

1 AN ACT concerning midwives.

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

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

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

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

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

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

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

1 identifying and referring women who require obstetrical
2 attention. The application of this woman-centered model
3 of care has been proven to reduce the incidence of birth
4 injury, trauma, and cesarean section.

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

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

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

1 services, and (ii) encourages the development and
2 implementation of guidelines for the licensing and
3 certification of direct-entry midwives and the practice
4 of midwifery for use by state and local health agencies,
5 health planners, maternity care providers, and
6 professional organizations.

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

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

13 "Certified professional midwife" means a person who has
14 met the standards for certification set by the North American
15 Registry of Midwives or its successor and has been awarded
16 this credential.

17 "Consultation" means the process whereby a licensed
18 midwife seeks the advice or opinion of a physician or another
19 member of a health care team.

20 "Council" means the Licensed Midwife Council.

21 "Department" means the Department of Professional
22 Regulation.

23 "Director" means the Director of Professional Regulation.

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

28 "Licensed midwife" means a person who is licensed under
29 this Act.

30 "Midwifery" means the provision, on a continuing basis
31 and within a health care system that provides for
32 consultation and referral as needed, of the necessary care
33 and education to women during pregnancy, labor, and the

1 postpartum and interpartum periods; attending deliveries that
2 the individual is responsible for; and caring for the newborn
3 infant. "Midwifery" also includes the provision of additional
4 primary health care services to women and their families,
5 which include, but are not limited to, well-woman
6 gynecological services such as non-pharmacological family
7 planning and routine pap smears.

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

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

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

19 Section 15. License required.

20 (a) Beginning July 1, 2005, no person shall practice
21 midwifery in this State without a license under this Act,
22 except as provided in Section 20.

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

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

32 (1) The gratuitous rendering of services.

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

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

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

8 (5) Midwifery that is included in the educational
9 programs of student midwives enrolled in approved programs of
10 midwifery education.

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

1 membership a chairperson. The Council may meet as needed, but
2 shall meet at least twice a year.

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

5 (1) Recommend and approve the adoption and revision of
6 any rules that may be necessary to carry out the provisions
7 of this Act that are designed to protect the health, safety,
8 and welfare of the public. The rules shall include the scope
9 of practice and services provided regarding the use of
10 equipment, procedures, and medications.

11 (2) Conduct hearings and disciplinary conferences on
12 disciplinary charges of those licensed as provided in Section
13 70 and those in violation of Section 15.

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

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

19 Section 35. Council members; immunity from suit. The
20 members of the Council are immune from suit in any action
21 based upon disciplinary proceedings or other acts performed
22 as members of the Council, except those involving willful or
23 wanton misconduct.

24 Section 40. Council members; compensation. Members of the
25 Council shall serve without compensation, but shall be
26 reimbursed for actual expenses necessarily incurred in the
27 discharge of their duties.

28 Section 45. Powers and duties of the Department.

29 (a) The Department shall exercise the powers and duties
30 necessary to effectuate the purposes of this Act. None of the

1 functions, powers, or duties of the Department with respect
2 to licensure shall be exercised by the Department except upon
3 review and approval by the Council.

4 (b) The Department shall have the authority and
5 responsibility to:

6 (1) license individuals who qualify for licensure;

7 (2) issue quarterly reports to the Council on the
8 status of all formal complaints filed by the Department
9 and on significant issues as determined by the Council;
10 and

11 (3) promulgate rules for licensure of candidates
12 authorized to practice under this Act.

13 Section 50. Eligibility.

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

16 (1) holds the credential of certified professional
17 midwife;

18 (2) has completed an approved program of midwifery
19 education with a minimum of 1,800 contact hours or its
20 equivalent;

21 (3) is in good standing with the North American
22 Registry of Midwives;

23 (4) participates in peer review at least twice per
24 year; and

25 (5) provides the Department with an annually
26 updated informed consent document.

27 (b) For a period of 5 years following the effective date
28 of this Act, the Council shall have the authority and
29 discretion to license applicants who have practiced midwifery
30 prior to the effective date of this Act and have had an
31 application accepted by the North American Registry of
32 Midwives for certification. Such license shall terminate
33 automatically 2 years after the date of registration unless

1 the applicant has, by such time, successfully completed the
2 examination provided by the North American Registry of
3 Midwives.

4 Section 55. Scope of practice; informed consent.

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

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

21 Section 65. Renewals. A midwife license must be renewed
22 every 3 years. An applicant for renewal shall submit to the
23 Department (i) a renewal application on the prescribed form
24 furnished by the Department and (ii) a renewal fee as
25 prescribed by the Department.

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

1 Section 75. Disciplinary action.

2 (a) A licensed midwife or applicant for licensure,
3 renewal, or reinstatement shall not engage in unprofessional
4 conduct, which includes:

5 (1) fraudulently procuring or using a license;

6 (2) willfully making or filing false reports or
7 records, willfully impeding or obstructing the filing of
8 reports or records, or willfully failing to file required
9 reports or records in the practice of midwifery;

10 (3) using dishonest or misleading advertising;

11 (4) failing to comply with any statutes related to
12 the practice of midwifery;

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

15 (6) failing to provide, in a timely manner, copies
16 of all records of the care provided to a person after a
17 written request is received from the person who received
18 care; and

19 (7) engaging in gross or repeated malpractice.

20 (b) After a hearing, and upon making a finding of
21 unprofessional conduct, the Licensed Midwife Council shall
22 (i) reprimand the licensed midwife or applicant, (ii) revoke
23 the license or refuse to issue or renew a license, or (iii)
24 seek an injunction against the continuation of the conduct.

25 Section 80. Penalties. A person who knowingly violates
26 any of the provisions of this Act is guilty of a Class A
27 misdemeanor.

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

1 Section 90. Advertising. A person licensed under this Act
2 may advertise the availability of professional services in
3 the public media or on the premises where such professional
4 services are rendered, provided that the advertising is
5 truthful and not misleading.

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

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

30 Section 105. Promulgation of rules by the Department. The
31 Department shall promulgate rules for the licensure of

1 midwives under this Act by January 1, 2004.

2 Section 900. The Regulatory Sunset Act is amended by
3 changing Section 4.24 as follows:

4 (5 ILCS 80/4.24)

5 Sec. 4.24. Acts repealed on January 1, 2014. The
6 following Acts are repealed on January 1, 2014:

7 The Certified Professional Midwife Licensure Act.

8 The Electrologist Licensing Act.

9 The Illinois Public Accounting Act.

10 (Source: P.A. 92-457, eff. 8-21-01; 92-750, eff. 1-1-03.)

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

13 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

14 (Section scheduled to be repealed on January 1, 2007)

15 Sec. 4. Exemptions.

16 (a) This Act does not apply to:

17 (1) persons lawfully carrying on their particular
18 profession or business under any valid existing
19 regulatory Act of this State;

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

22 (3) persons treating human ailments by prayer or
23 spiritual means as an exercise or enjoyment of religious
24 freedom.

25 (b) Section 22 of this Act does not apply to persons who
26 carry out or assist in the implementation of a court order
27 effecting the provisions of Section 119-5 of the Code of
28 Criminal Procedure of 1963.

29 (c) Nothing in this Act shall be construed as
30 prohibiting the practice of midwifery by persons licensed

1 under the Certified Professional Midwife Licensure Act.

2 (Source: P.A. 89-8, eff. 3-21-95.)

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

5 (225 ILCS 65/5-15)

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

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

18 This Act does not prohibit the following:

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

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

30 (c) The furnishing of nursing assistance in an
31 emergency.

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

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

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

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

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

30 (h) The practice of practical nursing by one who is
31 a licensed practical nurse under the laws of another U.S.
32 jurisdiction and has applied in writing to the
33 Department, in form and substance satisfactory to the
34 Department, for a license as a licensed practical nurse

1 and who is qualified to receive such license under
2 Section 10-30, until (1) the expiration of 6 months after
3 the filing of such written application, (2) the
4 withdrawal of such application, or (3) the denial of such
5 application by the Department.

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

24 (j) The practice of professional nursing by one who
25 is a registered professional nurse under the laws of
26 another state, territory of the United States or country
27 and has applied in writing to the Department, in form and
28 substance satisfactory to the Department, for a license
29 as a registered professional nurse and who is qualified
30 to receive such license under Section 10-30, until (1)
31 the expiration of 6 months after the filing of such
32 written application, (2) the withdrawal of such
33 application, or (3) the denial of such application by the
34 Department.

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

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

18 (m) Delegation to authorized direct care staff
19 trained under Section 15.4 of the Mental Health and
20 Developmental Disabilities Administrative Act.

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

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

27 (Source: P.A. 90-61, eff. 12-30-97; 90-248, eff. 1-1-98;
28 90-655, eff. 7-30-98; 90-742, eff. 8-13-98; 91-630, eff.
29 8-19-99.)

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