

1 AN ACT in relation to health.

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 Woman's Right to Know Act.

6 Section 5. Legislative findings and intent.

7 (a) The General Assembly of the State of Illinois finds  
8 that:

9 (1) Many women now seek or are encouraged to undergo  
10 elective abortions without full knowledge of the medical  
11 and psychological risks of abortion, development of the  
12 unborn child, or alternatives to abortion. An abortion  
13 decision is often made under stressful circumstances.

14 (2) The knowledgeable exercise of a woman's decision  
15 to have an elective abortion depends on the extent to  
16 which the woman receives sufficient information to make a  
17 voluntary and informed choice between 2 alternatives of  
18 great consequence: carrying a child to birth or  
19 undergoing an abortion.

20 (3) The U.S. Supreme Court has stated: "In  
21 attempting to ensure that a woman apprehends the full  
22 consequences of her decision, the State furthers the  
23 legitimate purpose of reducing the risk that a woman may  
24 elect an abortion, only to discover later, with  
25 devastating psychological consequences, that her decision  
26 was not fully informed." (Planned Parenthood of  
27 Southeastern Pennsylvania v. Casey, 112 U.S. 2791, 2823  
28 (1992)).

29 (4) The decision to abort "is an important, and  
30 often a stressful one, and it is desirable and imperative  
31 that it be made with full knowledge of its nature and

1 consequences." (Planned Parenthood v. Danforth, 428 U.S.  
2 52, 67 (1976).

3 (5) It is essential to the psychological and  
4 physical well-being of a woman considering an elective  
5 abortion that she receive complete and accurate  
6 information on all options available to her in dealing  
7 with her pregnancy.

8 (6) Women who seek elective abortions at abortion  
9 clinics do not have a prior patient-physician  
10 relationship with the physician who is to perform or  
11 induce the abortion, normally do not return to the  
12 facility for post-operative care, and normally do not  
13 continue a patient-physician relationship with the  
14 physician who performed or induced the abortion. In most  
15 instances, the woman's only actual contact with the  
16 physician occurs simultaneously with the abortion  
17 procedure, with little opportunity to receive personal  
18 counseling by the physician concerning her decision.  
19 Because of this, certain safeguards are necessary to  
20 protect a woman's right to know.

21 (7) A reasonable waiting period is critical to  
22 ensure that a woman has the fullest opportunity to give  
23 her voluntary and informed consent before she elects to  
24 undergo an abortion.

25 (b) Based on the findings in subsection (a), it is the  
26 intent of the legislature in enacting this Act to further the  
27 important and compelling State interests in all of the  
28 following:

29 (1) Protecting the life and health of the woman  
30 subject to an elective abortion and, to the extent  
31 constitutionally permissible, the life of her unborn  
32 child.

33 (2) Fostering the development of standards of  
34 professional conduct in the practice of abortion.

1           (3) Ensuring that prior to the performance or  
2           inducement of an elective abortion, the woman considering  
3           an elective abortion receives personal counseling by the  
4           physician and is given a full range of information  
5           regarding her pregnancy, her unborn child, the abortion,  
6           the medical and psychological risks of abortion, and  
7           available alternatives to the abortion.

8           (4) Reducing the risk that a woman may elect an  
9           abortion, only to discover later, with devastating  
10          psychological consequences, that her decision was not  
11          fully informed. Planned Parenthood v. Casey, 112 S. Ct.  
12          2971, 2823 (1992).

13          (5) Ensuring that a woman who decides to have an  
14          elective abortion gives her voluntary and informed  
15          consent to the abortion procedure.

16          Section 10. Definitions. As used in this Act:

17          "Abortion" means the use of any instrument, medicine,  
18          drug, or other substance or device to terminate the pregnancy  
19          of a woman known to be pregnant with an intention other than  
20          to increase the probability of a live birth, to preserve the  
21          life or health of a child after birth, or to remove a dead  
22          fetus.

23          "Department" means the Department of Public Health of the  
24          State of Illinois.

25          "Medical emergency" means any condition that, on the  
26          basis of the physician's good faith clinical judgment, so  
27          complicates the medical condition of a pregnant female as to  
28          necessitate the immediate abortion of her pregnancy to avert  
29          her death or for which a delay will create serious risk of  
30          substantial and irreversible impairment of a major bodily  
31          function.

32          "Probable gestational age of the unborn child" means the  
33          number of weeks that have elapsed from the probable time of

1 fertilization of a woman's ovum, based on the information  
2 provided by the woman as to the time of her last menstrual  
3 period, her medical history, a physical examination performed  
4 by the physician who is to perform or induce the abortion or  
5 by any other physician, and any appropriate laboratory tests  
6 performed on her.

7 "Qualified person assisting the physician" means a  
8 licensed social worker, a registered nurse, or a physician  
9 assistant to whom a physician who is to perform or induce an  
10 abortion has delegated the responsibility, as the physician's  
11 agent, for providing the information required under Section  
12 15.

13 "Referring physician" means a physician, as defined in  
14 this Act, who is other than the physician who is to perform  
15 the abortion.

16 "Physician" means any person licensed to practice  
17 medicine in all its branches under the Medical Practice Act  
18 of 1987.

19 "Viability" means the state of fetal development when, in  
20 the judgment of the physician based on the particular facts  
21 of the case before him or her and in light of the most  
22 advanced medical technology and information available to him  
23 or her, there is a reasonable likelihood of sustained  
24 survival of the unborn child outside the body of his or her  
25 mother, with or without artificial support.

26 Section 15. Informed consent requirement.

27 (a) An abortion shall not be performed or induced unless  
28 the woman upon whom the abortion is to be performed or  
29 induced has given her voluntary and informed consent.

30 (b) Consent under this Section to an abortion is  
31 voluntary only if the consent is given freely and without  
32 coercion by any person.

33 (c) Except in the case of a medical emergency, consent to

1 an abortion is voluntary and informed if and only if:

2 (1) At least 24 hours before the abortion is to be  
3 performed or induced, the physician who is to perform or  
4 induce the abortion or the referring physician has, in  
5 person, orally informed the woman of all of the  
6 following:

7 (A) The name of the physician who will perform  
8 the abortion.

9 (B) Whether, according to the reasonable  
10 medical judgment of the physician, the woman is  
11 pregnant.

12 (C) The probable gestational age of the unborn  
13 child at the time that the information is provided.

14 (D) The particular medical risks, if any,  
15 associated with the woman's pregnancy.

16 (E) The probable anatomical and physiological  
17 characteristics of the woman's unborn child at the  
18 time the information is given.

19 (F) The details of the medical or surgical  
20 method that would be used in performing or inducing  
21 the abortion.

22 (G) The medical risks associated with the  
23 particular abortion procedure that would be used,  
24 including but not limited to the medical risks of  
25 infection, psychological trauma, hemorrhage,  
26 endometritis, perforated uterus, breast cancer,  
27 incomplete abortion, failed abortion, danger to  
28 subsequent pregnancies, and infertility.

29 (H) The recommended general medical  
30 instructions for the woman to follow after an  
31 abortion to enhance her safe recovery and the name  
32 and telephone number of a physician to call if  
33 complications arise after the abortion.

34 (I) If, in the reasonable medical judgment of

1 the physician, the woman's unborn child has reached  
2 viability, that the physician who is to perform or  
3 induce the abortion or a second physician is  
4 required to take all reasonable steps necessary to  
5 maintain the life and health of the child.

6 (J) Any other information that a reasonable  
7 patient would consider material and relevant to a  
8 decision of whether to carry a child to birth or to  
9 undergo an abortion.

10 (K) That the woman may withdraw her consent to  
11 have an abortion at any time before the abortion is  
12 performed or induced.

13 (L) That, except as provided in Section 25, the  
14 woman is not required to pay any amount for  
15 performance or inducement of the abortion until at  
16 least 24 hours have elapsed after the requirements  
17 of this Section are met.

18 (2) Except as provided in Section 25, at least 24  
19 hours before the abortion is to be performed or induced,  
20 the physician who is to perform or induce the abortion, a  
21 qualified person assisting the physician, or another  
22 physician has, in person, orally informed the woman of  
23 all of the following:

24 (A) Medical assistance benefits may be  
25 available for prenatal care, childbirth, and  
26 neonatal care, and that more detailed information on  
27 the availability of such assistance is contained in  
28 the printed materials given to her and described in  
29 Section 20.

30 (B) That the father of the unborn child is  
31 liable for assistance in the support of the woman's  
32 child, if born, even if the father has offered to  
33 pay for the abortion. In the case of rape or incest,  
34 this information may be omitted.

1           (C) The probable gestational age of the unborn  
2 child at the time the abortion is to be performed,  
3 and, if the unborn child is viable or has reached  
4 the gestational age of 24 weeks, that (i) the unborn  
5 child may be able to survive outside the womb; (ii)  
6 the woman has the right to request the physician to  
7 use the method of abortion that is most likely to  
8 preserve the life of the unborn child; and (iii) if  
9 the unborn child is born alive, the attending  
10 physician has the legal obligation to take all  
11 reasonable steps necessary to maintain the life and  
12 health of the child.

13           (D) That the woman has the right to receive and  
14 review the printed materials described in Section  
15 20.

16           (E) That the physician or qualified person  
17 assisting the physician must (i) physically give the  
18 materials to the woman and must, in person, orally  
19 inform her that the materials are free of charge,  
20 have been provided by the State, and describe the  
21 unborn child and list agencies that offer  
22 alternatives to abortion and that the physician or  
23 other person will provide her with the current  
24 updated copies of the printed materials free of  
25 charge.

26           (3) The information that is required under  
27 subdivisions (c)(1) and (c)(2) is provided to the woman  
28 in an individual setting that protects her privacy,  
29 maintains the confidentiality of her decision, and  
30 ensures that the information she receives focuses on her  
31 individual circumstances. This paragraph (3) may not be  
32 construed to prevent the woman from having a family  
33 member or legal guardian, or any other person of her  
34 choice, present during her private counseling.

1           (4) Whoever provides the information that is  
2 required under subdivision (c)(1) or (c)(2), or both,  
3 provides adequate opportunity for the woman to ask  
4 questions, including questions concerning the pregnancy,  
5 her unborn child, abortion, and adoption, and provides  
6 the information that is requested or indicates to the  
7 woman where she can obtain the information.

8           (5) The woman certifies in writing on a form that  
9 the Department shall provide, prior to performance or  
10 inducement of the abortion, that the information that is  
11 required under subdivisions (c)(1) and (c)(2) has been  
12 provided to her in the manner specified in subdivision  
13 (c)(3), that she has been offered the information  
14 described in Section 20, and that all of her questions,  
15 as specified under subdivision (c)(4) have been answered  
16 in a satisfactory manner. The physician who is to  
17 perform or induce the abortion or the qualified person  
18 assisting the physician shall write on the certification  
19 form the name of the physician who is to perform or  
20 induce the abortion. The woman shall indicate on the  
21 certification form who provided the information to her  
22 and when it was provided.

23           (6) Prior to the performance or the inducement of  
24 the abortion, the physician who is to perform or induce  
25 the abortion or the qualified person assisting the  
26 physician receives the written certification that is  
27 required under subdivision (c)(5). The physician or  
28 qualified person assisting the physician shall place the  
29 certification in the woman's medical record and shall  
30 provide the woman with a copy of the certification.

31           (7) If the woman considering an abortion has been  
32 adjudicated incompetent, the requirements to provide  
33 information to the woman under Section 15 apply to also  
34 require provision of the information to the person



1 appointed as the woman's guardian.

2 Section 20. Publication of materials.

3 (a) Within 90 days after the effective date of this Act,  
4 the Department shall cause to be published in English,  
5 Spanish, and other languages spoken by a significant number  
6 of State residents, as determined by the Department,  
7 materials that are in an easily comprehensible format and are  
8 printed in type of not less than 12-point size. The  
9 Department shall update on an annual basis the following  
10 materials:

11 (1) Geographically indexed materials that are  
12 designed to inform a woman about public and private  
13 agencies, including adoption agencies, available to  
14 assist her through pregnancy, upon childbirth, and while  
15 the child is dependent. The materials shall include a  
16 comprehensive list of the agencies available, a  
17 description of the services that they offer, and a  
18 description of the manner in which they may be contacted,  
19 including telephone numbers and addresses. The materials  
20 shall include a toll-free, 24-hour telephone number that  
21 may be called to obtain an oral listing of available  
22 agencies and services in the locality of the caller and a  
23 description of the services that the agencies offer and  
24 the manner in which they may be contacted. The materials  
25 shall provide information on the availability of  
26 governmentally funded programs that serve pregnant women  
27 and children. Services identified for the woman shall  
28 include temporary assistance for needy families, medical  
29 assistance for pregnant women and children, the  
30 availability of family or medical leave, child care  
31 services, child support laws, and programs and the credit  
32 for expenses for household and dependent care and  
33 services necessary for gainful employment. The materials

1 shall state that it is unlawful to perform an abortion  
2 for which consent has been coerced, that any physician  
3 who performs or induces an abortion without obtaining the  
4 woman's voluntary and informed consent is liable to her  
5 for damages in a civil action and is subject to a civil  
6 penalty, that the father of a child is liable for  
7 assistance in the support of the child, even in instances  
8 in which the father has offered to pay for an abortion,  
9 and that adoptive parents may pay the costs of prenatal  
10 care, childbirth, and neonatal care. The material shall  
11 include the following statement: "There are many public  
12 and private agencies willing and able to help you to  
13 carry your child to term, and to assist you and your  
14 child after your child is born, whether you choose to  
15 keep your child or to place her or him for adoption. The  
16 State of Illinois strongly urges you to contact one or  
17 more of these agencies before making a final decision  
18 about abortion. The law requires that your physician or  
19 his or her agent give you the opportunity to call  
20 agencies like these before you undergo an abortion." The  
21 materials shall include information, for a woman whose  
22 pregnancy is the result of sexual assault or incest, on  
23 legal protections available to the woman and her child if  
24 she wishes to oppose establishment of paternity or to  
25 terminate the father's parental rights.

26 (2) Materials, including photographs, pictures, or  
27 drawings, that are designed to inform the woman of the  
28 probable anatomical and physiological characteristics of  
29 the unborn child at 2-week gestational increments for the  
30 first 16 weeks of her pregnancy and at 4-week gestational  
31 increments from the 17th week of the pregnancy to full  
32 term, including any relevant information regarding the  
33 time at which the unborn child could possibly be viable.  
34 The pictures or drawings must contain the dimensions of

1 the unborn child and must be realistic and appropriate  
2 for the stage of pregnancy depicted. The materials shall  
3 be objective, nonjudgmental, and designed to convey only  
4 accurate scientific information about the unborn child at  
5 the various gestational ages, including appearance,  
6 mobility, brain and heart activity and function, tactile  
7 sensitivity, and the presence of internal organs and  
8 external members. The materials shall also contain  
9 objective, accurate information describing the methods of  
10 abortion procedures commonly employed, the medical and  
11 psychological risks commonly associated with each such  
12 procedure, including the risks of infection,  
13 psychological trauma, hemorrhage, endometritis,  
14 perforated uterus, breast cancer, incomplete abortion,  
15 failed abortion, danger to subsequent pregnancies, and  
16 infertility, and the medical risks commonly associated  
17 with carrying a child to birth.

18 (3) A certification form for use under subdivision  
19 (c)(5) of Section 15 that lists, in a check-off format,  
20 all of the information required to be provided under that  
21 Section.

22 (b) A physician who intends to perform or induce an  
23 abortion or a referring physician, who reasonably believes  
24 that he or she might have a patient for whom the information  
25 in subsection (a) is required to be given, shall request a  
26 reasonably adequate number of the materials that are  
27 described in subsection (a) from the Department.

28 Section 25. Medical emergencies. If a medical emergency  
29 exists, the physician who is to perform or induce the  
30 abortion necessitated by the medical emergency shall inform  
31 the woman, prior to the abortion if possible, of the medical  
32 indications supporting the physician's reasonable medical  
33 judgment that an immediate abortion is necessary to avert her

1 death or that a 24-hour delay in performance or inducement of  
2 an abortion will create a serious risk of substantial and  
3 irreversible impairment of one or more of the woman's major  
4 bodily functions. If possible, the physician shall obtain  
5 the woman's written consent prior to the abortion. The  
6 physician shall certify these medical indications in writing  
7 and place the certification in the woman's medical record.

8 Section 30. Pregnancy as the result of sexual assault or  
9 incest. A woman seeking an abortion may waive the 24-hour  
10 period required under subdivision (c)(1) of Section 15, if  
11 the woman alleges that the pregnancy is the result of sexual  
12 assault.

13 Section 35. Violation; penalty. A physician's violation  
14 of this Act is grounds for disciplinary action under the  
15 Medical Practice Act of 1987.

16 Section 40. Civil remedies.

17 (a) A person who violates Section 15 is liable to the  
18 woman on or for whom the abortion was performed or induced  
19 for damages arising out of the performance or inducement of  
20 the abortion, including damages for personal injury and  
21 emotional and psychological distress.

22 (b) A person who recovers damages under subsection (a)  
23 may also recover reasonable attorney fees incurred in  
24 connection with the action.

25 (c) A contract is not a defense to an action under this  
26 subsection.

27 (d) Nothing in this Act limits the common law rights of a  
28 person that are not in conflict with this Act.

29 Section 50. Construction. Nothing in this Act shall be  
30 construed as creating or recognizing a right to abortion or

1 as making lawful an abortion that is otherwise unlawful.

2 Section 55. Severability. If any provision, word, phrase,  
3 or clause of this Act or its application to any person or  
4 circumstance is held invalid, the invalidity of that  
5 provision or application does not affect the provisions,  
6 words, phrases, clauses, or applications of the Act which can  
7 be given effect without the invalid provision, word, phrase,  
8 clause, or application, and to this end the provisions,  
9 words, phrases, and clauses of this Act are declared to be  
10 severable.

11 Section 90. The Medical Practice Act of 1987 is amended  
12 by changing Section 22 as follows:

13 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

14 Sec. 22. Disciplinary action.

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

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

24 (a) a facility licensed pursuant to the  
25 Ambulatory Surgical Treatment Center Act;

26 (b) an institution licensed under the Hospital  
27 Licensing Act; or

28 (c) an ambulatory surgical treatment center or  
29 hospitalization or care facility maintained by the  
30 State or any agency thereof, where such department  
31 or agency has authority under law to establish and

1 enforce standards for the ambulatory surgical  
2 treatment centers, hospitalization, or care  
3 facilities under its management and control; or

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

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

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

15 (3) The conviction of a felony in this or any other  
16 jurisdiction, except as otherwise provided in subsection  
17 B of this Section, whether or not related to practice  
18 under this Act, or the entry of a guilty or nolo  
19 contendere plea to a felony charge.

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

21 (5) Engaging in dishonorable, unethical or  
22 unprofessional conduct of a character likely to deceive,  
23 defraud or harm the public.

24 (6) Obtaining any fee by fraud, deceit, or  
25 misrepresentation.

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

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

32 (9) Fraud or misrepresentation in applying for, or  
33 procuring, a license under this Act or in connection with  
34 applying for renewal of a license under this Act.

1           (10) Making a false or misleading statement  
2 regarding their skill or the efficacy or value of the  
3 medicine, treatment, or remedy prescribed by them at  
4 their direction in the treatment of any disease or other  
5 condition of the body or mind.

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

8           (12) Disciplinary action of another state or  
9 jurisdiction against a license or other authorization to  
10 practice as a medical doctor, doctor of osteopathy,  
11 doctor of osteopathic medicine or doctor of chiropractic,  
12 a certified copy of the record of the action taken by the  
13 other state or jurisdiction being prima facie evidence  
14 thereof.

15           (13) Violation of any provision of this Act or of  
16 the Medical Practice Act prior to the repeal of that Act,  
17 or violation of the rules, or a final administrative  
18 action of the Director, after consideration of the  
19 recommendation of the Disciplinary Board.

20           (14) Dividing with anyone other than physicians  
21 with whom the licensee practices in a partnership,  
22 Professional Association, limited liability company, or  
23 Medical or Professional Corporation any fee, commission,  
24 rebate or other form of compensation for any professional  
25 services not actually and personally rendered. Nothing  
26 contained in this subsection prohibits persons holding  
27 valid and current licenses under this Act from practicing  
28 medicine in partnership under a partnership agreement,  
29 including a limited liability partnership, in a limited  
30 liability company under the Limited Liability Company  
31 Act, in a corporation authorized by the Medical  
32 Corporation Act, as an association authorized by the  
33 Professional Association Act, or in a corporation under  
34 the Professional Corporation Act or from pooling,

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

23 (15) A finding by the Medical Disciplinary Board  
24 that the registrant after having his or her license  
25 placed on probationary status or subjected to conditions  
26 or restrictions violated the terms of the probation or  
27 failed to comply with such terms or conditions.

28 (16) Abandonment of a patient.

29 (17) Prescribing, selling, administering,  
30 distributing, giving or self-administering any drug  
31 classified as a controlled substance (designated product)  
32 or narcotic for other than medically accepted therapeutic  
33 purposes.

34 (18) Promotion of the sale of drugs, devices,



1 appliances or goods provided for a patient in such manner  
2 as to exploit the patient for financial gain of the  
3 physician.

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

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

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

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

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

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

34 (25) Gross and wilful and continued overcharging

1 for professional services, including filing false  
2 statements for collection of fees for which services are  
3 not rendered, including, but not limited to, filing such  
4 false statements for collection of monies for services  
5 not rendered from the medical assistance program of the  
6 Department of Public Aid under the Illinois Public Aid  
7 Code.

8 (26) A pattern of practice or other behavior which  
9 demonstrates incapacity or incompetence to practice under  
10 this Act.

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

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

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

21 (30) Wilfully or negligently violating the  
22 confidentiality between physician and patient except as  
23 required by law.

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

27 (32) Aiding and abetting an individual not licensed  
28 under this Act in the practice of a profession licensed  
29 under this Act.

30 (33) Violating state or federal laws or regulations  
31 relating to controlled substances.

32 (34) Failure to report to the Department any  
33 adverse final action taken against them by another  
34 licensing jurisdiction (any other state or any territory

1 of the United States or any foreign state or country), by  
2 any peer review body, by any health care institution, by  
3 any professional society or association related to  
4 practice under this Act, by any governmental agency, by  
5 any law enforcement agency, or by any court for acts or  
6 conduct similar to acts or conduct which would constitute  
7 grounds for action as defined in this Section.

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

18 (36) Failure to report to the Department any  
19 adverse judgment, settlement, or award arising from a  
20 liability claim related to acts or conduct similar to  
21 acts or conduct which would constitute grounds for action  
22 as defined in this Section.

23 (37) Failure to transfer copies of medical records  
24 as required by law.

25 (38) Failure to furnish the Department, its  
26 investigators or representatives, relevant information,  
27 legally requested by the Department after consultation  
28 with the Chief Medical Coordinator or the Deputy Medical  
29 Coordinator.

30 (39) Violating the Health Care Worker Self-Referral  
31 Act.

32 (40) Willful failure to provide notice when notice  
33 is required under the Parental Notice of Abortion Act of  
34 1995.

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

3           (42) Entering into an excessive number of written  
4 collaborative agreements with licensed advanced practice  
5 nurses resulting in an inability to adequately  
6 collaborate and provide medical direction.

7           (43) Repeated failure to adequately collaborate  
8 with or provide medical direction to a licensed advanced  
9 practice nurse.

10           (44) Violating the Woman's Right to Know Act.

11           All proceedings to suspend, revoke, place on probationary  
12 status, or take any other disciplinary action as the  
13 Department may deem proper, with regard to a license on any  
14 of the foregoing grounds, must be commenced within 3 years  
15 next after receipt by the Department of a complaint alleging  
16 the commission of or notice of the conviction order for any  
17 of the acts described herein. Except for the grounds  
18 numbered (8), (9) and (29), no action shall be commenced more  
19 than 5 years after the date of the incident or act alleged to  
20 have violated this Section. In the event of the settlement  
21 of any claim or cause of action in favor of the claimant or  
22 the reduction to final judgment of any civil action in favor  
23 of the plaintiff, such claim, cause of action or civil action  
24 being grounded on the allegation that a person licensed under  
25 this Act was negligent in providing care, the Department  
26 shall have an additional period of one year from the date of  
27 notification to the Department under Section 23 of this Act  
28 of such settlement or final judgment in which to investigate  
29 and commence formal disciplinary proceedings under Section 36  
30 of this Act, except as otherwise provided by law. The time  
31 during which the holder of the license was outside the State  
32 of Illinois shall not be included within any period of time  
33 limiting the commencement of disciplinary action by the  
34 Department.

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

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

18           The Department, upon the recommendation of the  
19 Disciplinary Board, shall adopt rules which set forth  
20 standards to be used in determining:

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

23           (b) what constitutes dishonorable, unethical or  
24 unprofessional conduct of a character likely to deceive,  
25 defraud, or harm the public;

26           (c) what constitutes immoral conduct in the  
27 commission of any act, including, but not limited to,  
28 commission of an act of sexual misconduct related to the  
29 licensee's practice; and

30           (d) what constitutes gross negligence in the  
31 practice of medicine.

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

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

1 treatment, as determined by the Chief Medical Coordinator or  
2 Deputy Medical Coordinators, shall be referred to the  
3 Director for a determination as to whether the licensee shall  
4 have their license suspended immediately, pending a hearing  
5 by the Disciplinary Board. In instances in which the  
6 Director immediately suspends a license under this Section, a  
7 hearing upon such person's license must be convened by the  
8 Disciplinary Board within 15 days after such suspension and  
9 completed without appreciable delay. The Disciplinary Board  
10 shall have the authority to review the subject physician's  
11 record of treatment and counseling regarding the impairment,  
12 to the extent permitted by applicable federal statutes and  
13 regulations safeguarding the confidentiality of medical  
14 records.

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

20 The Department may promulgate rules for the imposition of  
21 fines in disciplinary cases, not to exceed \$5,000 for each  
22 violation of this Act. Fines may be imposed in conjunction  
23 with other forms of disciplinary action, but shall not be the  
24 exclusive disposition of any disciplinary action arising out  
25 of conduct resulting in death or injury to a patient. Any  
26 funds collected from such fines shall be deposited in the  
27 Medical Disciplinary Fund.

28 (B) The Department shall revoke the license or visiting  
29 permit of any person issued under this Act to practice  
30 medicine or to treat human ailments without the use of drugs  
31 and without operative surgery, who has been convicted a  
32 second time of committing any felony under the Illinois  
33 Controlled Substances Act, or who has been convicted a second  
34 time of committing a Class 1 felony under Sections 8A-3 and

1 8A-6 of the Illinois Public Aid Code. A person whose license  
2 or visiting permit is revoked under this subsection B of  
3 Section 22 of this Act shall be prohibited from practicing  
4 medicine or treating human ailments without the use of drugs  
5 and without operative surgery.

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

17 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96;  
18 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff.  
19 8-13-98.)

20 Section 99. Effective date. This Act takes effect 90  
21 days after becoming law.