



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB0282

by Rep. Barbara Wheeler

SYNOPSIS AS INTRODUCED:

225 ILCS 60/22	from Ch. 111, par. 4400-22
720 ILCS 510/3.2 new	
720 ILCS 510/3.3 new	
720 ILCS 510/3.4 new	
720 ILCS 510/10	from Ch. 38, par. 81-30
720 ILCS 510/11	from Ch. 38, par. 81-31
775 ILCS 5/1-103	from Ch. 68, par. 1-103

Amends the Illinois Abortion Law of 1975. Provides that a person may not perform an abortion of a fetus solely because of the fetus's race, color, national origin, ancestry, sex, or diagnosis or potential diagnosis of the fetus having Down syndrome or any other disability. Provides that at least 18 hours before an abortion is performed on a pregnant woman whose fetus is diagnosed with a lethal fetal anomaly, the physician who will perform the abortion shall: (1) orally and in person, inform the pregnant woman of the availability of perinatal hospice services; and (2) provide the pregnant woman copies of the perinatal hospice brochure developed by the Department of Public Health and the list of perinatal hospice providers and programs by printing the perinatal hospice brochure and list of perinatal hospice providers from the Department's Internet web site. Provides that the Department shall adopt rules within 90 days after the effective date of the bill to implement these provisions. Provides that the report of abortions submitted to the Department shall include the gender of the fetus, if detectable; and whether the fetus has been diagnosed with or has a potential diagnosis of having Down syndrome or any other disability. Provides that a person who knowingly or intentionally performs an abortion in violation of these provisions may be subject to: (1) disciplinary sanctions under the Medical Practice Act of 1987; and (2) civil liability for wrongful death. Amends the Medical Practice Act of 1987 to make conforming changes. Amends the Illinois Human Rights Act. Provides that it is unlawful discrimination under the Act to perform an abortion solely because of the race, color, sex, disability, national origin, or ancestry of the fetus. Effective immediately.

LRB100 05388 RLC 15399 b

1 AN ACT concerning health.

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

4 Section 5. The Medical Practice Act of 1987 is amended by
5 changing Section 22 as follows:

6 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

7 (Section scheduled to be repealed on December 31, 2017)

8 Sec. 22. Disciplinary action.

9 (A) The Department may revoke, suspend, place on probation,
10 reprimand, refuse to issue or renew, or take any other
11 disciplinary or non-disciplinary action as the Department may
12 deem proper with regard to the license or permit of any person
13 issued under this Act, including imposing fines not to exceed
14 \$10,000 for each violation, upon any of the following grounds:

15 (1) Performance of an elective abortion in any place,
16 locale, facility, or institution other than:

17 (a) a facility licensed pursuant to the Ambulatory
18 Surgical Treatment Center Act;

19 (b) an institution licensed under the Hospital
20 Licensing Act;

21 (c) an ambulatory surgical treatment center or
22 hospitalization or care facility maintained by the
23 State or any agency thereof, where such department or

1 agency has authority under law to establish and enforce
2 standards for the ambulatory surgical treatment
3 centers, hospitalization, or care facilities under its
4 management and control;

5 (d) ambulatory surgical treatment centers,
6 hospitalization or care facilities maintained by the
7 Federal Government; or

8 (e) ambulatory surgical treatment centers,
9 hospitalization or care facilities maintained by any
10 university or college established under the laws of
11 this State and supported principally by public funds
12 raised by taxation.

13 (2) Performance of an abortion procedure in a wilful
14 and wanton manner on a woman who was not pregnant at the
15 time the abortion procedure was performed.

16 (2.5) Performance of an abortion procedure without
17 complying with Sections 3.2, 3.3, and 3.4 of the Illinois
18 Abortion Law of 1975.

19 (3) A plea of guilty or nolo contendere, finding of
20 guilt, jury verdict, or entry of judgment or sentencing,
21 including, but not limited to, convictions, preceding
22 sentences of supervision, conditional discharge, or first
23 offender probation, under the laws of any jurisdiction of
24 the United States of any crime that is a felony.

25 (4) Gross negligence in practice under this Act.

26 (5) Engaging in dishonorable, unethical or

1 unprofessional conduct of a character likely to deceive,
2 defraud or harm the public.

3 (6) Obtaining any fee by fraud, deceit, or
4 misrepresentation.

5 (7) Habitual or excessive use or abuse of drugs defined
6 in law as controlled substances, of alcohol, or of any
7 other substances which results in the inability to practice
8 with reasonable judgment, skill or safety.

9 (8) Practicing under a false or, except as provided by
10 law, an assumed name.

11 (9) Fraud or misrepresentation in applying for, or
12 procuring, a license under this Act or in connection with
13 applying for renewal of a license under this Act.

14 (10) Making a false or misleading statement regarding
15 their skill or the efficacy or value of the medicine,
16 treatment, or remedy prescribed by them at their direction
17 in the treatment of any disease or other condition of the
18 body or mind.

19 (11) Allowing another person or organization to use
20 their license, procured under this Act, to practice.

21 (12) Adverse action taken by another state or
22 jurisdiction against a license or other authorization to
23 practice as a medical doctor, doctor of osteopathy, doctor
24 of osteopathic medicine or doctor of chiropractic, a
25 certified copy of the record of the action taken by the
26 other state or jurisdiction being prima facie evidence

1 thereof. This includes any adverse action taken by a State
2 or federal agency that prohibits a medical doctor, doctor
3 of osteopathy, doctor of osteopathic medicine, or doctor of
4 chiropractic from providing services to the agency's
5 participants.

6 (13) Violation of any provision of this Act or of the
7 Medical Practice Act prior to the repeal of that Act, or
8 violation of the rules, or a final administrative action of
9 the Secretary, after consideration of the recommendation
10 of the Disciplinary Board.

11 (14) Violation of the prohibition against fee
12 splitting in Section 22.2 of this Act.

13 (15) A finding by the Disciplinary Board that the
14 registrant after having his or her license placed on
15 probationary status or subjected to conditions or
16 restrictions violated the terms of the probation or failed
17 to comply with such terms or conditions.

18 (16) Abandonment of a patient.

19 (17) Prescribing, selling, administering,
20 distributing, giving or self-administering any drug
21 classified as a controlled substance (designated product)
22 or narcotic for other than medically accepted therapeutic
23 purposes.

24 (18) Promotion of the sale of drugs, devices,
25 appliances or goods provided for a patient in such manner
26 as to exploit the patient for financial gain of the

1 physician.

2 (19) Offering, undertaking or agreeing to cure or treat
3 disease by a secret method, procedure, treatment or
4 medicine, or the treating, operating or prescribing for any
5 human condition by a method, means or procedure which the
6 licensee refuses to divulge upon demand of the Department.

7 (20) Immoral conduct in the commission of any act
8 including, but not limited to, commission of an act of
9 sexual misconduct related to the licensee's practice.

10 (21) Wilfully making or filing false records or reports
11 in his or her practice as a physician, including, but not
12 limited to, false records to support claims against the
13 medical assistance program of the Department of Healthcare
14 and Family Services (formerly Department of Public Aid)
15 under the Illinois Public Aid Code.

16 (22) Wilful omission to file or record, or wilfully
17 impeding the filing or recording, or inducing another
18 person to omit to file or record, medical reports as
19 required by law, or wilfully failing to report an instance
20 of suspected abuse or neglect as required by law.

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

1 Child Reporting Act.

2 (24) Solicitation of professional patronage by any
3 corporation, agents or persons, or profiting from those
4 representing themselves to be agents of the licensee.

5 (25) Gross and wilful and continued overcharging for
6 professional services, including filing false statements
7 for collection of fees for which services are not rendered,
8 including, but not limited to, filing such false statements
9 for collection of monies for services not rendered from the
10 medical assistance program of the Department of Healthcare
11 and Family Services (formerly Department of Public Aid)
12 under the Illinois Public Aid Code.

13 (26) A pattern of practice or other behavior which
14 demonstrates incapacity or incompetence to practice under
15 this Act.

16 (27) Mental illness or disability which results in the
17 inability to practice under this Act with reasonable
18 judgment, skill or safety.

19 (28) Physical illness, including, but not limited to,
20 deterioration through the aging process, or loss of motor
21 skill which results in a physician's inability to practice
22 under this Act with reasonable judgment, skill or safety.

23 (29) Cheating on or attempt to subvert the licensing
24 examinations administered under this Act.

25 (30) Wilfully or negligently violating the
26 confidentiality between physician and patient except as

1 required by law.

2 (31) The use of any false, fraudulent, or deceptive
3 statement in any document connected with practice under
4 this Act.

5 (32) Aiding and abetting an individual not licensed
6 under this Act in the practice of a profession licensed
7 under this Act.

8 (33) Violating state or federal laws or regulations
9 relating to controlled substances, legend drugs, or
10 ephedra as defined in the Ephedra Prohibition Act.

11 (34) Failure to report to the Department any adverse
12 final action taken against them by another licensing
13 jurisdiction (any other state or any territory of the
14 United States or any foreign state or country), by any peer
15 review body, by any health care institution, by any
16 professional society or association related to practice
17 under this Act, by any governmental agency, by any law
18 enforcement agency, or by any court for acts or conduct
19 similar to acts or conduct which would constitute grounds
20 for action as defined in this Section.

21 (35) Failure to report to the Department surrender of a
22 license or authorization to practice as a medical doctor, a
23 doctor of osteopathy, a doctor of osteopathic medicine, or
24 doctor of chiropractic in another state or jurisdiction, or
25 surrender of membership on any medical staff or in any
26 medical or professional association or society, while

1 under disciplinary investigation by any of those
2 authorities or bodies, for acts or conduct similar to acts
3 or conduct which would constitute grounds for action as
4 defined in this Section.

5 (36) Failure to report to the Department any adverse
6 judgment, settlement, or award arising from a liability
7 claim related to acts or conduct similar to acts or conduct
8 which would constitute grounds for action as defined in
9 this Section.

10 (37) Failure to provide copies of medical records as
11 required by law.

12 (38) Failure to furnish the Department, its
13 investigators or representatives, relevant information,
14 legally requested by the Department after consultation
15 with the Chief Medical Coordinator or the Deputy Medical
16 Coordinator.

17 (39) Violating the Health Care Worker Self-Referral
18 Act.

19 (40) Willful failure to provide notice when notice is
20 required under the Parental Notice of Abortion Act of 1995.

21 (41) Failure to establish and maintain records of
22 patient care and treatment as required by this law.

23 (42) Entering into an excessive number of written
24 collaborative agreements with licensed advanced practice
25 nurses resulting in an inability to adequately
26 collaborate.

1 (43) Repeated failure to adequately collaborate with a
2 licensed advanced practice nurse.

3 (44) Violating the Compassionate Use of Medical
4 Cannabis Pilot Program Act.

5 (45) Entering into an excessive number of written
6 collaborative agreements with licensed prescribing
7 psychologists resulting in an inability to adequately
8 collaborate.

9 (46) Repeated failure to adequately collaborate with a
10 licensed prescribing psychologist.

11 Except for actions involving the ground numbered (26), all
12 proceedings to suspend, revoke, place on probationary status,
13 or take any other disciplinary action as the Department may
14 deem proper, with regard to a license on any of the foregoing
15 grounds, must be commenced within 5 years next after receipt by
16 the Department of a complaint alleging the commission of or
17 notice of the conviction order for any of the acts described
18 herein. Except for the grounds numbered (8), (9), (26), and
19 (29), no action shall be commenced more than 10 years after the
20 date of the incident or act alleged to have violated this
21 Section. For actions involving the ground numbered (26), a
22 pattern of practice or other behavior includes all incidents
23 alleged to be part of the pattern of practice or other behavior
24 that occurred, or a report pursuant to Section 23 of this Act
25 received, within the 10-year period preceding the filing of the
26 complaint. In the event of the settlement of any claim or cause

1 of action in favor of the claimant or the reduction to final
2 judgment of any civil action in favor of the plaintiff, such
3 claim, cause of action or civil action being grounded on the
4 allegation that a person licensed under this Act was negligent
5 in providing care, the Department shall have an additional
6 period of 2 years from the date of notification to the
7 Department under Section 23 of this Act of such settlement or
8 final judgment in which to investigate and commence formal
9 disciplinary proceedings under Section 36 of this Act, except
10 as otherwise provided by law. The time during which the holder
11 of the license was outside the State of Illinois shall not be
12 included within any period of time limiting the commencement of
13 disciplinary action by the Department.

14 The entry of an order or judgment by any circuit court
15 establishing that any person holding a license under this Act
16 is a person in need of mental treatment operates as a
17 suspension of that license. That person may resume their
18 practice only upon the entry of a Departmental order based upon
19 a finding by the Disciplinary Board that they have been
20 determined to be recovered from mental illness by the court and
21 upon the Disciplinary Board's recommendation that they be
22 permitted to resume their practice.

23 The Department may refuse to issue or take disciplinary
24 action concerning the license of any person who fails to file a
25 return, or to pay the tax, penalty or interest shown in a filed
26 return, or to pay any final assessment of tax, penalty or

1 interest, as required by any tax Act administered by the
2 Illinois Department of Revenue, until such time as the
3 requirements of any such tax Act are satisfied as determined by
4 the Illinois Department of Revenue.

5 The Department, upon the recommendation of the
6 Disciplinary Board, shall adopt rules which set forth standards
7 to be used in determining:

8 (a) when a person will be deemed sufficiently
9 rehabilitated to warrant the public trust;

10 (b) what constitutes dishonorable, unethical or
11 unprofessional conduct of a character likely to deceive,
12 defraud, or harm the public;

13 (c) what constitutes immoral conduct in the commission
14 of any act, including, but not limited to, commission of an
15 act of sexual misconduct related to the licensee's
16 practice; and

17 (d) what constitutes gross negligence in the practice
18 of medicine.

19 However, no such rule shall be admissible into evidence in
20 any civil action except for review of a licensing or other
21 disciplinary action under this Act.

22 In enforcing this Section, the Disciplinary Board or the
23 Licensing Board, upon a showing of a possible violation, may
24 compel, in the case of the Disciplinary Board, any individual
25 who is licensed to practice under this Act or holds a permit to
26 practice under this Act, or, in the case of the Licensing

1 Board, any individual who has applied for licensure or a permit
2 pursuant to this Act, to submit to a mental or physical
3 examination and evaluation, or both, which may include a
4 substance abuse or sexual offender evaluation, as required by
5 the Licensing Board or Disciplinary Board and at the expense of
6 the Department. The Disciplinary Board or Licensing Board shall
7 specifically designate the examining physician licensed to
8 practice medicine in all of its branches or, if applicable, the
9 multidisciplinary team involved in providing the mental or
10 physical examination and evaluation, or both. The
11 multidisciplinary team shall be led by a physician licensed to
12 practice medicine in all of its branches and may consist of one
13 or more or a combination of physicians licensed to practice
14 medicine in all of its branches, licensed chiropractic
15 physicians, licensed clinical psychologists, licensed clinical
16 social workers, licensed clinical professional counselors, and
17 other professional and administrative staff. Any examining
18 physician or member of the multidisciplinary team may require
19 any person ordered to submit to an examination and evaluation
20 pursuant to this Section to submit to any additional
21 supplemental testing deemed necessary to complete any
22 examination or evaluation process, including, but not limited
23 to, blood testing, urinalysis, psychological testing, or
24 neuropsychological testing. The Disciplinary Board, the
25 Licensing Board, or the Department may order the examining
26 physician or any member of the multidisciplinary team to

1 provide to the Department, the Disciplinary Board, or the
2 Licensing Board any and all records, including business
3 records, that relate to the examination and evaluation,
4 including any supplemental testing performed. The Disciplinary
5 Board, the Licensing Board, or the Department may order the
6 examining physician or any member of the multidisciplinary team
7 to present testimony concerning this examination and
8 evaluation of the licensee, permit holder, or applicant,
9 including testimony concerning any supplemental testing or
10 documents relating to the examination and evaluation. No
11 information, report, record, or other documents in any way
12 related to the examination and evaluation shall be excluded by
13 reason of any common law or statutory privilege relating to
14 communication between the licensee, permit holder, or
15 applicant and the examining physician or any member of the
16 multidisciplinary team. No authorization is necessary from the
17 licensee, permit holder, or applicant ordered to undergo an
18 evaluation and examination for the examining physician or any
19 member of the multidisciplinary team to provide information,
20 reports, records, or other documents or to provide any
21 testimony regarding the examination and evaluation. The
22 individual to be examined may have, at his or her own expense,
23 another physician of his or her choice present during all
24 aspects of the examination. Failure of any individual to submit
25 to mental or physical examination and evaluation, or both, when
26 directed, shall result in an automatic suspension, without

1 hearing, until such time as the individual submits to the
2 examination. If the Disciplinary Board or Licensing Board finds
3 a physician unable to practice following an examination and
4 evaluation because of the reasons set forth in this Section,
5 the Disciplinary Board or Licensing Board shall require such
6 physician to submit to care, counseling, or treatment by
7 physicians, or other health care professionals, approved or
8 designated by the Disciplinary Board, as a condition for
9 issued, continued, reinstated, or renewed licensure to
10 practice. Any physician, whose license was granted pursuant to
11 Sections 9, 17, or 19 of this Act, or, continued, reinstated,
12 renewed, disciplined or supervised, subject to such terms,
13 conditions or restrictions who shall fail to comply with such
14 terms, conditions or restrictions, or to complete a required
15 program of care, counseling, or treatment, as determined by the
16 Chief Medical Coordinator or Deputy Medical Coordinators,
17 shall be referred to the Secretary for a determination as to
18 whether the licensee shall have their license suspended
19 immediately, pending a hearing by the Disciplinary Board. In
20 instances in which the Secretary immediately suspends a license
21 under this Section, a hearing upon such person's license must
22 be convened by the Disciplinary Board within 15 days after such
23 suspension and completed without appreciable delay. The
24 Disciplinary Board shall have the authority to review the
25 subject physician's record of treatment and counseling
26 regarding the impairment, to the extent permitted by applicable

1 federal statutes and regulations safeguarding the
2 confidentiality of medical records.

3 An individual licensed under this Act, affected under this
4 Section, shall be afforded an opportunity to demonstrate to the
5 Disciplinary Board that they can resume practice in compliance
6 with acceptable and prevailing standards under the provisions
7 of their license.

8 The Department may promulgate rules for the imposition of
9 fines in disciplinary cases, not to exceed \$10,000 for each
10 violation of this Act. Fines may be imposed in conjunction with
11 other forms of disciplinary action, but shall not be the
12 exclusive disposition of any disciplinary action arising out of
13 conduct resulting in death or injury to a patient. Any funds
14 collected from such fines shall be deposited in the Medical
15 Disciplinary Fund.

16 All fines imposed under this Section shall be paid within
17 60 days after the effective date of the order imposing the fine
18 or in accordance with the terms set forth in the order imposing
19 the fine.

20 (B) The Department shall revoke the license or permit
21 issued under this Act to practice medicine or a chiropractic
22 physician who has been convicted a second time of committing
23 any felony under the Illinois Controlled Substances Act or the
24 Methamphetamine Control and Community Protection Act, or who
25 has been convicted a second time of committing a Class 1 felony
26 under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A

1 person whose license or permit is revoked under this subsection
2 B shall be prohibited from practicing medicine or treating
3 human ailments without the use of drugs and without operative
4 surgery.

5 (C) The Department shall not revoke, suspend, place on
6 probation, reprimand, refuse to issue or renew, or take any
7 other disciplinary or non-disciplinary action against the
8 license or permit issued under this Act to practice medicine to
9 a physician based solely upon the recommendation of the
10 physician to an eligible patient regarding, or prescription
11 for, or treatment with, an investigational drug, biological
12 product, or device.

13 (D) The Disciplinary Board shall recommend to the
14 Department civil penalties and any other appropriate
15 discipline in disciplinary cases when the Board finds that a
16 physician willfully performed an abortion with actual
17 knowledge that the person upon whom the abortion has been
18 performed is a minor or an incompetent person without notice as
19 required under the Parental Notice of Abortion Act of 1995.
20 Upon the Board's recommendation, the Department shall impose,
21 for the first violation, a civil penalty of \$1,000 and for a
22 second or subsequent violation, a civil penalty of \$5,000.

23 (Source: P.A. 98-601, eff. 12-30-13; 98-668, eff. 6-25-14;
24 98-1140, eff. 12-30-14; 99-270, eff. 1-1-16.)

25 Section 10. The Illinois Abortion Law of 1975 is amended by

1 changing Sections 10 and 11 and by adding Sections 3.2, 3.3,
2 and 3.4 as follows:

3 (720 ILCS 510/3.2 new)

4 Sec. 3.2. Sex selective and disability abortion ban.

5 (a) As used in this Section:

6 "Any other disability" means any disease, defect, or
7 disorder that is genetically inherited. The term includes
8 the following:

9 (1) a physical disability;

10 (2) a mental or intellectual disability;

11 (3) a physical disfigurement;

12 (4) scoliosis;

13 (5) dwarfism;

14 (6) Down syndrome;

15 (7) albinism;

16 (8) amelia; or

17 (9) a physical or mental disease.

18 The term does not include a lethal fetal anomaly.

19 "Down syndrome" means a chromosomal disorder
20 associated with an extra chromosome 21 or an effective
21 trisomy for chromosome 21.

22 "Potential diagnosis" refers to the presence of some
23 risk factors that indicate that a health problem may occur.

24 "Sex selective abortion" means an abortion that is
25 performed solely because of the sex of the fetus.

1 (b) A person may not intentionally perform or attempt to
2 perform an abortion before the earlier of viability of the
3 fetus or 20 weeks of postfertilization age if the person knows
4 that the pregnant woman is seeking a sex selective abortion.

5 (c) A person may not intentionally perform or attempt to
6 perform an abortion after viability of the fetus or 20 weeks of
7 postfertilization age if the person knows that the pregnant
8 woman is seeking a sex selective abortion.

9 (d) A person may not intentionally perform or attempt to
10 perform an abortion before the earlier of viability of the
11 fetus or 20 weeks of postfertilization age if the person knows
12 that the pregnant woman is seeking the abortion solely because
13 the fetus has been diagnosed with Down syndrome or has a
14 potential diagnosis of Down syndrome.

15 (e) A person may not intentionally perform or attempt to
16 perform an abortion after viability of the fetus or 20 weeks of
17 postfertilization age if the person knows that the pregnant
18 woman is seeking the abortion solely because the fetus has been
19 diagnosed with Down syndrome or has a potential diagnosis of
20 Down syndrome.

21 (f) A person may not intentionally perform or attempt to
22 perform an abortion before the earlier of viability of the
23 fetus or 20 weeks of postfertilization age if the person knows
24 that the pregnant woman is seeking the abortion solely because
25 the fetus has been diagnosed with any other disability or has a
26 potential diagnosis of any other disability.

1 (g) A person may not intentionally perform or attempt to
2 perform an abortion after viability of the fetus or 20 weeks of
3 postfertilization age if the person knows that the pregnant
4 woman is seeking the abortion solely because the fetus has been
5 diagnosed with any other disability or has a potential
6 diagnosis of any other disability.

7 (h) A person may not intentionally perform or attempt to
8 perform an abortion before the earlier of viability of the
9 fetus or 20 weeks of postfertilization age if the person knows
10 that the pregnant woman is seeking the abortion solely because
11 of the race, color, national origin, or ancestry of the fetus.

12 (i) A person may not intentionally perform or attempt to
13 perform an abortion after viability of the fetus or 20 weeks of
14 postfertilization age if the person knows that the pregnant
15 woman is seeking the abortion solely because of the race,
16 color, national origin, or ancestry of the fetus.

17 (j) A person who knowingly or intentionally performs an
18 abortion in violation of this Section may be subject to:

19 (1) disciplinary sanctions under Section 22 of the
20 Medical Practice Act of 1987; and

21 (2) civil liability for wrongful death.

22 (k) A pregnant woman upon whom an abortion is performed in
23 violation of this Section may not be prosecuted for violating
24 or conspiring to violate this Section.

1 Sec. 3.3. Perinatal hospice.

2 (a) The purpose of this Section is to ensure that:

3 (1) women considering abortion after receiving a
4 diagnosis of a lethal fetal anomaly are informed of the
5 availability of perinatal hospice care; and

6 (2) women choosing abortion after receiving a
7 diagnosis of a lethal fetal anomaly are making a fully
8 informed decision.

9 (b) As used in this Section:

10 "Lethal fetal anomaly" means a fetal condition
11 diagnosed before birth that, if the pregnancy results in a
12 live birth, will with reasonable certainty result in the
13 death of the child not more than 3 months after the child's
14 birth.

15 "Perinatal hospice" means the provision of
16 comprehensive, supportive care to a pregnant woman and her
17 family beginning with the diagnosis of a lethal fetal
18 anomaly and continuing through the live birth and death of
19 the woman's child as a result of the lethal fetal anomaly.
20 The term includes counseling and medical care provided by
21 maternal-fetal medical specialists, obstetricians,
22 neonatologists, anesthesia specialists, specialty nurses,
23 clergy, social workers, and others that are focused on
24 alleviating fear and ensuring that the woman and her family
25 experience the life and death of the child in a comfortable
26 and supportive environment.

1 (c) The Department shall develop a perinatal hospice
2 brochure and post the perinatal hospice brochure on the
3 Department's Internet web site.

4 (d) The perinatal brochure developed under this Section
5 must include the following:

6 (1) a description of the health care and other services
7 available from perinatal hospice;

8 (2) information that medical assistance benefits may
9 be available for prenatal care, childbirth, and perinatal
10 hospice; and

11 (3) information regarding accessing grief counseling
12 and other human services, and the types of services that
13 are available through this service.

14 (e) The Department shall develop and regularly update a
15 list of all perinatal hospice providers and programs in this
16 State. The Department may include on the list perinatal hospice
17 providers and programs in other states that provide care to
18 residents of this State. The Department shall post the list of
19 perinatal hospice providers and programs on the Department's
20 Internet web site.

21 (f) The Department shall develop a form on which a pregnant
22 woman certifies, at the time of receiving a diagnosis that the
23 pregnant woman's unborn child has a lethal fetal anomaly, that
24 the pregnant woman has received the following:

25 (1) a copy of the perinatal hospice brochure developed
26 under this Section;

1 (2) a list of the perinatal hospice providers and
2 programs developed under subsection (e) of this Section.

3 (g) The provider diagnosing the pregnant woman's unborn
4 child with the lethal fetal anomaly shall, at the time of
5 diagnosis:

6 (1) provide the pregnant woman with a written copy of:

7 (A) the perinatal brochure developed under
8 subsection (c) of this Section; and

9 (B) the certification form developed by the
10 Department under subsection (f); and

11 (2) have the pregnant woman complete the certification
12 form.

13 (h) The Department shall adopt rules within 90 days after
14 the effective date of this amendatory Act of the 100th General
15 Assembly to implement this Section.

16 (720 ILCS 510/3.4 new)

17 Sec. 3.4. Prohibited abortions.

18 (a) A person may not perform an abortion of a fetus solely
19 because of the fetus's race, color, national origin, ancestry,
20 sex, or diagnosis or potential diagnosis of the fetus having
21 Down syndrome or any other disability.

22 (b) At least 18 hours before an abortion is performed on a
23 pregnant woman whose unborn child has been diagnosed with a
24 lethal fetal anomaly, the physician who will perform the
25 abortion shall:

1 (1) orally and in person, inform the pregnant woman of
2 the availability of perinatal hospice services; and

3 (2) provide the pregnant woman copies of the perinatal
4 hospice brochure developed by the Department under
5 subsection (c) of Section 3.3 of this Act and the list of
6 perinatal hospice providers and programs developed under
7 subsection (e) of Section 3.3 of this Act, by printing the
8 perinatal hospice brochure and list of perinatal hospice
9 providers from the Department's Internet web site.

10 The requirements of this subsection are in addition to the
11 other requirements of this Section.

12 (c) If a pregnant woman described in subsection (b) chooses
13 to have an abortion rather than continuing the pregnancy in
14 perinatal hospice care, the pregnant woman shall certify in
15 writing, on a form developed by the Department under subsection
16 (f) of Section 3.3 of this Act, at least 18 hours before the
17 abortion is performed, that the pregnant woman has been
18 provided the information described in subsection (b) in the
19 manner required by subsection (b) of this Section.

20 (720 ILCS 510/10) (from Ch. 38, par. 81-30)

21 Sec. 10. A report of each abortion performed shall be made
22 to the Department on forms prescribed by it. Such report forms
23 shall not identify the patient by name, but by an individual
24 number to be noted in the patient's permanent record in the
25 possession of the physician, and shall include information

1 concerning:

2 (1) Identification of the physician who performed the
3 abortion and the facility where the abortion was performed and
4 a patient identification number;

5 (2) State in which the patient resides;

6 (3) Patient's date of birth, race and marital status;

7 (4) Number of prior pregnancies;

8 (5) Date of last menstrual period;

9 (6) Type of abortion procedure performed;

10 (7) Complications and whether the abortion resulted in a
11 live birth;

12 (8) The date the abortion was performed;

13 (9) Medical indications for any abortion performed when the
14 fetus was viable;

15 (10) The information required by Sections 6(1)(b) and
16 6(4)(b) of this Act, if applicable;

17 (11) Basis for any medical judgment that a medical
18 emergency existed when required under Sections 6(2)(a) and 6(6)
19 and when required to be reported in accordance with this
20 Section by any provision of this Law; ~~and~~

21 (12) The pathologist's test results pursuant to Section 12
22 of this Act;

23 (13) The gender of the fetus, if detectable; and

24 (14) Whether the fetus has been diagnosed with or has a
25 potential diagnosis of having Down syndrome or any other
26 disability.

1 Such form shall be completed by the hospital or other
2 licensed facility, signed by the physician who performed the
3 abortion or pregnancy termination, and transmitted to the
4 Department not later than 10 days following the end of the
5 month in which the abortion was performed.

6 In the event that a complication of an abortion occurs or
7 becomes known after submission of such form, a correction using
8 the same patient identification number shall be submitted to
9 the Department within 10 days of its becoming known.

10 The Department may prescribe rules and regulations
11 regarding the administration of this Law and shall prescribe
12 regulations to secure the confidentiality of the woman's
13 identity in the information to be provided under the "Vital
14 Records Act". All reports received by the Department shall be
15 treated as confidential and the Department shall secure the
16 woman's anonymity. Such reports shall be used only for
17 statistical purposes.

18 Upon 30 days public notice, the Department is empowered to
19 require reporting of any additional information which, in the
20 sound discretion of the Department, is necessary to develop
21 statistical data relating to the protection of maternal or
22 fetal life or health, or is necessary to enforce the provisions
23 of this Law, or is necessary to develop useful criteria for
24 medical decisions. The Department shall annually report to the
25 General Assembly all statistical data gathered under this Law
26 and its recommendations to further the purpose of this Law.

1 The requirement for reporting to the General Assembly shall
2 be satisfied by filing copies of the report with the Speaker,
3 the Minority Leader and the Clerk of the House of
4 Representatives and the President, the Minority Leader and the
5 Secretary of the Senate and the Legislative Research Unit, as
6 required by Section 3.1 of "An Act to revise the law in
7 relation to the General Assembly", approved February 25, 1874,
8 as amended, and filing such additional copies with the State
9 Government Report Distribution Center for the General Assembly
10 as is required under paragraph (t) of Section 7 of the State
11 Library Act.

12 (Source: P.A. 84-1438.)

13 (720 ILCS 510/11) (from Ch. 38, par. 81-31)

14 Sec. 11. (1) Any person who intentionally violates any
15 provision of this Law, other than those described in Section
16 3.2, 3.3, or 3.4 of this Act, commits a Class A misdemeanor
17 unless a specific penalty is otherwise provided. Any person who
18 intentionally falsifies any writing required by this Law
19 commits a Class A misdemeanor.

20 Intentional, knowing, reckless, or negligent violations of
21 this Law shall constitute unprofessional conduct which causes
22 public harm under Section 22 of the Medical Practice Act of
23 1987, as amended; Section 70-5 of the Nurse Practice Act, and
24 Section 21 of the Physician Assistant Practice Act of 1987, as
25 amended.

1 Intentional, knowing, reckless or negligent violations of
2 this Law will constitute grounds for refusal, denial,
3 revocation, suspension, or withdrawal of license, certificate,
4 or permit under Section 30 of the Pharmacy Practice Act, as
5 amended; Section 7 of the Ambulatory Surgical Treatment Center
6 Act, effective July 19, 1973, as amended; and Section 7 of the
7 Hospital Licensing Act.

8 (2) Any hospital or licensed facility which, or any
9 physician who intentionally, knowingly, or recklessly fails to
10 submit a complete report to the Department in accordance with
11 the provisions of Section 10 of this Law and any person who
12 intentionally, knowingly, recklessly or negligently fails to
13 maintain the confidentiality of any reports required under this
14 Law or reports required by Sections 10.1 or 12 of this Law
15 commits a Class B misdemeanor.

16 (3) Any person who sells any drug, medicine, instrument or
17 other substance which he knows to be an abortifacient and which
18 is in fact an abortifacient, unless upon prescription of a
19 physician, is guilty of a Class B misdemeanor. Any person who
20 prescribes or administers any instrument, medicine, drug or
21 other substance or device, which he knows to be an
22 abortifacient, and which is in fact an abortifacient, and
23 intentionally, knowingly or recklessly fails to inform the
24 person for whom it is prescribed or upon whom it is
25 administered that it is an abortifacient commits a Class C
26 misdemeanor.

1 (4) Any person who intentionally, knowingly or recklessly
2 performs upon a woman what he represents to that woman to be an
3 abortion when he knows or should know that she is not pregnant
4 commits a Class 2 felony and shall be answerable in civil
5 damages equal to 3 times the amount of proved damages.

6 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;
7 95-876, eff. 8-21-08.)

8 Section 15. The Illinois Human Rights Act is amended by
9 changing Section 1-103 as follows:

10 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

11 Sec. 1-103. General Definitions. When used in this Act,
12 unless the context requires otherwise, the term:

13 (A) Age. "Age" means the chronological age of a person who
14 is at least 40 years old, except with regard to any practice
15 described in Section 2-102, insofar as that practice concerns
16 training or apprenticeship programs. In the case of training or
17 apprenticeship programs, for the purposes of Section 2-102,
18 "age" means the chronological age of a person who is 18 but not
19 yet 40 years old.

20 (B) Aggrieved Party. "Aggrieved party" means a person who
21 is alleged or proved to have been injured by a civil rights
22 violation or believes he or she will be injured by a civil
23 rights violation under Article 3 that is about to occur.

24 (C) Charge. "Charge" means an allegation filed with the

1 Department by an aggrieved party or initiated by the Department
2 under its authority.

3 (D) Civil Rights Violation. "Civil rights violation"
4 includes and shall be limited to only those specific acts set
5 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103,
6 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102, 5A-102,
7 6-101, and 6-102 of this Act.

8 (E) Commission. "Commission" means the Human Rights
9 Commission created by this Act.

10 (F) Complaint. "Complaint" means the formal pleading filed
11 by the Department with the Commission following an
12 investigation and finding of substantial evidence of a civil
13 rights violation.

14 (G) Complainant. "Complainant" means a person including
15 the Department who files a charge of civil rights violation
16 with the Department or the Commission.

17 (H) Department. "Department" means the Department of Human
18 Rights created by this Act.

19 (I) Disability. "Disability" means a determinable physical
20 or mental characteristic of a person, including, but not
21 limited to, a determinable physical characteristic which
22 necessitates the person's use of a guide, hearing or support
23 dog, the history of such characteristic, or the perception of
24 such characteristic by the person complained against, which may
25 result from disease, injury, congenital condition of birth or
26 functional disorder and which characteristic:

1 (1) For purposes of Article 2 is unrelated to the
2 person's ability to perform the duties of a particular job
3 or position and, pursuant to Section 2-104 of this Act, a
4 person's illegal use of drugs or alcohol is not a
5 disability;

6 (2) For purposes of Article 3, is unrelated to the
7 person's ability to acquire, rent or maintain a housing
8 accommodation;

9 (3) For purposes of Article 4, is unrelated to a
10 person's ability to repay;

11 (4) For purposes of Article 5, is unrelated to a
12 person's ability to utilize and benefit from a place of
13 public accommodation;

14 (5) For purposes of Article 5, also includes any
15 mental, psychological, or developmental disability,
16 including autism spectrum disorders.

17 (J) Marital Status. "Marital status" means the legal status
18 of being married, single, separated, divorced or widowed.

19 (J-1) Military Status. "Military status" means a person's
20 status on active duty in or status as a veteran of the armed
21 forces of the United States, status as a current member or
22 veteran of any reserve component of the armed forces of the
23 United States, including the United States Army Reserve, United
24 States Marine Corps Reserve, United States Navy Reserve, United
25 States Air Force Reserve, and United States Coast Guard
26 Reserve, or status as a current member or veteran of the

1 Illinois Army National Guard or Illinois Air National Guard.

2 (K) National Origin. "National origin" means the place in
3 which a person or one of his or her ancestors was born.

4 (K-5) "Order of protection status" means a person's status
5 as being a person protected under an order of protection issued
6 pursuant to the Illinois Domestic Violence Act of 1986 or an
7 order of protection issued by a court of another state.

8 (L) Person. "Person" includes one or more individuals,
9 partnerships, associations or organizations, labor
10 organizations, labor unions, joint apprenticeship committees,
11 or union labor associations, corporations, the State of
12 Illinois and its instrumentalities, political subdivisions,
13 units of local government, legal representatives, trustees in
14 bankruptcy or receivers.

15 (L-5) Pregnancy. "Pregnancy" means pregnancy, childbirth,
16 or medical or common conditions related to pregnancy or
17 childbirth.

18 (M) Public Contract. "Public contract" includes every
19 contract to which the State, any of its political subdivisions
20 or any municipal corporation is a party.

21 (N) Religion. "Religion" includes all aspects of religious
22 observance and practice, as well as belief, except that with
23 respect to employers, for the purposes of Article 2, "religion"
24 has the meaning ascribed to it in paragraph (F) of Section
25 2-101.

26 (O) Sex. "Sex" means the status of being male or female.

1 (O-1) Sexual orientation. "Sexual orientation" means
2 actual or perceived heterosexuality, homosexuality,
3 bisexuality, or gender-related identity, whether or not
4 traditionally associated with the person's designated sex at
5 birth. "Sexual orientation" does not include a physical or
6 sexual attraction to a minor by an adult.

7 (P) Unfavorable Military Discharge. "Unfavorable military
8 discharge" includes discharges from the Armed Forces of the
9 United States, their Reserve components or any National Guard
10 or Naval Militia which are classified as RE-3 or the equivalent
11 thereof, but does not include those characterized as RE-4 or
12 "Dishonorable".

13 (Q) Unlawful Discrimination. "Unlawful discrimination"
14 means: (1) discrimination against a person because of his or
15 her race, color, religion, national origin, ancestry, age, sex,
16 marital status, order of protection status, disability,
17 military status, sexual orientation, pregnancy, or unfavorable
18 discharge from military service as those terms are defined in
19 this Section; or (2) the performance of an abortion solely
20 because of the race, color, sex, disability, national origin,
21 or ancestry of the fetus. As used in this subsection (Q),
22 "fetus" has the meaning ascribed to it in Section 2 of the
23 Illinois Abortion Law of 1975.

24 (Source: P.A. 97-410, eff. 1-1-12; 97-813, eff. 7-13-12;
25 98-1050, eff. 1-1-15.)

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.