

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

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

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

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

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

19 Section 90. Repeal. This Act is repealed on January 1,
20 2007.

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

24 (20 ILCS 2310/2310-330.5 new)

25 Sec. 2310-330.5. Revocation of registration of sperm
26 banks that violate the Human Cloning Act. The Department
27 shall revoke the registration of a sperm bank that violates
28 the Human Cloning Act. This Section is repealed on January
29 1, 2007.

1 Section 110. The Ambulatory Surgical Treatment Center
2 Act is amended by adding Section 10f-5 as follows:

3 (210 ILCS 5/10f-5 new)

4 Sec. 10f-5. Revocation of license for violating the
5 Human Cloning Act. The Director shall revoke the license of
6 an ambulatory surgical treatment center that violates the
7 Human Cloning Act. This Section is repealed on January 1,
8 2007.

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

11 (210 ILCS 85/7.5 new)

12 Sec. 7.5. Revocation of license for violation of the
13 Human Cloning Act. The Director shall revoke the license of
14 a hospital that violates the Human Cloning Act. This Section
15 is repealed on January 1, 2007.

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

18 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

19 Sec. 22. Disciplinary action.

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

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

29 (a) a facility licensed pursuant to the

1 Ambulatory Surgical Treatment Center Act;

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

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

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

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

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

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

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

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

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

33 (7) Habitual or excessive use or abuse of drugs
34 defined in law as controlled substances, of alcohol, or

1 of any other substances which results in the inability to
2 practice with reasonable judgment, skill or safety.

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

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

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

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

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

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

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

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

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

1 (16) Abandonment of a patient.

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

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

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

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

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

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

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

1 licensee has caused a child to be an abused child or
2 neglected child as defined in the Abused and Neglected
3 Child Reporting Act.

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

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

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

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

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

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

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

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

34 (32) Aiding and abetting an individual not licensed

1 under this Act in the practice of a profession licensed
2 under this Act.

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

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

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

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

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

32 (38) Failure to furnish the Department, its
33 investigators or representatives, relevant information,
34 legally requested by the Department after consultation

1 with the Chief Medical Coordinator or the Deputy Medical
2 Coordinator.

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

5 (40) Willful failure to provide notice when notice
6 is required under the Parental Notice of Abortion Act of
7 1995.

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

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

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

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

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

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

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

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

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

- 30 (a) when a person will be deemed sufficiently
31 rehabilitated to warrant the public trust;
- 32 (b) what constitutes dishonorable, unethical or
33 unprofessional conduct of a character likely to deceive,
34 defraud, or harm the public;

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

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

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

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

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

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

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

1 funds collected from such fines shall be deposited in the
2 Medical Disciplinary Fund.

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

15 (C) The Medical Disciplinary Board shall recommend to
16 the Department civil penalties and any other appropriate
17 discipline in disciplinary cases when the Board finds that a
18 physician willfully performed an abortion with actual
19 knowledge that the person upon whom the abortion has been
20 performed is a minor or an incompetent person without notice
21 as required under the Parental Notice of Abortion Act of
22 1995. Upon the Board's recommendation, the Department shall
23 impose, for the first violation, a civil penalty of \$1,000
24 and for a second or subsequent violation, a civil penalty of
25 \$5,000.

26 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96;
27 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff.
28 8-13-98.)

29 Section 125. The Criminal Code of 1961 is amended by
30 adding Section 12-35 as follows:

31 (720 ILCS 5/12-35 new)

32 Sec. 12-35. Criminal cloning of humans.

1 (a) No person shall engage in activity which involves
2 the use of a human somatic cell nucleus transfer technology
3 to produce a human embryo for the purpose of producing a
4 human clone.

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

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

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

22 (e) Repeal. This Section is repealed on January 1,
23 2007.

24 Section 999. Effective date. This Act takes effect upon
25 becoming law.