20 including those that are designed to protect the health,
21 safety, and welfare of the public.

22 (2) Conduct hearings and disciplinary conferences on
23 disciplinary charges of licensees.

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

1 (4) Recommend the approval, denial of approval, and
2 withdrawal of approval of required education and
3 continuing educational programs.

4 (h) The Secretary shall give due consideration to all
5 recommendations of the Board. If the Secretary takes action
6 contrary to a recommendation of the Board, the Secretary must
7 promptly provide a written explanation of that action.

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

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

17 Section 50. Qualifications. A person is qualified for
18 licensure as a midwife if that person meets each of the
19 following qualifications:

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

21 (2) He or she has successfully completed a program of
22 midwifery education approved by the North American
23 Registry of Midwives or a successor organization which
24 includes both didactic and clinical experience. The
25 clinical component of that educational process must (i)

1 include prenatal, intrapartal, and postpartal care as well
2 as newborn care, (ii) be at least one year in duration, and
3 (iii) be equivalent to 1,350 clinical contact hours under
4 the direct supervision of one or more preceptors approved
5 by the North American Registry of Midwives.

6 (3) He or she has passed a written and practical skills
7 examination for the practice of midwifery as administered
8 by the North American Registry of Midwives or a successor
9 organization.

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

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

24 Section 60. Application; temporary licensure.

1 (a) Application for an original license must be made to the
2 Department in writing on forms prescribed by the Department and
3 must be accompanied by the required fee, which shall be
4 nonrefundable. The application shall require all information
5 that, in the judgment of the Department, shall enable the
6 Department to pass on the qualifications of an applicant for
7 licensure.

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

14 (c) Pending the issuance of a license, the Department may
15 grant an applicant a temporary license to practice midwifery as
16 a licensed midwife if the Department is satisfied that the
17 applicant holds an active, unencumbered license in good
18 standing in another jurisdiction.

19 Section 65. Social Security Number on application. In
20 addition to any other information required to be contained in
21 the application, every application for an original, renewal,
22 reinstated, or restored license under this Act shall include
23 the applicant's Social Security Number.

24 Section 70. Licensure by endorsement. Upon the payment of

1 any applicable licensure fees, the Department may issue a
2 license under this Act to an applicant licensed, registered, or
3 certified under the laws of another jurisdiction if the
4 requirements for licensure, registration, or certification in
5 that jurisdiction are, on the date of licensure, registration,
6 or certification, substantially equivalent to the requirements
7 of this Act.

8 Section 75. Continuing education.

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

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

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

19 (d) Continuing education requirements may be waived in
20 cases of extreme hardship, as defined by rules of the
21 Department.

22 Section 80. Inactive status.

23 (a) A licensed midwife who notifies the Department in
24 writing on forms prescribed by the Department may elect to

1 place his or her license on an inactive status and shall be
2 excused from payment of renewal fees until he or she notifies
3 the Department in writing of his or her intent to restore the
4 license.

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

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

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

15 Section 85. Renewal, reinstatement, or restoration of
16 licensure; military service.

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

19 (b) All renewal applicants shall provide proof of having
20 met the requirements of continuing education set forth by the
21 North American Registry of Midwives. The Department shall, by
22 rule, provide for an orderly process for the reinstatement of
23 licenses that have not been renewed due to failure to meet
24 continuing education requirements.

25 (c) Any licensed midwife who has permitted his or her

1 license to expire or who has had his or her license on inactive
2 status may have his or her license restored by making
3 application to the Department and filing proof acceptable to
4 the Department of fitness to have the license restored and by
5 paying the required fees. Proof of fitness may include evidence
6 attesting to active lawful practice in another jurisdiction.

7 (d) The Department shall determine, by an evaluation
8 program established by rule, fitness for restoration of a
9 license under this Section and shall establish procedures and
10 requirements for restoration.

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

21 Section 90. Roster. The Department shall maintain a roster
22 of the names and addresses of all licensees and of all persons
23 whose licenses have been suspended or revoked. This roster
24 shall be available upon written request and payment of the
25 required fee.

1 Section 95. Fees.

2 (a) The Department shall, by rule, provide for a schedule
3 of fees for the administration and enforcement of this Act,
4 including without limitation original licensure, renewal, and
5 restoration, which fees shall be nonrefundable.

6 (b) All fees collected under this Act shall be deposited
7 into the General Professions Dedicated Fund and appropriated to
8 the Department for the ordinary and contingent expenses of the
9 Department in the administration of this Act.

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

1 or she shall apply to the Department for restoration or
2 issuance of the license and pay all fees and fines due to the
3 Department. The Department may establish a fee for the
4 processing of an application for restoration of a license to
5 defray all expenses of processing the application. The
6 Secretary may waive the fines due under this Section in
7 individual cases where the Secretary finds that the fines would
8 be unreasonable or unnecessarily burdensome.

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

1 Section 110. Exemption from civil liability. Exemption
2 from civil liability for emergency care and for services
3 rendered without compensation is as provided in the Good
4 Samaritan Act.

5 Section 115. Grounds for disciplinary action. The
6 Department may refuse to issue or to renew or may revoke,
7 suspend, place on probation, reprimand or take other
8 disciplinary action as the Department may deem proper,
9 including fines not to exceed \$5,000 for each violation, with
10 regard to any licensee or license for any one or combination of
11 the following causes:

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

13 (2) Material misstatement in furnishing information to
14 the Department.

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

19 (4) Making any misrepresentation for the purpose of
20 obtaining a license.

21 (5) Professional incompetence or gross negligence.

22 (6) Gross malpractice.

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

25 (8) Failing to provide information within 60 days in

1 response to a written request made by the Department.

2 (9) Engaging in dishonorable, unethical, or
3 unprofessional conduct of a character likely to deceive,
4 defraud, or harm the public.

5 (10) Habitual or excessive use or addiction to alcohol,
6 narcotics, stimulants, or any other chemical agent or drug
7 that results in the inability to practice with reasonable
8 judgment, skill, or safety.

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

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

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

25 (14) Abandonment of a patient without cause.

26 (15) Willfully making or filing false records or

1 reports relating to a licensee's practice, including, but
2 not limited to, false records filed with State agencies or
3 departments.

4 (16) Physical illness or mental illness, including,
5 but not limited to, deterioration through the aging process
6 or loss of motor skill that results in the inability to
7 practice the profession with reasonable judgment, skill,
8 or safety.

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

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

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

22 (20) Being named as a perpetrator in an indicated
23 report by the Department of Healthcare and Family Services
24 under the Abused and Neglected Child Reporting Act and upon
25 proof by clear and convincing evidence that the licensee
26 has caused a child to be an abused child or a neglected

1 child, as defined in the Abused and Neglected Child
2 Reporting Act.

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

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

9 (23) Maintaining a professional relationship with any
10 person, firm, or corporation when the licensed midwife
11 knows or should know that a person, firm, or corporation is
12 violating this Act.

13 (24) Failure to provide satisfactory proof of having
14 participated in approved continuing education programs as
15 determined by the Board and approved by the Secretary.
16 Exceptions for extreme hardships are to be defined by the
17 Department by rule.

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

25 (c) The determination by a circuit court that a licensee is
26 subject to involuntary admission or judicial admission as

1 provided in the Mental Health and Developmental Disabilities
2 Code operates as an automatic suspension. The suspension shall
3 end only upon a finding by a court that the patient is no
4 longer subject to involuntary admission or judicial admission,
5 the issuance of an order so finding and discharging the
6 patient, and the recommendation of the Board to the Secretary
7 that the licensee be allowed to resume his or her practice.

8 (d) In enforcing this Section, the Department, upon a
9 showing of a possible violation, may compel any person licensed
10 to practice under this Act or who has applied for licensure or
11 certification pursuant to this Act to submit to a mental or
12 physical examination, or both, as required by and at the
13 expense of the Department. The examining physicians shall be
14 those specifically designated by the Department. The
15 Department may order an examining physician to present
16 testimony concerning the mental or physical examination of the
17 licensee or applicant. No information shall be excluded by
18 reason of any common law or statutory privilege relating to
19 communications between the licensee or applicant and the
20 examining physician. The person to be examined may have, at his
21 or her own expense, another physician of his or her choice
22 present during all aspects of the examination. Failure of any
23 person to submit to a mental or physical examination when
24 directed shall be grounds for suspension of a license until the
25 person submits to the examination if the Department finds,
26 after notice and hearing, that the refusal to submit to the

1 examination was without reasonable cause.

2 If the Department finds an individual unable to practice
3 because of the reasons set forth in this subsection (d), the
4 Department may require that individual to submit to care,
5 counseling, or treatment by physicians approved or designated
6 by the Department, as a condition, term, or restriction for
7 continued, reinstated, or renewed licensure to practice or, in
8 lieu of care, counseling, or treatment, the Department may file
9 a complaint to immediately suspend, revoke, or otherwise
10 discipline the license of the individual. Any person whose
11 license was granted, reinstated, renewed, disciplined, or
12 supervised subject to such terms, conditions, or restrictions
13 and who fails to comply with such terms, conditions, or
14 restrictions shall be referred to the Secretary for a
15 determination as to whether or not the person shall have his or
16 her license suspended immediately, pending a hearing by the
17 Department.

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

26 A person licensed under this Act and affected under this

1 subsection (d) shall be afforded an opportunity to demonstrate
2 to the Department that he or she can resume practice in
3 compliance with acceptable and prevailing standards under the
4 provisions of his or her license.

5 Section 120. Failure to pay restitution. The Department,
6 without further process or hearing, shall suspend the license
7 or other authorization to practice of any person issued under
8 this Act who has been certified by court order as not having
9 paid restitution to a person under Section 8A-3.5 of the
10 Illinois Public Aid Code or under Section 46-1 of the Criminal
11 Code of 1961. A person whose license or other authorization to
12 practice is suspended under this Section is prohibited from
13 practicing until restitution is made in full.

14 Section 125. Injunction; cease and desist order.

15 (a) If a person violates any provision of this Act, the
16 Secretary may, in the name of the People of the State of
17 Illinois, through the Attorney General or the State's Attorney
18 of any county in which the action is brought, petition for an
19 order enjoining the violation or enforcing compliance with this
20 Act. Upon the filing of a verified petition in court, the court
21 may issue a temporary restraining order, without notice or
22 bond, and may preliminarily and permanently enjoin the
23 violation. If it is established that the person has violated or
24 is violating the injunction, the court may punish the offender

1 for contempt of court. Proceedings under this Section shall be
2 in addition to, and not in lieu of, all other remedies and
3 penalties provided by this Act.

4 (b) If any person practices as a licensed midwife or holds
5 himself or herself out as a licensed midwife without being
6 licensed under the provisions of this Act then any licensed
7 midwife, any interested party, or any person injured thereby
8 may, in addition to the Secretary, petition for relief as
9 provided in subsection (a) of this Section.

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

19 Section 130. Violation; criminal penalty.

20 (a) Whoever knowingly practices or offers to practice
21 midwifery in this State without being licensed for that purpose
22 or exempt under this Act shall be guilty of a Class A
23 misdemeanor and, for each subsequent conviction, shall be
24 guilty of a Class 4 felony.

25 (b) Any person who is found to have violated any other

1 provision of this Act is guilty of a Class A misdemeanor.

2 (c) Notwithstanding any other provision of this Act, all
3 criminal fines, moneys, or other property collected or received
4 by the Department under this Section or any other State or
5 federal statute, including, but not limited to, property
6 forfeited to the Department under Section 505 of the Illinois
7 Controlled Substances Act or Section 85 of the Methamphetamine
8 Control and Community Protection Act, shall be deposited into
9 the Professional Regulation Evidence Fund.

10 Section 135. Investigation; notice; hearing. The
11 Department may investigate the actions of any applicant or of
12 any person or persons holding or claiming to hold a license
13 under this Act. Before refusing to issue or to renew or taking
14 any disciplinary action regarding a license, the Department
15 shall, at least 30 days prior to the date set for the hearing,
16 notify in writing the applicant or licensee of the nature of
17 any charges and that a hearing shall be held on a date
18 designated. The Department shall direct the applicant or
19 licensee to file a written answer with the Board under oath
20 within 20 days after the service of the notice and inform the
21 applicant or licensee that failure to file an answer shall
22 result in default being taken against the applicant or licensee
23 and that the license may be suspended, revoked, or placed on
24 probationary status or that other disciplinary action may be
25 taken, including limiting the scope, nature, or extent of

1 practice, as the Secretary may deem proper. Written notice may
2 be served by personal delivery or certified or registered mail
3 to the respondent at the address of his or her last
4 notification to the Department. If the person fails to file an
5 answer after receiving notice, his or her license may, in the
6 discretion of the Department, be suspended, revoked, or placed
7 on probationary status, or the Department may take any
8 disciplinary action deemed proper, including limiting the
9 scope, nature, or extent of the person's practice or the
10 imposition of a fine, without a hearing, if the act or acts
11 charged constitute sufficient grounds for such action under
12 this Act. At the time and place fixed in the notice, the Board
13 shall proceed to hear the charges and the parties or their
14 counsel shall be accorded ample opportunity to present such
15 statements, testimony, evidence, and argument as may be
16 pertinent to the charges or to their defense. The Board may
17 continue a hearing from time to time.

18 Section 140. Formal hearing; preservation of record. The
19 Department, at its expense, shall preserve a record of all
20 proceedings at the formal hearing of any case. The notice of
21 hearing, complaint, and all other documents in the nature of
22 pleadings and written motions filed in the proceedings, the
23 transcript of testimony, the report of the Board or hearing
24 officer, and order of the Department shall be the record of the
25 proceeding. The Department shall furnish a transcript of the

1 record to any person interested in the hearing upon payment of
2 the fee required under Section 2105-115 of the Department of
3 Professional Regulation Law.

4 Section 145. Witnesses; production of documents; contempt.
5 Any circuit court may upon application of the Department or its
6 designee or of the applicant or licensee against whom
7 proceedings under Section 115 of this Act are pending, enter an
8 order requiring the attendance of witnesses and their testimony
9 and the production of documents, papers, files, books, and
10 records in connection with any hearing or investigation. The
11 court may compel obedience to its order by proceedings for
12 contempt.

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

1 order requiring the attendance of witnesses and their
2 testimony, and the production of documents, papers, files,
3 books, and records in connection with any hearing or
4 investigation. The court may compel obedience to its order by
5 proceedings for contempt.

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

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

24 Section 160. Hearing officer. The Secretary may appoint any

1 attorney duly licensed to practice law in the State of Illinois
2 to serve as the hearing officer in any action for departmental
3 refusal to issue, renew, or license an applicant or for
4 disciplinary action against a licensee. The hearing officer
5 shall have full authority to conduct the hearing. The hearing
6 officer shall report his or her findings of fact, conclusions
7 of law, and recommendations to the Board and the Secretary. The
8 Board shall have 60 calendar days after receipt of the report
9 to review the report of the hearing officer and present its
10 findings of fact, conclusions of law, and recommendations to
11 the Secretary. If the Board fails to present its report within
12 the 60-day period, the Secretary may issue an order based on
13 the report of the hearing officer. If the Secretary disagrees
14 with the recommendation of the Board or the hearing officer, he
15 or she may issue an order in contravention of that
16 recommendation.

17 Section 165. Service of report; motion for rehearing. In
18 any case involving the discipline of a license, a copy of the
19 Board's report shall be served upon the respondent by the
20 Department, either personally or as provided in this Act for
21 the service of the notice of hearing. Within 20 days after the
22 service, the respondent may present to the Department a motion
23 in writing for a rehearing that shall specify the particular
24 grounds for rehearing. If no motion for rehearing is filed,
25 then upon the expiration of the time specified for filing a

1 motion, or if a motion for rehearing is denied, then upon the
2 denial, the Secretary may enter an order in accordance with
3 this Act. If the respondent orders from the reporting service
4 and pays for a transcript of the record within the time for
5 filing a motion for rehearing, the 20-day period within which
6 the motion may be filed shall commence upon the delivery of the
7 transcript to the respondent.

8 Section 170. Rehearing. Whenever the Secretary is
9 satisfied that substantial justice has not been done in the
10 revocation, suspension, or refusal to issue or renew a license,
11 the Secretary may order a rehearing by the same or another
12 hearing officer or by the Board.

13 Section 175. Prima facie proof. An order or a certified
14 copy thereof, over the seal of the Department and purporting to
15 be signed by the Secretary, shall be prima facie proof of the
16 following:

17 (1) that the signature is the genuine signature of the
18 Secretary;

19 (2) that such Secretary is duly appointed and
20 qualified; and

21 (3) that the Board and its members are qualified to
22 act.

23 Section 180. Restoration of license. At any time after the

1 suspension or revocation of any license, the Department may
2 restore the license to the accused person, unless after an
3 investigation and a hearing the Department determines that
4 restoration is not in the public interest.

5 Section 185. Surrender of license. Upon the revocation or
6 suspension of any license, the licensee shall immediately
7 surrender the license to the Department. If the licensee fails
8 to do so, the Department shall have the right to seize the
9 license.

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

20 Section 195. Certificate of record. The Department shall
21 not be required to certify any record to the court or file any
22 answer in court or otherwise appear in any court in a judicial
23 review proceeding, unless there is filed in the court, with the

1 complaint, a receipt from the Department acknowledging payment
2 of the costs of furnishing and certifying the record. Failure
3 on the part of the plaintiff to file a receipt in court shall
4 be grounds for dismissal of the action.

5 Section 200. Administrative Review Law. All final
6 administrative decisions of the Department are subject to
7 judicial review under the Administrative Review Law and its
8 rules. The term "administrative decision" is defined as in
9 Section 3-101 of the Code of Civil Procedure.

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

22 Section 210. Home rule. Pursuant to paragraph (h) of
23 Section 6 of Article VII of the Illinois Constitution of 1970

1 the power to regulate and issue licenses for the practice of
2 midwifery shall, except as may otherwise be provided within and
3 pursuant to the provisions of this Act, be exercised by the
4 State and may not be exercised by any unit of local government,
5 including home rule units.

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

8 Section 900. The Regulatory Sunset Act is amended by adding
9 Section 4.28 as follows:

10 (5 ILCS 80/4.28 new)

11 Sec. 4.28. Act repealed on January 1, 2018. The following
12 Act is repealed on January 1, 2018:

13 The Midwifery Licensure Act.

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

16 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

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

18 Sec. 4. Exemptions.

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

20 (1) persons lawfully carrying on their particular
21 profession or business under any valid existing regulatory

1 Act of this State, including without limitation persons
2 engaged in the practice of midwifery who are licensed under
3 the Midwifery Licensure Act;

4 (2) persons rendering gratuitous services in cases of
5 emergency; or

6 (3) persons treating human ailments by prayer or
7 spiritual means as an exercise or enjoyment of religious
8 freedom.

9 (b) (Blank).

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

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

13 (225 ILCS 65/5-15)

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

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

1 licensed under the provisions of this Act.

2 This Act does not prohibit the following:

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

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

12 (c) The furnishing of nursing assistance in an
13 emergency.

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

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

21 (f) Persons from being employed as nursing aides,
22 attendants, orderlies, and other auxiliary workers in
23 private homes, long term care facilities, nurseries,
24 hospitals or other institutions.

25 (g) The practice of practical 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 licensed
2 practical nurse and who 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 practical
11 nursing under this Section who passes the examination,
12 however, may continue to practice under this Section until
13 such time as he or she receives his or her license to
14 practice or until the Department notifies him or her that
15 the license has been denied. No applicant for licensure
16 practicing under the provisions of this paragraph shall
17 practice practical nursing except under the direct
18 supervision of a registered professional nurse licensed
19 under this Act or a licensed physician, dentist or
20 podiatrist. In no instance shall any such applicant
21 practice or be employed in any supervisory capacity.

22 (h) The practice of practical nursing by one who is a
23 licensed practical nurse under the laws of another U.S.
24 jurisdiction and has applied in writing to the Department,
25 in form and substance satisfactory to the Department, for a
26 license as a licensed practical nurse and who is qualified

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

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

1 capacity.

2 (j) The practice of professional nursing by one who is
3 a registered professional nurse under the laws of another
4 state, territory of the United States or country and has
5 applied in writing to the Department, in form and substance
6 satisfactory to the Department, for a license as a
7 registered professional nurse and who is qualified to
8 receive such license under Section 10-30, until (1) the
9 expiration of 6 months after the filing of such written
10 application, (2) the withdrawal of such application, or (3)
11 the denial of such application by the Department.

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

26 (l) Any person licensed in this State under any other

1 Act from engaging in the practice for which she or he is
2 licensed, including without limitation any person engaged
3 in the practice of midwifery who is licensed under the
4 Midwifery Licensure Act.

5 (m) Delegation to authorized direct care staff trained
6 under Section 15.4 of the Mental Health and Developmental
7 Disabilities Administrative Act.

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

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

13 Section 915. The Good Samaritan Act is amended by adding
14 Section 41 as follows:

15 (745 ILCS 49/41 new)

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

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.".