



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0645

Introduced 1/28/2005, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.26 new

225 ILCS 60/4

225 ILCS 65/5-15

from Ch. 111, par. 4400-4

Creates the Certified Professional Midwife Licensure Act. Provides for licensure of persons providing midwifery services. Amends the Regulatory Sunset Act to repeal the new Act on January 1, 2016. Amends the Medical Practice Act of 1987 and the Nursing and Advanced Practice Nursing Act to provide that those Acts do not prohibit the practice of midwifery by persons licensed under the Certified Professional Midwives Licensure Act. Effective immediately.

LRB094 06862 RAS 36969 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning regulation.

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

4 Section 1. Short title. This Act may be cited as the  
5 Certified Professional Midwife Licensure Act.

6 Section 5. Findings and purpose. This Act is intended to  
7 establish a licensing procedure for certified professional  
8 midwives in Illinois. The General Assembly finds and declares  
9 the following:

10 (1) The intent of this Act is to encourage and enable  
11 the practice of midwifery by certified professional  
12 midwives so that this profession can be recognized and  
13 regulated independently, according to the principles  
14 recommended by the Pew Health Professions Commission and  
15 the American Public Health Association, to increase the  
16 availability of midwives to meet the maternal-child health  
17 needs of Illinois families.

18 (2) Consumers continue to request the care of  
19 direct-entry midwives.

20 (3) Direct-entry midwives have continued to provide  
21 services to families in Illinois despite being unregulated  
22 since 1963 and have participated in national credentialing  
23 organized to meet professional standards.

24 (4) The Midwives Model of Care, as defined by the  
25 Midwifery Task Force, includes (i) monitoring the  
26 physical, psychological and social well-being of the  
27 mother throughout the childbearing cycle, (ii) providing  
28 the mother with individualized education, counseling, and  
29 prenatal care, continuous hands-on assistance during labor  
30 and delivery, and postpartum support, (iii) minimizing  
31 technological interventions, and (iv) identifying and  
32 referring women who require obstetrical attention. The

1 application of this woman-centered model of care has been  
2 proven to reduce the incidence of birth injury, trauma, and  
3 cesarean section.

4 (5) In recognition of major changes in health care  
5 regulation and practice, the Pew Health Professions  
6 Commission, through its Taskforce on Health Care Workforce  
7 Regulation, recommends that "until national models for  
8 scopes of practice can be developed and adopted, states  
9 should explore and develop mechanisms for existing  
10 professions to evolve their existing scopes of practice and  
11 for new professions (or previously unregulated  
12 professions) to emerge", and further recommends that "a  
13 number of professions and disciplines that use  
14 non-mainstream therapies safely and effectively should be  
15 recognized and regulated as appropriate".

16 (6) In its April 1999 report, the Pew Health  
17 Professions Commission, in conjunction with the Center for  
18 the Health Professions, recommended that "midwives should  
19 be recognized as independent and collaborative  
20 practitioners" and recommended "legislative action that  
21 ensures: appropriate entry-to-practice standards" and the  
22 "elimination of requirements that midwives be directed or  
23 supervised by other health care professionals".

24 (7) In its resolution, "Increasing access to  
25 out-of-hospital maternity care services through  
26 state-regulated and nationally-certified direct-entry  
27 midwives", the American Public Health Association (i)  
28 supports efforts to increase access to out-of-hospital  
29 maternity care services and increase the range of quality  
30 maternity care choices available to consumers, through  
31 recognition that legally regulated and nationally  
32 certified direct-entry midwives can serve clients desiring  
33 safe, planned, out-of-hospital maternity care services,  
34 and (ii) encourages the development and implementation of  
35 guidelines for the licensing and certification of  
36 direct-entry midwives and the practice of midwifery for use

1 by state and local health agencies, health planners,  
2 maternity care providers, and professional organizations.

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

4 "Approved program of midwifery education" means an  
5 education program accredited or pre-accredited by a  
6 direct-entry midwifery accreditation agency recognized by the  
7 United States Department of Education, i.e. the Midwifery  
8 Education Accreditation Council (MEAC) or its successor.

9 "Certified professional midwife" means a person who has met  
10 the standards for certification set by the North American  
11 Registry of Midwives or its successor and has been awarded this  
12 credential.

13 "Consultation" means the process whereby a licensed  
14 midwife seeks the advice or opinion of a physician or another  
15 member of a health care team.

16 "Council" means the Licensed Midwife Council.

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

19 "Secretary" means the Secretary of Financial and  
20 Professional Regulation.

21 "Informed consent" means a document that includes, but is  
22 not limited to, disclosure of the midwife's education, skill  
23 level, liability insurance coverage, and written plan for  
24 medical emergencies.

25 "Licensed midwife" means a person who is licensed under  
26 this Act.

27 "Midwifery" means the provision, on a continuing basis and  
28 within a health care system that provides for consultation and  
29 referral as needed, of the necessary care and education to  
30 women during pregnancy, labor, and the postpartum and  
31 interpartum periods; attending deliveries that the individual  
32 is responsible for; and caring for the newborn infant.

33 "Midwifery" also includes the provision of additional primary  
34 health care services to women and their families, which  
35 include, but are not limited to, well-woman gynecological

1 services such as non-pharmacological family planning and  
2 routine pap smears.

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

7 "Peer review" means an educational review process in  
8 accordance with current NARM peer review standards that  
9 includes a certificate of participation document.

10 "Referral" means the process whereby a licensed midwife  
11 directs the client to a physician or other health care  
12 professional for management of a particular problem or aspect  
13 of the client's care.

14 Section 15. License required.

15 (a) Beginning July 1, 2007, no person shall practice  
16 midwifery in this State without a license under this Act,  
17 except as provided in Section 20.

18 (b) No person shall use in connection with the person's  
19 name any letters, words, or insignia indicating or implying  
20 that the person is a licensed midwife unless the person is  
21 licensed in accordance with this Act. A person so licensed may  
22 use the abbreviation "L.M." in connection with the person's  
23 name.

24 Section 20. Exemptions. Nothing in this Act shall be  
25 construed to prohibit or to require registration under this  
26 Act, with regard to any of the following:

27 (1) The gratuitous rendering of services.

28 (2) The rendering of services by a person if such  
29 attendance is in accordance with the person's religious  
30 faith and is rendered to persons with a similar religious  
31 faith.

32 (3) Certified nurse midwives authorized under the  
33 Advanced Practice Nursing Board to practice in Illinois.

34 (4) Licensed physicians or other licensed health care

1 providers authorized to provide maternity care.

2 (5) Midwifery that is included in the educational  
3 programs of student midwives enrolled in approved programs  
4 of midwifery education.

5 Section 25. Licensed Midwife Council. There shall be  
6 established within the Department of Financial and  
7 Professional Regulation a Licensed Midwife Council composed of  
8 7 members appointed by the Secretary. The appointed members of  
9 the Council shall include 4 licensed midwives and 3 consumers.  
10 A consumer is a person who (i) has never been a midwife nor  
11 studied to be a midwife, (ii) has no financial interest in the  
12 practice of midwifery or in any health care facility, agency,  
13 or insurer, and (iii) has engaged a provider who practices or  
14 has practiced as a midwife in an out-of-hospital birth setting.  
15 Of the members first appointed to the Council, 3 members shall  
16 be appointed for a term of 3 years, 2 members shall be  
17 appointed for a term of 2 years, and 2 members shall be  
18 appointed for a term of one year. Thereafter, all members shall  
19 serve 3-year terms. In making appointments to the Council, the  
20 Secretary shall consider the recommendations of individuals  
21 and organizations directly involved with midwifery in this  
22 State. A vacancy in an unexpired term shall be filled in the  
23 same manner as the original appointment. The Secretary may  
24 remove a Council member for misconduct, incapacity, or neglect  
25 of duty, but only after notice and a public hearing, unless the  
26 notice and hearing are waived by the member in writing. The  
27 Council shall elect from its membership a chairperson. The  
28 Council may meet as needed, but shall meet at least twice a  
29 year.

30 Section 30. Powers of the Council. The Licensed Midwife  
31 Council is authorized to:

32 (1) Recommend and approve the adoption and revision of  
33 any rules that may be necessary to carry out the provisions  
34 of this Act that are designed to protect the health,

1 safety, and welfare of the public. The rules shall include  
2 the scope of practice and services provided regarding the  
3 use of equipment, procedures, and medications.

4 (2) Conduct hearings and disciplinary conferences on  
5 disciplinary charges of those licensed as provided in  
6 Section 75 and those in violation of Section 15.

7 (3) Report to the Department, upon completion of a  
8 hearing, the disciplinary actions recommended to be taken  
9 against a person violating this Act.

10 (4) Approve, deny, or withdraw approval of required  
11 education and continuing educational programs.

12 Section 35. Council members; immunity from suit. The  
13 members of the Council are immune from suit in any action based  
14 upon disciplinary proceedings or other acts performed as  
15 members of the Council, except those involving willful or  
16 wanton misconduct.

17 Section 40. Council members; compensation. Members of the  
18 Council shall serve without compensation, but shall be  
19 reimbursed for actual expenses necessarily incurred in the  
20 discharge of their duties.

21 Section 45. Powers and duties of the Department.

22 (a) The Department shall exercise the powers and duties  
23 necessary to effectuate the purposes of this Act. None of the  
24 functions, powers, or duties of the Department with respect to  
25 licensure shall be exercised by the Department except upon  
26 review and approval by the Council.

27 (b) The Department shall have the authority and  
28 responsibility to:

29 (1) license individuals who qualify for licensure;

30 (2) issue quarterly reports to the Council on the  
31 status of all formal complaints filed by the Department and  
32 on significant issues as determined by the Council; and

33 (3) promulgate rules for licensure of candidates

1 authorized to practice under this Act.

2 Section 50. Eligibility.

3 (a) A person is eligible to be licensed as a midwife if  
4 that person meets the following qualifications:

5 (1) holds the credential of certified professional  
6 midwife;

7 (2) has completed an approved program of midwifery  
8 education with a minimum of 1,800 contact hours or its  
9 equivalent;

10 (3) is in good standing with the North American  
11 Registry of Midwives;

12 (4) participates in peer review at least twice per  
13 year; and

14 (5) provides the Department with an annually updated  
15 informed consent document.

16 (b) For a period of 5 years following the effective date of  
17 this Act, the Council shall have the authority and discretion  
18 to license applicants who have practiced midwifery prior to the  
19 effective date of this Act and have had an application accepted  
20 by the North American Registry of Midwives for certification.  
21 Such license shall terminate automatically 2 years after the  
22 date of registration unless the applicant has, by such time,  
23 successfully completed the examination provided by the North  
24 American Registry of Midwives.

25 Section 55. Scope of practice; informed consent.

26 (a) A licensed midwife may perform any of the midwifery  
27 services and skills established by the North American Registry  
28 of Midwives, including, but not limited to, antepartum,  
29 intrapartum, and postpartum care of women; newborn assessment  
30 and care of newborns; and well-woman gynecology and  
31 non-prescriptive family planning. However, the midwife must  
32 practice within the standards for practice and code of ethics  
33 of the North American Registry of Midwives.

34 (b) A copy of the informed consent document, signed and



1 dated by the client, must be kept in each client's chart.

2 Section 60. Application for license. A person shall apply  
3 for licensure as a midwife to the Secretary on a form furnished  
4 by the Department. The application shall be accompanied by  
5 payment of the specified fee and evidence that the person meets  
6 the eligibility requirements of this Act.

7 Section 65. Renewals. A midwife license must be renewed  
8 every 3 years. An applicant for renewal shall submit to the  
9 Department (i) a renewal application on the prescribed form  
10 furnished by the Department and (ii) a renewal fee as  
11 prescribed by the Department.

12 Section 70. Fees. The Department shall have the authority  
13 to (i) charge each candidate for licensure a fee, which must be  
14 submitted with his or her application and (ii) charge each  
15 licensed midwife a fee for renewal of his or her license.

16 Section 75. Disciplinary action.

17 (a) A licensed midwife or applicant for licensure, renewal,  
18 or reinstatement shall not engage in unprofessional conduct,  
19 which includes:

20 (1) fraudulently procuring or using a license;

21 (2) willfully making or filing false reports or  
22 records, willfully impeding or obstructing the filing of  
23 reports or records, or willfully failing to file required  
24 reports or records in the practice of midwifery;

25 (3) using dishonest or misleading advertising;

26 (4) failing to comply with any statutes related to the  
27 practice of midwifery;

28 (5) conviction of a crime related to the practice of  
29 midwifery as described in this Act;

30 (6) failing to provide, in a timely manner, copies of  
31 all records of the care provided to a person after a  
32 written request is received from the person who received

1 care; and

2 (7) engaging in gross or repeated malpractice.

3 (b) After a hearing, and upon making a finding of  
4 unprofessional conduct, the Licensed Midwife Council shall (i)  
5 reprimand the licensed midwife or applicant, (ii) revoke the  
6 license or refuse to issue or renew a license, or (iii) seek an  
7 injunction against the continuation of the conduct.

8 Section 80. Penalties. A person who knowingly violates any  
9 of the provisions of this Act is guilty of a Class A  
10 misdemeanor.

11 Section 85. Reimbursement. A midwife licensed to practice  
12 midwifery is eligible for compensation as a provider under the  
13 Illinois Medicaid program and any other third party  
14 reimbursement plan, including Medicare, subject to the laws of  
15 this State and applicable federal law.

16 Section 90. Advertising. A person licensed under this Act  
17 may advertise the availability of professional services in the  
18 public media or on the premises where such professional  
19 services are rendered, provided that the advertising is  
20 truthful and not misleading.

21 Section 95. Women's rights regarding the birth of the baby.  
22 Women have a right to give birth where and with whom they  
23 choose. This Act does not prohibit the attendance at birth of  
24 the mother's choice of family, friends, and other persons.

25 Section 100. Liability of licensed midwives. Licensed  
26 midwives shall be liable for their acts or omissions in the  
27 performance of the services that they provide, and no  
28 physician, nurse, pre-hospital emergency personnel, or health  
29 care institution shall be liable for any act or omission  
30 resulting from the administration of services by any licensed  
31 midwife. The provisions of this Section shall not relieve any

1 other licensed midwife, physician, nurse, pre-hospital  
2 emergency personnel, or health care institution from liability  
3 for any willful or wanton act or omission or any act or  
4 omission constituting gross negligence, or under circumstances  
5 where a licensed midwife has a business relationship with any  
6 such licensed midwife, physician, nurse, pre-hospital  
7 emergency personnel, or health care institution. A physician,  
8 nurse, pre-hospital emergency personnel, or health care  
9 institution shall not be deemed to have established a business  
10 relationship solely by providing consultation or accepting a  
11 referral from the midwife in accordance with this Act.

12 Section 105. Rules. The Department shall adopt rules for  
13 the licensure of midwives under this Act by January 1, 2006.

14 Section 900. The Regulatory Sunset Act is amended by adding  
15 Section 4.26 as follows:

16 (5 ILCS 80/4.26 new)

17 Sec. 4.26. Act repealed on January 1, 2016. The following  
18 Act is repealed on January 1, 2016:

19 The Certified Professional Midwife Licensure Act.

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

22 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

23 Sec. 4. Exemptions.

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

25 (1) persons lawfully carrying on their particular  
26 profession or business under any valid existing regulatory  
27 Act of this State;

28 (2) persons rendering gratuitous services in cases of  
29 emergency; or

30 (3) persons treating human ailments by prayer or  
31 spiritual means as an exercise or enjoyment of religious

1 freedom.

2 (b) (Blank).

3 (c) Nothing in this Act shall be construed as prohibiting  
4 the practice of midwifery by persons licensed under the  
5 Certified Professional Midwife Licensure Act.

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

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

9 (225 ILCS 65/5-15)

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

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

22 This Act does not prohibit the following:

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

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

32 (c) The furnishing of nursing assistance in an  
33 emergency.

34 (d) The practice of nursing by a nurse who holds an

1 active license in another state when providing services to  
2 patients in Illinois during a bonafide emergency or in  
3 immediate preparation for or during interstate transit.

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

7 (f) Persons from being employed as nursing aides,  
8 attendants, orderlies, and other auxiliary workers in  
9 private homes, long term care facilities, nurseries,  
10 hospitals or other institutions.

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

34 (h) The practice of practical nursing by one who is a  
35 licensed practical nurse under the laws of another U.S.  
36 jurisdiction and has applied in writing to the Department,

1 in form and substance satisfactory to the Department, for a  
2 license as a licensed practical nurse and who is qualified  
3 to receive such license under Section 10-30, until (1) the  
4 expiration of 6 months after the filing of such written  
5 application, (2) the withdrawal of such application, or (3)  
6 the denial of such application by the Department.

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

30 (j) The practice of professional nursing by one who is  
31 a registered professional nurse under the laws of another  
32 state, territory of the United States or country and has  
33 applied in writing to the Department, in form and substance  
34 satisfactory to the Department, for a license as a  
35 registered professional nurse and who is qualified to  
36 receive such license under Section 10-30, until (1) the

1 expiration of 6 months after the filing of such written  
2 application, (2) the withdrawal of such application, or (3)  
3 the denial of such application by the Department.

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

18 (l) Any person licensed in this State under any other  
19 Act from engaging in the practice for which she or he is  
20 licensed.

21 (m) Delegation to authorized direct care staff trained  
22 under Section 15.4 of the Mental Health and Developmental  
23 Disabilities Administrative Act.

24 (n) The practice of midwifery by persons licensed under  
25 the Certified Professional Midwife Licensure Act.

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

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

31 Section 999. Effective date. This Act takes effect upon  
32 becoming law.