



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB1665

Introduced 2/15/2011, by Rep. Robyn Gabel

#### SYNOPSIS AS INTRODUCED:

New Act

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 Integration Act. Provides that beginning January 1 2013, Illinois hospitals shall implement emergency transfer protocols for home birth patients developed in collaboration with community midwives or their agent. Sets forth the requirements for the protocols. Provides that the Department of Public Health and the Illinois Council of Certified Professional Midwives or their agent shall jointly develop guidelines for the implementation of the Act. Provides that the guidelines shall be communicated to the trauma center medical directors committees and the medical directors committees of each EMS region in this State within 6 months after the effective date of the Act. Sets forth a provision concerning the powers and duties of the Department and rules and vicarious liability. Amends the Medical Practice Act of 1987 and the Nurse Practice Act to exempt community midwives engaged in the transport and transfer of care of home birth mothers or infants in a case of emergency. Makes other changes.

LRB097 08321 RPM 48448 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning home birth integration.

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 Integration Act.

6 Section 5. Purpose. The General Assembly finds that due to  
7 an extreme shortage of licensed home birth providers, a  
8 significant percentage of Illinois home birth families engage  
9 the services of unregulated, underground, community midwives  
10 to attend their planned home births. It further finds that the  
11 recent Publication #476 of the American College of  
12 Obstetricians and Gynecologists emphasizes the importance of  
13 providing home birth families with an integrated and regulated  
14 health system that ensures a plan for safe and quick  
15 transportation to a nearby hospital in the event of an  
16 emergency. It is hereby declared that the lack of integration  
17 of community home birth midwives into the Illinois Emergency  
18 Medical System creates a serious gap in care that negatively  
19 affects the health, safety, and welfare of hundreds of Illinois  
20 mothers annually who choose to give birth at home as well as  
21 the health, safety, and welfare of their infants. The purpose  
22 of this Act is to require the Department of Public Health,  
23 Illinois community home birth midwives, and Illinois hospitals

1 to work together to create protocols for receiving transports  
2 of home birth mothers, infants, or both, which include methods  
3 of transferring medical charts and methods of communication  
4 that maintain the underground midwife's anonymity and  
5 therefore do not discourage midwives from transporting in a  
6 situation where the health and welfare of mother or baby  
7 requires it. This Act shall be liberally construed to best  
8 carry out these purposes.

9 Section 10. Definitions. As used in this Act:

10 "Department" means the Department of Public Health.

11 "Director" means the Director of Public Health.

12 "Emergency" means a medical condition of recent onset and  
13 severity that would lead a prudent layperson, possessing an  
14 average knowledge of medicine and health, to believe that  
15 urgent or unscheduled medical care is required.

16 "Hospital" has the meaning ascribed to that term in the  
17 Hospital Licensing Act.

18 "Community midwife" means any midwife serving the home  
19 birth community in this State who is not licensed under the  
20 Nurse Practice Act.

21 "Emergency medical services system" or "EMS system" means  
22 an organization of hospitals, vehicle service providers, and  
23 personnel approved by the Department in a specific geographic  
24 area that coordinates and provides pre-hospital and  
25 inter-hospital emergency care and non-emergency medical

1 transports at a BLS, ILS, or ALS level pursuant to a System  
2 program plan submitted to and approved by the Department, and  
3 pursuant to the EMS Region Plan adopted for the EMS Region in  
4 which the System is located.

5 "Patient" means the mother or infant receiving or planning  
6 to receive home birth services from the community midwife.

7 "EMS medical directors committee" is a committee comprised  
8 of EMS medical directors and fire personnel within the regional  
9 emergency medical system.

10 "Trauma center medical directors committee" is a committee  
11 comprised of the region's trauma center medical directors.

12 "Certified professional midwives" or "CPMs" are community  
13 midwives who have earned a national certification in midwifery.

14 Section 15. Home birth emergency transfer protocols.

15 (a) Beginning January 1 2013, Illinois hospitals shall  
16 implement emergency transfer protocols for home birth patients  
17 developed in collaboration with community midwives or their  
18 agent. These protocols must do all of the following:

19 (1) Allow rapid transfer of patient and patient medical  
20 records when an emergency arises during the course of,  
21 immediately after, or in the 6 weeks following a planned  
22 home birth.

23 (2) Allow professional communication between the  
24 midwife and transport and hospital personnel before,  
25 during, and after transport.

1           (3) Prohibit the receiving hospital or personnel and  
2           the EMS responders or other transport agency personnel from  
3           filing a report with the Department of Children and Family  
4           Services merely for the fact of a planned home birth.

5           (4) Prohibit the receiving hospital or personnel and  
6           the EMS responders or other transport agency personnel from  
7           filing a report with the Department of Financial and  
8           Professional Regulation or local authorities solely for  
9           the fact of attending a home birth.

10          (b) The protocols described in subsection (a) of this  
11          Section may not do any of the following:

12           (1) Require the midwife to reveal her identity or  
13           location.

14           (2) Require the family to reveal the midwife's identity  
15           or location.

16          Section 20. Development. Upon the effective date of this  
17          Act, the Department and the Illinois Council of Certified  
18          Professional Midwives or their agent shall jointly develop  
19          guidelines for the implementation of this Act. These guidelines  
20          shall be communicated to the trauma center medical directors  
21          committees and the medical directors committees of each EMS  
22          region in this State within 6 months after the effective date  
23          of this Act.

24          Within 6 months after receipt of these guidelines, the  
25          trauma center medical directors committees and EMS medical

1 directors committee of each EMS region in this State shall, in  
2 collaboration with local community midwives or their agents,  
3 develop protocols to carry out the provisions of this Act and  
4 the regional medical directors committee shall submit these  
5 protocols to the Department for approval.

6 If the Department suggest changes to the plan or protocols,  
7 then the committee shall implement the changes or engage in  
8 further dialogue with the Department.

9 Section 25. Powers and duties of the Department; rules. The  
10 Department shall have the authority and responsibility to:

11 (1) Approve or deny plans submitted by regional medical  
12 directors committees within 3 months after their  
13 submission. For any plans not meeting approval, the  
14 Department shall suggest changes.

15 (2) Ensure that all negotiations shall be completed and  
16 plans and protocols shall be in place across all regions by  
17 January 1, 2013.

18 (3) Monitor the ongoing regional programs.

19 (4) Keep such records that the Department determines  
20 are necessary, however in no circumstances can such records  
21 be used to criminally implicate midwives or parents solely  
22 for the act of participating in a home birth, nor for  
23 parents exercising their legal right to informed consent or  
24 informed denial of treatment.

1           Section 30. Vicarious liability. No physician licensed to  
2 practice medicine in all its branches or physician's assistant,  
3 nurse, advanced practice nurse, medical assistant or  
4 technician, or first responder shall be held liable for an  
5 injury solely resulting from an act or omission by a midwife  
6 occurring outside of a hospital, doctor's office, or health  
7 care facility. Except as may otherwise be provided by law,  
8 nothing in this Section shall exempt any physician licensed to  
9 practice medicine in all its branches, physician's assistant,  
10 nurse, advanced practice nurse, medical assistant or  
11 technician, or first responder from liability for his or her  
12 own negligent, grossly negligent, or willful or wanton acts or  
13 omissions.

14           Section 900. 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 November 30, 2011)

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  
22 Act of this State;

23               (2) persons rendering gratuitous services in cases of  
24 emergency;

1 (3) persons treating human ailments by prayer or  
2 spiritual means as an exercise or enjoyment of religious  
3 freedom; ~~or~~

4 (4) persons practicing the specified occupations set  
5 forth in in subsection (a) of, and pursuant to a licensing  
6 exemption granted in subsection (b) or (d) of, Section  
7 2105-350 of the Department of Professional Regulation Law  
8 of the Civil Administrative Code of Illinois, but only for  
9 so long as the 2016 Olympic and Paralympic Games  
10 Professional Licensure Exemption Law is operable; or

11 (5) community midwives engaged in the transport and  
12 transfer of care of home birth mothers or infants in a case  
13 of emergency.

14 (b) (Blank).

15 (Source: P.A. 96-7, eff. 4-3-09.)

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.

22 (12) Delegation to authorized direct care staff  
23 trained under Section 15.4 of the Mental Health and  
24 Developmental Disabilities Administrative Act consistent  
25 with the policies of the Department.

26 (13) The practice, services, or activities of persons

1 practicing the specified occupations set forth in  
2 subsection (a) of, and pursuant to a licensing exemption  
3 granted in subsection (b) or (d) of, Section 2105-350 of  
4 the Department of Professional Regulation Law of the Civil  
5 Administrative Code of Illinois, but only for so long as  
6 the 2016 Olympic and Paralympic Games Professional  
7 Licensure Exemption Law is operable.

8 (14) County correctional personnel from delivering  
9 prepackaged medication for self-administration to an  
10 individual detainee in a correctional facility.

11 (15) Community midwives engaged in the transport and  
12 transfer of care of home birth mothers or infants in a case  
13 of emergency.

14 Nothing in this Act shall be construed to limit the  
15 delegation of tasks or duties by a physician, dentist, or  
16 podiatrist to a licensed practical nurse, a registered  
17 professional nurse, or other persons.

18 (Source: P.A. 95-639, eff. 10-5-07; 95-876, eff. 8-21-08; 96-7,  
19 eff. 4-3-09; 96-516, eff. 8-14-09; 96-1000, eff. 7-2-10.)