



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3636

by Rep. Maria Antonia Berrios

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.34 new

225 ILCS 60/4

225 ILCS 65/50-15

305 ILCS 5/5-5

from Ch. 111, par. 4400-4

was 225 ILCS 65/5-15

from Ch. 23, par. 5-5

Creates the Certified Professional Midwife Licensure Act. Provides for the licensure of midwives by the Department of Financial and Professional Regulation. Creates the Illinois Midwifery Board. Sets forth provisions concerning qualifications, grounds for disciplinary action, and administrative procedures. Amends the Regulatory Sunset Act to set a repeal date for the new Act of January 1, 2024. Also amends the Medical Practice Act of 1987, the Nurse Practice Act, and the Illinois Public Aid Code to make related changes. Effective immediately.

LRB098 12288 MGM 46521 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

HOME RULE 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. 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 this State, and to
15 protect the public from unprofessional conduct by persons
16 licensed to practice midwifery, as defined in this Act. This
17 Act shall be liberally construed to best carry out these
18 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:

4 (1) the gratuitous rendering of services;

5 (2) the rendering of services by a person, if such
6 attendance is in accordance with the person's religious
7 faith and is rendered to persons with a similar religious
8 faith as an exercise and enjoyment of their religious
9 freedom; and

10 (3) a student midwife working under the direction of a
11 licensed midwife and his or her supervising provider or
12 alternate supervising provider.

13 Section 15. Definitions. In this Act:

14 "Advanced practice nurse" or "APN" means a person who has
15 met the qualifications for a (i) certified nurse midwife (CNM),
16 (ii) certified nurse practitioner (CNP), or (iii) clinical
17 nurse specialist (CNS) and has been licensed by the Department.

18 "Alternate supervising provider" means any physician or
19 advance practice nurse designated by the supervising provider
20 to provide supervision in the event that the supervising
21 provider is unable to provide that supervision. The alternate
22 supervising physicians shall maintain all the same
23 responsibilities as the supervising provider. Nothing in this
24 Act shall be construed as relieving any provider of the
25 professional or legal responsibility for the care and treatment

1 of persons attended by him or her or by licensed midwives under
2 his or her supervision.

3 "Board" means the Illinois Midwifery Board.

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

8 "Department" means the Department of Financial and
9 Professional Regulation.

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

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

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

20 "Physician" means a person licensed to practice medicine in
21 all its branches under the Medical Practice Act of 1987.

22 "Practice of midwifery" means providing the necessary
23 supervision and care to women during the antepartum,
24 intrapartum, and postpartum period, conducting deliveries, and
25 caring for the newborn, with such care including without
26 limitation preventative measures, the detection of abnormal

1 conditions in the mother and the child, the procurement of
2 medical assistance, and the execution of emergency measures in
3 the absence of medical help. "Practice of midwifery" includes
4 non-prescriptive family planning.

5 "Supervising provider" means the primary supervising
6 physician or supervising advanced practice nurse of a licensed
7 midwife, who, within his or her specialty and expertise, may
8 delegate a variety of tasks and procedures to the licensed
9 midwife. The supervising physician maintains the final
10 responsibility for the care of the patient and the performance
11 of the midwife.

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

14 Section 20. Unlicensed practice. Beginning January 1,
15 2015, no person may practice, attempt to practice, or hold
16 himself or herself out to practice as a licensed midwife unless
17 he or she is licensed as a midwife under this Act.

18 Section 25. Title. A licensed midwife may identify himself
19 or herself as a "licensed midwife" or a "licensed home birth
20 midwife" and may use the abbreviation "L.M.".

21 Section 30. Informed consent.

22 (a) A licensed midwife shall, at an initial consultation
23 with a client, provide a copy of the rules under this Act and

1 disclose to the client orally and in writing all of the
2 following:

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

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

7 (3) Information identifying the supervising provider
8 and explaining the nature of the supervisory relationship
9 and how it may affect client care.

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

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

16 Section 35. Advertising.

17 (a) Any person licensed under this Act may advertise the
18 availability of professional midwifery services in the public
19 media or on premises where professional services are rendered,
20 if the advertising is truthful and not misleading and is in
21 conformity with any rules regarding the practice of a licensed
22 midwife.

23 (b) A licensee must include in every advertisement for
24 midwifery services regulated under this Act his or her title as
25 it appears on the license or the initials authorized under this

1 Act.

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

3 (a) The Department shall exercise the powers and duties
4 prescribed by the Civil Administrative Code of Illinois for the
5 administration of licensing Acts and shall exercise such other
6 powers and duties necessary for effectuating the purposes of
7 this Act.

8 (b) The Secretary shall adopt rules consistent with the
9 provisions of this Act for the administration and enforcement
10 of the Act and for the payment of fees connected to the Act and
11 may prescribe forms that shall be issued in connection with the
12 Act.

13 (c) The Department shall consult with the Board in adopting
14 rules. Notice of proposed rulemaking shall be transmitted to
15 the Board and the Department shall review the Board's response
16 and any recommendations made. The Department shall notify the
17 Board in writing with proper explanation of deviations from the
18 Board's recommendations and responses.

19 (d) The Department may at any time seek the advice and the
20 expert knowledge of the Board on any matter relating to the
21 administration of this Act.

22 (e) The Department shall issue quarterly a report to the
23 Board of the status of all complaints related to the profession
24 filed with the Department.

25 (f) Administration by the Department of this Act must be

1 consistent with standards regarding the practice of midwifery
2 established by the National Association of Certified
3 Professional Midwives or a successor organization whose
4 essential documents include without limitation subject matter
5 concerning scope of practice, standards of practice, informed
6 consent, appropriate consultation, collaboration or referral,
7 and acknowledgement of a woman's right to self determination
8 concerning her maternity care.

9 Section 42. Practices of a licensed midwife. With regard to
10 testing, care, and screening, a licensed midwife may:

11 (1) offer each client routine prenatal care and testing
12 in accordance with current American College of
13 Obstetricians and Gynecologists guidelines;

14 (2) provide all clients with a plan for 24-hour on-call
15 availability by a licensed midwife, certified
16 nurse-midwife, or licensed physician throughout pregnancy,
17 intrapartum, and 6 weeks postpartum;

18 (3) provide clients with labor support, fetal
19 monitoring, and routine assessment of vital signs once
20 active labor is established;

21 (4) supervise delivery of infant and placenta, assess
22 newborn and maternal well-being in immediate postpartum,
23 and perform Apgar scores;

24 (5) administer, if necessary, oxytocin (Pitocin)
25 solely as an anti-hemorrhagic agent, oxygen and

1 intravenous fluids for stabilization, and other drugs or
2 procedures as determined by the Department;

3 (6) perform routine cord management and inspect for the
4 appropriate number of vessels;

5 (7) inspect the placenta and membranes for
6 completeness;

7 (8) inspect the perineum and vagina postpartum for
8 lacerations and stabilize;

9 (9) observe mother and newborn postpartum until stable
10 condition is achieved;

11 (10) instruct the mother, father, and other support
12 persons, both verbally and in writing, of the special care
13 and precautions for both mother and newborn in the
14 immediate postpartum period;

15 (11) reevaluate maternal and newborn well-being within
16 36 hours after delivery.

17 (12) use universal precautions with all biohazard
18 materials;

19 (13) ensure that a birth certificate is accurately
20 completed and filed in accordance with State law;

21 (14) offer to obtain and submit a blood sample, in
22 accordance with the recommendations for metabolic
23 screening of the newborn;

24 (15) offer an injection of vitamin K for the newborn;

25 (16) within one week after delivery, offer a newborn
26 hearing screening to every newborn or refer the parents to

1 a facility with a newborn hearing screening program;

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

6 (18) maintain adequate antenatal and perinatal records
7 of each client and provide records to supervising providers
8 in accordance with the federal Health Insurance
9 Portability and Accountability Act.

10 Section 43. Supervision requirement.

11 (a) With regards to supervision, a licensed midwife shall,
12 before engaging in the practice of midwifery, enter into a
13 supervision agreement with a supervising provider. This
14 agreement shall require, at a minimum:

15 (1) quarterly review of all clients under the care of
16 the licensed midwife;

17 (2) protocols and procedures for assessing risk and
18 appropriateness for midwifery care;

19 (3) supportive care when care is transferred to another
20 provider, if possible; and

21 (4) consideration of the standards regarding the
22 practice of midwifery established by the National
23 Association of Certified Professional Midwives, including
24 referral of mother or baby to appropriate professionals
25 when either needs care outside the midwife's scope of

1 practice or expertise.

2 (b) The supervision agreement shall describe the working
3 relationship of the licensed midwife with the supervising
4 provider and shall authorize the categories of care, treatment,
5 or procedures to be performed by the licensed midwife. The
6 supervision agreement shall promote the exercise of
7 professional judgment by the licensed midwife commensurate
8 with his or her education and experience. The services to be
9 provided by the licensed midwife shall be services that the
10 supervising provider is authorized to and generally provides or
11 has provided to his or her patients in the normal course of his
12 or her clinical medical practice. The supervision agreement
13 need not describe the exact steps that a licensed midwife must
14 take with respect to each specific condition, disease, or
15 symptom, but must specify which authorized procedures require
16 the presence of or consultation with the supervising provider
17 as the procedures are being performed. The supervision
18 relationship shall not be construed to require the personal
19 presence of a physician at the place where services are
20 rendered. Methods of communication shall be available for
21 consultation with the supervising provider in person or by
22 telecommunications in accordance with established guidelines
23 as set forth in the supervision agreement.

24 (c) Nothing about the supervision agreement shall require
25 an employment relationship between the licensed midwife and the
26 supervising provider. However, an employment relationship is

1 permitted. Absent an employment relationship, an agreement may
2 not restrict the categories of patients or third-party payment
3 sources accepted by the licensed midwife.

4 (d) With regard to prohibited practices, a licensed midwife
5 may not do any of the following:

6 (1) Administer prescription pharmacological agents
7 intended to induce or augment labor.

8 (2) Administer prescription pharmacological agents to
9 provide pain management.

10 (3) Use vacuum extractors or forceps.

11 (4) Prescribe medications.

12 (5) Perform major surgical procedures, including, but
13 not limited to, abortions, cesarean sections, and
14 circumcisions.

15 (d) With regards to Medicaid Reimbursement, no licensed
16 midwife is required to carry liability insurance in order to be
17 reimbursed by the State as a Medicaid provider.

18 (e) Nothing in this Act shall be construed to prevent
19 licensed midwives from providing other birth-related services
20 without supervision that are not the practice of midwifery and
21 for which they have been duly training and credentialed.

22 (f) A licensed midwife licensed in this State, or licensed
23 or authorized to practice in any other U.S. jurisdiction or
24 credentialed by his or her federal employer as a licensed
25 midwife, who is responding to a need for medical care created
26 by an emergency or by a State or local disaster may render care

1 that the midwife is able to provide without supervision as it
2 is defined in this Section or with such supervision as is
3 available. For purposes of this Section, an "emergency
4 situation" shall not include situations that occur in the place
5 of a licensed midwife's employment. Any physician or advanced
6 practice nurse who supervises a licensed midwife providing
7 medical care in response to an emergency or State or local
8 disaster shall not be required to meet the requirements set
9 forth in this Section for a supervising provider.

10 (g) For licensed midwives working in out-of-hospital
11 settings, the Department shall have the power to waive the
12 requirement for supervision should it find that the benefits of
13 waiving outweigh the risks.

14 Section 45. Illinois Midwifery Board.

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

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

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

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

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

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

24 (f) Four Board members shall constitute a quorum. A vacancy
25 in the membership of the Board shall not impair the right of a
26 quorum to perform all of the duties of the Board.

1 (g) The Board shall provide the Department with
2 recommendations concerning the administration of this Act and
3 may perform each of the following duties:

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

9 (2) Conduct hearings and disciplinary conferences on
10 disciplinary charges of licensees.

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

14 (4) Recommend the approval, denial of approval, and
15 withdrawal of approval of required education and
16 continuing educational programs.

17 (h) The Secretary shall give due consideration to all
18 recommendations of the Board. If the Secretary takes action
19 contrary to a recommendation of the Board, the Secretary must
20 promptly provide a written explanation of that action.

21 (i) The Board may recommend to the Secretary that one or
22 more licensed midwives be selected by the Secretary to assist
23 in any investigation under this Act. Compensation shall be
24 provided to any licensee who provides assistance under this
25 subsection (i), in an amount determined by the Secretary.

26 (j) Members of the Board shall be immune from suit in an

1 action based upon a disciplinary proceeding or other activity
2 performed in good faith as a member of the Board, except for
3 willful or wanton misconduct.

4 Section 50. Qualifications.

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

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

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

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

17 (C) Social and Behavioral Science (Sociology and
18 Psychology): 6 credit hours.

19 (D) Math: 3 credit hours.

20 (E) Nutrition: 3 credit hours.

21 (F) Pharmacology: 3 credit hours.

22 (2) He or she has successfully completed a program of
23 midwifery education approved by the North American
24 Registry of Midwives that includes both didactic and
25 clinical internship experience, the sum of which, on

1 average, takes 3 to 5 years to complete.

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

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

10 (b) Before January 1, 2015, a person seeking licensure as a
11 licensed midwife who has not met the educational requirements
12 set forth in this Section shall be qualified for licensure if
13 that person does all of the following:

14 (1) Submits evidence of having successfully passed the
15 national certification exam described in subsection (a) of
16 this Section prior to January 1, 2009.

17 (2) Submits evidence of current certification in adult
18 CPR and in neonatal resuscitation.

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

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

24 (c) Nothing used in submitting evidence of practice of
25 midwifery when applying for licensure under this Act shall be
26 used as evidence or to take legal action against the applicant

1 regarding the practice of midwifery, nursing, or medicine prior
2 to the passage of this Act.

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

8 Section 60. Continuing education.

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

14 (b) Rules adopted under this Act shall require the licensed
15 midwife to maintain CPM certification by meeting all the
16 requirements set forth by the North American Registry of
17 Midwives or its successor.

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

21 Section 65. Inactive status.

22 (a) A licensed midwife who notifies the Department in
23 writing on forms prescribed by the Department may elect to

1 place his or her license on an inactive status and shall be
2 excused from payment of renewal fees until he or she notifies
3 the Department in writing of his or her intent to restore the
4 license.

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

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

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

15 Section 70. Renewal, reinstatement, or restoration of
16 licensure; military service.

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

19 (b) All renewal applicants shall provide proof of having
20 met the requirements of continuing education set forth by the
21 North American Registry of Midwives or its successor. The
22 Department shall provide for an orderly process for the
23 reinstatement of licenses that have not been renewed due to
24 failure to meet continuing education requirements.

25 (c) Any licensed midwife who has permitted his or her

1 license to expire or who has had his or her license on inactive
2 status may have his or her license restored by making
3 application to the Department and filing proof acceptable to
4 the Department of fitness to have the license restored and by
5 paying the required fees. Proof of fitness may include evidence
6 attesting to active lawful practice in another jurisdiction.

7 (d) The Department shall determine, by an evaluation
8 program, fitness for restoration of a license under this
9 Section and shall establish procedures and requirements for
10 restoration.

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

21 Section 75. Roster. The Department shall maintain a roster
22 of the names and addresses of all licensees and of all persons
23 whose licenses have been suspended or revoked. This roster
24 shall be available upon written request and payment of the
25 required fee.

1 Section 80. Fees.

2 (a) The Department shall provide for a schedule of fees for
3 the administration and enforcement of this Act, including
4 without limitation original licensure, renewal, and
5 restoration, which fees shall be nonrefundable.

6 (b) All fees collected under this Act shall be deposited
7 into the General Professions Dedicated Fund and appropriated to
8 the Department for the ordinary and contingent expenses of the
9 Department in the administration of this Act.

10 Section 85. Returned checks; fines. Any person who delivers
11 a check or other payment to the Department that is returned to
12 the Department unpaid by the financial institution upon which
13 it is drawn shall pay to the Department, in addition to the
14 amount already owed to the Department, a fine of \$50. The fines
15 imposed by this Section are in addition to any other discipline
16 provided under this Act for unlicensed practice or practice on
17 a non-renewed license. The Department shall notify the person
18 that fees and fines shall be paid to the Department by
19 certified check or money order within 30 calendar days after
20 the notification. If, after the expiration of 30 days from the
21 date of the notification, the person has failed to submit the
22 necessary remittance, the Department shall automatically
23 terminate the license or deny the application, without hearing.
24 If, after termination or denial, the person seeks a license, he

1 or she shall apply to the Department for restoration or
2 issuance of the license and pay all fees and fines due to the
3 Department. The Department may establish a fee for the
4 processing of an application for restoration of a license to
5 defray all expenses of processing the application. The
6 Secretary may waive the fines due under this Section in
7 individual cases where the Secretary finds that the fines would
8 be unreasonable or unnecessarily burdensome.

9 Section 90. Unlicensed practice; civil penalty. Any person
10 who practices, offers to practice, attempts to practice, or
11 holds himself or herself out to practice midwifery or as a
12 midwife without being licensed under this Act shall, in
13 addition to any other penalty provided by law, pay a civil
14 penalty to the Department in an amount not to exceed \$5,000 for
15 each offense, as determined by the Department. The civil
16 penalty shall be assessed by the Department after a hearing is
17 held in accordance with the provisions set forth in this Act
18 regarding the provision of a hearing for the discipline of a
19 licensee. The civil penalty shall be paid within 60 days after
20 the effective date of the order imposing the civil penalty. The
21 order shall constitute a judgment and may be filed and
22 execution had thereon in the same manner as any judgment from
23 any court of record. The Department may investigate any
24 unlicensed activity.

1 Section 95. Grounds for disciplinary action.

2 (a) The Department may refuse to issue or to renew or may
3 revoke, suspend, place on probation, reprimand or take other
4 disciplinary action as the Department may deem proper,
5 including fines not to exceed \$5,000 for each violation, with
6 regard to any licensee or license for any one or combination of
7 the following causes:

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

9 (2) Material misstatement in furnishing information to
10 the Department.

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

15 (4) Making any misrepresentation for the purpose of
16 obtaining a license.

17 (5) Professional incompetence or gross negligence.

18 (6) Gross malpractice.

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

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

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

26 (10) Habitual or excessive use or addiction to alcohol,

1 narcotics, stimulants, or any other chemical agent or drug
2 that results in the inability to practice with reasonable
3 judgment, skill, or safety.

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

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

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

20 (14) Abandonment of a patient without cause.

21 (15) Willfully making or filing false records or
22 reports relating to a licensee's practice, including, but
23 not limited to, false records filed with State agencies or
24 departments.

25 (16) Physical illness or mental illness, including,
26 but not limited to, deterioration through the aging process

1 or loss of motor skill that results in the inability to
2 practice the profession with reasonable judgment, skill,
3 or safety.

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

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

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

17 (20) Being named as a perpetrator in an indicated
18 report by the Department of Healthcare and Family Services
19 under the Abused and Neglected Child Reporting Act and upon
20 proof by clear and convincing evidence that the licensee
21 has caused a child to be an abused child or a neglected
22 child, as defined in the Abused and Neglected Child
23 Reporting Act.

24 (21) Practicing or attempting to practice under a name
25 other than the full name shown on a license issued under
26 this Act.

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

4 (23) Maintaining a professional relationship with any
5 person, firm, or corporation when the licensed midwife
6 knows or should know that a person, firm, or corporation is
7 violating this Act.

8 (24) Failure to provide satisfactory proof of having
9 participated in approved continuing education programs as
10 determined by the Board and approved by the Secretary.
11 Exceptions for extreme hardships are to be defined by the
12 Department.

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

20 (c) The determination by a circuit court that a licensee is
21 subject to involuntary admission or judicial admission as
22 provided in the Mental Health and Developmental Disabilities
23 Code operates as an automatic suspension. The suspension shall
24 end only upon a finding by a court that the patient is no
25 longer subject to involuntary admission or judicial admission,
26 the issuance of an order so finding and discharging the

1 patient, and the recommendation of the Board to the Secretary
2 that the licensee be allowed to resume his or her practice.

3 (d) In enforcing this Section, the Department, upon a
4 showing of a possible violation, may compel any person licensed
5 to practice under this Act or who has applied for licensure or
6 certification pursuant to this Act to submit to a mental or
7 physical examination, or both, as required by and at the
8 expense of the Department. The examining physicians shall be
9 those specifically designated by the Department. The
10 Department may order an examining physician to present
11 testimony concerning the mental or physical examination of the
12 licensee or applicant. No information shall be excluded by
13 reason of any common law or statutory privilege relating to
14 communications between the licensee or applicant and the
15 examining physician. The person to be examined may have, at his
16 or her own expense, another physician of his or her choice
17 present during all aspects of the examination. Failure of any
18 person to submit to a mental or physical examination when
19 directed shall be grounds for suspension of a license until the
20 person submits to the examination if the Department finds,
21 after notice and hearing, that the refusal to submit to the
22 examination was without reasonable cause.

23 If the Department finds an individual unable to practice
24 because of the reasons set forth in this subsection (d), the
25 Department may require that individual to submit to care,
26 counseling, or treatment by physicians approved or designated

1 by the Department, as a condition, term, or restriction for
2 continued, reinstated, or renewed licensure to practice or, in
3 lieu of care, counseling, or treatment, the Department may file
4 a complaint to immediately suspend, revoke, or otherwise
5 discipline the license of the individual. Any person whose
6 license was granted, reinstated, renewed, disciplined, or
7 supervised subject to such terms, conditions, or restrictions
8 and who fails to comply with such terms, conditions, or
9 restrictions shall be referred to the Secretary for a
10 determination as to whether or not the person shall have his or
11 her license suspended immediately, pending a hearing by the
12 Department.

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

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

1 Section 100. Failure to pay restitution. The Department,
2 without further process or hearing, shall suspend the license
3 or other authorization to practice of any person issued under
4 this Act who has been certified by court order as not having
5 paid restitution to a person under Section 8A-3.5 of the
6 Illinois Public Aid Code, under Section 46-1 of the Criminal
7 Code of 1961, or under Sections 17-8.5 or 17-10.5 of the
8 Criminal Code of 2012. A person whose license or other
9 authorization to practice is suspended under this Section is
10 prohibited from practicing until restitution is made in full.

11 Section 105. Injunction; cease and desist order.

12 (a) If a person violates any provision of this Act, the
13 Secretary may, in the name of the People of the State of
14 Illinois, through the Attorney General or the State's Attorney
15 of any county in which the action is brought, petition for an
16 order enjoining the violation or enforcing compliance with this
17 Act. Upon the filing of a verified petition in court, the court
18 may issue a temporary restraining order, without notice or
19 bond, and may preliminarily and permanently enjoin the
20 violation. If it is established that the person has violated or
21 is violating the injunction, the court may punish the offender
22 for contempt of court. Proceedings under this Section shall be
23 in addition to, and not in lieu of, all other remedies and
24 penalties provided by this Act.

25 (b) If any person practices as a licensed midwife or holds

1 himself or herself out as a licensed midwife without being
2 licensed under the provisions of this Act, then any licensed
3 midwife, any interested party, or any person injured thereby
4 may, in addition to the Secretary, petition for relief as
5 provided in subsection (a) of this Section.

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

15 Section 110. Violation; criminal penalty.

16 (a) Whoever knowingly practices or offers to practice
17 midwifery in this State without being licensed for that purpose
18 or exempt under this Act shall be guilty of a Class A
19 misdemeanor and, for each subsequent conviction, shall be
20 guilty of a Class 4 felony.

21 (b) Notwithstanding any other provision of this Act, all
22 criminal fines, moneys, or other property collected or received
23 by the Department under this Section or any other State or
24 federal statute, including, but not limited to, property
25 forfeited to the Department under Section 505 of the Illinois

1 Controlled Substances Act or Section 85 of the Methamphetamine
2 Control and Community Protection Act, shall be deposited into
3 the Professional Regulation Evidence Fund.

4 Section 115. Investigation; notice; hearing. The
5 Department may investigate the actions of any applicant or of
6 any person or persons holding or claiming to hold a license
7 under this Act. Before refusing to issue or to renew or taking
8 any disciplinary action regarding a license, the Department
9 shall, at least 30 days prior to the date set for the hearing,
10 notify in writing the applicant or licensee of the nature of
11 any charges and that a hearing shall be held on a date
12 designated. The Department shall direct the applicant or
13 licensee to file a written answer with the Board under oath
14 within 20 days after the service of the notice and inform the
15 applicant or licensee that failure to file an answer shall
16 result in default being taken against the applicant or licensee
17 and that the license may be suspended, revoked, or placed on
18 probationary status or that other disciplinary action may be
19 taken, including limiting the scope, nature, or extent of
20 practice, as the Secretary may deem proper. Written notice may
21 be served by personal delivery or certified or registered mail
22 to the respondent at the address of his or her last
23 notification to the Department. If the person fails to file an
24 answer after receiving notice, his or her license may, in the
25 discretion of the Department, be suspended, revoked, or placed

1 on probationary status, or the Department may take any
2 disciplinary action deemed proper, including limiting the
3 scope, nature, or extent of the person's practice or the
4 imposition of a fine, without a hearing, if the act or acts
5 charged constitute sufficient grounds for such action under
6 this Act. At the time and place fixed in the notice, the Board
7 shall proceed to hear the charges and the parties or their
8 counsel shall be accorded ample opportunity to present such
9 statements, testimony, evidence, and argument as may be
10 pertinent to the charges or to their defense. The Board may
11 continue a hearing from time to time.

12 Section 120. Formal hearing; preservation of record. The
13 Department, at its expense, shall preserve a record of all
14 proceedings at the formal hearing of any case. The notice of
15 hearing, complaint, and all other documents in the nature of
16 pleadings and written motions filed in the proceedings, the
17 transcript of testimony, the report of the Board or hearing
18 officer, and order of the Department shall be the record of the
19 proceeding. The Department shall furnish a transcript of the
20 record to any person interested in the hearing upon payment of
21 the fee required under Section 2105-115 of the Department of
22 Professional Regulation Law.

23 Section 125. Witnesses; production of documents; contempt.
24 Any circuit court may upon application of the Department or its

1 designee or of the applicant or licensee against whom
2 proceedings under Section 95 of this Act are pending, enter an
3 order requiring the attendance of witnesses and their testimony
4 and the production of documents, papers, files, books, and
5 records in connection with any hearing or investigation. The
6 court may compel obedience to its order by proceedings for
7 contempt.

8 Section 130. Subpoena; oaths. The Department shall have the
9 power to subpoena and bring before it any person in this State
10 and to take testimony either orally or by deposition or both
11 with the same fees and mileage and in the same manner as
12 prescribed in civil cases in circuit courts of this State. The
13 Secretary, the designated hearing officer, and every member of
14 the Board has the power to administer oaths to witnesses at any
15 hearing that the Department is authorized to conduct and any
16 other oaths authorized in any Act administered by the
17 Department. Any circuit court may, upon application of the
18 Department or its designee or upon application of the person
19 against whom proceedings under this Act are pending, enter an
20 order requiring the attendance of witnesses and their
21 testimony, and the production of documents, papers, files,
22 books, and records in connection with any hearing or
23 investigation. The court may compel obedience to its order by
24 proceedings for contempt.

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

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

19 Section 140. Hearing officer. The Secretary may appoint any
20 attorney duly licensed to practice law in the State of Illinois
21 to serve as the hearing officer in any action for departmental
22 refusal to issue, renew, or license an applicant or for
23 disciplinary action against a licensee. The hearing officer
24 shall have full authority to conduct the hearing. The hearing
25 officer shall report his or her findings of fact, conclusions

1 of law, and recommendations to the Board and the Secretary. The
2 Board shall have 60 calendar days after receipt of the report
3 to review the report of the hearing officer and present its
4 findings of fact, conclusions of law, and recommendations to
5 the Secretary. If the Board fails to present its report within
6 the 60-day period, the Secretary may issue an order based on
7 the report of the hearing officer. If the Secretary disagrees
8 with the recommendation of the Board or the hearing officer, he
9 or she may issue an order in contravention of that
10 recommendation.

11 Section 145. Service of report; motion for rehearing. In
12 any case involving the discipline of a license, a copy of the
13 Board's report shall be served upon the respondent by the
14 Department, either personally or as provided in this Act for
15 the service of the notice of hearing. Within 20 days after the
16 service, the respondent may present to the Department a motion
17 in writing for a rehearing that shall specify the particular
18 grounds for rehearing. If no motion for rehearing is filed,
19 then upon the expiration of the time specified for filing a
20 motion, or if a motion for rehearing is denied, then upon the
21 denial, the Secretary may enter an order in accordance with
22 this Act. If the respondent orders from the reporting service
23 and pays for a transcript of the record within the time for
24 filing a motion for rehearing, the 20-day period within which
25 the motion may be filed shall commence upon the delivery of the

1 transcript to the respondent.

2 Section 150. Rehearing. Whenever the Secretary is
3 satisfied that substantial justice has not been done in the
4 revocation, suspension, or refusal to issue or renew a license,
5 the Secretary may order a rehearing by the same or another
6 hearing officer or by the Board.

7 Section 155. Prima facie proof. An order or a certified
8 copy thereof, over the seal of the Department and purporting to
9 be signed by the Secretary, shall be prima facie proof of the
10 following:

11 (1) that the signature is the genuine signature of the
12 Secretary;

13 (2) that such Secretary is duly appointed and
14 qualified; and

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

17 Section 160. Restoration of license. At any time after the
18 suspension or revocation of any license, the Department may
19 restore the license to the accused person, unless after an
20 investigation and a hearing the Department determines that
21 restoration is not in the public interest.

22 Section 165. Surrender of license. Upon the revocation or

1 suspension of any license, the licensee shall immediately
2 surrender the license to the Department. If the licensee fails
3 to do so, the Department shall have the right to seize the
4 license.

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

15 Section 175. Certificate of record. The Department shall
16 not be required to certify any record to the court or file any
17 answer in court or otherwise appear in any court in a judicial
18 review proceeding, unless there is filed in the court, with the
19 complaint, a receipt from the Department acknowledging payment
20 of the costs of furnishing and certifying the record. Failure
21 on the part of the plaintiff to file a receipt in court shall
22 be grounds for dismissal of the action.

23 Section 180. Administrative Review Law. All final

1 administrative decisions of the Department are subject to
2 judicial review under the Administrative Review Law and its
3 rules. The term "administrative decision" is defined as in
4 Section 3-101 of the Code of Civil Procedure.

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

17 Section 190. Home rule. Pursuant to paragraph (h) of
18 Section 6 of Article VII of the Illinois Constitution of 1970,
19 the power to regulate and issue licenses for the practice of
20 midwifery shall, except as may otherwise be provided within and
21 pursuant to the provisions of this Act, be exercised by the
22 State and may not be exercised by any unit of local government,
23 including home rule units.

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

3 Section 900. The Regulatory Sunset Act is amended by adding
4 Section 4.34 as follows:

5 (5 ILCS 80/4.34 new)

6 Sec. 4.34. Act repealed on January 1, 2024. The following
7 Act is repealed on January 1, 2024:

8 The Certified Professional Midwife Licensure Act.

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

11 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

12 (Section scheduled to be repealed on December 31, 2013)

13 Sec. 4. Exemptions. This Act does not apply to the
14 following:

15 (1) persons lawfully carrying on their particular
16 profession or business under any valid existing regulatory
17 Act of this State, including without limitation persons
18 engaged in the practice of midwifery who are licensed under
19 the Certified Professional Midwife Licensure Act;

20 (2) persons rendering gratuitous services in cases of
21 emergency; or

22 (3) persons treating human ailments by prayer or

1 spiritual means as an exercise or enjoyment of religious
2 freedom.

3 (Source: P.A. 96-7, eff. 4-3-09; 97-622, eff. 11-23-11.)

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

6 (225 ILCS 65/50-15) (was 225 ILCS 65/5-15)

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

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

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

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

21 (1) The practice of nursing in Federal employment in
22 the discharge of the employee's duties by a person who is
23 employed by the United States government or any bureau,
24 division or agency thereof and is a legally qualified and

1 licensed nurse of another state or territory and not in
2 conflict with Sections 50-50, 55-10, 60-10, and 70-5 of
3 this Act.

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

7 (3) The furnishing of nursing assistance in an
8 emergency.

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

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

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

19 (7) The practice of practical nursing by one who is a
20 licensed practical nurse under the laws of another U.S.
21 jurisdiction and has applied in writing to the Department,
22 in form and substance satisfactory to the Department, for a
23 license as a licensed practical nurse and who is qualified
24 to receive such license under this Act, until (i) the
25 expiration of 6 months after the filing of such written
26 application, (ii) the withdrawal of such application, or

1 (iii) the denial of such application by the Department.

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

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

22 (10) The practice of professional nursing that is
23 included in a program of study by one who is a registered
24 professional nurse under the laws of another state or
25 territory of the United States or foreign country,
26 territory or province and who is enrolled in a graduate

1 nursing education program or a program for the completion
2 of a baccalaureate nursing degree in this State, which
3 includes clinical supervision by faculty as determined by
4 the educational institution offering the program and the
5 health care organization where the practice of nursing
6 occurs.

7 (11) Any person licensed in this State under any other
8 Act from engaging in the practice for which she or he is
9 licensed, including without limitation any person engaged
10 in the practice of midwifery who is licensed under the
11 Certified Professional Midwife Licensure Act.

12 (12) Delegation to authorized direct care staff
13 trained under Section 15.4 of the Mental Health and
14 Developmental Disabilities Administrative Act consistent
15 with the policies of the Department.

16 (13) The practice, services, or activities of persons
17 practicing the specified occupations set forth in
18 subsection (a) of, and pursuant to a licensing exemption
19 granted in subsection (b) or (d) of, Section 2105-350 of
20 the Department of Professional Regulation Law of the Civil
21 Administrative Code of Illinois, but only for so long as
22 the 2016 Olympic and Paralympic Games Professional
23 Licensure Exemption Law is operable.

24 (14) County correctional personnel from delivering
25 prepackaged medication for self-administration to an
26 individual detainee in a correctional facility.

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

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

7 Section 990. The Illinois Public Aid Code is amended by
8 changing Section 5-5 as follows:

9 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

10 Sec. 5-5. Medical services. The Illinois Department, by
11 rule, shall determine the quantity and quality of and the rate
12 of reimbursement for the medical assistance for which payment
13 will be authorized, and the medical services to be provided,
14 which may include all or part of the following: (1) inpatient
15 hospital services; (2) outpatient hospital services; (3) other
16 laboratory and X-ray services; (4) skilled nursing home
17 services; (5) physicians' services whether furnished in the
18 office, the patient's home, a hospital, a skilled nursing home,
19 or elsewhere; (6) medical care, or any other type of remedial
20 care furnished by licensed practitioners, including the
21 services of certified professional midwives licensed under the
22 Certified Professional Midwife Licensure Act; (7) home health
23 care services; (8) private duty nursing service; (9) clinic
24 services; (10) dental services, including prevention and

1 treatment of periodontal disease and dental caries disease for
2 pregnant women, provided by an individual licensed to practice
3 dentistry or dental surgery; for purposes of this item (10),
4 "dental services" means diagnostic, preventive, or corrective
5 procedures provided by or under the supervision of a dentist in
6 the practice of his or her profession; (11) physical therapy
7 and related services; (12) prescribed drugs, dentures, and
8 prosthetic devices; and eyeglasses prescribed by a physician
9 skilled in the diseases of the eye, or by an optometrist,
10 whichever the person may select; (13) other diagnostic,
11 screening, preventive, and rehabilitative services, including
12 to ensure that the individual's need for intervention or
13 treatment of mental disorders or substance use disorders or
14 co-occurring mental health and substance use disorders is
15 determined using a uniform screening, assessment, and
16 evaluation process inclusive of criteria, for children and
17 adults; for purposes of this item (13), a uniform screening,
18 assessment, and evaluation process refers to a process that
19 includes an appropriate evaluation and, as warranted, a
20 referral; "uniform" does not mean the use of a singular
21 instrument, tool, or process that all must utilize; (14)
22 transportation and such other expenses as may be necessary;
23 (15) medical treatment of sexual assault survivors, as defined
24 in Section 1a of the Sexual Assault Survivors Emergency
25 Treatment Act, for injuries sustained as a result of the sexual
26 assault, including examinations and laboratory tests to

1 discover evidence which may be used in criminal proceedings
2 arising from the sexual assault; (16) the diagnosis and
3 treatment of sickle cell anemia; and (17) any other medical
4 care, and any other type of remedial care recognized under the
5 laws of this State, but not including abortions, or induced
6 miscarriages or premature births, unless, in the opinion of a
7 physician, such procedures are necessary for the preservation
8 of the life of the woman seeking such treatment, or except an
9 induced premature birth intended to produce a live viable child
10 and such procedure is necessary for the health of the mother or
11 her unborn child. The Illinois Department, by rule, shall
12 prohibit any physician from providing medical assistance to
13 anyone eligible therefor under this Code where such physician
14 has been found guilty of performing an abortion procedure in a
15 wilful and wanton manner upon a woman who was not pregnant at
16 the time such abortion procedure was performed. The term "any
17 other type of remedial care" shall include nursing care and
18 nursing home service for persons who rely on treatment by
19 spiritual means alone through prayer for healing.

20 Notwithstanding any other provision of this Section, a
21 comprehensive tobacco use cessation program that includes
22 purchasing prescription drugs or prescription medical devices
23 approved by the Food and Drug Administration shall be covered
24 under the medical assistance program under this Article for
25 persons who are otherwise eligible for assistance under this
26 Article.

1 Notwithstanding any other provision of this Code, the
2 Illinois Department may not require, as a condition of payment
3 for any laboratory test authorized under this Article, that a
4 physician's handwritten signature appear on the laboratory
5 test order form. The Illinois Department may, however, impose
6 other appropriate requirements regarding laboratory test order
7 documentation.

8 On and after July 1, 2012, the Department of Healthcare and
9 Family Services may provide the following services to persons
10 eligible for assistance under this Article who are
11 participating in education, training or employment programs
12 operated by the Department of Human Services as successor to
13 the Department of Public Aid:

14 (1) dental services provided by or under the
15 supervision of a dentist; and

16 (2) eyeglasses prescribed by a physician skilled in the
17 diseases of the eye, or by an optometrist, whichever the
18 person may select.

19 Notwithstanding any other provision of this Code and
20 subject to federal approval, the Department may adopt rules to
21 allow a dentist who is volunteering his or her service at no
22 cost to render dental services through an enrolled
23 not-for-profit health clinic without the dentist personally
24 enrolling as a participating provider in the medical assistance
25 program. A not-for-profit health clinic shall include a public
26 health clinic or Federally Qualified Health Center or other

1 enrolled provider, as determined by the Department, through
2 which dental services covered under this Section are performed.
3 The Department shall establish a process for payment of claims
4 for reimbursement for covered dental services rendered under
5 this provision.

6 The Illinois Department, by rule, may distinguish and
7 classify the medical services to be provided only in accordance
8 with the classes of persons designated in Section 5-2.

9 The Department of Healthcare and Family Services must
10 provide coverage and reimbursement for amino acid-based
11 elemental formulas, regardless of delivery method, for the
12 diagnosis and treatment of (i) eosinophilic disorders and (ii)
13 short bowel syndrome when the prescribing physician has issued
14 a written order stating that the amino acid-based elemental
15 formula is medically necessary.

16 The Illinois Department shall authorize the provision of,
17 and shall authorize payment for, screening by low-dose
18 mammography for the presence of occult breast cancer for women
19 35 years of age or older who are eligible for medical
20 assistance under this Article, as follows:

21 (A) A baseline mammogram for women 35 to 39 years of
22 age.

23 (B) An annual mammogram for women 40 years of age or
24 older.

25 (C) A mammogram at the age and intervals considered
26 medically necessary by the woman's health care provider for

1 women under 40 years of age and having a family history of
2 breast cancer, prior personal history of breast cancer,
3 positive genetic testing, or other risk factors.

4 (D) A comprehensive ultrasound screening of an entire
5 breast or breasts if a mammogram demonstrates
6 heterogeneous or dense breast tissue, when medically
7 necessary as determined by a physician licensed to practice
8 medicine in all of its branches.

9 All screenings shall include a physical breast exam,
10 instruction on self-examination and information regarding the
11 frequency of self-examination and its value as a preventative
12 tool. For purposes of this Section, "low-dose mammography"
13 means the x-ray examination of the breast using equipment
14 dedicated specifically for mammography, including the x-ray
15 tube, filter, compression device, and image receptor, with an
16 average radiation exposure delivery of less than one rad per
17 breast for 2 views of an average size breast. The term also
18 includes digital mammography.

19 On and after January 1, 2012, providers participating in a
20 quality improvement program approved by the Department shall be
21 reimbursed for screening and diagnostic mammography at the same
22 rate as the Medicare program's rates, including the increased
23 reimbursement for digital mammography.

24 The Department shall convene an expert panel including
25 representatives of hospitals, free-standing mammography
26 facilities, and doctors, including radiologists, to establish

1 quality standards.

2 Subject to federal approval, the Department shall
3 establish a rate methodology for mammography at federally
4 qualified health centers and other encounter-rate clinics.
5 These clinics or centers may also collaborate with other
6 hospital-based mammography facilities.

7 The Department shall establish a methodology to remind
8 women who are age-appropriate for screening mammography, but
9 who have not received a mammogram within the previous 18
10 months, of the importance and benefit of screening mammography.

11 The Department shall establish a performance goal for
12 primary care providers with respect to their female patients
13 over age 40 receiving an annual mammogram. This performance
14 goal shall be used to provide additional reimbursement in the
15 form of a quality performance bonus to primary care providers
16 who meet that goal.

17 The Department shall devise a means of case-managing or
18 patient navigation for beneficiaries diagnosed with breast
19 cancer. This program shall initially operate as a pilot program
20 in areas of the State with the highest incidence of mortality
21 related to breast cancer. At least one pilot program site shall
22 be in the metropolitan Chicago area and at least one site shall
23 be outside the metropolitan Chicago area. An evaluation of the
24 pilot program shall be carried out measuring health outcomes
25 and cost of care for those served by the pilot program compared
26 to similarly situated patients who are not served by the pilot

1 program.

2 Any medical or health care provider shall immediately
3 recommend, to any pregnant woman who is being provided prenatal
4 services and is suspected of drug abuse or is addicted as
5 defined in the Alcoholism and Other Drug Abuse and Dependency
6 Act, referral to a local substance abuse treatment provider
7 licensed by the Department of Human Services or to a licensed
8 hospital which provides substance abuse treatment services.
9 The Department of Healthcare and Family Services shall assure
10 coverage for the cost of treatment of the drug abuse or
11 addiction for pregnant recipients in accordance with the
12 Illinois Medicaid Program in conjunction with the Department of
13 Human Services.

14 All medical providers providing medical assistance to
15 pregnant women under this Code shall receive information from
16 the Department on the availability of services under the Drug
17 Free Families with a Future or any comparable program providing
18 case management services for addicted women, including
19 information on appropriate referrals for other social services
20 that may be needed by addicted women in addition to treatment
21 for addiction.

22 The Illinois Department, in cooperation with the
23 Departments of Human Services (as successor to the Department
24 of Alcoholism and Substance Abuse) and Public Health, through a
25 public awareness campaign, may provide information concerning
26 treatment for alcoholism and drug abuse and addiction, prenatal

1 health care, and other pertinent programs directed at reducing
2 the number of drug-affected infants born to recipients of
3 medical assistance.

4 Neither the Department of Healthcare and Family Services
5 nor the Department of Human Services shall sanction the
6 recipient solely on the basis of her substance abuse.

7 The Illinois Department shall establish such regulations
8 governing the dispensing of health services under this Article
9 as it shall deem appropriate. The Department should seek the
10 advice of formal professional advisory committees appointed by
11 the Director of the Illinois Department for the purpose of
12 providing regular advice on policy and administrative matters,
13 information dissemination and educational activities for
14 medical and health care providers, and consistency in
15 procedures to the Illinois Department.

16 The Illinois Department may develop and contract with
17 Partnerships of medical providers to arrange medical services
18 for persons eligible under Section 5-2 of this Code.
19 Implementation of this Section may be by demonstration projects
20 in certain geographic areas. The Partnership shall be
21 represented by a sponsor organization. The Department, by rule,
22 shall develop qualifications for sponsors of Partnerships.
23 Nothing in this Section shall be construed to require that the
24 sponsor organization be a medical organization.

25 The sponsor must negotiate formal written contracts with
26 medical providers for physician services, inpatient and

1 outpatient hospital care, home health services, treatment for
2 alcoholism and substance abuse, and other services determined
3 necessary by the Illinois Department by rule for delivery by
4 Partnerships. Physician services must include prenatal and
5 obstetrical care. The Illinois Department shall reimburse
6 medical services delivered by Partnership providers to clients
7 in target areas according to provisions of this Article and the
8 Illinois Health Finance Reform Act, except that:

9 (1) Physicians participating in a Partnership and
10 providing certain services, which shall be determined by
11 the Illinois Department, to persons in areas covered by the
12 Partnership may receive an additional surcharge for such
13 services.

14 (2) The Department may elect to consider and negotiate
15 financial incentives to encourage the development of
16 Partnerships and the efficient delivery of medical care.

17 (3) Persons receiving medical services through
18 Partnerships may receive medical and case management
19 services above the level usually offered through the
20 medical assistance program.

21 Medical providers shall be required to meet certain
22 qualifications to participate in Partnerships to ensure the
23 delivery of high quality medical services. These
24 qualifications shall be determined by rule of the Illinois
25 Department and may be higher than qualifications for
26 participation in the medical assistance program. Partnership

1 sponsors may prescribe reasonable additional qualifications
2 for participation by medical providers, only with the prior
3 written approval of the Illinois Department.

4 Nothing in this Section shall limit the free choice of
5 practitioners, hospitals, and other providers of medical
6 services by clients. In order to ensure patient freedom of
7 choice, the Illinois Department shall immediately promulgate
8 all rules and take all other necessary actions so that provided
9 services may be accessed from therapeutically certified
10 optometrists to the full extent of the Illinois Optometric
11 Practice Act of 1987 without discriminating between service
12 providers.

13 The Department shall apply for a waiver from the United
14 States Health Care Financing Administration to allow for the
15 implementation of Partnerships under this Section.

16 The Illinois Department shall require health care
17 providers to maintain records that document the medical care
18 and services provided to recipients of Medical Assistance under
19 this Article. Such records must be retained for a period of not
20 less than 6 years from the date of service or as provided by
21 applicable State law, whichever period is longer, except that
22 if an audit is initiated within the required retention period
23 then the records must be retained until the audit is completed
24 and every exception is resolved. The Illinois Department shall
25 require health care providers to make available, when
26 authorized by the patient, in writing, the medical records in a

1 timely fashion to other health care providers who are treating
2 or serving persons eligible for Medical Assistance under this
3 Article. All dispensers of medical services shall be required
4 to maintain and retain business and professional records
5 sufficient to fully and accurately document the nature, scope,
6 details and receipt of the health care provided to persons
7 eligible for medical assistance under this Code, in accordance
8 with regulations promulgated by the Illinois Department. The
9 rules and regulations shall require that proof of the receipt
10 of prescription drugs, dentures, prosthetic devices and
11 eyeglasses by eligible persons under this Section accompany
12 each claim for reimbursement submitted by the dispenser of such
13 medical services. No such claims for reimbursement shall be
14 approved for payment by the Illinois Department without such
15 proof of receipt, unless the Illinois Department shall have put
16 into effect and shall be operating a system of post-payment
17 audit and review which shall, on a sampling basis, be deemed
18 adequate by the Illinois Department to assure that such drugs,
19 dentures, prosthetic devices and eyeglasses for which payment
20 is being made are actually being received by eligible
21 recipients. Within 90 days after the effective date of this
22 amendatory Act of 1984, the Illinois Department shall establish
23 a current list of acquisition costs for all prosthetic devices
24 and any other items recognized as medical equipment and
25 supplies reimbursable under this Article and shall update such
26 list on a quarterly basis, except that the acquisition costs of

1 all prescription drugs shall be updated no less frequently than
2 every 30 days as required by Section 5-5.12.

3 The rules and regulations of the Illinois Department shall
4 require that a written statement including the required opinion
5 of a physician shall accompany any claim for reimbursement for
6 abortions, or induced miscarriages or premature births. This
7 statement shall indicate what procedures were used in providing
8 such medical services.

9 The Illinois Department shall require all dispensers of
10 medical services, other than an individual practitioner or
11 group of practitioners, desiring to participate in the Medical
12 Assistance program established under this Article to disclose
13 all financial, beneficial, ownership, equity, surety or other
14 interests in any and all firms, corporations, partnerships,
15 associations, business enterprises, joint ventures, agencies,
16 institutions or other legal entities providing any form of
17 health care services in this State under this Article.

18 The Illinois Department may require that all dispensers of
19 medical services desiring to participate in the medical
20 assistance program established under this Article disclose,
21 under such terms and conditions as the Illinois Department may
22 by rule establish, all inquiries from clients and attorneys
23 regarding medical bills paid by the Illinois Department, which
24 inquiries could indicate potential existence of claims or liens
25 for the Illinois Department.

26 Enrollment of a vendor shall be subject to a provisional

1 period and shall be conditional for one year. During the period
2 of conditional enrollment, the Department may terminate the
3 vendor's eligibility to participate in, or may disenroll the
4 vendor from, the medical assistance program without cause.
5 Unless otherwise specified, such termination of eligibility or
6 disenrollment is not subject to the Department's hearing
7 process. However, a disenrolled vendor may reapply without
8 penalty.

9 The Department has the discretion to limit the conditional
10 enrollment period for vendors based upon category of risk of
11 the vendor.

12 Prior to enrollment and during the conditional enrollment
13 period in the medical assistance program, all vendors shall be
14 subject to enhanced oversight, screening, and review based on
15 the risk of fraud, waste, and abuse that is posed by the
16 category of risk of the vendor. The Illinois Department shall
17 establish the procedures for oversight, screening, and review,
18 which may include, but need not be limited to: criminal and
19 financial background checks; fingerprinting; license,
20 certification, and authorization verifications; unscheduled or
21 unannounced site visits; database checks; prepayment audit
22 reviews; audits; payment caps; payment suspensions; and other
23 screening as required by federal or State law.

24 The Department shall define or specify the following: (i)
25 by provider notice, the "category of risk of the vendor" for
26 each type of vendor, which shall take into account the level of

1 screening applicable to a particular category of vendor under
2 federal law and regulations; (ii) by rule or provider notice,
3 the maximum length of the conditional enrollment period for
4 each category of risk of the vendor; and (iii) by rule, the
5 hearing rights, if any, afforded to a vendor in each category
6 of risk of the vendor that is terminated or disenrolled during
7 the conditional enrollment period.

8 To be eligible for payment consideration, a vendor's
9 payment claim or bill, either as an initial claim or as a
10 resubmitted claim following prior rejection, must be received
11 by the Illinois Department, or its fiscal intermediary, no
12 later than 180 days after the latest date on the claim on which
13 medical goods or services were provided, with the following
14 exceptions:

15 (1) In the case of a provider whose enrollment is in
16 process by the Illinois Department, the 180-day period
17 shall not begin until the date on the written notice from
18 the Illinois Department that the provider enrollment is
19 complete.

20 (2) In the case of errors attributable to the Illinois
21 Department or any of its claims processing intermediaries
22 which result in an inability to receive, process, or
23 adjudicate a claim, the 180-day period shall not begin
24 until the provider has been notified of the error.

25 (3) In the case of a provider for whom the Illinois
26 Department initiates the monthly billing process.

1 For claims for services rendered during a period for which
2 a recipient received retroactive eligibility, claims must be
3 filed within 180 days after the Department determines the
4 applicant is eligible. For claims for which the Illinois
5 Department is not the primary payer, claims must be submitted
6 to the Illinois Department within 180 days after the final
7 adjudication by the primary payer.

8 In the case of long term care facilities, admission
9 documents shall be submitted within 30 days of an admission to
10 the facility through the Medical Electronic Data Interchange
11 (MEDI) or the Recipient Eligibility Verification (REV) System,
12 or shall be submitted directly to the Department of Human
13 Services using required admission forms. Confirmation numbers
14 assigned to an accepted transaction shall be retained by a
15 facility to verify timely submittal. Once an admission
16 transaction has been completed, all resubmitted claims
17 following prior rejection are subject to receipt no later than
18 180 days after the admission transaction has been completed.

19 Claims that are not submitted and received in compliance
20 with the foregoing requirements shall not be eligible for
21 payment under the medical assistance program, and the State
22 shall have no liability for payment of those claims.

23 To the extent consistent with applicable information and
24 privacy, security, and disclosure laws, State and federal
25 agencies and departments shall provide the Illinois Department
26 access to confidential and other information and data necessary

1 to perform eligibility and payment verifications and other
2 Illinois Department functions. This includes, but is not
3 limited to: information pertaining to licensure;
4 certification; earnings; immigration status; citizenship; wage
5 reporting; unearned and earned income; pension income;
6 employment; supplemental security income; social security
7 numbers; National Provider Identifier (NPI) numbers; the
8 National Practitioner Data Bank (NPDB); program and agency
9 exclusions; taxpayer identification numbers; tax delinquency;
10 corporate information; and death records.

11 The Illinois Department shall enter into agreements with
12 State agencies and departments, and is authorized to enter into
13 agreements with federal agencies and departments, under which
14 such agencies and departments shall share data necessary for
15 medical assistance program integrity functions and oversight.
16 The Illinois Department shall develop, in cooperation with
17 other State departments and agencies, and in compliance with
18 applicable federal laws and regulations, appropriate and
19 effective methods to share such data. At a minimum, and to the
20 extent necessary to provide data sharing, the Illinois
21 Department shall enter into agreements with State agencies and
22 departments, and is authorized to enter into agreements with
23 federal agencies and departments, including but not limited to:
24 the Secretary of State; the Department of Revenue; the
25 Department of Public Health; the Department of Human Services;
26 and the Department of Financial and Professional Regulation.

1 Beginning in fiscal year 2013, the Illinois Department
2 shall set forth a request for information to identify the
3 benefits of a pre-payment, post-adjudication, and post-edit
4 claims system with the goals of streamlining claims processing
5 and provider reimbursement, reducing the number of pending or
6 rejected claims, and helping to ensure a more transparent
7 adjudication process through the utilization of: (i) provider
8 data verification and provider screening technology; and (ii)
9 clinical code editing; and (iii) pre-pay, pre- or
10 post-adjudicated predictive modeling with an integrated case
11 management system with link analysis. Such a request for
12 information shall not be considered as a request for proposal
13 or as an obligation on the part of the Illinois Department to
14 take any action or acquire any products or services.

15 The Illinois Department shall establish policies,
16 procedures, standards and criteria by rule for the acquisition,
17 repair and replacement of orthotic and prosthetic devices and
18 durable medical equipment. Such rules shall provide, but not be
19 limited to, the following services: (1) immediate repair or
20 replacement of such devices by recipients; and (2) rental,
21 lease, purchase or lease-purchase of durable medical equipment
22 in a cost-effective manner, taking into consideration the
23 recipient's medical prognosis, the extent of the recipient's
24 needs, and the requirements and costs for maintaining such
25 equipment. Subject to prior approval, such rules shall enable a
26 recipient to temporarily acquire and use alternative or

1 substitute devices or equipment pending repairs or
2 replacements of any device or equipment previously authorized
3 for such recipient by the Department.

4 The Department shall execute, relative to the nursing home
5 prescreening project, written inter-agency agreements with the
6 Department of Human Services and the Department on Aging, to
7 effect the following: (i) intake procedures and common
8 eligibility criteria for those persons who are receiving
9 non-institutional services; and (ii) the establishment and
10 development of non-institutional services in areas of the State
11 where they are not currently available or are undeveloped; and
12 (iii) notwithstanding any other provision of law, subject to
13 federal approval, on and after July 1, 2012, an increase in the
14 determination of need (DON) scores from 29 to 37 for applicants
15 for institutional and home and community-based long term care;
16 if and only if federal approval is not granted, the Department
17 may, in conjunction with other affected agencies, implement
18 utilization controls or changes in benefit packages to
19 effectuate a similar savings amount for this population; and
20 (iv) no later than July 1, 2013, minimum level of care
21 eligibility criteria for institutional and home and
22 community-based long term care. In order to select the minimum
23 level of care eligibility criteria, the Governor shall
24 establish a workgroup that includes affected agency
25 representatives and stakeholders representing the
26 institutional and home and community-based long term care

1 interests. This Section shall not restrict the Department from
2 implementing lower level of care eligibility criteria for
3 community-based services in circumstances where federal
4 approval has been granted.

5 The Illinois Department shall develop and operate, in
6 cooperation with other State Departments and agencies and in
7 compliance with applicable federal laws and regulations,
8 appropriate and effective systems of health care evaluation and
9 programs for monitoring of utilization of health care services
10 and facilities, as it affects persons eligible for medical
11 assistance under this Code.

12 The Illinois Department shall report annually to the
13 General Assembly, no later than the second Friday in April of
14 1979 and each year thereafter, in regard to:

15 (a) actual statistics and trends in utilization of
16 medical services by public aid recipients;

17 (b) actual statistics and trends in the provision of
18 the various medical services by medical vendors;

19 (c) current rate structures and proposed changes in
20 those rate structures for the various medical vendors; and

21 (d) efforts at utilization review and control by the
22 Illinois Department.

23 The period covered by each report shall be the 3 years
24 ending on the June 30 prior to the report. The report shall
25 include suggested legislation for consideration by the General
26 Assembly. The filing of one copy of the report with the

1 Speaker, one copy with the Minority Leader and one copy with
2 the Clerk of the House of Representatives, one copy with the
3 President, one copy with the Minority Leader and one copy with
4 the Secretary of the Senate, one copy with the Legislative
5 Research Unit, and such additional copies with the State
6 Government Report Distribution Center for the General Assembly
7 as is required under paragraph (t) of Section 7 of the State
8 Library Act shall be deemed sufficient to comply with this
9 Section.

10 Rulemaking authority to implement Public Act 95-1045, if
11 any, is conditioned on the rules being adopted in accordance
12 with all provisions of the Illinois Administrative Procedure
13 Act and all rules and procedures of the Joint Committee on
14 Administrative Rules; any purported rule not so adopted, for
15 whatever reason, is unauthorized.

16 On and after July 1, 2012, the Department shall reduce any
17 rate of reimbursement for services or other payments or alter
18 any methodologies authorized by this Code to reduce any rate of
19 reimbursement for services or other payments in accordance with
20 Section 5-5e.

21 (Source: P.A. 96-156, eff. 1-1-10; 96-806, eff. 7-1-10; 96-926,
22 eff. 1-1-11; 96-1000, eff. 7-2-10; 97-48, eff. 6-28-11; 97-638,
23 eff. 1-1-12; 97-689, eff. 6-14-12; 97-1061, eff. 8-24-12;
24 revised 9-20-12.)

25 Section 999. Effective date. This Act takes effect upon
26 becoming law.