

Expanding the Scope of Midwifery Practice in  
Illinois: Feminist and Financial Arguments

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I. INTRODUCTION

In 2011, over ninety-eight percent of all childbirths in the United States occurred in a hospital setting.<sup>1</sup> However, in the last few years, statistics show a noticeable increase in the number of home births.<sup>2</sup> Many researchers claim that the developing home birth movement is motivated by some women's desire to retreat from the over-medicalization of physician-attended hospital birth.<sup>3</sup> Feminist theory claims that the trend is motivated by women's desire for greater autonomy in birthing decisions, which they feel is unavailable or inaccessible within the hospital-based, medical model of childbirth.<sup>4</sup>

Within this context, midwife-attended home birth has emerged as a viable alternative to hospital-based maternity care.<sup>5</sup> The broad field of midwifery can be separated into two primary groups of providers: certified nurse midwives (CNMs) and certified professional midwives (CPMs).<sup>6</sup>

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1. Joyce A. Martin et al., Ctrs. for Disease Control and Prevention, *Births: Final Data for 2011*, 62 NAT'L VITAL STAT. REP. NO. 1, 12 (2013), available at [http://www.cdc.gov/nchs/data/nvsr/nvsr62/nvsr62\\_01.pdf#table01](http://www.cdc.gov/nchs/data/nvsr/nvsr62/nvsr62_01.pdf#table01).

2. *Id.* at 13.

3. See Catherine Elton, *American Women: Birthing Babies at Home*, TIME (Sep. 4, 2010), <http://content.time.com/time/magazine/article/0,9171,2011940,00.html> (noting that 32% of hospital childbirths end in cesarean section).

4. Rebecca A. Spence, *Abandoning Women to their Rights: What Happens When Feminist Jurisprudence Ignores Birthing Rights*, 19 CARDOZO J.L. & GENDER 75, 91 (2012).

5. Elton, *supra* note 3.

6. Stacey A. Tovino, *American Midwifery Litigation and State Legislative Preferences*

CNMs are licensed nurse practitioners, falling under the umbrella category of Advanced Practice Nurses (APNs).<sup>7</sup> CNMs practice in all fifty states and are generally limited to working in hospital settings under the direct supervision of a physician, pursuant to state licensing acts.<sup>8</sup> On the other hand, CPMs, sometimes called lay midwives or direct entry midwives, generally do not hold nursing degrees.<sup>9</sup> Instead, CPMs learn their trade through more traditional apprenticeship methods, often combined with structured training at a midwifery school.<sup>10</sup> In most states that recognize the CPM credential, they are licensed according to guidelines and standards set by the North American Registry of Midwives (NARM).<sup>11</sup> Because CPMs do not receive formal nursing educations, they generally do not practice in hospital settings.<sup>12</sup>

This article presents two arguments for expanding the scope of practice of direct entry midwives in Illinois through recognition of the CPM credential. First, this article will examine social science research that suggests that the availability of home-birthing options and access to the midwifery care are important tools for providing reproductive rights to all

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*for Physician-Controlled Childbirth*, 11 *CARDOZO WOMEN'S L.J.* 61, 68-69 (2004).

7. *Id.* at 69.

8. *Id.*

9. *Tovino supra* note 6 at 68-69.

10. *Id.* One example of a formal midwifery program is the well-known program at Bastyr University (formerly known as the Seattle Midwifery School). *See Seattle Midwifery School is Now Part of Bastyr*, BASTYR UNIVERSITY, <http://www.bastyr.edu/seattle-midwifery-school-now-part-bastyr> (last visited Sep. 30, 2013). The program offers the nation's first accredited Masters of Science in Midwifery program for direct-entry midwifery practice. Students need not possess a nursing degree to enter the program. *Id.* Upon completion of all program requirements, students are eligible to be licensed and certified as a CPM. *Id.*

11. STATE LICENSURE OF CERTIFIED PROF. MIDWIVES, NORTH AMERICAN REGISTRY OF MIDWIVES POSITION STATEMENT 2 (April 2012) [hereinafter NARM POSITION STATEMENT], available at <http://narm.org/wp-content/uploads/2012/05/State-Licensure-of-CPMs2012.pdf>.

12. *See* Julie Deardorff, *Illinois Midwifery Debate Ongoing*, CHI. TRIBUNE (August 24, 2011), <http://www.chicagotribune.com/health/ct-nw-illinois-home-births-20110824,0,6427240.story>.

women.<sup>13</sup> Second, this article will address the financial incentives for Illinois CPM licensure, as increased access to midwife-attended home births would greatly reduce Medicaid childbirth expenditures.<sup>14</sup>

## II. MIDWIFERY THROUGHOUT AMERICAN HISTORY

The overwhelming dominance of hospitals as the primary location of childbirth in this country is a long-observed trend.<sup>15</sup> Yet the widespread assumption that a woman will always deliver in a hospital is relatively new, and it only gained footing in the medical community and public perception within the last century.<sup>16</sup> This trajectory is evidenced by the fact that, as recently as 100 years ago, nearly all births in the United States occurred at home.<sup>17</sup> Historically, midwives oversaw most American home births.<sup>18</sup> During the Colonial period, childbirth was seen as a social or communal event, rather than a medical one.<sup>19</sup> Family, neighbors, and friends were often present during a birth, and community-based midwives directed the birthing experience with little or no physician involvement.<sup>20</sup> These midwives received no formal training and gradually developed their competencies by assisting an already-established midwife.<sup>21</sup> At this time, midwives were highly-regarded local figures, and enjoyed a certain level of

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13. Spence, *supra* note 4 at 92.

14. Coalition for Ill. Midwifery, *Reducing Medicaid Maternity Care Expenditures through Utilization of Certified Professional Midwives in Illinois* (April 9, 2012), [hereinafter *Medicaid Proposal*], <http://www.illinoismidwifery.org/blog/wp-content/uploads/2012/04/Reducing-Medicaid-Maternity-Care-Expenditures-Through-Utilization-of-Certified-Professional-Midwives.pdf>.

15. See Deborah Boucher et al., *Staying Home to Give Birth: Why Women in the United States Choose Home Birth*, 54 J. MIDWIFERY WOMENS HEALTH 119, 119 (2009).

16. Marian F. MacDorman et al., Ctrs. for Disease Control & Prevention, *Home Births in the United States, 1990-2009*, 84 NCHS DATA BRIEF 1, 1 (2012) [hereinafter NCHS DATA BRIEF], <http://www.cdc.gov/nchs/data/databriefs/db84.pdf>.

17. Boucher, *supra* note 15 at 119.

18. *Id.*

19. Tovino, *supra* note 6 at 63.

20. *Id.*

21. *Id.*

cooperation and comity from physicians.<sup>22</sup>

Throughout the 1800's, the growing prestige of the medical profession resulted in a new specialty field: obstetrics.<sup>23</sup> Some viewed these physician specialists as elite and cutting-edge because they utilized new technologies such as forceps and were trained in female anatomy and physiology.<sup>24</sup> An increasing number of women sought to integrate physician care into their children's births throughout the 1800's, often combining the medical expertise of physicians with the familiarity and communal quality of midwifery-supervised homebirth.<sup>25</sup> Even with the rising profile of obstetricians, almost all births continued to occur at home at the turn of the 20th century, with approximately one-half of these births being primarily overseen by a midwife.<sup>26</sup>

However, the medical model of childbirth continued to gain momentum, and by 1940 over fifty percent of births were physician-attended hospital births.<sup>27</sup> This trend first arose with white, middle-class and upper-class women, who chose to deliver in hospitals to take advantage of rapidly-developing medical technologies and to reduce concerns about germs and infection that had become associated with home births.<sup>28</sup> These trends

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22. *Id.* at 64.

23. *Id.*

24. *Id.* at 64-65 (noting that early obstetricians "attempted to elevate the prestige of their new specialty by emphasizing the importance of anatomy and physiology, although complications erupted in their practices. These complications were due, in part, to interventions, including bloodletting, drugs, and forceps. . . However, many women still believed that medical progress would eventually lead to reductions in birth dangers and pain.").

25. *Id.* at 66.

26. *Id.* at 67.

27. *Id.*

28. Tovino, *supra* note 6 at 67-68 (quoting JUDITH WALZER LEAVITT, BROUGHT TO BED: CHILD-REARING IN AMERICA 1750-1950, 12, 2006, "Popular medical journals in the 1920's and 1930's also encouraged women to deliver their babies in hospitals to ensure the safety of both mother and child. At that same time. . . hospital-based obstetricians aggressively managed childbirth by using pain-relieving drugs, labor inducers, and other technological interventions.").

quickly trickled down to women of all races and socio-economic statuses, and by 1950 almost ninety percent of American babies were born in hospitals.<sup>29</sup>

While Illinois mirrored these national trends, it was also home to two historically-significant home birth practices.<sup>30</sup> Between 1895 and the 1970s, the non-profit Chicago Maternity Center provided at-home obstetric services to Chicago's low-income population, serving hundreds and sometimes thousands of families per year.<sup>31</sup> The Center maintained a partnership with the Northwestern Memorial Hospital School of Medicine, which sent its medical residents and fourth year medical students into the homes of Chicago's underserved and minority populations to learn obstetrics.<sup>32</sup> Another Chicago program provided culturally sensitive midwifery services, administered both by CNMs and direct entry midwives, to low-income, immigrant families in the Pilsen neighborhood.<sup>33</sup> This program served approximately 150 families per year throughout the 1990s.<sup>34</sup>

Today, the vast majority of American babies are delivered in hospitals by physicians.<sup>35</sup> However, the 1.3% of American babies who are delivered outside of a hospital setting, either at home or in a free-standing birthing facility, account for nearly 50,000 births.<sup>36</sup> The most current research from

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29. *Id.* at 67.

30. *Medicaid Proposal*, *supra* note 14.

31. *Id.* at 1-2.

32. *Id.* at 1.

33. *Id.* at 2.

34. *Id.*

35. Martin et al., *supra* note 1 at 12.

36. *Id.* at 13. *See also* *What is a Birth Center?*, AM. ASS'N OF BIRTH CTRS, <http://www.birthcenters.org/open-a-birth-center/birth-center-experience/what-is-a-birth-center> (last visited Sep. 30, 2013) (defining a birthing facility as "a home-like facility existing within a healthcare system with a program of care designed in the wellness model of pregnancy and birth. Birth centers are guided by principles of prevention, sensitivity, safety, appropriate medical intervention, and cost effectiveness.").

the Centers for Disease Control (CDC) found that in 2011, the number of home births was the highest since reporting for this statistic began in 1989.<sup>37</sup> However, these trends are less apparent in the Illinois midwifery community, as the legal restrictions on CPM practice result in limited access to this growing trend of home delivery.<sup>38</sup>

### III. ISSUES IN CPM LICENSURE

The presence and role of CPMs in the maternity care field is a hotly debated issue, both within the medical community and in the public discourse on childbirth.<sup>39</sup> State legislatures continually address the question of CPM licensure and scope of practice in drastically varying manners.<sup>40</sup> As of 2012, twenty-six states legally authorize CPMs to practice.<sup>41</sup> In these states, the practice of direct entry midwifery is regulated either by use of the NARM-granted CPM credential as the basis for licensure, or by the issuance of another type of permit, certification, or registration.<sup>42</sup> In states that do not specifically recognize the CPM credential, the NARM written exam that is required for CPM licensure may still be employed as a prerequisite to certification.<sup>43</sup> Currently, eleven states that permit CPMs to practice also approve Medicaid reimbursement for the cost of midwife-

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37. Martin et al., *supra* note 1 at 13.

38. See Deardorff, *supra* note 12.

39. *Id.* (quoting Dr. Wayne Polek, President of the Illinois State Medical Society, “Professional midwives have minimal training. . . That’s our major problem with the [Home Birth Safety Act]. It’s not about the home birth itself; it’s a question of who is delivering the care. . . If it’s a certified nurse midwife who has a physician supervising, then (home birth) is fine with us.”, and Katherine Prown, a spokeswoman for advocacy group thebigpushformidwives.org, “[Certified Professional Midwives] have more training in the provision of home-birth services, which require a unique skill set, than most physicians will ever have.”).

40. See, N. AM. REG. OF MIDWIVES, DIRECT ENTRY MIDWIFERY STATE-BY-STATE LEGAL STATUS (Aug. 2013), available at <http://narm.org/pdf/files/statechart080213.pdf> [hereinafter *State-by-State*].

41. NARM POSITION STATEMENT, *supra* note 11 at 2.

42. *State-by-State*, *supra* note 40.

43. *Id.*

attended home births.<sup>44</sup>

Presently, twenty-two states do not afford any type of legal recognition, such as CPM licensure or registration, to direct entry midwives.<sup>45</sup> In thirteen of these states, the practice of direct entry midwifery falls into an unregulated gray zone.<sup>46</sup> In these states, direct entry midwives are legally permitted to practice pursuant to judicial or statutory interpretation.<sup>47</sup> In the remaining nine states, the practice of direct entry midwifery is strictly illegal, pursuant to legislation prohibiting anyone who does not hold a CNM credential from providing midwifery services.<sup>48</sup> The state of Illinois currently falls into this last category.<sup>49</sup> In Illinois, the Medical Practice Act of 1987 (the Act) provides that only licensed CNMs under the supervision of a physician may assist with labor and delivery care.<sup>50</sup> Recently, opinions of the Illinois Appellate and Supreme Courts further clarified the Act, cementing the notion that practicing midwifery without a CNM license is prohibited in Illinois.<sup>51</sup> It is estimated that only nine Illinois CNMs currently attend home births, as the state's requirement of physician supervision constrains midwifery services to hospital settings.<sup>52</sup> Direct

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44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

49. *Id.*

50. *See* Medical Practice Act of 1987, 225 Ill. Comp. Stat. 60/54.5(b)(3) (1987). *See also* Nurse Practices Act, 225 Ill. Comp. Stat. 65/50-15 (2007) (“No person shall practice or offer to practice advanced, professional, or practical nursing in Illinois or use any title, sign, card or device to indicate that such a person is practicing professional or practical nursing unless such person has been licensed under the provisions of this Act.”).

51. *See Morris v. Dep’t of Prof’l Regulation*, 824 N.E.2d 1151, 1158 (Ill. App. Ct. 2005) (holding that a direct entry midwife who had assisted her patient during labor and delivery had rendered midwifery services in violation of the Illinois Nurse Practices Act). *See also People ex. rel. Sherman v. Cryns*, 786 N.E.2d 139, 143-144 (Ill. 2003) (holding that a lay midwife who participated in a home birth had engaged in professional nursing and advanced practice nursing without a license).

52. Deardorff, *supra* note 12.

entry midwives in Illinois, including those who have obtained the CPM credential, are thus relegated to ‘underground’ practices, and face prosecution for overseeing a home birth.<sup>53</sup> As a result, many Illinois women seeking to deliver at home must navigate an unregulated ‘black market’ of direct entry midwives.<sup>54</sup> Expanding Illinois women’s access to licensed and regulated CPMs would therefore serve to reduce the risks currently arising from the unregulated state of homebirth Illinois.<sup>55</sup>

#### IV. MIDWIFERY AND REPRODUCTIVE JUSTICE

Feminist discourse suggests that recognizing women’s birthing rights is a critical element of the fight for reproductive justice.<sup>56</sup> Birthing rights include protection of a woman’s autonomy in birthing decision-making, access to supportive and culturally sensitive maternity care, and the freedom to give birth with dignity in the location of her choice.<sup>57</sup> Feminist jurisprudence grounds these rights in the fundamental right to bodily integrity protected by the Fourteenth Amendment.<sup>58</sup> Women may choose to seek alternatives to physician-directed hospital birth for a variety of reasons.<sup>59</sup> Common reasons for choosing home birth include the belief that non-hospital delivery is safer, the desire to avoid unnecessary medical

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53. *Id.*

54. *Id.*

55. *Id.*

56. Spence, *supra* note 4 at 92; see also Loretta J. Ross, *Understanding Reproductive Justice: Transforming the Pro-Choice Movement*, SISTER SONG 10 (2006), [http://www.sistersong.net/reproductive\\_justice.html](http://www.sistersong.net/reproductive_justice.html) (noting that “the reproductive justice framework – the right to have children, not have children, and to parent the children we have in safe and healthy environments—is based on the human right to make personal decisions about one’s life, and the obligation of government and society to ensure that the conditions are suitable for implementing one’s decisions.”).

57. Spence, *supra* note 4 at 75.

58. *Id.* at 78. *E.g.*, *Washington v. Glucksberg* 117 U.S. 2258, 2267 (1997) (“In a long line of cases, we have held that, in addition to the specific liberties protected by the Bill of Rights, the “liberty” specially protected by the Due Process Clause [of the 14<sup>th</sup> Amendment] includes the rights to . . . bodily integrity.”).

59. Boucher, *supra* note 15 at 119.

interventions, previous negative experiences with hospital birth, the desire for more control over the labor and birthing process, and preference for the comfort and familiarity of the home environment.<sup>60</sup>

While home birth is often criticized as an unsafe or even dangerous choice, proponents of home birth point to research finding that, for low-risk pregnancies, home birth safety rates are equivalent to hospital deliveries.<sup>61</sup> The American College of Obstetricians and Gynecologists (ACOG) takes the firm stance that hospitals are the safest settings for childbirth.<sup>62</sup> Yet ACOG admits that quality evidence to support this debate is limited as adequate clinical studies comparing home birth and hospital birth outcomes have not yet been conducted.<sup>63</sup> Moreover, ACOG recently issued guidelines that aim to promote natural childbirth by reducing the number of induced labors, and the CDC has named the reduction of cesarean sections in low-risk pregnancies as one of its Healthy People 2020 initiatives.<sup>64</sup> Reducing these types of unnecessary medical interventions during childbirth is a key tenet of CPM practice, and many women who opt for home birth describe their desire to avoid a medicalized hospital birth.<sup>65</sup> Feminist scholars also explain this sentiment as a desire to contest the assumption that obstetricians are indisputable experts and to refute the

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60. Boucher, *supra* note 15 at 119.

61. *Id.* See also JT Fullerton et al., *Outcomes of planned home birth: An integrative review*. 52 J. MIDWIFERY WOMENS HEALTH 323-333 (2007) (concluding that maternal and neonatal outcomes of planned home birth were comparable with planned hospital births or birth center births for low-risk pregnancies).

62. The Am. C. Obstetricians & Gynecologists, *Planned Home Birth*, 476 Comm. Op. (reaffirmed 2013), available at <http://www.acog.org/~media/Committee%20Opinions/Committee%20on%20Obstetric%20Practice/co476.pdf?dmc=1&ts=20131213T1840289298> (stating, “Women inquiring about planned home birth should be informed of its risks and benefits based on recent evidence. Specifically, they should be informed that although the absolute risk may be low, planned home birth is associated with a twofold to threefold increased risk of neonatal death when compared with planned hospital birth.”).

63. *Id.* at 1.

64. Martin et al., *supra* note 1 at 13.

65. See Boucher, *supra* note 15 at 119.

culturally embedded narrative of medical childbirth.<sup>66</sup> Ultimately, many women who choose home birth see hospitals as a setting where tensions between physicians' practices and their personal belief system are likely to arise.<sup>67</sup>

The Midwives Model of Care (Midwives Model) represents a solution for many women who are wary of hospital birth.<sup>68</sup> It is based on the assumption that pregnancy and childbirth are normal life events, which do not typically require biomedical interventions.<sup>69</sup> The Midwives Model emphasizes personalized care, cultural and religious sensitivity, greater education and participation for the mother, and a focus on the woman's physical, psychological, and emotional experience throughout the birthing process.<sup>70</sup> These methods are rooted in the goal of increasing personal agency and providing women with an empowering birthing experience.<sup>71</sup>

Women in Illinois currently face substantial obstacles in accessing the Midwives Model.<sup>72</sup> It is estimated that less than ten of the 102 counties in Illinois have legally-sanctioned home birthing practices, run by CNMs or physicians.<sup>73</sup> All but two of these practices are located within the Chicago metropolitan area.<sup>74</sup> The statutory requirement that a physician must

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66. Melissa J. Cheyney, *Home birth as Systems-Challenging Praxis: Knowledge, Power, and Intimacy in the Birthplace*, 18 QUALITATIVE HEALTH RES. 254, 256-257 (2008).

67. Spence, *supra* note 4 at 90.

68. MIDWIVES ALLIANCE N. AM. <http://www.mana.org/about-midwives/midwifery-model> (last visited Oct. 6, 2013).

69. *Id.*

70. *Id.*

71. Cheyney, *supra* note 66 at 260.

72. *Midwifery Model*, ILL. COUNCIL OF CERTIFIED PROF. MIDWIFES, <http://illinoismidwives.org/about-illinois-midwives/> (last visited Oct. 6, 2013).

73. *Id.* ("Outside of the Chicago metropolitan area, women's home birth options are extremely limited. It is not uncommon for women to search for months to locate an appropriate provider. Some women leave the state to give birth. Others try to find an out-of-state midwife who is willing to cross the border to attend her labor. Still others simply stop searching and opt to give birth unassisted.")

74. *Id.*

supervise a CNM ties these licensed midwives to hospital settings.<sup>75</sup> Recently, the Illinois government took certain small steps to increase access to midwifery care.<sup>76</sup> In February 2013, the Illinois Health Facilities and Services Review Board unanimously voted to approve plans for the first free-standing birthing center in the state.<sup>77</sup> This facility, which will be staffed by CNMs with a support team of physicians, will seek to create a home-like birth environment and de-emphasize unnecessary medical interventions.<sup>78</sup>

Although this facility is an important step towards greater access to midwifery services, it is one of few examples of pro-CNM legislation in Illinois.<sup>79</sup> For this reason, organizations such as the Coalition for Illinois Midwifery and the Illinois Council for Certified Professional Midwives state that their ultimate goal is to pass legislation that would license and regulate direct entry midwives using the CPM credential.<sup>80</sup> Legalizing CPM practices, they argue, would not only provide greater access to home birth services and the Midwives Model of Care, but would also serve to promote home birth safety by allowing regulatory boards such as NARM to certify and monitor service providers.<sup>81</sup> In this way, the implementation of a state-wide CPM licensing system would help to remove key obstacles to Illinois women's reproductive justice by increasing access to safe, midwife-

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75. Deardorff, *supra* note 12.

76. Julie Deardorff, *First Free-Standing Birthing Center in Illinois Gets Go-Ahead*, CHI. TRIBUNE (Feb. 5, 2013), [http://articles.chicagotribune.com/2013-02-05/news/ct-met-birth-center-update-20130206\\_1\\_facility-fees-birth-centers-pcc](http://articles.chicagotribune.com/2013-02-05/news/ct-met-birth-center-update-20130206_1_facility-fees-birth-centers-pcc).

77. *Id.*

78. Julie Deardorff, *1st Free-Standing Birthing Center in Illinois May Open*, CHI. TRIBUNE (Feb. 1, 2013), [http://articles.chicagotribune.com/2013-02-01/news/ct-met-birth-center-0201-20130201\\_1\\_free-standing-birth-illinois-hospital-association-home-births](http://articles.chicagotribune.com/2013-02-01/news/ct-met-birth-center-0201-20130201_1_free-standing-birth-illinois-hospital-association-home-births).

79. *Id.*

80. ILL. COUNCIL OF CERTIFIED PROF. MIDWIFES, *supra* note 72.

81. *Id.*

attended home births.<sup>82</sup>

#### V. CPM LICENSURE AND MEDICAID COSTS

Various midwifery advocacy groups lobby for legislation that would legalize the practice of direct entry midwifery in Illinois.<sup>83</sup> The most recent example of these efforts is House Bill 3636, which seeks to create the Certified Professional Midwife Licensure Act.<sup>84</sup> This act would allow for the licensure of midwives using the CPM credential and would establish guidelines for monitoring providers' qualifications and administering disciplinary action.<sup>85</sup> The bill notes that the practice of midwifery in non-hospital settings is a matter of public health and safety that should be subject to regulation in the public interest.<sup>86</sup> To this end, the act would create the Illinois Midwifery Board, which would license and monitor providers through use of the CPM credential.<sup>87</sup> This bill was filed in the Illinois House of Representatives on May 30, 2013 and is awaiting further action.<sup>88</sup> Another legislative effort, House Bill 1194, seeks to establish clearer regulatory guidelines for direct entry midwifery by creating the Home Birth Safety Act.<sup>89</sup> This bill is also awaiting further action.<sup>90</sup>

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82. *Id.*

83. *See* H.B. 3636, 98th Gen. Assemb. (Ill. 2013).

84. *Id.*

85. *Id.*

86. *Id.* at §5 (“The purpose of the Act is to protect and benefit the public by setting standards for the qualifications, education, training, and experience of those who seek to obtain licensure and hold the title of licensed midwife, to promote high standards of professional performance for those licensed to practice midwifery in this State, and to protect the public from unprofessional conduct by persons licensed to practice midwifery as defined in this Act. This Act shall be liberally construed to best carry out these purposes”).

87. *Id.*

88. *Bill Status of H.B. 3636*, ILL. GEN. ASSEMB., available at <http://www.ilga.gov/legislation/BillStatus.asp?DocNum=3636&GAID=12&DocTypeID=HB&LegID=76536&SessionID=85&GA=98&SpecSess=0>. (last visited Dec. 13, 2013).

89. H.B. 1194, 98th Gen. Assemb. (Ill. 2013).

90. *Bill Status of H.B.1194*, ILL. GEN. ASSEMB., available at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=1194&GAID=12&GA=98&DocTypeID=HB&LegID=71652&SessionID=85>. (last visited Dec. 13, 2013).

Though efforts to pass legislation that would permit and regulate CPM practice are ongoing, many previous incarnations of similar legislation died in the House or Senate.<sup>91</sup> Recent lobbying efforts may prove to be more successful because they argue for CPM licensure from a Medicaid cost-containment perspective.<sup>92</sup> In 2012, the Coalition for Illinois Midwifery submitted a pilot project proposal to the Governor's Medicaid Advisory Committee that presents CPM licensure as a tool for significant cost-cutting to Medicaid childbirth expenditures.<sup>93</sup> In 2009, for example, Illinois Medicaid covered the costs of 81,104 births.<sup>94</sup> Moreover, recent statistics show that Medicaid now pays for fifty-four percent of Illinois childbirths.<sup>95</sup> Based on these findings, the study declares CPM recognition to be an important part of the solution to the state's Medicaid deficit.<sup>96</sup> The proposal suggests that integrating CPMs into the state's healthcare system as Medicaid providers would save Illinois billions of dollars, even at low utilization rates.<sup>97</sup> The study asserts that if two percent of Illinois childbirths annually covered by Medicaid were CPM-attended home births, the state would save approximately \$5 million per year.<sup>98</sup>

This study was endorsed by twenty-three Illinois legislators, who signed a letter to Governor Pat Quinn advocating for the integration of CPMs into

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91. *E.g.*, Deardorff *supra* note 12 (“The Illinois Senate last year passed the Home Birth Safety Act, which would have set standards for CPMs. Several groups opposed the bill, including the Illinois State Medical Society, which said it would allow the “least trained individual to independently provide one of the most critical services to women in Illinois.” The measure died in the House.”).

92. *See Medicaid Proposal, supra* note 14.

93. *Id.*

94. *Number of Births Financed by Medicaid*, KAISER FAMILY FOUND., <http://kff.org/medicaid/state-indicator/total-medicaid-births/> (last visited Oct. 7, 2013). *See also* NGA CTR. FOR BEST PRACS., MATERNAL AND CHILD HEALTH UPDATE: STATES MAKE PROGRESS TOWARDS IMPROVING SYSTEMS OF CARE, ISSUE BRIEF- 2010 at 13 (2011), *available at* <http://www.nga.org/files/live/sites/NGA/files/pdf/MCHUPDATE2010.PDF>.

95. *Medicaid Proposal, supra* note 14 at 1.

96. *Id.*

97. *Id.*

98. *Id.*

the state's Medicaid reform plans.<sup>99</sup> The letter argues for CPM licensure stating that instead of reducing provider rates even further, taxpayer dollars could be better saved by giving mothers using Medicaid the option of a home birth with a certified midwife.<sup>100</sup> While midwife-attended home birth is clearly cost-effective, expanding and legitimizing Illinois CPM practices could also promote the creation of more free-standing birthing centers in Illinois.<sup>101</sup> State Medicaid programs are required to cover maternity care services provided in birthing centers.<sup>102</sup> Allowing CPMs to staff these facilities as Medicaid-reimbursable providers would effectively cut costs, as it is estimated that an uncomplicated birth in a free-standing birthing facility costs \$2,227, compared to \$8,920 at a hospital.<sup>103</sup> Overall, the increased presence of CPMs in the Illinois maternity care field would greatly cut Medicaid expenditures by reducing the substantial facilities costs that are attached to hospital births.<sup>104</sup>

## VI. CONCLUSION

Laws that forbid the licensure of direct entry midwives currently restrict the scope of midwifery practice in Illinois.<sup>105</sup> As a result, Illinois women seeking to give birth in a non-hospital setting face tremendous obstacles in accessing midwifery services.<sup>106</sup> Illinois' recognition of the CPM credential would positively impact women by providing greater access to the Midwifery Model of Care, which seeks to empower women throughout

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99. Letter from Ill. legislators to Ill. Governor Pat Quinn (May 9, 2012), *available at* <http://www.illinoismidwifery.org/blog/wp-content/uploads/2012/07/Legislator-Letter-to-Governor-Quinn.pdf>.

100. *Id.* at 2.

101. Deardorff, *supra* note 76.

102. *Id.*

103. *Id.*

104. *Medicaid Proposal*, *supra* note 14 at 1.

105. *State-by-State*, *supra* note 40.

106. ILL. COUNCIL OF CERTIFIED PROF. MIDWIFES, *supra* note 72.

their birthing process.<sup>107</sup> From a financial perspective, incorporating CPMs as Medicaid providers would drastically cut state childbirth expenditures by providing cost-effective midwifery services to low-income Illinois women.<sup>108</sup> Legal recognition of CPMs as crucial maternity care providers is an important step towards affording Illinois women reproductive justice, while simultaneously reducing the financial costs of childbirth for the Illinois Medicaid system.

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107. MIDWIVES ALLIANCE, *supra* note 68.

108. *Medicaid Proposal*, *supra* note 14 at 1.