

1 AN ACT in relation to cloning.

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

4 Section 1. Short title. This Act may be cited as the
5 Human Cloning Act.

6 Section 5. Purpose. It is the intent of the General
7 Assembly to place a moratorium on the cloning of an entire
8 human being, human embryo, or human fetus in order to
9 evaluate the profound medical, ethical, and social
10 implications that such a possibility raises.

11 Section 10. Human cloning prohibited.

12 (a) No person shall clone a human being.

13 (b) No person shall purchase, sell, use, or transport an
14 ovum, zygote, embryo, or fetus for the purpose of cloning a
15 human being.

16 (c) For purposes of this Section, "clone" means to
17 create or attempt to create using human somatic cell nucleus
18 transfer technology a human being, human embryo, or human
19 fetus by transferring the nucleus from a human somatic cell
20 into a human egg cell from which the nucleus has been removed
21 for any purpose regardless of whether or not the resulting
22 product could result in a human embryo, human fetus, or human
23 being and regardless of whether or not it is intended to be
24 implanted into a person and may or may not result in a
25 pregnancy and a birth of a human being. For purposes of this
26 Section, "clone" does not refer to duplicating or replicating
27 human DNA sequences, organs, tissues, or cells.

28 (d) Nothing in this Act shall be construed to restrict
29 or prohibit biomedical research using cloning technology that
30 is not expressly prohibited by this Act, including the

1 cloning of human genes, cells, and tissues.

2 Section 15. For violations of Section 10, the Attorney
3 General may, after appropriate notice and opportunity for
4 hearing, by order, levy administrative penalties as follows:

5 (a) If the violator is a corporation, firm, clinic,
6 hospital, laboratory, or research facility, by a civil
7 penalty of not more than \$1,000,000 or the applicable amount
8 under subsection (c), whichever is greater.

9 (b) If the violator is an individual, by a civil penalty
10 of not more than \$250,000 or the applicable amount under
11 subsection (c), whichever is greater.

12 (c) If any violator derives pecuniary gain from a
13 violation of Section 10, the violator may be assessed a civil
14 penalty of not more than an amount equal to the amount of the
15 gross gain multiplied by 2.

16 (d) The administrative penalties shall be paid into the
17 General Revenue Fund.

18 Section 90. Repeal. This Act is repealed on January 1,
19 2009.

20 Section 105. The Department of Public Health Powers and
21 Duties Law of the Civil Administrative Code of Illinois is
22 amended by adding Section 2310-330.5 as follows:

23 (20 ILCS 2310/2310-330.5 new)

24 Sec. 2310-330.5. Revocation of registration of sperm
25 banks that violate the Human Cloning Act. The Department
26 shall revoke the registration of a sperm bank that violates
27 the Human Cloning Act. This Section is repealed on January
28 1, 2009.

29 Section 110. The Ambulatory Surgical Treatment Center

1 Act is amended by adding Section 10f-5 as follows:

2 (210 ILCS 5/10f-5 new)

3 Sec. 10f-5. Revocation of license for violating the
4 Human Cloning Act. The Director shall revoke the license of
5 an ambulatory surgical treatment center that violates the
6 Human Cloning Act. This Section is repealed on January 1,
7 2009.

8 Section 115. The Hospital Licensing Act is amended by
9 adding Section 7.5 as follows:

10 (210 ILCS 85/7.6 new)

11 Sec. 7.6. Revocation of license for violation of the
12 Human Cloning Act. The Director shall revoke the license of
13 a hospital that violates the Human Cloning Act. This Section
14 is repealed on January 1, 2009.

15 Section 120. The Medical Practice Act of 1987 is amended
16 by changing Section 22 as follows:

17 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

18 Sec. 22. Disciplinary action.

19 (A) The Department may revoke, suspend, place on
20 probationary status, or take any other disciplinary action as
21 the Department may deem proper with regard to the license or
22 visiting professor permit of any person issued under this Act
23 to practice medicine, or to treat human ailments without the
24 use of drugs and without operative surgery upon any of the
25 following grounds:

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

28 (a) a facility licensed pursuant to the
29 Ambulatory Surgical Treatment Center Act;

1 (b) an institution licensed under the Hospital
2 Licensing Act; or

3 (c) an ambulatory surgical treatment center or
4 hospitalization or care facility maintained by the
5 State or any agency thereof, where such department
6 or agency has authority under law to establish and
7 enforce standards for the ambulatory surgical
8 treatment centers, hospitalization, or care
9 facilities under its management and control; or

10 (d) ambulatory surgical treatment centers,
11 hospitalization or care facilities maintained by the
12 Federal Government; or

13 (e) ambulatory surgical treatment centers,
14 hospitalization or care facilities maintained by any
15 university or college established under the laws of
16 this State and supported principally by public funds
17 raised by taxation.

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

21 (3) The conviction of a felony in this or any other
22 jurisdiction, except as otherwise provided in subsection
23 B of this Section, whether or not related to practice
24 under this Act, or the entry of a guilty or nolo
25 contendere plea to a felony charge.

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

27 (5) Engaging in dishonorable, unethical or
28 unprofessional conduct of a character likely to deceive,
29 defraud or harm the public.

30 (6) Obtaining any fee by fraud, deceit, or
31 misrepresentation.

32 (7) Habitual or excessive use or abuse of drugs
33 defined in law as controlled substances, of alcohol, or
34 of any other substances which results in the inability to

1 practice with reasonable judgment, skill or safety.

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

4 (9) Fraud or misrepresentation in applying for, or
5 procuring, a license under this Act or in connection with
6 applying for renewal of a license under this Act.

7 (10) Making a false or misleading statement
8 regarding their skill or the efficacy or value of the
9 medicine, treatment, or remedy prescribed by them at
10 their direction in the treatment of any disease or other
11 condition of the body or mind.

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

14 (12) Disciplinary action of another state or
15 jurisdiction against a license or other authorization to
16 practice as a medical doctor, doctor of osteopathy,
17 doctor of osteopathic medicine or doctor of chiropractic,
18 a certified copy of the record of the action taken by the
19 other state or jurisdiction being prima facie evidence
20 thereof.

21 (13) Violation of any provision of this Act or of
22 the Medical Practice Act prior to the repeal of that Act,
23 or violation of the rules, or a final administrative
24 action of the Director, after consideration of the
25 recommendation of the Disciplinary Board.

26 (14) Dividing with anyone other than physicians
27 with whom the licensee practices in a partnership,
28 Professional Association, limited liability company, or
29 Medical or Professional Corporation any fee, commission,
30 rebate or other form of compensation for any professional
31 services not actually and personally rendered. Nothing
32 contained in this subsection prohibits persons holding
33 valid and current licenses under this Act from practicing
34 medicine in partnership under a partnership agreement,

1 including a limited liability partnership, in a limited
2 liability company under the Limited Liability Company
3 Act, in a corporation authorized by the Medical
4 Corporation Act, as an association authorized by the
5 Professional Association Act, or in a corporation under
6 the Professional Corporation Act or from pooling,
7 sharing, dividing or apportioning the fees and monies
8 received by them or by the partnership, corporation or
9 association in accordance with the partnership agreement
10 or the policies of the Board of Directors of the
11 corporation or association. Nothing contained in this
12 subsection prohibits 2 or more corporations authorized by
13 the Medical Corporation Act, from forming a partnership
14 or joint venture of such corporations, and providing
15 medical, surgical and scientific research and knowledge
16 by employees of these corporations if such employees are
17 licensed under this Act, or from pooling, sharing,
18 dividing, or apportioning the fees and monies received by
19 the partnership or joint venture in accordance with the
20 partnership or joint venture agreement. Nothing
21 contained in this subsection shall abrogate the right of
22 2 or more persons, holding valid and current licenses
23 under this Act, to each receive adequate compensation for
24 concurrently rendering professional services to a patient
25 and divide a fee; provided, the patient has full
26 knowledge of the division, and, provided, that the
27 division is made in proportion to the services performed
28 and responsibility assumed by each.

29 (15) A finding by the Medical Disciplinary Board
30 that the registrant after having his or her license
31 placed on probationary status or subjected to conditions
32 or restrictions violated the terms of the probation or
33 failed to comply with such terms or conditions.

34 (16) Abandonment of a patient.

1 (17) Prescribing, selling, administering,
2 distributing, giving or self-administering any drug
3 classified as a controlled substance (designated product)
4 or narcotic for other than medically accepted therapeutic
5 purposes.

6 (18) Promotion of the sale of drugs, devices,
7 appliances or goods provided for a patient in such manner
8 as to exploit the patient for financial gain of the
9 physician.

10 (19) Offering, undertaking or agreeing to cure or
11 treat disease by a secret method, procedure, treatment or
12 medicine, or the treating, operating or prescribing for
13 any human condition by a method, means or procedure which
14 the licensee refuses to divulge upon demand of the
15 Department.

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

19 (21) Wilfully making or filing false records or
20 reports in his or her practice as a physician, including,
21 but not limited to, false records to support claims
22 against the medical assistance program of the Department
23 of Public Aid under the Illinois Public Aid Code.

24 (22) Wilful omission to file or record, or wilfully
25 impeding the filing or recording, or inducing another
26 person to omit to file or record, medical reports as
27 required by law, or wilfully failing to report an
28 instance of suspected abuse or neglect as required by
29 law.

30 (23) Being named as a perpetrator in an indicated
31 report by the Department of Children and Family Services
32 under the Abused and Neglected Child Reporting Act, and
33 upon proof by clear and convincing evidence that the
34 licensee has caused a child to be an abused child or

1 neglected child as defined in the Abused and Neglected
2 Child Reporting Act.

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

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

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

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

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

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

27 (30) Wilfully or negligently violating the
28 confidentiality between physician and patient except as
29 required by law.

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

33 (32) Aiding and abetting an individual not licensed
34 under this Act in the practice of a profession licensed

1 under this Act.

2 (33) Violating state or federal laws or regulations
3 relating to controlled substances.

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

14 (35) Failure to report to the Department surrender
15 of a license or authorization to practice as a medical
16 doctor, a doctor of osteopathy, a doctor of osteopathic
17 medicine, or doctor of chiropractic in another state or
18 jurisdiction, or surrender of membership on any medical
19 staff or in any medical or professional association or
20 society, while under disciplinary investigation by any of
21 those authorities or bodies, for acts or conduct similar
22 to acts or conduct which would constitute grounds for
23 action as defined in this Section.

24 (36) Failure to report to the Department any
25 adverse judgment, settlement, or award arising from a
26 liability claim related to acts or conduct similar to
27 acts or conduct which would constitute grounds for action
28 as defined in this Section.

29 (37) Failure to transfer copies of medical records
30 as required by law.

31 (38) Failure to furnish the Department, its
32 investigators or representatives, relevant information,
33 legally requested by the Department after consultation
34 with the Chief Medical Coordinator or the Deputy Medical

1 Coordinator.

2 (39) Violating the Health Care Worker Self-Referral
3 Act.

4 (40) Willful failure to provide notice when notice
5 is required under the Parental Notice of Abortion Act of
6 1995.

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

9 (42) Entering into an excessive number of written
10 collaborative agreements with licensed advanced practice
11 nurses resulting in an inability to adequately
12 collaborate and provide medical direction.

13 (43) Repeated failure to adequately collaborate
14 with or provide medical direction to a licensed advanced
15 practice nurse.

16 (44) Violating the Human Cloning Act. This item
17 (44) is inoperative upon the repeal of the Human Cloning
18 Act.

19 All proceedings to suspend, revoke, place on probationary
20 status, or take any other disciplinary action as the
21 Department may deem proper, with regard to a license on any
22 of the foregoing grounds, must be commenced within 3 years
23 next after receipt by the Department of a complaint alleging
24 the commission of or notice of the conviction order for any
25 of the acts described herein. Except for the grounds
26 numbered (8), (9) and (29), no action shall be commenced more
27 than 5 years after the date of the incident or act alleged to
28 have violated this Section. In the event of the settlement
29 of any claim or cause of action in favor of the claimant or
30 the reduction to final judgment of any civil action in favor
31 of the plaintiff, such claim, cause of action or civil action
32 being grounded on the allegation that a person licensed under
33 this Act was negligent in providing care, the Department
34 shall have an additional period of one year from the date of

1 notification to the Department under Section 23 of this Act
2 of such settlement or final judgment in which to investigate
3 and commence formal disciplinary proceedings under Section 36
4 of this Act, except as otherwise provided by law. The time
5 during which the holder of the license was outside the State
6 of Illinois shall not be included within any period of time
7 limiting the commencement of disciplinary action by the
8 Department.

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

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

26 The Department, upon the recommendation of the
27 Disciplinary Board, shall adopt rules which set forth
28 standards to be used in determining:

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

31 (b) what constitutes dishonorable, unethical or
32 unprofessional conduct of a character likely to deceive,
33 defraud, or harm the public;

34 (c) what constitutes immoral conduct in the

1 commission of any act, including, but not limited to,
2 commission of an act of sexual misconduct related to the
3 licensee's practice; and

4 (d) what constitutes gross negligence in the
5 practice of medicine.

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

9 In enforcing this Section, the Medical Disciplinary
10 Board, upon a showing of a possible violation, may compel any
11 individual licensed to practice under this Act, or who has
12 applied for licensure or a permit pursuant to this Act, to
13 submit to a mental or physical examination, or both, as
14 required by and at the expense of the Department. The
15 examining physician or physicians shall be those specifically
16 designated by the Disciplinary Board. The Medical
17 Disciplinary Board or the Department may order the examining
18 physician to present testimony concerning this mental or
19 physical examination of the licensee or applicant. No
20 information shall be excluded by reason of any common law or
21 statutory privilege relating to communication between the
22 licensee or applicant and the examining physician. The
23 individual to be examined may have, at his or her own
24 expense, another physician of his or her choice present
25 during all aspects of the examination. Failure of any
26 individual to submit to mental or physical examination, when
27 directed, shall be grounds for suspension of his or her
28 license until such time as the individual submits to the
29 examination if the Disciplinary Board finds, after notice and
30 hearing, that the refusal to submit to the examination was
31 without reasonable cause. If the Disciplinary Board finds a
32 physician unable to practice because of the reasons set forth
33 in this Section, the Disciplinary Board shall require such
34 physician to submit to care, counseling, or treatment by

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

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

28 The Department may promulgate rules for the imposition of
29 fines in disciplinary cases, not to exceed \$5,000 for each
30 violation of this Act. Fines may be imposed in conjunction
31 with other forms of disciplinary action, but shall not be the
32 exclusive disposition of any disciplinary action arising out
33 of conduct resulting in death or injury to a patient. Any
34 funds collected from such fines shall be deposited in the

1 Medical Disciplinary Fund.

2 (B) The Department shall revoke the license or visiting
3 permit of any person issued under this Act to practice
4 medicine or to treat human ailments without the use of drugs
5 and without operative surgery, who has been convicted a
6 second time of committing any felony under the Illinois
7 Controlled Substances Act, or who has been convicted a second
8 time of committing a Class 1 felony under Sections 8A-3 and
9 8A-6 of the Illinois Public Aid Code. A person whose license
10 or visiting permit is revoked under this subsection B of
11 Section 22 of this Act shall be prohibited from practicing
12 medicine or treating human ailments without the use of drugs
13 and without operative surgery.

14 (C) The Medical Disciplinary Board shall recommend to
15 the Department civil penalties and any other appropriate
16 discipline in disciplinary cases when the Board finds that a
17 physician willfully performed an abortion with actual
18 knowledge that the person upon whom the abortion has been
19 performed is a minor or an incompetent person without notice
20 as required under the Parental Notice of Abortion Act of
21 1995. Upon the Board's recommendation, the Department shall
22 impose, for the first violation, a civil penalty of \$1,000
23 and for a second or subsequent violation, a civil penalty of
24 \$5,000.

25 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96;
26 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff.
27 8-13-98.)

28 Section 125. The Criminal Code of 1961 is amended by
29 adding Section 12-36 as follows:

30 (720 ILCS 5/12-36 new)

31 Sec. 12-36. Criminal cloning of humans.

32 (a) No person shall engage in activity which involves

1 the use of a human somatic cell nucleus transfer technology
2 to produce a human embryo for the purpose of producing a
3 human clone.

4 (b) Sentence. A violation of this Section is a Class 4
5 felony.

6 (c) Definition. For purposes of this Section, "human
7 clone" means a human being created by transferring the
8 nucleus from a human somatic cell into a human egg cell from
9 which the nucleus has been removed for any purpose regardless
10 of whether or not the resulting product could result in a
11 human embryo, human fetus, or human being, and regardless of
12 whether or not it is intended to be implanted into a person
13 and may or may not result in a pregnancy and a birth of a
14 human being. For the purposes of this Section, "clone" does
15 not refer to duplicating or replicating human DNA sequences,
16 organs, tissues, or cells.

17 (d) Nothing in this Section shall be construed to
18 restrict or prohibit biomedical research using cloning
19 technology that is not expressly prohibited by this Section,
20 including the cloning of human genes, cells, and tissues.

21 (e) Repealed. This Section is repealed on January 1,
22 2009.