



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0226

Introduced 1/20/2009, by Rep. Julie Hamos

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.30 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. Imposes conditions on any rulemaking authority. Amends the Regulatory Sunset Act to set a repeal date for the new Act of January 1, 2020. Amends the Medical Practice Act of 1987 and the Nurse Practice Act to make related changes.

LRB096 04100 ASK 14139 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning professions and occupations.

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 physician licensed to
16 practice medicine in all its branches or advanced practice
17 nurse shall be held liable for an injury solely resulting from
18 an act or omission by a licensed midwife occurring outside of a
19 hospital, doctor's office or health care facility.

20 Except as may otherwise be provided by law, nothing in this
21 Section shall exempt any physician licensed to practice
22 medicine in all its branches or advanced practice nurse from
23 liability for his or her own negligent, grossly negligent, or
24 willful or wanton acts or omissions.

1 Section 35. Advertising.

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

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

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

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

22 (b) Rules prescribed by the Department under this Act must
23 provide for the scope of practice, including all of the
24 following:

25 (1) With regard to testing, care, and screening, a

1 licensed midwife shall:

2 (A) offer each client routine prenatal care and
3 testing in accordance with current American College of
4 Obstetricians and Gynecologists guidelines;

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

9 (C) provide clients with labor support, fetal
10 monitoring, and routine assessment of vital signs once
11 active labor is established;

12 (D) supervise delivery of infant and placenta,
13 assess newborn and maternal well-being in immediate
14 postpartum, and perform Apgar scores;

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

17 (F) inspect the placenta and membranes for
18 completeness;

19 (G) inspect the perineum and vagina postpartum for
20 lacerations and stabilize;

21 (H) observe mother and newborn postpartum until
22 stable condition is achieved, but in no event for less
23 than 2 hours;

24 (I) instruct the mother, father, and other support
25 persons, both verbally and in writing, of the special
26 care and precautions for both mother and newborn in the

1 immediate postpartum period;

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

4 (K) use universal precautions with all biohazard
5 materials;

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

8 (M) offer to obtain and submit a blood sample, in
9 accordance with the recommendations for metabolic
10 screening of the newborn;

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

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

17 (P) within 2 hours after the birth, offer the
18 administration of anti-biotic ointment into the eyes
19 of the newborn, in accordance with State law on the
20 prevention of infant blindness; and

21 (Q) maintain adequate antenatal and perinatal
22 records of each client and provide records to
23 consulting licensed physicians and licensed certified
24 nurse-midwives, in accordance with the federal Health
25 Insurance Portability and Accountability Act.

26 (2) With regard to prescription drugs, devices, and

1 procedures, licensed midwives may administer the following
2 medications during the practice of midwifery:

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

4 (B) the following eye prophylactics: 0.5%
5 Erythromycin ophthalmic ointment or 1% Tetracycline
6 ophthalmic ointment for the prevention of neonatal
7 ophthalmia;

8 (C) Oxytocin or Pitocin as a postpartum
9 antihemorrhagic agent or as a prophylaxis for
10 hemorrhage;

11 (D) Methylergonovine or Methergine for the
12 treatment of postpartum hemorrhage;

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

15 (F) Vitamin K for the prophylaxis of hemorrhagic
16 disease of the newborn;

17 (G) Rho(D) immune globulin (Rhogam) for the
18 prevention of Rho(D) sensitization in Rho(D) negative
19 women;

20 (H) Lactated Ringers IV solution may be used for
21 maternal stabilization;

22 (I) Lidocaine injection as a numbing agent for
23 repair of postpartum tears; and

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

1 The medication indications, dose, route of
2 administration, and duration of treatment relating to the
3 administration of drugs and procedures identified under
4 this item (2) are as follows:

5 Medication: Oxygen

6 Indication: Fetal distress

7 Maternal dose: 6-8 L/minute

8 Route of Administration: Mask

9 Duration of Treatment: Until delivery or transfer to a
10 hospital is complete

11 Infant dose: 4-6 L/minute

12 Route of Administration: Bag and mask

13 Infant dose: 4-6 L/minute

14 Route of Administration: Mask

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

17 Medication: 0.5% Erythromycin ophthalmic ointment or 1%

18 Tetracycline ophthalmic ointment

19 Indication: Prophylaxis of Neonatal Ophthalmia

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

21 Route of Administration: Topical

22 Duration of Treatment: 1 dose

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

1 Indication: Postpartum hemorrhage only: prevention or
2 treatment of postpartum hemorrhage only

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

4 Route of Administration: Intramuscularly only

5 Duration of Treatment: 1-2 doses

6 Medication: Methylergonovine (Methergine), 0.2 mg/ml or
7 0.2 mg tabs

8 Indication: Postpartum hemorrhage only

9 Dose: 0.2 mg

10 Route of administration: Intramuscularly or orally single
11 dose

12 Duration of treatment: Every 4 hours, may repeat. Maximum 5
13 doses

14 Contraindicated in hypertension and Raynaud's Disease

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

16 Indication: Treatment of postpartum hemorrhage only

17 Dose: 100-200 mcg tablet

18 Route of administration: orally or rectally

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

20 Caution with Inflammatory Bowel Disease

21 Medication: Vitamin K, 1.0 mg/0.5 ml

22 Indication: Prophylaxis of hemorrhagic disease of the
23 newborn

1 Dose: 1.0 mg injection

2 Route of administration: Intramuscularly

3 Duration of treatment: Single dose

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

5 Indication: Prevention of Rho(D) sensitization in Rho(D)
6 negative women

7 Dose: Unit dose

8 Route of administration: Intramuscularly only

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

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

19 Indication: To achieve maternal stabilization during
20 uncontrolled postpartum hemorrhage or any time blood loss
21 is accompanied by tachycardia, hypotension, decreased
22 level of consciousness, pallor, or diaphoresis

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

1 Route of administration: IV catheter 18 gauge or larger
2 bore

3 Duration of treatment: 2L if hemorrhage is severe

4 Medication: Lidocaine 1% injection

5 Indication: numbing agent for repair of postpartum tears

6 Dose: 1-40 ml infiltration as needed

7 Route of Administration: Topical or injected subcutaneous

8 Duration of treatment: Maximum 40 ml, one time

9 Medication/Procedure: Sterile water papules

10 Indication: For labor pain in the first and second stages
11 of labor

12 Dose: one injection of 0.25-0.5 ml at each of 4 injection
13 sights

14 Route of administration: 4 subcutaneous injections in the
15 small of the back

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

18 (3) With regard to consultation and referral, a
19 licensed midwife shall consult with a licensed physician or
20 a licensed certified nurse midwife providing obstetrical
21 care, whenever there are significant deviations, including
22 abnormal laboratory results, relative to a client's
23 pregnancy or to a neonate. If a referral to a physician or

1 certified nurse midwife is needed, the licensed midwife
2 shall refer the client to a physician or certified nurse
3 midwife and, if possible, remain in consultation with the
4 physician or certified nurse midwife until resolution of
5 the concern; however, consultation does not preclude the
6 possibility of an out-of-hospital birth. It is appropriate
7 for the licensed midwife to maintain care of the client to
8 the greatest degree possible, in accordance with the
9 client's wishes, during the pregnancy and, if possible,
10 during labor, birth and the postpartum period.

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

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

23 (B) Persistent, severe headaches, epigastric pain,
24 or visual disturbances.

25 (C) Persistent symptoms of urinary tract
26 infection.

1 (D) Significant vaginal bleeding before the onset
2 of labor not associated with uncomplicated spontaneous
3 abortion.

4 (E) Rupture of membranes prior to the 37th week
5 gestation.

6 (F) Noted abnormal decrease in or cessation of
7 fetal movement.

8 (G) Anemia resistant to supplemental therapy.

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

11 (I) Non-vertex presentation after 38 weeks
12 gestation.

13 (J) Hyperemesis or significant dehydration.

14 (K) ISO immunization, Rh negative sensitized,
15 positive titers, or any other positive antibody titer,
16 which may have a detrimental effect on the mother or
17 fetus.

18 (L) Elevated blood glucose levels unresponsive to
19 dietary management.

20 (M) Positive HIV antibody test.

21 (N) Primary genital herpes infection in pregnancy.

22 (O) Symptoms of malnutrition or anorexia or
23 protracted weight loss or failure to gain weight.

24 (P) Suspected deep vein thrombosis.

25 (Q) Documented placental anomaly or previa.

26 (R) Documented low lying placenta after 28 weeks

1 gestation.

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

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

11 (U) Lie other than vertex at term.

12 (V) Multiple gestation.

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

15 (X) Marked abnormal fetal heart tones.

16 (Y) Abnormal non-stress test or abnormal
17 biophysical profile.

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

19 (AA) Evidence of intrauterine growth
20 restriction.

21 (BB) Significant abnormal ultrasound findings.

22 (CC) Gestation beyond 42 weeks by reliable
23 confirmed dates.

24 A licensed midwife shall consult with a licensed physician
25 or certified nurse-midwife with regard to any mother who,
26 during intrapartum, presents with or develops any of the

1 following risk factors or presents with or develops other
2 risk factors that, in the judgment of the licensed midwife,
3 warrant consultation:

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

6 (B) Persistent, severe headaches, epigastric pain,
7 or visual disturbances.

8 (C) Significant proteinuria or ketonuria.

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

11 (E) Ruptured membranes without onset of
12 established labor after 18 hours.

13 (F) Significant bleeding prior to delivery or any
14 abnormal bleeding, with or without abdominal pain; or
15 evidence of placental abruption.

16 (G) Lie not compatible with spontaneous vaginal
17 delivery or unstable fetal lie.

18 (H) Failure to progress after 5 hours of active
19 labor or following 2 hours of active second stage
20 labor.

21 (I) Signs or symptoms of maternal infection.

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

23 (K) Fetal heart tones with non-reassuring
24 patterns.

25 (L) Signs or symptoms of fetal distress.

26 (M) Thick meconium or frank bleeding with birth not

1 imminent.

2 (N) Client or licensed midwife desires physician
3 consultation or transfer.

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

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

11 (B) Signs or symptoms of maternal shock.

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

14 (D) Abnormal lochia or signs or symptoms of uterine
15 sepsis.

16 (E) Suspected deep vein thrombosis.

17 (F) Signs of clinically significant depression.

18 A licensed midwife shall consult with a licensed
19 physician or licensed certified nurse-midwife with regard
20 to any neonate who is born with or develops any of the
21 following risk factors:

22 (A) Apgar score of 6 or less at 5 minutes without
23 significant improvement by 10 minutes.

24 (B) Persistent grunting respirations or retractions.

25 (C) Persistent cardiac irregularities.

26 (D) Persistent central cyanosis or pallor.

- 1 (E) Persistent lethargy or poor muscle tone.
- 2 (F) Abnormal cry.
- 3 (G) Birth weight less than 2300 grams.
- 4 (H) Jitteriness or seizures.
- 5 (I) Jaundice occurring before 24 hours or outside of
- 6 normal range.
- 7 (J) Failure to urinate within 24 hours of birth.
- 8 (K) Failure to pass meconium within 48 hours of birth.
- 9 (L) Edema.
- 10 (M) Prolonged temperature instability.
- 11 (N) Significant signs or symptoms of infection.
- 12 (O) Significant clinical evidence of glycemic
- 13 instability.
- 14 (P) Abnormal, bulging, or depressed fontanel.
- 15 (Q) Significant clinical evidence of prematurity.
- 16 (R) Medically significant congenital anomalies.
- 17 (S) Significant or suspected birth injury.
- 18 (T) Persistent inability to suck.
- 19 (U) Diminished consciousness.
- 20 (V) Clinically significant abnormalities in vital
- 21 signs, muscle tone or behavior.
- 22 (W) Clinically significant color abnormality,
- 23 cyanotic, or pale or abnormal perfusion.
- 24 (X) Abdominal distention or projectile vomiting.
- 25 (Y) Signs of clinically significant dehydration or
- 26 failure to thrive.

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

12 (A) Seizures or unconsciousness.

13 (B) Respiratory distress or arrest.

14 (C) Evidence of shock.

15 (D) Psychosis.

16 (E) Symptomatic chest pain or cardiac arrhythmias.

17 (F) Prolapsed umbilical cord.

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

20 (H) Symptoms of uterine rupture.

21 (I) Preeclampsia or eclampsia.

22 (J) Severe abdominal pain inconsistent with normal
23 labor.

24 (K) Chorioamnionitis.

25 (L) Clinically significant fetal heart rate
26 patterns or other manifestation of fetal distress.

1 (M) Presentation not compatible with spontaneous
2 vaginal delivery.

3 (N) Laceration greater than second degree perineal
4 or any cervical.

5 (O) Hemorrhage non-responsive to therapy.

6 (P) Uterine prolapse or inversion.

7 (Q) Persistent uterine atony.

8 (R) Anaphylaxis.

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

11 (T) Sustained instability or persistent abnormal
12 vital signs.

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

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

22 (5) With regard to collaboration, a licensed midwife
23 must form a formal collaborative relationship with a
24 medical doctor or doctor of osteopathy licensed under the
25 Illinois Medical Practice Act or a certified nurse midwife
26 licensed as an advanced practice nurse under the Illinois

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

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

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

20 (A) Administer prescription pharmacological agents
21 intended to induce or augment labor.

22 (B) Administer prescription pharmacological agents
23 to provide pain management.

24 (C) Use vacuum extractors or forceps.

25 (D) Prescribe medications.

26 (E) Provide care to a woman who has had a cesarean

1 section or other uterine surgery, unless that woman has
2 had a successful subsequent vaginal birth after
3 cesarean section.

4 (F) Perform major surgical procedures including,
5 but not limited to, cesarean sections and
6 circumcisions.

7 (G) Knowingly accept responsibility for prenatal
8 or intrapartum care of a client with any of the
9 following risk factors:

10 (i) Chronic significant maternal cardiac,
11 pulmonary, renal or hepatic disease.

12 (ii) Malignant disease in an active phase.

13 (iii) Significant hematological disorders or
14 coagulopathies, or pulmonary embolism.

15 (iv) Insulin requiring diabetes mellitus.

16 (v) Known maternal congenital abnormalities
17 affecting childbirth.

18 (vi) Confirmed isoimmunization, Rh disease
19 with positive titer.

20 (vii) Active tuberculosis.

21 (viii) Active syphilis or gonorrhea.

22 (ix) Active genital herpes infection 2 weeks
23 prior to labor or in labor.

24 (x) Pelvic or uterine abnormalities affecting
25 normal vaginal births, including tumors and
26 malformations.

- 1 (xi) Alcoholism or abuse.
- 2 (xii) Drug addiction or abuse.
- 3 (xiii) Confirmed AIDS status.
- 4 (xiv) Uncontrolled current serious psychiatric
5 illness.
- 6 (xv) Social or familial conditions
7 unsatisfactory for out-of-hospital maternity care
8 services.
- 9 (xvi) Fetus with suspected or diagnosed
10 congenital abnormalities that may require
11 immediate medical intervention.

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

15 Section 45. Illinois Midwifery Board.

16 (a) There is created under the authority of the Department
17 the Illinois Midwifery Board, which shall consist of 7 members
18 appointed by the Secretary, 4 of whom shall be licensed
19 midwives who carry the CPM credential, except that initial
20 appointees must have at least 3 years of experience in the
21 practice of midwifery in an out-of-hospital setting, be
22 certified by the North American Registry of Midwives, and meet
23 the qualifications for licensure set forth in this Act; one of
24 whom shall be an obstetrician licensed under the Medical
25 Practice Act of 1987 who has a minimum of 2 years of experience

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

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

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

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

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

1 (f) A majority of the Board members currently appointed
2 shall constitute a quorum. A vacancy in the membership of the
3 Board shall not impair the right of a quorum to perform all of
4 the duties of the Board.

5 (g) The Board shall provide the Department with
6 recommendations concerning the administration of this Act and
7 perform each of the following duties:

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

13 (2) Conduct hearings and disciplinary conferences on
14 disciplinary charges of licensees.

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

18 (4) Recommend the approval, denial of approval, and
19 withdrawal of approval of required education and
20 continuing educational programs.

21 (h) The Secretary shall give due consideration to all
22 recommendations of the Board. If the Secretary takes action
23 contrary to a recommendation of the Board, the Secretary must
24 promptly provide a written explanation of that action.

25 (i) The Board may recommend to the Secretary that one or
26 more licensed midwives be selected by the Secretary to assist

1 in any investigation under this Act. Compensation shall be
2 provided to any licensee who provides assistance under this
3 subsection (i), in an amount determined by the Secretary.

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

8 Section 50. Qualifications.

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

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

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

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

21 (C) Social and Behavioral Science (Sociology and
22 Psychology): 6 credit hours.

23 (D) Math: 3 credit hours.

24 (E) Nutrition: 3 credit hours.

25 (F) Pharmacology: 3 credit hours.

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

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

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

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

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

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

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

26 (4) Submits evidence of practice for at least 5 years

1 as a midwife delivering in an out-of-hospital setting.

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

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

12 Section 60. Continuing education.

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

18 (b) Rules adopted under this Act shall require the licensed
19 midwife to maintain CPM certification by meeting all the
20 requirements set forth by the North American Registry of
21 Midwives or to maintain CNM or CM certification by meeting all
22 the requirements set forth by the American Midwifery
23 Certification Board.

24 (c) Each licensee is responsible for maintaining records of

1 completion of continuing education and shall be prepared to
2 produce the records when requested by the Department.

3 Section 65. Inactive status.

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

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

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

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

20 Section 70. Renewal, reinstatement, or restoration of
21 licensure; military service.

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

24 (b) All renewal applicants shall provide proof of having

1 met the requirements of continuing education set forth by the
2 North American Registry of Midwives. The Department shall
3 provide for an orderly process for the reinstatement of
4 licenses that have not been renewed due to failure to meet
5 continuing education requirements.

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

13 (d) The Department shall determine, by an evaluation
14 program, fitness for restoration of a license under this
15 Section and shall establish procedures and requirements for
16 restoration.

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

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

6 Section 80. Fees.

7 (a) The Department shall provide for a schedule of fees for
8 the administration and enforcement of this Act, including
9 without limitation original licensure, renewal, and
10 restoration, which fees shall be nonrefundable.

11 (b) All fees collected under this Act shall be deposited
12 into the General Professions Dedicated Fund and appropriated to
13 the Department for the ordinary and contingent expenses of the
14 Department in the administration of this Act.

15 Section 85. Returned checks; fines. Any person who delivers
16 a check or other payment to the Department that is returned to
17 the Department unpaid by the financial institution upon which
18 it is drawn shall pay to the Department, in addition to the
19 amount already owed to the Department, a fine of \$50. The fines
20 imposed by this Section are in addition to any other discipline
21 provided under this Act for unlicensed practice or practice on
22 a non-renewed license. The Department shall notify the person
23 that fees and fines shall be paid to the Department by

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

15 Section 90. Unlicensed practice; civil penalty. Any person
16 who practices, offers to practice, attempts to practice, or
17 holds himself or herself out to practice midwifery or as a
18 midwife without being licensed under this Act shall, in
19 addition to any other penalty provided by law, pay a civil
20 penalty to the Department in an amount not to exceed \$5,000 for
21 each offense, as determined by the Department. The civil
22 penalty shall be assessed by the Department after a hearing is
23 held in accordance with the provisions set forth in this Act
24 regarding the provision of a hearing for the discipline of a
25 licensee. The civil penalty shall be paid within 60 days after

1 the effective date of the order imposing the civil penalty. The
2 order shall constitute a judgment and may be filed and
3 execution had thereon in the same manner as any judgment from
4 any court of record. The Department may investigate any
5 unlicensed activity.

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

- 13 (1) Violations of this Act or its rules.
- 14 (2) Material misstatement in furnishing information to
15 the Department.
- 16 (3) Conviction of any crime under the laws of any U.S.
17 jurisdiction that is (i) a felony, (ii) a misdemeanor, an
18 essential element of which is dishonesty, or (iii) directly
19 related to the practice of the profession.
- 20 (4) Making any misrepresentation for the purpose of
21 obtaining a license.
- 22 (5) Professional incompetence or gross negligence.
- 23 (6) Gross malpractice.
- 24 (7) Aiding or assisting another person in violating any
25 provision of this Act or its rules.

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

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

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

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

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

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

26 (14) Abandonment of a patient without cause.

1 (15) Willfully making or filing false records or
2 reports relating to a licensee's practice, including, but
3 not limited to, false records filed with State agencies or
4 departments.

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

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

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

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

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

1 has caused a child to be an abused child or a neglected
2 child, as defined in the Abused and Neglected Child
3 Reporting Act.

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

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

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

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

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

26 (c) The determination by a circuit court that a licensee is

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

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

1 after notice and hearing, that the refusal to submit to the
2 examination was without reasonable cause.

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

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

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

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

15 Section 105. Injunction; cease and desist order.

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

1 is violating the injunction, the court may punish the offender
2 for contempt of court. Proceedings under this Section shall be
3 in addition to, and not in lieu of, all other remedies and
4 penalties provided by this Act.

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

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

20 Section 110. Violation; criminal penalty.

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

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

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

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

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

19 Section 120. Formal hearing; preservation of record. The
20 Department, at its expense, shall preserve a record of all
21 proceedings at the formal hearing of any case. The notice of
22 hearing, complaint, and all other documents in the nature of
23 pleadings and written motions filed in the proceedings, the
24 transcript of testimony, the report of the Board or hearing
25 officer, and order of the Department shall be the record of the

1 proceeding. The Department shall furnish a transcript of the
2 record to any person interested in the hearing upon payment of
3 the fee required under Section 2105-115 of the Department of
4 Professional Regulation Law.

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

14 Section 130. Subpoena; oaths. The Department shall have the
15 power to subpoena and bring before it any person in this State
16 and to take testimony either orally or by deposition or both
17 with the same fees and mileage and in the same manner as
18 prescribed in civil cases in circuit courts of this State. The
19 Secretary, the designated hearing officer, and every member of
20 the Board has the power to administer oaths to witnesses at any
21 hearing that the Department is authorized to conduct and any
22 other oaths authorized in any Act administered by the
23 Department. Any circuit court may, upon application of the
24 Department or its designee or upon application of the person

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

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

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

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

18 Section 145. Service of report; motion for rehearing. In
19 any case involving the discipline of a license, a copy of the
20 Board's report shall be served upon the respondent by the
21 Department, either personally or as provided in this Act for
22 the service of the notice of hearing. Within 20 days after the
23 service, the respondent may present to the Department a motion
24 in writing for a rehearing that shall specify the particular
25 grounds for rehearing. If no motion for rehearing is filed,

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

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

14 Section 155. Prima facie proof. An order or a certified
15 copy thereof, over the seal of the Department and purporting to
16 be signed by the Secretary, shall be prima facie proof of the
17 following:

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

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

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

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

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

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

21 Section 175. Certificate of record. The Department shall
22 not be required to certify any record to the court or file any
23 answer in court or otherwise appear in any court in a judicial

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

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

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

23 Section 190. Home rule. Pursuant to paragraph (h) of

1 Section 6 of Article VII of the Illinois Constitution of 1970,
2 the power to regulate and issue licenses for the practice of
3 midwifery shall, except as may otherwise be provided within and
4 pursuant to the provisions of this Act, be exercised by the
5 State and may not be exercised by any unit of local government,
6 including home rule units.

7 Section 193. Rulemaking conditions. Rulemaking authority
8 to implement this Act, if any, is conditioned on the rules
9 being adopted in accordance with all provisions of the Illinois
10 Administrative Procedure Act and all rules and procedures of
11 the Joint Committee on Administrative Rules; any purported rule
12 not so adopted, for whatever reason, is unauthorized.

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

15 Section 900. The Regulatory Sunset Act is amended by adding
16 Section 4.30 as follows:

17 (5 ILCS 80/4.30 new)

18 Sec. 4.30. Act repealed on January 1, 2020. The following
19 Act is repealed on January 1, 2020:

20 The Home Birth Safety Act.

21 Section 905. The Medical Practice Act of 1987 is amended by

1 changing Section 4 as follows:

2 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

3 (Section scheduled to be repealed on December 31, 2010)

4 Sec. 4. Exemptions.

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

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

11 (2) persons rendering gratuitous services in cases of
12 emergency; or

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

16 (b) (Blank).

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

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

20 (225 ILCS 65/50-15) (was 225 ILCS 65/5-15)

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

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

23 (a) For the protection of life and the promotion of health,

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

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

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

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

22 (3) The furnishing of nursing assistance in an
23 emergency.

24 (4) The practice of nursing by a nurse who holds an
25 active license in another state when providing services to
26 patients in Illinois during a bonafide emergency or in

1 immediate preparation for or during interstate transit.

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

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

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

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

1 (9) The practice of professional nursing by one who is
2 a registered professional nurse under the laws of another
3 state, territory of the United States or country and has
4 applied in writing to the Department, in form and substance
5 satisfactory to the Department, for a license as a
6 registered professional nurse and who is qualified to
7 receive such license under Section 55-10, until (1) the
8 expiration of 6 months after the filing of such written
9 application, (2) the withdrawal of such application, or (3)
10 the denial of such application by the Department.

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

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

1 (12) Delegation to authorized direct care staff
2 trained under Section 15.4 of the Mental Health and
3 Developmental Disabilities Administrative Act consistent
4 with the policies of the Department.

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

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