



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

HB0388

Introduced 1/26/2007, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.28 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 the regulation of persons providing midwifery services through licensure by the Department of Financial and Professional Regulation. Amends the Regulatory Sunset Act to repeal the new Act on January 1, 2018. 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.

LRB095 05276 RAS 25354 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.

1           (4) The Midwives Model of Care, as defined by the  
2 Midwifery Task Force, includes (i) monitoring the  
3 physical, psychological, and social well-being of the  
4 mother throughout the childbearing cycle, (ii) providing  
5 the mother with individualized education, counseling, and  
6 prenatal care, continuous hands-on assistance during labor  
7 and delivery, and postpartum support, (iii) minimizing  
8 technological interventions, and (iv) identifying and  
9 referring women who require obstetrical attention. The  
10 application of this woman-centered model of care has been  
11 proven to reduce the incidence of birth injury, trauma, and  
12 cesarean section.

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

25           (6) In its April 1999 report, the Pew Health  
26 Professions Commission, in conjunction with the Center for

1 the Health Professions, recommended that "midwives should  
2 be recognized as independent and collaborative  
3 practitioners" and recommended "legislative action that  
4 ensures: appropriate entry-to-practice standards" and the  
5 "elimination of requirements that midwives be directed or  
6 supervised by other health care professionals".

7 (7) In its resolution, "Increasing access to  
8 out-of-hospital maternity care services through  
9 state-regulated and nationally-certified direct-entry  
10 midwives", the American Public Health Association (i)  
11 supports efforts to increase access to out-of-hospital  
12 maternity care services and increase the range of quality  
13 maternity care choices available to consumers, through  
14 recognition that legally regulated and nationally  
15 certified direct-entry midwives can serve clients desiring  
16 safe, planned, out-of-hospital maternity care services,  
17 and (ii) encourages the development and implementation of  
18 guidelines for the licensing and certification of  
19 direct-entry midwives and the practice of midwifery for use  
20 by state and local health agencies, health planners,  
21 maternity care providers, and professional organizations.

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

23 "Approved program of midwifery education" means an  
24 education program accredited or pre-accredited by a  
25 direct-entry midwifery accreditation agency recognized by the

1 United States Department of Education, such as the Midwifery  
2 Education Accreditation Council (MEAC) or its successor.

3 "Certified professional midwife" means a person who has met  
4 the standards for certification set by the North American  
5 Registry of Midwives or its successor and has been awarded this  
6 credential.

7 "Consultation" means the process whereby a licensed  
8 midwife seeks the advice or opinion of a physician or another  
9 member of a health care team.

10 "Council" means the Licensed Midwife Council.

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

13 "Secretary" means the Secretary of Financial and  
14 Professional Regulation.

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

19 "Licensed midwife" means a person who is licensed under  
20 this Act.

21 "Midwifery" means the provision, on a continuing basis and  
22 within a health care system that provides for consultation and  
23 referral as needed, of the necessary care and education to  
24 women during pregnancy, labor, and the postpartum and  
25 interpartum periods; attending deliveries that the individual  
26 is responsible for; and caring for the newborn infant.

1 "Midwifery" also includes the provision of additional primary  
2 health care services to women and their families, which  
3 include, but are not limited to, well-woman gynecological  
4 services such as non-pharmacological family planning and  
5 routine pap smears.

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

10 "Peer review" means an educational review process in  
11 accordance with current NARM peer review standards that  
12 includes a certificate of participation document.

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

17 Section 15. License required.

18 (a) Beginning July 1, 2008, no person shall practice  
19 midwifery in this State without a license under this Act,  
20 except as provided in Section 20.

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

1 name.

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

5 (1) The gratuitous rendering of services.

6 (2) The rendering of services by a person if such  
7 attendance is in accordance with the person's religious  
8 faith and is rendered to persons with a similar religious  
9 faith.

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

12 (4) Licensed physicians or other licensed health care  
13 providers authorized to provide maternity care.

14 (5) Midwifery that is included in the educational  
15 programs of student midwives enrolled in approved programs  
16 of midwifery education.

17 Section 25. Licensed Midwife Council. There shall be  
18 established within the Department of Financial and  
19 Professional Regulation a Licensed Midwife Council composed of  
20 7 members appointed by the Secretary. The appointed members of  
21 the Council shall include 4 licensed midwives and 3 consumers.  
22 A consumer is a person who (i) has never been a midwife nor  
23 studied to be a midwife, (ii) has no financial interest in the  
24 practice of midwifery or in any health care facility, agency,

1 or insurer, and (iii) has engaged a provider who practices or  
2 has practiced as a midwife in an out-of-hospital birth setting.  
3 Of the members first appointed to the Council, 3 members shall  
4 be appointed for a term of 3 years, 2 members shall be  
5 appointed for a term of 2 years, and 2 members shall be  
6 appointed for a term of one year. Thereafter, all members shall  
7 serve 3-year terms. In making appointments to the Council, the  
8 Secretary shall consider the recommendations of individuals  
9 and organizations directly involved with midwifery in this  
10 State. A vacancy in an unexpired term shall be filled in the  
11 same manner as the original appointment. The Secretary may  
12 remove a Council member for misconduct, incapacity, or neglect  
13 of duty, but only after notice and a public hearing, unless the  
14 notice and hearing are waived by the member in writing. The  
15 Council shall elect from its membership a chairperson. The  
16 Council may meet as needed, but shall meet at least twice a  
17 year.

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

20 (1) Recommend and approve the adoption and revision of  
21 any rules that may be necessary to carry out the provisions  
22 of this Act that are designed to protect the health,  
23 safety, and welfare of the public. The rules shall include  
24 the scope of practice and services provided regarding the  
25 use of equipment, procedures, and medications.



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

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

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

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

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

18          Section 45. Powers and duties of the Department.

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

1 (b) The Department shall have the authority and  
2 responsibility to:

- 3 (1) license individuals who qualify for licensure;  
4 (2) issue quarterly reports to the Council on the  
5 status of all formal complaints filed by the Department and  
6 on significant issues as determined by the Council; and  
7 (3) promulgate rules for licensure of candidates  
8 authorized to practice under this Act.

9 Section 50. Eligibility.

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

- 12 (1) holds the credential of certified professional  
13 midwife;  
14 (2) has completed an approved program of midwifery  
15 education with a minimum of 1,800 contact hours or its  
16 equivalent;  
17 (3) is in good standing with the North American  
18 Registry of Midwives;  
19 (4) participates in peer review at least twice per  
20 year; and  
21 (5) provides the Department with an annually updated  
22 informed consent document.

23 (b) For a period of 5 years following the effective date of  
24 this Act, the Council shall have the authority and discretion  
25 to license applicants who have practiced midwifery prior to the

1 effective date of this Act and have had an application accepted  
2 by the North American Registry of Midwives for certification.  
3 Such license shall terminate automatically 2 years after the  
4 date of registration unless the applicant has, by such time,  
5 successfully completed the examination provided by the North  
6 American Registry of Midwives.

7 Section 55. Scope of practice; informed consent.

8 (a) A licensed midwife may perform any of the midwifery  
9 services and skills established by the North American Registry  
10 of Midwives, including, but not limited to, antepartum,  
11 intrapartum, and postpartum care of women; newborn assessment  
12 and care of newborns; and well-woman gynecology and  
13 non-prescriptive family planning. However, the midwife must  
14 practice within the standards for practice and code of ethics  
15 of the North American Registry of Midwives.

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

18 Section 60. Application for license. A person shall apply  
19 for licensure as a midwife to the Secretary on a form furnished  
20 by the Department. The application shall be accompanied by  
21 payment of the specified fee and evidence that the person meets  
22 the eligibility requirements of this Act.

23 Section 65. Renewals. A midwife license must be renewed

1 every 3 years. An applicant for renewal shall submit to the  
2 Department (i) a renewal application on the prescribed form  
3 furnished by the Department and (ii) a renewal fee as  
4 prescribed by the Department.

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

9 Section 75. Disciplinary action.

10 (a) A licensed midwife or applicant for licensure, renewal,  
11 or reinstatement shall not engage in unprofessional conduct,  
12 which includes:

13 (1) fraudulently procuring or using a license;

14 (2) willfully making or filing false reports or  
15 records, willfully impeding or obstructing the filing of  
16 reports or records, or willfully failing to file required  
17 reports or records in the practice of midwifery;

18 (3) using dishonest or misleading advertising;

19 (4) failing to comply with any statutes related to the  
20 practice of midwifery;

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

23 (6) failing to provide, in a timely manner, copies of  
24 all records of the care provided to a person after a

1 written request is received from the person who received  
2 care; and

3 (7) engaging in gross or repeated malpractice.

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

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

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

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

22 Section 95. Women's rights regarding the birth of the baby.

1 Women have a right to give birth where and with whom they  
2 choose. This Act does not prohibit the attendance at birth of  
3 the mother's choice of family, friends, and other persons.

4 Section 100. Liability of licensed midwives. Licensed  
5 midwives shall be liable for their acts or omissions in the  
6 performance of the services that they provide, and no  
7 physician, nurse, pre-hospital emergency personnel, or health  
8 care institution shall be liable for any act or omission  
9 resulting from the administration of services by any licensed  
10 midwife. The provisions of this Section shall not relieve any  
11 other licensed midwife, physician, nurse, pre-hospital  
12 emergency personnel, or health care institution from liability  
13 for any willful or wanton act or omission or any act or  
14 omission constituting gross negligence, or under circumstances  
15 where a licensed midwife has a business relationship with any  
16 such licensed midwife, physician, nurse, pre-hospital  
17 emergency personnel, or health care institution. A physician,  
18 nurse, pre-hospital emergency personnel, or health care  
19 institution shall not be deemed to have established a business  
20 relationship solely by providing consultation or accepting a  
21 referral from the midwife in accordance with this Act.

22 Section 105. Rules. The Department shall adopt rules for  
23 the licensure of midwives under this Act by January 1, 2008.

1 Section 900. The Regulatory Sunset Act is amended by adding  
2 Section 4.28 as follows:

3 (5 ILCS 80/4.28 new)

4 Sec. 4.28. Act repealed on January 1, 2018. The following  
5 Act is repealed on January 1, 2018:

6 The Certified Professional Midwife Licensure Act.

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

9 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

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

11 Sec. 4. Exemptions.

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

13 (1) persons lawfully carrying on their particular  
14 profession or business under any valid existing regulatory  
15 Act of this State;

16 (2) persons rendering gratuitous services in cases of  
17 emergency; or

18 (3) persons treating human ailments by prayer or  
19 spiritual means as an exercise or enjoyment of religious  
20 freedom.

21 (b) (Blank).

22 (c) Nothing in this Act shall be construed as prohibiting  
23 the practice of midwifery by persons licensed under the

1 Certified Professional Midwife Licensure Act.

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

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

5 (225 ILCS 65/5-15)

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

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

18 This Act does not prohibit the following:

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



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

4           (c) The furnishing of nursing assistance in an  
5 emergency.

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

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

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

17          (g) The practice of practical nursing by one who has  
18 applied in writing to the Department in form and substance  
19 satisfactory to the Department, for a license as a licensed  
20 practical nurse and who has complied with all the  
21 provisions under Section 10-30, except the passing of an  
22 examination to be eligible to receive such license, until:  
23 the decision of the Department that the applicant has  
24 failed to pass the next available examination authorized by  
25 the Department or has failed, without an approved excuse,  
26 to take the next available examination authorized by the

1 Department or until the withdrawal of the application, but  
2 not to exceed 3 months. An applicant practicing practical  
3 nursing under this Section who passes the examination,  
4 however, may continue to practice under this Section until  
5 such time as he or she receives his or her license to  
6 practice or until the Department notifies him or her that  
7 the license has been denied. No applicant for licensure  
8 practicing under the provisions of this paragraph shall  
9 practice practical nursing except under the direct  
10 supervision of a registered professional nurse licensed  
11 under this Act or a licensed physician, dentist or  
12 podiatrist. In no instance shall any such applicant  
13 practice or be employed in any supervisory capacity.

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

23 (i) The practice of professional nursing by one who has  
24 applied in writing to the Department in form and substance  
25 satisfactory to the Department for a license as a  
26 registered professional nurse and has complied with all the

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

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

1 set forth in subparagraphs (g), (h), (i), and (j) of this  
2 Section shall use the title R.N. Lic. Pend. or L.P.N. Lic.  
3 Pend. respectively and no other.

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

5 Section 999. Effective date. This Act takes effect upon  
6 becoming law.