



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2281

by Rep. Thomas Morrison

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.

LRB101 10403 SLF 55509 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7 (Section scheduled to be repealed on December 31, 2019)

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

16 (22) Willful omission to file or record, or willfully
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 willfully 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 willful 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) Willfully 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 registered nurses resulting in an inability to adequately
26 collaborate.

1 (43) Repeated failure to adequately collaborate with a
2 licensed advanced practice registered 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 (47) Willfully failing to report an instance of
12 suspected abuse, neglect, financial exploitation, or
13 self-neglect of an eligible adult as defined in and
14 required by the Adult Protective Services Act.

15 (48) Being named as an abuser in a verified report by
16 the Department on Aging under the Adult Protective Services
17 Act, and upon proof by clear and convincing evidence that
18 the licensee abused, neglected, or financially exploited
19 an eligible adult as defined in the Adult Protective
20 Services Act.

21 (49) Entering into an excessive number of written
22 collaborative agreements with licensed physician
23 assistants resulting in an inability to adequately
24 collaborate.

25 (50) Repeated failure to adequately collaborate with a
26 physician assistant.

1 Except for actions involving the ground numbered (26), all
2 proceedings to suspend, revoke, place on probationary status,
3 or take any other disciplinary action as the Department may
4 deem proper, with regard to a license on any of the foregoing
5 grounds, must be commenced within 5 years next after receipt by
6 the Department of a complaint alleging the commission of or
7 notice of the conviction order for any of the acts described
8 herein. Except for the grounds numbered (8), (9), (26), and
9 (29), no action shall be commenced more than 10 years after the
10 date of the incident or act alleged to have violated this
11 Section. For actions involving the ground numbered (26), a
12 pattern of practice or other behavior includes all incidents
13 alleged to be part of the pattern of practice or other behavior
14 that occurred, or a report pursuant to Section 23 of this Act
15 received, within the 10-year period preceding the filing of the
16 complaint. In the event of the settlement of any claim or cause
17 of action in favor of the claimant or the reduction to final
18 judgment of any civil action in favor of the plaintiff, such
19 claim, cause of action or civil action being grounded on the
20 allegation that a person licensed under this Act was negligent
21 in providing care, the Department shall have an additional
22 period of 2 years from the date of notification to the
23 Department under Section 23 of this Act of such settlement or
24 final judgment in which to investigate and commence formal
25 disciplinary proceedings under Section 36 of this Act, except
26 as otherwise provided by law. The time during which the holder

1 of the license was outside the State of Illinois shall not be
2 included within any period of time limiting the commencement of
3 disciplinary action by the Department.

4 The entry of an order or judgment by any circuit court
5 establishing that any person holding a license under this Act
6 is a person in need of mental treatment operates as a
7 suspension of that license. That person may resume their
8 practice only upon the entry of a Departmental order based upon
9 a finding by the Disciplinary Board that they have been
10 determined to be recovered from mental illness by the court and
11 upon the Disciplinary Board's recommendation that they be
12 permitted to resume their practice.

13 The Department may refuse to issue or take disciplinary
14 action concerning the license of any person who fails to file a
15 return, or to pay the tax, penalty or interest shown in a filed
16 return, or to pay any final assessment of tax, penalty or
17 interest, as required by any tax Act administered by the
18 Illinois Department of Revenue, until such time as the
19 requirements of any such tax Act are satisfied as determined by
20 the Illinois Department of Revenue.

21 The Department, upon the recommendation of the
22 Disciplinary Board, shall adopt rules which set forth standards
23 to be used in determining:

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

26 (b) what constitutes dishonorable, unethical or

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

3 (c) what constitutes immoral conduct in the commission
4 of any act, including, but not limited to, commission of an
5 act of sexual misconduct related to the licensee's
6 practice; and

7 (d) what constitutes gross negligence in the practice
8 of medicine.

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

12 In enforcing this Section, the Disciplinary Board or the
13 Licensing Board, upon a showing of a possible violation, may
14 compel, in the case of the Disciplinary Board, any individual
15 who is licensed to practice under this Act or holds a permit to
16 practice under this Act, or, in the case of the Licensing
17 Board, any individual who has applied for licensure or a permit
18 pursuant to this Act, to submit to a mental or physical
19 examination and evaluation, or both, which may include a
20 substance abuse or sexual offender evaluation, as required by
21 the Licensing Board or Disciplinary Board and at the expense of
22 the Department. The Disciplinary Board or Licensing Board shall
23 specifically designate the examining physician licensed to
24 practice medicine in all of its branches or, if applicable, the
25 multidisciplinary team involved in providing the mental or
26 physical examination and evaluation, or both. The

1 multidisciplinary team shall be led by a physician licensed to
2 practice medicine in all of its branches and may consist of one
3 or more or a combination of physicians licensed to practice
4 medicine in all of its branches, licensed chiropractic
5 physicians, licensed clinical psychologists, licensed clinical
6 social workers, licensed clinical professional counselors, and
7 other professional and administrative staff. Any examining
8 physician or member of the multidisciplinary team may require
9 any person ordered to submit to an examination and evaluation
10 pursuant to this Section to submit to any additional
11 supplemental testing deemed necessary to complete any
12 examination or evaluation process, including, but not limited
13 to, blood testing, urinalysis, psychological testing, or
14 neuropsychological testing. The Disciplinary Board, the
15 Licensing Board, or the Department may order the examining
16 physician or any member of the multidisciplinary team to
17 provide to the Department, the Disciplinary Board, or the
18 Licensing Board any and all records, including business
19 records, that relate to the examination and evaluation,
20 including any supplemental testing performed. The Disciplinary
21 Board, the Licensing Board, or the Department may order the
22 examining physician or any member of the multidisciplinary team
23 to present testimony concerning this examination and
24 evaluation of the licensee, permit holder, or applicant,
25 including testimony concerning any supplemental testing or
26 documents relating to the examination and evaluation. No

1 information, report, record, or other documents in any way
2 related to the examination and evaluation shall be excluded by
3 reason of any common law or statutory privilege relating to
4 communication between the licensee, permit holder, or
5 applicant and the examining physician or any member of the
6 multidisciplinary team. No authorization is necessary from the
7 licensee, permit holder, or applicant ordered to undergo an
8 evaluation and examination for the examining physician or any
9 member of the multidisciplinary team to provide information,
10 reports, records, or other documents or to provide any
11 testimony regarding the examination and evaluation. The
12 individual to be examined may have, at his or her own expense,
13 another physician of his or her choice present during all
14 aspects of the examination. Failure of any individual to submit
15 to mental or physical examination and evaluation, or both, when
16 directed, shall result in an automatic suspension, without
17 hearing, until such time as the individual submits to the
18 examination. If the Disciplinary Board or Licensing Board finds
19 a physician unable to practice following an examination and
20 evaluation because of the reasons set forth in this Section,
21 the Disciplinary Board or Licensing Board shall require such
22 physician to submit to care, counseling, or treatment by
23 physicians, or other health care professionals, approved or
24 designated by the Disciplinary Board, as a condition for
25 issued, continued, reinstated, or renewed licensure to
26 practice. Any physician, whose license was granted pursuant to

1 Sections 9, 17, or 19 of this Act, or, continued, reinstated,
2 renewed, disciplined or supervised, subject to such terms,
3 conditions or restrictions who shall fail to comply with such
4 terms, conditions or restrictions, or to complete a required
5 program of care, counseling, or treatment, as determined by the
6 Chief Medical Coordinator or Deputy Medical Coordinators,
7 shall be referred to the Secretary for a determination as to
8 whether the licensee shall have their license suspended
9 immediately, pending a hearing by the Disciplinary Board. In
10 instances in which the Secretary immediately suspends a license
11 under this Section, a hearing upon such person's license must
12 be convened by the Disciplinary Board within 15 days after such
13 suspension and completed without appreciable delay. The
14 Disciplinary Board shall have the authority to review the
15 subject physician's record of treatment and counseling
16 regarding the impairment, to the extent permitted by applicable
17 federal statutes and regulations safeguarding the
18 confidentiality of medical records.

19 An individual licensed under this Act, affected under this
20 Section, shall be afforded an opportunity to demonstrate to the
21 Disciplinary Board that they can resume practice in compliance
22 with acceptable and prevailing standards under the provisions
23 of their license.

24 The Department may promulgate rules for the imposition of
25 fines in disciplinary cases, not to exceed \$10,000 for each
26 violation of this Act. Fines may be imposed in conjunction with

1 other forms of disciplinary action, but shall not be the
2 exclusive disposition of any disciplinary action arising out of
3 conduct resulting in death or injury to a patient. Any funds
4 collected from such fines shall be deposited in the Illinois
5 State Medical Disciplinary Fund.

6 All fines imposed under this Section shall be paid within
7 60 days after the effective date of the order imposing the fine
8 or in accordance with the terms set forth in the order imposing
9 the fine.

10 (B) The Department shall revoke the license or permit
11 issued under this Act to practice medicine or a chiropractic
12 physician who has been convicted a second time of committing
13 any felony under the Illinois Controlled Substances Act or the
14 Methamphetamine Control and Community Protection Act, or who
15 has been convicted a second time of committing a Class 1 felony
16 under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A
17 person whose license or permit is revoked under this subsection
18 B shall be prohibited from practicing medicine or treating
19 human ailments without the use of drugs and without operative
20 surgery.

21 (C) The Department shall not revoke, suspend, place on
22 probation, reprimand, refuse to issue or renew, or take any
23 other disciplinary or non-disciplinary action against the
24 license or permit issued under this Act to practice medicine to
25 a physician:

26 (1) based solely upon the recommendation of the

1 physician to an eligible patient regarding, or
2 prescription for, or treatment with, an investigational
3 drug, biological product, or device; or

4 (2) for experimental treatment for Lyme disease or
5 other tick-borne diseases, including, but not limited to,
6 the prescription of or treatment with long-term
7 antibiotics.

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

18 (Source: P.A. 99-270, eff. 1-1-16; 99-933, eff. 1-27-17;
19 100-429, eff. 8-25-17; 100-513, eff. 1-1-18; 100-605, eff.
20 1-1-19; 100-863, eff. 8-14-18; 100-1137, eff. 1-1-19; revised
21 12-19-18.)

22 Section 10. The Illinois Abortion Law of 1975 is amended by
23 changing Sections 10 and 11 and by adding Sections 3.2, 3.3,
24 and 3.4 as follows:

1 (720 ILCS 510/3.2 new)

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

3 (a) As used in this Section:

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

7 (1) a physical disability;

8 (2) a mental or intellectual disability;

9 (3) a physical disfigurement;

10 (4) scoliosis;

11 (5) dwarfism;

12 (6) Down syndrome;

13 (7) albinism;

14 (8) amelia; or

15 (9) a physical or mental disease.

16 The term does not include a lethal fetal anomaly.

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

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

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

24 (b) A person may not intentionally perform or attempt to
25 perform an abortion before the earlier of viability of the
26 fetus or 20 weeks of postfertilization age if the person knows

1 that the pregnant woman is seeking a sex selective abortion.

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

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

12 (e) 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 the fetus has been
16 diagnosed with Down syndrome or has a potential diagnosis of
17 Down syndrome.

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

24 (g) A person may not intentionally perform or attempt to
25 perform an abortion after viability of the fetus or 20 weeks of
26 postfertilization age if the person knows that the pregnant

1 woman is seeking the abortion solely because the fetus has been
2 diagnosed with any other disability or has a potential
3 diagnosis of any other disability.

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

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

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

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

18 (2) civil liability for wrongful death.

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

22 (720 ILCS 510/3.3 new)

23 Sec. 3.3. Perinatal hospice.

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

25 (1) women considering abortion after receiving a

1 diagnosis of a lethal fetal anomaly are informed of the
2 availability of perinatal hospice care; and

3 (2) women choosing abortion after receiving a
4 diagnosis of a lethal fetal anomaly are making a fully
5 informed decision.

6 (b) As used in this Section:

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

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

24 (c) The Department shall develop a perinatal hospice
25 brochure and post the perinatal hospice brochure on the
26 Department's Internet web site.

1 (d) The perinatal brochure developed under this Section
2 must include the following:

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

5 (2) information that medical assistance benefits may
6 be available for prenatal care, childbirth, and perinatal
7 hospice; and

8 (3) information regarding accessing grief counseling
9 and other human services, and the types of services that
10 are available through this service.

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

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

22 (1) a copy of the perinatal hospice brochure developed
23 under this Section;

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

26 (g) The provider diagnosing the pregnant woman's unborn

1 child with the lethal fetal anomaly shall, at the time of
2 diagnosis:

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

4 (A) the perinatal brochure developed under
5 subsection (c) of this Section; and

6 (B) the certification form developed by the
7 Department under subsection (f); and

8 (2) have the pregnant woman complete the certification
9 form.

10 (h) The Department shall adopt rules within 90 days after
11 the effective date of this amendatory Act of the 101st General
12 Assembly to implement this Section.

13 (720 ILCS 510/3.4 new)

14 Sec. 3.4. Prohibited abortions.

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

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

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

25 (2) provide the pregnant woman copies of the perinatal

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

7 The requirements of this subsection are in addition to the
8 other requirements of this Section.

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

17 (720 ILCS 510/10) (from Ch. 38, par. 81-30)

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

24 (1) Identification of the physician who performed the
25 abortion and the facility where the abortion was performed

- 1 and a patient identification number;
- 2 (2) State in which the patient resides;
- 3 (3) Patient's date of birth, race and marital status;
- 4 (4) Number of prior pregnancies;
- 5 (5) Date of last menstrual period;
- 6 (6) Type of abortion procedure performed;
- 7 (7) Complications and whether the abortion resulted in
- 8 a live birth;
- 9 (8) The date the abortion was performed;
- 10 (9) Medical indications for any abortion performed
- 11 when the fetus was viable;
- 12 (10) The information required by Sections 6(1)(b) and
- 13 6(4)(b) of this Act, if applicable;
- 14 (11) Basis for any medical judgment that a medical
- 15 emergency existed when required under Sections 6(2)(a) and
- 16 6(6) and when required to be reported in accordance with
- 17 this Section by any provision of this Law; ~~and~~
- 18 (12) The pathologist's test results pursuant to
- 19 Section 12 of this Act;~~;~~
- 20 (13) The gender of the fetus, if detectable; and
- 21 (14) Whether the fetus has been diagnosed with or has a
- 22 potential diagnosis of having Down syndrome or any other
- 23 disability.

24 Such form shall be completed by the hospital or other

25 licensed facility, signed by the physician who performed the

26 abortion or pregnancy termination, and transmitted to the

1 Department not later than 10 days following the end of the
2 month in which the abortion was performed.

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

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

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

24 The requirement for reporting to the General Assembly shall
25 be satisfied by filing copies of the report as required by
26 Section 3.1 of the General Assembly Organization Act, and

1 filing such additional copies with the State Government Report
2 Distribution Center for the General Assembly as is required
3 under paragraph (t) of Section 7 of the State Library Act.

4 (Source: P.A. 100-1148, eff. 12-10-18.)

5 (720 ILCS 510/11) (from Ch. 38, par. 81-31)

6 Sec. 11. (1) Any person who intentionally violates any
7 provision of this Law, other than those described in Section
8 3.2, 3.3, or 3.4 of this Act, commits a Class A misdemeanor
9 unless a specific penalty is otherwise provided. Any person who
10 intentionally falsifies any writing required by this Law
11 commits a Class A misdemeanor.

12 Intentional, knowing, reckless, or negligent violations of
13 this Law shall constitute unprofessional conduct which causes
14 public harm under Section 22 of the Medical Practice Act of
15 1987, as amended; Section 70-5 of the Nurse Practice Act, and
16 Section 21 of the Physician Assistant Practice Act of 1987, as
17 amended.

18 Intentional, knowing, reckless or negligent violations of
19 this Law will constitute grounds for refusal, denial,
20 revocation, suspension, or withdrawal of license, certificate,
21 or permit under Section 30 of the Pharmacy Practice Act, as
22 amended; Section 7 of the Ambulatory Surgical Treatment Center
23 Act, effective July 19, 1973, as amended; and Section 7 of the
24 Hospital Licensing Act.

25 (2) Any hospital or licensed facility which, or any

1 physician who intentionally, knowingly, or recklessly fails to
2 submit a complete report to the Department in accordance with
3 the provisions of Section 10 of this Law and any person who
4 intentionally, knowingly, recklessly or negligently fails to
5 maintain the confidentiality of any reports required under this
6 Law or reports required by Sections 10.1 or 12 of this Law
7 commits a Class B misdemeanor.

8 (3) Any person who sells any drug, medicine, instrument or
9 other substance which he knows to be an abortifacient and which
10 is in fact an abortifacient, unless upon prescription of a
11 physician, is guilty of a Class B misdemeanor. Any person who
12 prescribes or administers any instrument, medicine, drug or
13 other substance or device, which he knows to be an
14 abortifacient, and which is in fact an abortifacient, and
15 intentionally, knowingly or recklessly fails to inform the
16 person for whom it is prescribed or upon whom it is
17 administered that it is an abortifacient commits a Class C
18 misdemeanor.

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

24 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;
25 95-876, eff. 8-21-08.)

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

3 (775 ILCS 5/1-103) (from Ch. 68, par. 1-103)

4 Sec. 1-103. General definitions. When used in this Act,
5 unless the context requires otherwise, the term:

6 (A) Age. "Age" means the chronological age of a person who
7 is at least 40 years old, except with regard to any practice
8 described in Section 2-102, insofar as that practice concerns
9 training or apprenticeship programs. In the case of training or
10 apprenticeship programs, for the purposes of Section 2-102,
11 "age" means the chronological age of a person who is 18 but not
12 yet 40 years old.

13 (B) Aggrieved party. "Aggrieved party" means a person who
14 is alleged or proved to have been injured by a civil rights
15 violation or believes he or she will be injured by a civil
16 rights violation under Article 3 that is about to occur.

17 (C) Charge. "Charge" means an allegation filed with the
18 Department by an aggrieved party or initiated by the Department
19 under its authority.

20 (D) Civil rights violation. "Civil rights violation"
21 includes and shall be limited to only those specific acts set
22 forth in Sections 2-102, 2-103, 2-105, 3-102, 3-102.1, 3-103,
23 3-104, 3-104.1, 3-105, 3-105.1, 4-102, 4-103, 5-102, 5A-102,
24 6-101, and 6-102 of this Act.

25 (E) Commission. "Commission" means the Human Rights

1 Commission created by this Act.

2 (F) Complaint. "Complaint" means the formal pleading filed
3 by the Department with the Commission following an
4 investigation and finding of substantial evidence of a civil
5 rights violation.

6 (G) Complainant. "Complainant" means a person including
7 the Department who files a charge of civil rights violation
8 with the Department or the Commission.

9 (H) Department. "Department" means the Department of Human
10 Rights created by this Act.

11 (I) Disability. "Disability" means a determinable physical
12 or mental characteristic of a person, including, but not
13 limited to, a determinable physical characteristic which
14 necessitates the person's use of a guide, hearing or support
15 dog, the history of such characteristic, or the perception of
16 such characteristic by the person complained against, which may
17 result from disease, injury, congenital condition of birth or
18 functional disorder and which characteristic:

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

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

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

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

6 (5) For purposes of Article 5, also includes any
7 mental, psychological, or developmental disability,
8 including autism spectrum disorders.

9 (J) Marital status. "Marital status" means the legal status
10 of being married, single, separated, divorced, or widowed.

11 (J-1) Military status. "Military status" means a person's
12 status on active duty in or status as a veteran of the armed
13 forces of the United States, status as a current member or
14 veteran of any reserve component of the armed forces of the
15 United States, including the United States Army Reserve, United
16 States Marine Corps Reserve, United States Navy Reserve, United
17 States Air Force Reserve, and United States Coast Guard
18 Reserve, or status as a current member or veteran of the
19 Illinois Army National Guard or Illinois Air National Guard.

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

22 (K-5) "Order of protection status" means a person's status
23 as being a person protected under an order of protection issued
24 pursuant to the Illinois Domestic Violence Act of 1986, Article
25 112A of the Code of Criminal Procedure of 1963, the Stalking No
26 Contact Order Act, or the Civil No Contact Order Act, or an

1 order of protection issued by a court of another state.

2 (L) Person. "Person" includes one or more individuals,
3 partnerships, associations or organizations, labor
4 organizations, labor unions, joint apprenticeship committees,
5 or union labor associations, corporations, the State of
6 Illinois and its instrumentalities, political subdivisions,
7 units of local government, legal representatives, trustees in
8 bankruptcy or receivers.

9 (L-5) Pregnancy. "Pregnancy" means pregnancy, childbirth,
10 or medical or common conditions related to pregnancy or
11 childbirth.

12 (M) Public contract. "Public contract" includes every
13 contract to which the State, any of its political subdivisions,
14 or any municipal corporation is a party.

15 (N) Religion. "Religion" includes all aspects of religious
16 observance and practice, as well as belief, except that with
17 respect to employers, for the purposes of Article 2, "religion"
18 has the meaning ascribed to it in paragraph (F) of Section
19 2-101.

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

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

1 (P) Unfavorable military discharge. "Unfavorable military
2 discharge" includes discharges from the Armed Forces of the
3 United States, their Reserve components, or any National Guard
4 or Naval Militia which are classified as RE-3 or the equivalent
5 thereof, but does not include those characterized as RE-4 or
6 "Dishonorable".

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

18 (Source: P.A. 100-714, eff. 1-1-19; revised 10-4-18.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.