



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

#### HB2940

Introduced 2/23/2011, by Rep. Robyn Gabel

#### SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 80/4.32 new

225 ILCS 60/4

225 ILCS 65/50-15

from Ch. 111, par. 4400-4

was 225 ILCS 65/5-15

Creates the Home Birth Safety Act. Provides for the licensure of midwives by the Department of Financial and Professional Regulation. Creates the Illinois Midwifery Board. Sets forth provisions concerning qualifications, grounds for disciplinary action, and administrative procedures. Amends the Regulatory Sunset Act to set a repeal date for the new Act of January 1, 2022. Amends the Medical Practice Act of 1987 and the Nurse Practice Act to make related changes. Effective January 1, 2012.

LRB097 08360 CEL 48487 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 Home  
5 Birth Safety Act.

6 Section 5. Purpose. The practice of midwifery in  
7 out-of-hospital settings is hereby declared to affect the  
8 public health, safety, and welfare and to be subject to  
9 regulation in the public interest. The purpose of the Act is to  
10 protect and benefit the public by setting standards for the  
11 qualifications, education, training, and experience of those  
12 who seek to obtain licensure and hold the title of Licensed  
13 Midwife, to promote high standards of professional performance  
14 for those licensed to practice midwifery in out-of-hospital  
15 settings in this State, and to protect the public from  
16 unprofessional conduct by persons licensed to practice  
17 midwifery, as defined in this Act. This Act shall be liberally  
18 construed to best carry out these purposes.

19 Section 10. Exemptions.

20 (a) This Act does not prohibit a person licensed under any  
21 other Act in this State from engaging in the practice for which  
22 he or she is licensed or from delegating services as provided

1 for under that other Act.

2 (b) Nothing in this Act shall be construed to prohibit or  
3 require licensing under this Act, with regard to:

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.

12 Section 15. Definitions. In this Act:

13 "Board" means the Illinois Midwifery Board.

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

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

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

22 "National Association of Certified Professional Midwives"  
23 or "NACPM" means the professional organization, or its  
24 successor, that promotes the growth and development of the  
25 profession of certified professional midwives.

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

5 "Practice of midwifery" means providing the necessary  
6 supervision, care, education, and advice to women during the  
7 antepartum, intrapartum, and postpartum period, conducting  
8 deliveries independently, and caring for the newborn, with such  
9 care including without limitation preventative measures, the  
10 detection of abnormal conditions in the mother and the child,  
11 the procurement of medical assistance, and the execution of  
12 emergency measures in the absence of medical help. "Practice of  
13 midwifery" includes non-prescriptive family planning.

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

16 Section 20. Unlicensed practice. Beginning January 1,  
17 2013, no person may practice, attempt to practice, or hold  
18 himself or herself out to practice as a licensed midwife unless  
19 he or she is licensed as a midwife under this Act.

20 Section 25. Title. A licensed midwife may identify himself  
21 or herself as a Licensed Midwife or a Licensed Home Birth  
22 Midwife and may use the abbreviation L.M.

23 Section 30. Informed consent.

1 (a) A licensed midwife shall, at an initial consultation  
2 with a client, provide a copy of the rules under this Act and  
3 disclose to the client orally and in writing all of the  
4 following:

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

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

9 (3) A written protocol for the handling of medical  
10 emergencies, including transportation to a hospital,  
11 particular to each client.

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

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

18 Section 33. Vicarious liability. No physician licensed to  
19 practice medicine in all its branches or advanced practice  
20 nurse shall be held liable for an injury solely resulting from  
21 an act or omission by a licensed midwife occurring outside of a  
22 hospital, doctor's office or health care facility.

23 Except as may otherwise be provided by law, nothing in this  
24 Section shall exempt any physician licensed to practice  
25 medicine in all its branches or advanced practice nurse from

1 liability for his or her own negligent, grossly negligent, or  
2 willful or wanton acts or omissions.

3 Section 35. Advertising.

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

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

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

15 (a) The Department shall exercise the powers and duties  
16 prescribed by the Civil Administrative Code of Illinois for the  
17 administration of licensing Acts and shall exercise such other  
18 powers and duties necessary for effectuating the purposes of  
19 this Act.

20 (b) The Secretary shall adopt rules consistent with the  
21 provisions of this Act for the administration and enforcement  
22 of the Act and for the payment of fees connected to the Act and  
23 may prescribe forms that shall be issued in connection with the  
24 Act. The rules shall include, but not be limited to, the

1 following:

2 (1) With regard to testing, care, and screening, a  
3 licensed midwife shall:

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

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

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

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

17 (E) administer, if necessary, oxytocin (Pitocin)  
18 solely as an anti-hemorrhagic agent, oxygen and  
19 intravenous fluids for stabilization, and other drugs  
20 or procedures as determined by the Department;

21 (F) perform routine cord management and inspect  
22 for the appropriate number of vessels;

23 (G) inspect the placenta and membranes for  
24 completeness;

25 (H) inspect the perineum and vagina postpartum for  
26 lacerations and stabilize;

1 (I) observe mother and newborn postpartum until  
2 stable condition is achieved, but in no event for less  
3 than 2 hours;

4 (J) instruct the mother, father, and other support  
5 persons, both verbally and in writing, of the special  
6 care and precautions for both mother and newborn in the  
7 immediate postpartum period;

8 (K) reevaluate maternal and newborn well-being  
9 within 36 hours after delivery.

10 (L) use universal precautions with all biohazard  
11 materials;

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

14 (N) offer to obtain and submit a blood sample, in  
15 accordance with the recommendations for metabolic  
16 screening of the newborn;

17 (O) offer an injection of vitamin K for the  
18 newborn, in accordance with the indication, dose, and  
19 administration route set by the Department in rules.

20 (P) within one week after delivery, offer a newborn  
21 hearing screening to every newborn or refer the parents  
22 to a facility with a newborn hearing screening program;

23 (Q) within 2 hours after the birth, offer the  
24 administration of anti-biotic ointment into the eyes  
25 of the newborn, in accordance with State law on the  
26 prevention of infant blindness; and



1 (R) maintain adequate antenatal and perinatal  
2 records of each client and provide records to  
3 consulting licensed physicians and licensed certified  
4 nurse-midwives, in accordance with the federal Health  
5 Insurance Portability and Accountability Act.

6 (2) With regard to collaboration, a licensed midwife  
7 must form a formal collaborative relationship with a  
8 medical doctor or doctor of osteopathy licensed under the  
9 Illinois Medical Practice Act or a certified nurse midwife  
10 licensed as an advanced practice nurse under the Illinois  
11 Nurse Practice Act. This relationship must:

12 (A) include documented quarterly review of all  
13 clients under the care of the licensed midwife;

14 (B) include written protocols and procedures for  
15 assessing risk and appropriateness for home birth;

16 (C) provide supportive care when care is  
17 transferred to another provider, if possible; and

18 (D) consider the standards regarding practice of  
19 midwifery established by the National Association of  
20 Certified Professional Midwives, including referral of  
21 mother or baby to appropriate professionals when  
22 either needs care outside the midwife's scope of  
23 practice or expertise.

24 This relationship must not be construed to necessarily  
25 require the personal presence of the collaborating care  
26 provider at all times at the place where services are

1 rendered, as long as there is communication available for  
2 consultation by radio, telephone, Internet, or  
3 telecommunications.

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

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

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

10 (C) Use vacuum extractors or forceps.

11 (D) Prescribe medications.

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

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

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

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

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

10           Section 45. Illinois Midwifery Board.

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

1 assistance of a certified professional midwife in an  
2 out-of-hospital birth setting. Board members shall serve  
3 4-year terms, except that in the case of initial appointments,  
4 terms shall be staggered as follows: 3 members shall serve for  
5 4 years, 2 members shall serve for 3 years, and 2 members shall  
6 serve for 2 years. The Board shall annually elect a chairperson  
7 and vice chairperson.

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

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

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

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

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

23 (g) The Board shall provide the Department with  
24 recommendations concerning the administration of this Act and  
25 perform each of the following duties:

26 (1) Recommend to the Department the prescription and,

1 from time to time, the revision of any rules that may be  
2 necessary to carry out the provisions of this Act,  
3 including those that are designed to protect the health,  
4 safety, and welfare of the public.

5 (2) Conduct hearings and disciplinary conferences on  
6 disciplinary charges of licensees.

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

10 (4) Recommend the approval, denial of approval, and  
11 withdrawal of approval of required education and  
12 continuing educational programs.

13 (h) The Secretary shall give due consideration to all  
14 recommendations of the Board. If the Secretary takes action  
15 contrary to a recommendation of the Board, the Secretary must  
16 promptly provide a written explanation of that action.

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

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

1 Section 50. Qualifications.

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

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

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

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

14 (C) Social and Behavioral Science (Sociology and  
15 Psychology): 6 credit hours.

16 (D) Math: 3 credit hours.

17 (E) Nutrition: 3 credit hours.

18 (F) Pharmacology: 3 credit hours.

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

24 (3) He or she has passed a written and practical skills  
25 examination for the practice of midwifery that has been  
26 developed following the standards set by the National

1 Commission for Certifying Agencies or a successor  
2 organization and is administered by the North American  
3 Registry of Midwives.

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

6 (b) Before March 1, 2013, a person seeking licensure as a  
7 licensed midwife who has not met the educational requirements  
8 set forth in this Section shall be qualified for licensure if  
9 that person does all of the following:

10 (1) Submits evidence of having successfully passed the  
11 national certification exam described in subsection (a) of  
12 this Section prior to January 1, 2006.

13 (2) Submits evidence of current certification in adult  
14 CPR and in neonatal resuscitation.

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

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

20 (c) Nothing used in submitting evidence of practice of  
21 midwifery when applying for licensure under this Act shall be  
22 used as evidence or to take legal action against the applicant  
23 regarding the practice of midwifery, nursing, or medicine prior  
24 to the passage of this Act.

25 Section 55. Social Security Number on application. In

1 addition to any other information required to be contained in  
2 the application, every application for an original, renewal,  
3 reinstated, or restored license under this Act shall include  
4 the applicant's Social Security Number.

5 Section 60. Continuing education.

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

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

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

18 Section 65. Inactive status.

19 (a) A licensed midwife who notifies the Department in  
20 writing on forms prescribed by the Department may elect to  
21 place his or her license on an inactive status and shall be  
22 excused from payment of renewal fees until he or she notifies  
23 the Department in writing of his or her intent to restore the  
24 license.



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

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

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

11 Section 70. Renewal, reinstatement, or restoration of  
12 licensure; military service.

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

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

21 (c) Any licensed midwife who has permitted his or her  
22 license to expire or who has had his or her license on inactive  
23 status may have his or her license restored by making  
24 application to the Department and filing proof acceptable to  
25 the Department of fitness to have the license restored and by

1 paying the required fees. Proof of fitness may include evidence  
2 attesting to active lawful practice in another jurisdiction.

3 (d) The Department shall determine, by an evaluation  
4 program, fitness for restoration of a license under this  
5 Section and shall establish procedures and requirements for  
6 restoration.

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

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

22 Section 80. Fees.

23 (a) The Department shall provide for a schedule of fees for  
24 the administration and enforcement of this Act, including

1 without limitation original licensure, renewal, and  
2 restoration, which fees shall be nonrefundable.

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

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

1 defray all expenses of processing the application. The  
2 Secretary may waive the fines due under this Section in  
3 individual cases where the Secretary finds that the fines would  
4 be unreasonable or unnecessarily burdensome.

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

21 Section 95. Grounds for disciplinary action.

22 (a) The Department may refuse to issue or to renew or may  
23 revoke, suspend, place on probation, reprimand or take other  
24 disciplinary action as the Department may deem proper,

1 including fines not to exceed \$5,000 for each violation, with  
2 regard to any licensee or license for any one or combination of  
3 the following causes:

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

5 (2) Material misstatement in furnishing information to  
6 the Department.

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

11 (4) Making any misrepresentation for the purpose of  
12 obtaining a license.

13 (5) Professional incompetence or gross negligence.

14 (6) Gross malpractice.

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

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

19 (9) Engaging in dishonorable, unethical, or  
20 unprofessional conduct of a character likely to deceive,  
21 defraud, or harm the public.

22 (10) Habitual or excessive use or addiction to alcohol,  
23 narcotics, stimulants, or any other chemical agent or drug  
24 that results in the inability to practice with reasonable  
25 judgment, skill, or safety.

26 (11) Discipline by another U.S. jurisdiction or

1 foreign nation if at least one of the grounds for the  
2 discipline is the same or substantially equivalent to those  
3 set forth in this Act.

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

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

16 (14) Abandonment of a patient without cause.

17 (15) Willfully making or filing false records or  
18 reports relating to a licensee's practice, including, but  
19 not limited to, false records filed with State agencies or  
20 departments.

21 (16) Physical illness or mental illness, including,  
22 but not limited to, deterioration through the aging process  
23 or loss of motor skill that results in the inability to  
24 practice the profession with reasonable judgment, skill,  
25 or safety.

26 (17) Failure to provide a patient with a copy of his or

1 her record upon the written request of the patient.

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

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

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

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

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

26 (23) Maintaining a professional relationship with any

1 person, firm, or corporation when the licensed midwife  
2 knows or should know that a person, firm, or corporation is  
3 violating this Act.

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

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

16 (c) The determination by a circuit court that a licensee is  
17 subject to involuntary admission or judicial admission as  
18 provided in the Mental Health and Developmental Disabilities  
19 Code operates as an automatic suspension. The suspension shall  
20 end only upon a finding by a court that the patient is no  
21 longer subject to involuntary admission or judicial admission,  
22 the issuance of an order so finding and discharging the  
23 patient, and the recommendation of the Board to the Secretary  
24 that the licensee be allowed to resume his or her practice.

25 (d) In enforcing this Section, the Department, upon a  
26 showing of a possible violation, may compel any person licensed



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

19 If the Department finds an individual unable to practice  
20 because of the reasons set forth in this subsection (d), the  
21 Department may require that individual to submit to care,  
22 counseling, or treatment by physicians approved or designated  
23 by the Department, as a condition, term, or restriction for  
24 continued, reinstated, or renewed licensure to practice or, in  
25 lieu of care, counseling, or treatment, the Department may file  
26 a complaint to immediately suspend, revoke, or otherwise

1 discipline the license of the individual. Any person whose  
2 license was granted, reinstated, renewed, disciplined, or  
3 supervised subject to such terms, conditions, or restrictions  
4 and who fails to comply with such terms, conditions, or  
5 restrictions shall be referred to the Secretary for a  
6 determination as to whether or not the person shall have his or  
7 her license suspended immediately, pending a hearing by the  
8 Department.

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

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

22 Section 100. Failure to pay restitution. The Department,  
23 without further process or hearing, shall suspend the license  
24 or other authorization to practice of any person issued under  
25 this Act who has been certified by court order as not having

1 paid restitution to a person under Section 8A-3.5 of the  
2 Illinois Public Aid Code or under Section 46-1 of the Criminal  
3 Code of 1961. A person whose license or other authorization to  
4 practice is suspended under this Section is prohibited from  
5 practicing until restitution is made in full.

6 Section 105. Injunction; cease and desist order.

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

20 (b) If any person practices as a licensed midwife or holds  
21 himself or herself out as a licensed midwife without being  
22 licensed under the provisions of this Act, then any licensed  
23 midwife, any interested party, or any person injured thereby  
24 may, in addition to the Secretary, petition for relief as  
25 provided in subsection (a) of this Section.

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

10           Section 110. Violation; criminal penalty.

11           (a) Whoever knowingly practices or offers to practice  
12 midwifery in this State without being licensed for that purpose  
13 or exempt under this Act shall be guilty of a Class A  
14 misdemeanor and, for each subsequent conviction, shall be  
15 guilty of a Class 4 felony.

16           (b) Notwithstanding any other provision of this Act, all  
17 criminal fines, moneys, or other property collected or received  
18 by the Department under this Section or any other State or  
19 federal statute, including, but not limited to, property  
20 forfeited to the Department under Section 505 of the Illinois  
21 Controlled Substances Act or Section 85 of the Methamphetamine  
22 Control and Community Protection Act, shall be deposited into  
23 the Professional Regulation Evidence Fund.

24           Section 115. Investigation; notice; hearing. The

1 Department may investigate the actions of any applicant or of  
2 any person or persons holding or claiming to hold a license  
3 under this Act. Before refusing to issue or to renew or taking  
4 any disciplinary action regarding a license, the Department  
5 shall, at least 30 days prior to the date set for the hearing,  
6 notify in writing the applicant or licensee of the nature of  
7 any charges and that a hearing shall be held on a date  
8 designated. The Department shall direct the applicant or  
9 licensee to file a written answer with the Board under oath  
10 within 20 days after the service of the notice and inform the  
11 applicant or licensee that failure to file an answer shall  
12 result in default being taken against the applicant or licensee  
13 and that the license may be suspended, revoked, or placed on  
14 probationary status or that other disciplinary action may be  
15 taken, including limiting the scope, nature, or extent of  
16 practice, as the Secretary may deem proper. Written notice may  
17 be served by personal delivery or certified or registered mail  
18 to the respondent at the address of his or her last  
19 notification to the Department. If the person fails to file an  
20 answer after receiving notice, his or her license may, in the  
21 discretion of the Department, be suspended, revoked, or placed  
22 on probationary status, or the Department may take any  
23 disciplinary action deemed proper, including limiting the  
24 scope, nature, or extent of the person's practice or the  
25 imposition of a fine, without a hearing, if the act or acts  
26 charged constitute sufficient grounds for such action under

1 this Act. At the time and place fixed in the notice, the Board  
2 shall proceed to hear the charges and the parties or their  
3 counsel shall be accorded ample opportunity to present such  
4 statements, testimony, evidence, and argument as may be  
5 pertinent to the charges or to their defense. The Board may  
6 continue a hearing from time to time.

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

18 Section 125. Witnesses; production of documents; contempt.  
19 Any circuit court may upon application of the Department or its  
20 designee or of the applicant or licensee against whom  
21 proceedings under Section 95 of this Act are pending, enter an  
22 order requiring the attendance of witnesses and their testimony  
23 and the production of documents, papers, files, books, and  
24 records in connection with any hearing or investigation. The

1 court may compel obedience to its order by proceedings for  
2 contempt.

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

20 Section 135. Findings of fact, conclusions of law, and  
21 recommendations. At the conclusion of the hearing the Board  
22 shall present to the Secretary a written report of its findings  
23 of fact, conclusions of law, and recommendations. The report  
24 shall contain a finding as to whether or not the accused person

1 violated this Act or failed to comply with the conditions  
2 required under this Act. The Board shall specify the nature of  
3 the violation or failure to comply and shall make its  
4 recommendations to the Secretary.

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

14 Section 140. Hearing officer. The Secretary may appoint any  
15 attorney duly licensed to practice law in the State of Illinois  
16 to serve as the hearing officer in any action for departmental  
17 refusal to issue, renew, or license an applicant or for  
18 disciplinary action against a licensee. The hearing officer  
19 shall have full authority to conduct the hearing. The hearing  
20 officer shall report his or her findings of fact, conclusions  
21 of law, and recommendations to the Board and the Secretary. The  
22 Board shall have 60 calendar days after receipt of the report  
23 to review the report of the hearing officer and present its  
24 findings of fact, conclusions of law, and recommendations to  
25 the Secretary. If the Board fails to present its report within



1 the 60-day period, the Secretary may issue an order based on  
2 the report of the hearing officer. If the Secretary disagrees  
3 with the recommendation of the Board or the hearing officer, he  
4 or she may issue an order in contravention of that  
5 recommendation.

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

22 Section 150. Rehearing. Whenever the Secretary is  
23 satisfied that substantial justice has not been done in the  
24 revocation, suspension, or refusal to issue or renew a license,

1 the Secretary may order a rehearing by the same or another  
2 hearing officer or by the Board.

3 Section 155. Prima facie proof. An order or a certified  
4 copy thereof, over the seal of the Department and purporting to  
5 be signed by the Secretary, shall be prima facie proof of the  
6 following:

7 (1) that the signature is the genuine signature of the  
8 Secretary;

9 (2) that such Secretary is duly appointed and  
10 qualified; and

11 (3) that the Board and its members are qualified to  
12 act.

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

18 Section 165. Surrender of license. Upon the revocation or  
19 suspension of any license, the licensee shall immediately  
20 surrender the license to the Department. If the licensee fails  
21 to do so, the Department shall have the right to seize the  
22 license.

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

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

19           Section 180. Administrative Review Law. All final  
20 administrative decisions of the Department are subject to  
21 judicial review under the Administrative Review Law and its  
22 rules. The term "administrative decision" is defined as in  
23 Section 3-101 of the Code of Civil Procedure.

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

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

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

22           Section 900. The Regulatory Sunset Act is amended by adding  
23 Section 4.32 as follows:

1 (5 ILCS 80/4.32 new)

2 Sec. 4.32. Act repealed on January 1, 2022. The following  
3 Act is repealed on January 1, 2022:

4 The Home Birth Safety Act.

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

7 (225 ILCS 60/4) (from Ch. 111, par. 4400-4)

8 (Section scheduled to be repealed on November 30, 2011)

9 Sec. 4. Exemptions.

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

11 (1) persons lawfully carrying on their particular  
12 profession or business under any valid existing regulatory  
13 Act of this State, including without limitation persons  
14 engaged in the practice of midwifery who are licensed under  
15 the Home Birth Safety Act;

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

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

21 (4) persons practicing the specified occupations set  
22 forth in in subsection (a) of, and pursuant to a licensing  
23 exemption granted in subsection (b) or (d) of, Section

1           2105-350 of the Department of Professional Regulation Law  
2           of the Civil Administrative Code of Illinois, but only for  
3           so long as the 2016 Olympic and Paralympic Games  
4           Professional Licensure Exemption Law is operable.

5           (b) (Blank).

6           (Source: P.A. 96-7, eff. 4-3-09.)

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

9           (225 ILCS 65/50-15) (was 225 ILCS 65/5-15)

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

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

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

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

24                 (1) The practice of nursing in Federal employment in

1 the discharge of the employee's duties by a person who is  
2 employed by the United States government or any bureau,  
3 division or agency thereof and is a legally qualified and  
4 licensed nurse of another state or territory and not in  
5 conflict with Sections 50-50, 55-10, 60-10, and 70-5 of  
6 this Act.

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

10 (3) The furnishing of nursing assistance in an  
11 emergency.

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

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

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

22 (7) The practice of practical nursing by one who is a  
23 licensed practical nurse under the laws of another U.S.  
24 jurisdiction and has applied in writing to the Department,  
25 in form and substance satisfactory to the Department, for a  
26 license as a licensed practical nurse and who is qualified

1 to receive such license under this Act, until (i) the  
2 expiration of 6 months after the filing of such written  
3 application, (ii) the withdrawal of such application, or  
4 (iii) the denial of such application by the Department.

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

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

25 (10) The practice of professional nursing that is  
26 included in a program of study by one who is a registered



1 professional nurse under the laws of another state or  
2 territory of the United States or foreign country,  
3 territory or province and who is enrolled in a graduate  
4 nursing education program or a program for the completion  
5 of a baccalaureate nursing degree in this State, which  
6 includes clinical supervision by faculty as determined by  
7 the educational institution offering the program and the  
8 health care organization where the practice of nursing  
9 occurs.

10 (11) Any person licensed in this State under any other  
11 Act from engaging in the practice for which she or he is  
12 licensed, including without limitation any person engaged  
13 in the practice of midwifery who is licensed under the Home  
14 Birth Safety Act.

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

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

1           (14) County correctional personnel from delivering  
2           prepackaged medication for self-administration to an  
3           individual detainee in a correctional facility.

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

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

10           Section 999. Effective date. This Act takes effect January  
11           1, 2012.