

**SB3074**



**95TH GENERAL ASSEMBLY**

**State of Illinois**

**2007 and 2008**

**SB3074**

Introduced 11/12/2008, by Sen. William R. Haine

**SYNOPSIS AS INTRODUCED:**

New Act

5 ILCS 80/4.29 new

225 ILCS 60/4

225 ILCS 65/50-15

from Ch. 111, par. 4400-4

was 225 ILCS 65/5-15

Creates the Home Birth Safety Act. Provides for the licensure of midwives by the Department of Financial and Professional Regulation. Creates the Illinois Midwifery Board. Sets forth provisions concerning qualifications, grounds for disciplinary action, and administrative procedures. Amends the Regulatory Sunset Act to set a repeal date for the new Act of January 1, 2019. Amends the Medical Practice Act of 1987 and the Nurse Practice Act to make related changes.

LRB095 22974 AMC 53427 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Home  
5 Birth Safety Act.

6 Section 5. Purpose. The practice of midwifery in  
7 out-of-hospital settings is hereby declared to affect the  
8 public health, safety, and welfare and to be subject to  
9 regulation in the public interest. The purpose of the Act is to  
10 protect and benefit the public by setting standards for the  
11 qualifications, education, training, and experience of those  
12 who seek to obtain licensure and hold the title of Licensed  
13 Midwife, to promote high standards of professional performance  
14 for those licensed to practice midwifery in out-of-hospital  
15 settings in this State, and to protect the public from  
16 unprofessional conduct by persons licensed to practice  
17 midwifery, as defined in this Act. This Act shall be liberally  
18 construed to best carry out these purposes.

19 Section 10. Exemptions.

20 (a) This Act does not prohibit a person licensed under any  
21 other Act in this State from engaging in the practice for which  
22 he or she is licensed or from delegating services as provided

1 for under that other Act.

2 (b) Nothing in this Act shall be construed to prohibit or  
3 require licensing under this Act, with regard to a student  
4 midwife working under the direction of a licensed midwife.

5 Section 15. Definitions. In this Act:

6 "Board" means the Illinois Midwifery Board.

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

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

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

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

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

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

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

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

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

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

20 Section 30. Informed consent.

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

1 following:

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

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

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

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

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

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

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

4 Section 35. Advertising.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 than 2 hours;

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

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

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

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

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

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

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

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

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



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

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

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

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

12 (C) Oxytocin or Pitocin as a postpartum  
13 antihemorrhagic agent or as a prophylaxis for  
14 hemorrhage;

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

17 (E) Misoprostol (Cytotec), 100-200 mcg for the  
18 treatment of postpartum hemorrhage;

19 (F) Vitamin K for the prophylaxis of hemorrhagic  
20 disease of the newborn;

21 (G) Rho(D) immune globulin (Rhogam) for the  
22 prevention of Rho(D) sensitization in Rho(D) negative  
23 women;

24 (H) Lactated Ringers IV solution may be used for  
25 maternal stabilization;

26 (I) Lidocaine injection as a numbing agent for

1 repair of postpartum tears; and

2 (J) sterile water subcutaneous injections as a  
3 non-pharmacological form of pain relief during the  
4 first and second stages of labor.

5 The medication indications, dose, route of  
6 administration, and duration of treatment relating to the  
7 administration of drugs and procedures identified under  
8 this item (2) are as follows:

9 Medication: Oxygen

10 Indication: Fetal distress

11 Maternal dose: 6-8 L/minute

12 Route of Administration: Mask

13 Duration of Treatment: Until delivery or transfer to a  
14 hospital is complete

15 Infant dose: 4-6 L/minute

16 Route of Administration: Bag and mask

17 Infant dose: 4-6 L/minute

18 Route of Administration: Mask

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

21 Medication: 0.5% Erythromycin ophthalmic ointment or 1%  
22 Tetracycline ophthalmic ointment

23 Indication: Prophylaxis of Neonatal Ophthalmia

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

1 Route of Administration: Topical

2 Duration of Treatment: 1 dose

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

4 Indication: Postpartum hemorrhage only: prevention or  
5 treatment of postpartum hemorrhage only

6 Dose: 1-2 ml, 10-20 units

7 Route of Administration: Intramuscularly only

8 Duration of Treatment: 1-2 doses

9 Medication: Methylergonovine (Methergine), 0.2 mg/ml or  
10 0.2 mg tabs

11 Indication: Postpartum hemorrhage only

12 Dose: 0.2 mg

13 Route of administration: Intramuscularly or orally single  
14 dose

15 Duration of treatment: Every 4 hours, may repeat. Maximum 5  
16 doses

17 Contraindicated in hypertension and Raynaud's Disease

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

19 Indication: Treatment of postpartum hemorrhage only

20 Dose: 100-200 mcg tablet

21 Route of administration: orally or rectally

22 Duration of treatment: 400-1,000 mcg, in one dose

23 Caution with Inflammatory Bowel Disease

1 Medication: Vitamin K, 1.0 mg/0.5 ml

2 Indication: Prophylaxis of hemorrhagic disease of the  
3 newborn

4 Dose: 1.0 mg injection

5 Route of administration: Intramuscularly

6 Duration of treatment: Single dose

7 Medication: Rho(D) Immune Globulin (Rhogam)

8 Indication: Prevention of Rho(D) sensitization in Rho(D)  
9 negative women

10 Dose: Unit dose

11 Route of administration: Intramuscularly only

12 Duration of treatment: (i) Single dose at any gestation for  
13 Rho(D) negative, antibody negative women within 72 hours  
14 after spontaneous bleeding, (ii) single dose at 26-28 weeks  
15 gestation for Rho(D) negative, antibody negative women,  
16 and (iii) single dose for Rho(D) negative, antibody  
17 negative women within 72 hours after delivery of Rho(D)  
18 positive infant or infant with an unknown blood type

19 Medication: Lactated Ringer's solution (LR), unless  
20 unavailable or impractical in which case 0.9% sodium  
21 chloride may be administered

22 Indication: To achieve maternal stabilization during  
23 uncontrolled postpartum hemorrhage or any time blood loss

1 is accompanied by tachycardia, hypotension, decreased  
2 level of consciousness, pallor, or diaphoresis

3 Dose: First liter run in at a wide-open rate, the second  
4 liter titrated to client's condition

5 Route of administration: IV catheter 18 gauge or larger  
6 bore

7 Duration of treatment: 2L if hemorrhage is severe

8 Medication: Lidocaine 1% injection

9 Indication: numbing agent for repair of postpartum tears

10 Dose: 1-40 ml infiltration as needed

11 Route of Administration: Topical or injected subcutaneous

12 Duration of treatment: Maximum 40 ml, one time

13 Medication/Procedure: Sterile water papules

14 Indication: For labor pain in the first and second stages  
15 of labor

16 Dose: one injection of 0.25-0.5 ml at each of 4 injection  
17 sights

18 Route of administration: 4 subcutaneous injections in the  
19 small of the back

20 Duration of treatment: Every 2 hours until no longer  
21 necessary or delivery. No maximum dosage

22 (3) With regard to consultation and referral, a  
23 licensed midwife shall consult with a licensed physician or

1 a licensed certified nurse midwife providing obstetrical  
2 care, whenever there are significant deviations, including  
3 abnormal laboratory results, relative to a client's  
4 pregnancy or to a neonate. If a referral to a physician or  
5 certified nurse midwife is needed, the licensed midwife  
6 shall refer the client to a physician or certified nurse  
7 midwife and, if possible, remain in consultation with the  
8 physician or certified nurse midwife until resolution of  
9 the concern; however, consultation does not preclude the  
10 possibility of an out-of-hospital birth. It is appropriate  
11 for the licensed midwife to maintain care of the client to  
12 the greatest degree possible, in accordance with the  
13 client's wishes, during the pregnancy and, if possible,  
14 during labor, birth and the postpartum period.

15 A licensed midwife shall consult with a physician  
16 licensed to practice medicine in all of its branches, a  
17 physician assistant licensed under the Physician Assistant  
18 Act of 1987, or an advanced practice nurse licensed under  
19 the Nurse Practice Act with regard to any mother who,  
20 during antepartum, presents with or develops any of the  
21 following risk factors or presents with or develops other  
22 risk factors that, in the judgment of the licensed midwife,  
23 warrant consultation:

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

1 (B) Persistent, severe headaches, epigastric pain,  
2 or visual disturbances.

3 (C) Persistent symptoms of urinary tract  
4 infection.

5 (D) Significant vaginal bleeding before the onset  
6 of labor not associated with uncomplicated spontaneous  
7 abortion.

8 (E) Rupture of membranes prior to the 37th week  
9 gestation.

10 (F) Noted abnormal decrease in or cessation of  
11 fetal movement.

12 (G) Anemia resistant to supplemental therapy.

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

15 (I) Non-vertex presentation after 38 weeks  
16 gestation.

17 (J) Hyperemesis or significant dehydration.

18 (K) ISO immunization, Rh negative sensitized,  
19 positive titers, or any other positive antibody titer,  
20 which may have a detrimental effect on the mother or  
21 fetus.

22 (L) Elevated blood glucose levels unresponsive to  
23 dietary management.

24 (M) Positive HIV antibody test.

25 (N) Primary genital herpes infection in pregnancy.

26 (O) Symptoms of malnutrition or anorexia or

1 protracted weight loss or failure to gain weight.

2 (P) Suspected deep vein thrombosis.

3 (Q) Documented placental anomaly or previa.

4 (R) Documented low lying placenta after 28 weeks  
5 gestation.

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

7 (T) History of any prior uterine incision. A woman  
8 who has had a previous low transverse cesarean section  
9 (LTSC) with a subsequent vaginal birth may be  
10 considered for home birth. A woman with a prior LTCS  
11 and no subsequent vaginal birth after cesarean or other  
12 uterine surgeries, may be managed antepartally with  
13 consultation, but will be transferred to the  
14 consultant's care for delivery.

15 (U) Lie other than vertex at term.

16 (V) Multiple gestation.

17 (W) Known fetal anomalies that may be affected by  
18 the site of birth.

19 (X) Marked abnormal fetal heart tones.

20 (Y) Abnormal non-stress test or abnormal  
21 biophysical profile.

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

23 (AA) Evidence of intrauterine growth  
24 restriction.

25 (BB) Significant abnormal ultrasound findings.

26 (CC) Gestation beyond 42 weeks by reliable



1 confirmed dates.

2 A licensed midwife shall consult with a licensed physician  
3 or certified nurse-midwife with regard to any mother who,  
4 during intrapartum, presents with or develops any of the  
5 following risk factors or presents with or develops other  
6 risk factors that, in the judgment of the licensed midwife,  
7 warrant consultation:

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

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

12 (C) Significant proteinuria or ketonuria.

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

15 (E) Ruptured membranes without onset of  
16 established labor after 18 hours.

17 (F) Significant bleeding prior to delivery or any  
18 abnormal bleeding, with or without abdominal pain; or  
19 evidence of placental abruption.

20 (G) Lie not compatible with spontaneous vaginal  
21 delivery or unstable fetal lie.

22 (H) Failure to progress after 5 hours of active  
23 labor or following 2 hours of active second stage  
24 labor.

25 (I) Signs or symptoms of maternal infection.

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

1 (K) Fetal heart tones with non-reassuring  
2 patterns.

3 (L) Signs or symptoms of fetal distress.

4 (M) Thick meconium or frank bleeding with birth not  
5 imminent.

6 (N) Client or licensed midwife desires physician  
7 consultation or transfer.

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

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

15 (B) Signs or symptoms of maternal shock.

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

18 (D) Abnormal lochia or signs or symptoms of uterine  
19 sepsis.

20 (E) Suspected deep vein thrombosis.

21 (F) Signs of clinically significant depression.

22 A licensed midwife shall consult with a licensed  
23 physician or licensed certified nurse-midwife with regard  
24 to any neonate who is born with or develops any of the  
25 following risk factors:

26 (A) Apgar score of 6 or less at 5 minutes without

- 1 significant improvement by 10 minutes.
- 2 (B) Persistent grunting respirations or retractions.
- 3 (C) Persistent cardiac irregularities.
- 4 (D) Persistent central cyanosis or pallor.
- 5 (E) Persistent lethargy or poor muscle tone.
- 6 (F) Abnormal cry.
- 7 (G) Birth weight less than 2300 grams.
- 8 (H) Jitteriness or seizures.
- 9 (I) Jaundice occurring before 24 hours or outside of  
10 normal range.
- 11 (J) Failure to urinate within 24 hours of birth.
- 12 (K) Failure to pass meconium within 48 hours of birth.
- 13 (L) Edema.
- 14 (M) Prolonged temperature instability.
- 15 (N) Significant signs or symptoms of infection.
- 16 (O) Significant clinical evidence of glycemic  
17 instability.
- 18 (P) Abnormal, bulging, or depressed fontanel.
- 19 (Q) Significant clinical evidence of prematurity.
- 20 (R) Medically significant congenital anomalies.
- 21 (S) Significant or suspected birth injury.
- 22 (T) Persistent inability to suck.
- 23 (U) Diminished consciousness.
- 24 (V) Clinically significant abnormalities in vital  
25 signs, muscle tone or behavior.
- 26 (W) Clinically significant color abnormality,

1 cyanotic, or pale or abnormal perfusion.

2 (X) Abdominal distention or projectile vomiting.

3 (Y) Signs of clinically significant dehydration or  
4 failure to thrive.

5 (4) The licensed midwife shall initiate immediate  
6 transport according to the licensed midwife's emergency  
7 plan, provide emergency stabilization until emergency  
8 medical services arrive or transfer is completed,  
9 accompany the client or follow the client to a hospital in  
10 a timely fashion, provide pertinent information to the  
11 receiving facility and complete an emergency transport  
12 record. Any of the following conditions shall require  
13 immediate notification to the licensed midwife's  
14 collaborating health care professional and emergency  
15 transfer to a hospital:

16 (A) Seizures or unconsciousness.

17 (B) Respiratory distress or arrest.

18 (C) Evidence of shock.

19 (D) Psychosis.

20 (E) Symptomatic chest pain or cardiac arrhythmias.

21 (F) Prolapsed umbilical cord.

22 (G) Shoulder dystocia not resolved by Advanced  
23 Life Support in Obstetrics (ALSO) protocol.

24 (H) Symptoms of uterine rupture.

25 (I) Preeclampsia or eclampsia.

26 (J) Severe abdominal pain inconsistent with normal

1 labor.

2 (K) Chorioamnionitis.

3 (L) Clinically significant fetal heart rate  
4 patterns or other manifestation of fetal distress.

5 (M) Presentation not compatible with spontaneous  
6 vaginal delivery.

7 (N) Laceration greater than second degree perineal  
8 or any cervical.

9 (O) Hemorrhage non-responsive to therapy.

10 (P) Uterine prolapse or inversion.

11 (Q) Persistent uterine atony.

12 (R) Anaphylaxis.

13 (S) Failure to deliver placenta after one hour if  
14 there is no bleeding and fundus is firm.

15 (T) Sustained instability or persistent abnormal  
16 vital signs.

17 (U) Other conditions or symptoms that could  
18 threaten the life of the mother, fetus or neonate.

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

26 (5) With regard to collaboration, a licensed midwife

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

16 This relationship must not be construed to necessarily  
17 require the personal presence of the collaborating care  
18 provider at all times at the place where services are  
19 rendered, as long as there is communication available for  
20 consultation by radio, telephone, Internet, or  
21 telecommunications.

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

24 (A) Administer prescription pharmacological agents  
25 intended to induce or augment labor.

26 (B) Administer prescription pharmacological agents

1 to provide pain management.

2 (C) Use vacuum extractors or forceps.

3 (D) Prescribe medications.

4 (E) Provide care to a woman who has had a cesarean  
5 section or other uterine surgery, unless that woman has  
6 had a successful subsequent vaginal birth after  
7 cesarean section.

8 (F) Perform major surgical procedures including,  
9 but not limited to, cesarean sections and  
10 circumcisions.

11 (G) Knowingly accept responsibility for prenatal  
12 or intrapartum care of a client with any of the  
13 following risk factors:

14 (i) Chronic significant maternal cardiac,  
15 pulmonary, renal or hepatic disease.

16 (ii) Malignant disease in an active phase.

17 (iii) Significant hematological disorders or  
18 coagulopathies, or pulmonary embolism.

19 (iv) Insulin requiring diabetes mellitus.

20 (v) Known maternal congenital abnormalities  
21 affecting childbirth.

22 (vi) Confirmed isoimmunization, Rh disease  
23 with positive titer.

24 (vii) Active tuberculosis.

25 (viii) Active syphilis or gonorrhea.

26 (ix) Active genital herpes infection 2 weeks

1 prior to labor or in labor.

2 (x) Pelvic or uterine abnormalities affecting  
3 normal vaginal births, including tumors and  
4 malformations.

5 (xi) Alcoholism or abuse.

6 (xii) Drug addiction or abuse.

7 (xiii) Confirmed AIDS status.

8 (xiv) Uncontrolled current serious psychiatric  
9 illness.

10 (xv) Social or familial conditions  
11 unsatisfactory for out-of-hospital maternity care  
12 services.

13 (xvi) Fetus with suspected or diagnosed  
14 congenital abnormalities that may require  
15 immediate medical intervention.

16 (c) The Department must, on a quarterly basis, issue a  
17 status report to the Board of all complaints submitted to  
18 the Department related to the midwifery profession.

19 Section 45. Illinois Midwifery Board.

20 (a) There is created under the authority of the Department  
21 the Illinois Midwifery Board, which shall consist of 7 members  
22 appointed by the Secretary, 4 of whom shall be licensed  
23 midwives who carry the CPM credential, except that initial  
24 appointees must have at least 3 years of experience in the  
25 practice of midwifery in an out-of-hospital setting, be



1 certified by the North American Registry of Midwives, and meet  
2 the qualifications for licensure set forth in this Act; one of  
3 whom shall be an obstetrician licensed under the Medical  
4 Practice Act of 1987 who has a minimum of 2 years of experience  
5 working or consulting with home birth providers or,  
6 alternately, a family practice physician licensed under the  
7 Medical Practice Act of 1987 who has a minimum of 2 years of  
8 experience providing home birth services; one of whom shall be  
9 a certified nurse midwife who has at least 2 years of  
10 experience in providing home birth services; and one of whom  
11 shall be a knowledgeable public member who has given birth with  
12 the assistance of a certified professional midwife in an  
13 out-of-hospital birth setting. Board members shall serve  
14 4-year terms, except that in the case of initial appointments,  
15 terms shall be staggered as follows: 3 members shall serve for  
16 4 years, 2 members shall serve for 3 years, and 2 members shall  
17 serve for 2 years. The Board shall annually elect a chairperson  
18 and vice chairperson.

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

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

26 (d) The members of the Board shall be reimbursed for all

1 legitimate, necessary, and authorized expenses incurred in  
2 attending the meetings of the Board.

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

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

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

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

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

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

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

25 (h) The Secretary shall give due consideration to all  
26 recommendations of the Board. If the Secretary takes action

1 contrary to a recommendation of the Board, the Secretary must  
2 promptly provide a written explanation of that action.

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

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

12 Section 50. Qualifications.

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

15 (1) He or she has earned an associate's degree or  
16 higher, or the equivalent of an associate's degree or  
17 higher, in either nursing or midwifery from an accredited  
18 post-secondary institution or has earned a general  
19 associates degree or its equivalent, including completion  
20 of all of the following coursework from an accredited  
21 post-secondary institution in the following denominations:

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

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

25 (C) Social and Behavioral Science (Sociology and

1 Psychology): 6 credit hours.

2 (D) Math: 3 credit hours.

3 (E) Nutrition: 3 credit hours.

4 (F) Pharmacology: 3 credit hours.

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

10 (3) He or she has passed a written and practical skills  
11 examination for the practice of midwifery that has been  
12 developed following the standards set by the National  
13 Commission for Certifying Agencies or a successor  
14 organization and is administered by the North American  
15 Registry of Midwives.

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

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

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

25 (2) Submits evidence of current certification in adult  
26 CPR and infant CPR or neonatal resuscitation.

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

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

6           (c) Nothing used in submitting evidence of practice of  
7           midwifery when applying for licensure under this Act shall be  
8           used as evidence or to take legal action against the applicant  
9           regarding the practice of midwifery, nursing, or medicine prior  
10          to the passage of this Act.

11          Section 55. Social Security Number on application. In  
12          addition to any other information required to be contained in  
13          the application, every application for an original, renewal,  
14          reinstated, or restored license under this Act shall include  
15          the applicant's Social Security Number.

16          Section 60. Continuing education.

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

22          (b) Rules adopted under this Act shall require the licensed  
23          midwife to maintain CPM certification by meeting all the  
24          requirements set forth by the North American Registry of

1 Midwives or to maintain CNM or CM certification by meeting all  
2 the requirements set forth by the American Midwifery  
3 Certification Board.

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

7 Section 65. Inactive status.

8 (a) A licensed midwife who notifies the Department in  
9 writing on forms prescribed by the Department may elect to  
10 place his or her license on an inactive status and shall be  
11 excused from payment of renewal fees until he or she notifies  
12 the Department in writing of his or her intent to restore the  
13 license.

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

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

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

24 Section 70. Renewal, reinstatement, or restoration of

1 licensure; military service.

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

4 (b) All renewal applicants shall provide proof of having  
5 met the requirements of continuing education set forth by the  
6 North American Registry of Midwives. The Department shall  
7 provide for an orderly process for the reinstatement of  
8 licenses that have not been renewed due to failure to meet  
9 continuing education requirements.

10 (c) Any licensed midwife who has permitted his or her  
11 license to expire or who has had his or her license on inactive  
12 status may have his or her license restored by making  
13 application to the Department and filing proof acceptable to  
14 the Department of fitness to have the license restored and by  
15 paying the required fees. Proof of fitness may include evidence  
16 attesting to active lawful practice in another jurisdiction.

17 (d) The Department shall determine, by an evaluation  
18 program, fitness for restoration of a license under this  
19 Section and shall establish procedures and requirements for  
20 restoration.

21 (e) Any licensed midwife whose license expired while he or  
22 she was (i) in federal service on active duty with the Armed  
23 Forces of the United States or the State Militia and called  
24 into service or training or (ii) in training or education under  
25 the supervision of the United States preliminary to induction  
26 into the military service may have his or her license restored

1 without paying any lapsed renewal fees, if, within 2 years  
2 after honorable termination of service, training, or  
3 education, he or she furnishes the Department with satisfactory  
4 evidence to the effect that he or she has been so engaged.

5 Section 75. Roster. The Department shall maintain a roster  
6 of the names and addresses of all licensees and of all persons  
7 whose licenses have been suspended or revoked. This roster  
8 shall be available upon written request and payment of the  
9 required fee.

10 Section 80. Fees.

11 (a) The Department shall provide for a schedule of fees for  
12 the administration and enforcement of this Act, including  
13 without limitation original licensure, renewal, and  
14 restoration, which fees shall be nonrefundable.

15 (b) All fees collected under this Act shall be deposited  
16 into the General Professions Dedicated Fund and appropriated to  
17 the Department for the ordinary and contingent expenses of the  
18 Department in the administration of this Act.

19 Section 85. Returned checks; fines. Any person who delivers  
20 a check or other payment to the Department that is returned to  
21 the Department unpaid by the financial institution upon which  
22 it is drawn shall pay to the Department, in addition to the  
23 amount already owed to the Department, a fine of \$50. The fines



1 imposed by this Section are in addition to any other discipline  
2 provided under this Act for unlicensed practice or practice on  
3 a non-renewed license. The Department shall notify the person  
4 that fees and fines shall be paid to the Department by  
5 certified check or money order within 30 calendar days after  
6 the notification. If, after the expiration of 30 days from the  
7 date of the notification, the person has failed to submit the  
8 necessary remittance, the Department shall automatically  
9 terminate the license or deny the application, without hearing.  
10 If, after termination or denial, the person seeks a license, he  
11 or she shall apply to the Department for restoration or  
12 issuance of the license and pay all fees and fines due to the  
13 Department. The Department may establish a fee for the  
14 processing of an application for restoration of a license to  
15 defray all expenses of processing the application. The  
16 Secretary may waive the fines due under this Section in  
17 individual cases where the Secretary finds that the fines would  
18 be unreasonable or unnecessarily burdensome.

19 Section 90. Unlicensed practice; civil penalty. Any person  
20 who practices, offers to practice, attempts to practice, or  
21 holds himself or herself out to practice midwifery or as a  
22 midwife without being licensed under this Act shall, in  
23 addition to any other penalty provided by law, pay a civil  
24 penalty to the Department in an amount not to exceed \$5,000 for  
25 each offense, as determined by the Department. The civil

1 penalty shall be assessed by the Department after a hearing is  
2 held in accordance with the provisions set forth in this Act  
3 regarding the provision of a hearing for the discipline of a  
4 licensee. The civil penalty shall be paid within 60 days after  
5 the effective date of the order imposing the civil penalty. The  
6 order shall constitute a judgment and may be filed and  
7 execution had thereon in the same manner as any judgment from  
8 any court of record. The Department may investigate any  
9 unlicensed activity.

10 Section 95. Grounds for disciplinary action. The  
11 Department may refuse to issue or to renew or may revoke,  
12 suspend, place on probation, reprimand or take other  
13 disciplinary action as the Department may deem proper,  
14 including fines not to exceed \$5,000 for each violation, with  
15 regard to any licensee or license for any one or combination of  
16 the following causes:

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

18 (2) Material misstatement in furnishing information to  
19 the Department.

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

24 (4) Making any misrepresentation for the purpose of  
25 obtaining a license.

1 (5) Professional incompetence or gross negligence.

2 (6) Gross malpractice.

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

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

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

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

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

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

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

4           (14) Abandonment of a patient without cause.

5           (15) Willfully making or filing false records or  
6           reports relating to a licensee's practice, including, but  
7           not limited to, false records filed with State agencies or  
8           departments.

9           (16) Physical illness or mental illness, including,  
10          but not limited to, deterioration through the aging process  
11          or loss of motor skill that results in the inability to  
12          practice the profession with reasonable judgment, skill,  
13          or safety.

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

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

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

1           (20) Being named as a perpetrator in an indicated  
2 report by the Department of Healthcare and Family Services  
3 under the Abused and Neglected Child Reporting Act and upon  
4 proof by clear and convincing evidence that the licensee  
5 has caused a child to be an abused child or a neglected  
6 child, as defined in the Abused and Neglected Child  
7 Reporting Act.

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

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

14           (23) Maintaining a professional relationship with any  
15 person, firm, or corporation when the licensed midwife  
16 knows or should know that a person, firm, or corporation is  
17 violating this Act.

18           (24) Failure to provide satisfactory proof of having  
19 participated in approved continuing education programs as  
20 determined by the Board and approved by the Secretary.  
21 Exceptions for extreme hardships are to be defined by the  
22 Department.

23           (b) The Department may refuse to issue or may suspend the  
24 license of any person who fails to (i) file a tax return or to  
25 pay the tax, penalty, or interest shown in a filed return or  
26 (ii) pay any final assessment of the tax, penalty, or interest,

1 as required by any tax Act administered by the Illinois  
2 Department of Revenue, until the time that the requirements of  
3 that tax Act are satisfied.

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

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

1 present during all aspects of the examination. Failure of any  
2 person to submit to a mental or physical examination when  
3 directed shall be grounds for suspension of a license until the  
4 person submits to the examination if the Department finds,  
5 after notice and hearing, that the refusal to submit to the  
6 examination was without reasonable cause.

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

23       In instances in which the Secretary immediately suspends a  
24 person's license under this Section, a hearing on that person's  
25 license must be convened by the Department within 15 days after  
26 the suspension and completed without appreciable delay. The

1 Department may review the person's record of treatment and  
2 counseling regarding the impairment, to the extent permitted by  
3 applicable federal statutes and regulations safeguarding the  
4 confidentiality of medical records.

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

10 Section 100. Failure to pay restitution. The Department,  
11 without further process or hearing, shall suspend the license  
12 or other authorization to practice of any person issued under  
13 this Act who has been certified by court order as not having  
14 paid restitution to a person under Section 8A-3.5 of the  
15 Illinois Public Aid Code or under Section 46-1 of the Criminal  
16 Code of 1961. A person whose license or other authorization to  
17 practice is suspended under this Section is prohibited from  
18 practicing until restitution is made in full.

19 Section 105. Injunction; cease and desist order.

20 (a) If a person violates any provision of this Act, the  
21 Secretary may, in the name of the People of the State of  
22 Illinois, through the Attorney General or the State's Attorney  
23 of any county in which the action is brought, petition for an  
24 order enjoining the violation or enforcing compliance with this



1 Act. Upon the filing of a verified petition in court, the court  
2 may issue a temporary restraining order, without notice or  
3 bond, and may preliminarily and permanently enjoin the  
4 violation. If it is established that the person has violated or  
5 is violating the injunction, the court may punish the offender  
6 for contempt of court. Proceedings under this Section shall be  
7 in addition to, and not in lieu of, all other remedies and  
8 penalties provided by this Act.

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

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

24 Section 110. Violation; criminal penalty.

25 (a) Whoever knowingly practices or offers to practice

1 midwifery in this State without being licensed for that purpose  
2 or exempt under this Act shall be guilty of a Class A  
3 misdemeanor and, for each subsequent conviction, shall be  
4 guilty of a Class 4 felony.

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

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

15 Section 115. Investigation; notice; hearing. The  
16 Department may investigate the actions of any applicant or of  
17 any person or persons holding or claiming to hold a license  
18 under this Act. Before refusing to issue or to renew or taking  
19 any disciplinary action regarding a license, the Department  
20 shall, at least 30 days prior to the date set for the hearing,  
21 notify in writing the applicant or licensee of the nature of  
22 any charges and that a hearing shall be held on a date  
23 designated. The Department shall direct the applicant or  
24 licensee to file a written answer with the Board under oath  
25 within 20 days after the service of the notice and inform the

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

23 Section 120. Formal hearing; preservation of record. The  
24 Department, at its expense, shall preserve a record of all  
25 proceedings at the formal hearing of any case. The notice of

1 hearing, complaint, and all other documents in the nature of  
2 pleadings and written motions filed in the proceedings, the  
3 transcript of testimony, the report of the Board or hearing  
4 officer, and order of the Department shall be the record of the  
5 proceeding. The Department shall furnish a transcript of the  
6 record to any person interested in the hearing upon payment of  
7 the fee required under Section 2105-115 of the Department of  
8 Professional Regulation Law.

9 Section 125. Witnesses; production of documents; contempt.  
10 Any circuit court may upon application of the Department or its  
11 designee or of the applicant or licensee against whom  
12 proceedings under Section 95 of this Act are pending, enter an  
13 order requiring the attendance of witnesses and their testimony  
14 and the production of documents, papers, files, books, and  
15 records in connection with any hearing or investigation. The  
16 court may compel obedience to its order by proceedings for  
17 contempt.

18 Section 130. Subpoena; oaths. The Department shall have the  
19 power to subpoena and bring before it any person in this State  
20 and to take testimony either orally or by deposition or both  
21 with the same fees and mileage and in the same manner as  
22 prescribed in civil cases in circuit courts of this State. The  
23 Secretary, the designated hearing officer, and every member of  
24 the Board has the power to administer oaths to witnesses at any

1 hearing that the Department is authorized to conduct and any  
2 other oaths authorized in any Act administered by the  
3 Department. Any circuit court may, upon application of the  
4 Department or its designee or upon application of the person  
5 against whom proceedings under this Act are pending, enter an  
6 order requiring the attendance of witnesses and their  
7 testimony, and the production of documents, papers, files,  
8 books, and records in connection with any hearing or  
9 investigation. The court may compel obedience to its order by  
10 proceedings for contempt.

11 Section 135. Findings of fact, conclusions of law, and  
12 recommendations. At the conclusion of the hearing the Board  
13 shall present to the Secretary a written report of its findings  
14 of fact, conclusions of law, and recommendations. The report  
15 shall contain a finding as to whether or not the accused person  
16 violated this Act or failed to comply with the conditions  
17 required under this Act. The Board shall specify the nature of  
18 the violation or failure to comply and shall make its  
19 recommendations to the Secretary.

20 The report of findings of fact, conclusions of law, and  
21 recommendations of the Board shall be the basis for the  
22 Department's order. If the Secretary disagrees in any regard  
23 with the report of the Board, the Secretary may issue an order  
24 in contravention of the report. The finding is not admissible  
25 in evidence against the person in a criminal prosecution

1 brought for the violation of this Act, but the hearing and  
2 findings are not a bar to a criminal prosecution brought for  
3 the violation of this Act.

4 Section 140. Hearing officer. The Secretary may appoint any  
5 attorney duly licensed to practice law in the State of Illinois  
6 to serve as the hearing officer in any action for departmental  
7 refusal to issue, renew, or license an applicant or for  
8 disciplinary action against a licensee. The hearing officer  
9 shall have full authority to conduct the hearing. The hearing  
10 officer shall report his or her findings of fact, conclusions  
11 of law, and recommendations to the Board and the Secretary. The  
12 Board shall have 60 calendar days after receipt of the report  
13 to review the report of the hearing officer and present its  
14 findings of fact, conclusions of law, and recommendations to  
15 the Secretary. If the Board fails to present its report within  
16 the 60-day period, the Secretary may issue an order based on  
17 the report of the hearing officer. If the Secretary disagrees  
18 with the recommendation of the Board or the hearing officer, he  
19 or she may issue an order in contravention of that  
20 recommendation.

21 Section 145. Service of report; motion for rehearing. In  
22 any case involving the discipline of a license, a copy of the  
23 Board's report shall be served upon the respondent by the  
24 Department, either personally or as provided in this Act for

1 the service of the notice of hearing. Within 20 days after the  
2 service, the respondent may present to the Department a motion  
3 in writing for a rehearing that shall specify the particular  
4 grounds for rehearing. If no motion for rehearing is filed,  
5 then upon the expiration of the time specified for filing a  
6 motion, or if a motion for rehearing is denied, then upon the  
7 denial, the Secretary may enter an order in accordance with  
8 this Act. If the respondent orders from the reporting service  
9 and pays for a transcript of the record within the time for  
10 filing a motion for rehearing, the 20-day period within which  
11 the motion may be filed shall commence upon the delivery of the  
12 transcript to the respondent.

13 Section 150. Rehearing. Whenever the Secretary is  
14 satisfied that substantial justice has not been done in the  
15 revocation, suspension, or refusal to issue or renew a license,  
16 the Secretary may order a rehearing by the same or another  
17 hearing officer or by the Board.

18 Section 155. Prima facie proof. An order or a certified  
19 copy thereof, over the seal of the Department and purporting to  
20 be signed by the Secretary, shall be prima facie proof of the  
21 following:

22 (1) that the signature is the genuine signature of the  
23 Secretary;

24 (2) that such Secretary is duly appointed and

1 qualified; and

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

4 Section 160. Restoration of license. At any time after the  
5 suspension or revocation of any license, the Department may  
6 restore the license to the accused person, unless after an  
7 investigation and a hearing the Department determines that  
8 restoration is not in the public interest.

9 Section 165. Surrender of license. Upon the revocation or  
10 suspension of any license, the licensee shall immediately  
11 surrender the license to the Department. If the licensee fails  
12 to do so, the Department shall have the right to seize the  
13 license.

14 Section 170. Summary suspension. The Secretary may  
15 summarily suspend the license of a licensee under this Act  
16 without a hearing, simultaneously with the institution of  
17 proceedings for a hearing provided for in this Act, if the  
18 Secretary finds that evidence in his or her possession  
19 indicates that continuation in practice would constitute an  
20 imminent danger to the public. In the event that the Secretary  
21 summarily suspends a license without a hearing, a hearing by  
22 the Department must be held within 30 days after the suspension  
23 has occurred.



1           Section 175. Certificate of record. The Department shall  
2 not be required to certify any record to the court or file any  
3 answer in court or otherwise appear in any court in a judicial  
4 review proceeding, unless there is filed in the court, with the  
5 complaint, a receipt from the Department acknowledging payment  
6 of the costs of furnishing and certifying the record. Failure  
7 on the part of the plaintiff to file a receipt in court shall  
8 be grounds for dismissal of the action.

9           Section 180. Administrative Review Law. All final  
10 administrative decisions of the Department are subject to  
11 judicial review under the Administrative Review Law and its  
12 rules. The term "administrative decision" is defined as in  
13 Section 3-101 of the Code of Civil Procedure.

14           Section 185. Illinois Administrative Procedure Act. The  
15 Illinois Administrative Procedure Act is hereby expressly  
16 adopted and incorporated in this Act as if all of the  
17 provisions of such Act were included in this Act, except that  
18 the provision of subsection (d) of Section 10-65 of the  
19 Illinois Administrative Procedure Act that provides that at  
20 hearings the licensee has the right to show compliance with all  
21 lawful requirements for retention, continuation, or renewal of  
22 the license is specifically excluded. For purposes of this Act,  
23 the notice required under Section 10-25 of the Illinois

1 Administrative Procedure Act is deemed sufficient when mailed  
2 to the last known address of a party.

3 Section 190. Home rule. Pursuant to paragraph (h) of  
4 Section 6 of Article VII of the Illinois Constitution of 1970,  
5 the power to regulate and issue licenses for the practice of  
6 midwifery shall, except as may otherwise be provided within and  
7 pursuant to the provisions of this Act, be exercised by the  
8 State and may not be exercised by any unit of local government,  
9 including home rule units.

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

12 Section 900. The Regulatory Sunset Act is amended by adding  
13 Section 4.29 as follows:

14 (5 ILCS 80/4.29 new)

15 Sec. 4.29. Act repealed on January 1, 2019. The following  
16 Act is repealed on January 1, 2019:

17 The Home Birth Safety Act.

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

20 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

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

2 Sec. 4. Exemptions.

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

4 (1) persons lawfully carrying on their particular  
5 profession or business under any valid existing regulatory  
6 Act of this State, including without limitation persons  
7 engaged in the practice of midwifery who are licensed under  
8 the Home Birth Safety Act;

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

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

14 (b) (Blank).

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

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

18 (225 ILCS 65/50-15) (was 225 ILCS 65/5-15)

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

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

21 (a) For the protection of life and the promotion of health,  
22 and the prevention of illness and communicable diseases, any  
23 person practicing or offering to practice advanced,  
24 professional, or practical nursing in Illinois shall submit

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

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

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

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

19 (3) The furnishing of nursing assistance in an  
20 emergency.

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

25 (5) The incidental care of the sick by members of the  
26 family, domestic servants or housekeepers, or care of the

1 sick where treatment is by prayer or spiritual means.

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

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

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

24 (9) The practice of professional nursing by one who is  
25 a registered professional nurse under the laws of another  
26 state, territory of the United States or country and has

1 applied in writing to the Department, in form and substance  
2 satisfactory to the Department, for a license as a  
3 registered professional nurse and who is qualified to  
4 receive such license under Section 55-10, until (1) the  
5 expiration of 6 months after the filing of such written  
6 application, (2) the withdrawal of such application, or (3)  
7 the denial of such application by the Department.

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

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

24 (12) Delegation to authorized direct care staff  
25 trained under Section 15.4 of the Mental Health and  
26 Developmental Disabilities Administrative Act consistent

1           with the policies of the Department.

2           Nothing in this Act shall be construed to limit the  
3 delegation of tasks or duties by a physician, dentist, or  
4 podiatrist to a licensed practical nurse, a registered  
5 professional nurse, or other persons.

6           (Source: P.A. 95-639, eff. 10-5-07; 95-876, eff. 8-21-08.)