



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB0188

Introduced 2/2/2005, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 2105/2105-160 new

225 ILCS 60/22

from Ch. 111, par. 4400-22

225 ILCS 65/10-45

225 ILCS 65/15-50

225 ILCS 95/21

from Ch. 111, par. 4621

Creates the Human Cloning and Adult Stem Cell Research Act. Provides that a person shall not intentionally or knowingly do any of the following: (1) perform or attempt to perform human cloning; (2) transfer or receive a cloned human embryo for any purpose; (3) transfer or receive, in whole or in part, any oocyte, human embryo, fetus, or human somatic cell, for the purpose of human cloning; or (4) participate in performing or in an attempt to perform human cloning. Provides that a violation of these provisions is a Class A misdemeanor. Provides for civil penalties. Provides that research involving the derivation and use of human adult stem cells and stem cells derived from umbilical cord blood and from placenta shall be encouraged and permitted and that the ethical and medical implications of this research shall be given full consideration. Provides that research involving the derivation and use of human adult stem cells shall be reviewed by an approved institutional review board, as determined by the Department of Public Health. Amends the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Provides that a violation of the Human Cloning and Adult Stem Cell Research Act is grounds for denial of an application for, denial of renewal of, or revocation of any license, permit, certification, or any other form of permission required to practice or engage in any trade, occupation, or profession regulated by the Department of Financial and Professional Regulation. Makes conforming changes to the Medical Practice Act of 1987, the Nursing and Advanced Practice Nursing Act, and the Physician Assistant Practice Act of 1987. Effective immediately.

LRB094 06760 RLC 36862 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning cloning and adult stem cell research.

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 Human
5 Cloning and Adult Stem Cell Research Act.

6 Section 5. Purpose. It is the intent of the General
7 Assembly to prohibit human cloning for any purpose, whether for
8 reproductive or research purposes, and to establish as the
9 policy of the State of Illinois that research involving the
10 derivation and use of human adult stem cells and stem cells
11 derived from umbilical cord blood and from placenta shall be
12 encouraged and permitted and that the ethical and medical
13 implications of this research shall be given full
14 consideration.

15 Section 10. Definitions. In this Act, unless the context
16 otherwise requires:

17 "Fetus" means a living organism of the species homo sapiens
18 from 8 weeks' development until complete expulsion or
19 extraction from a woman's body, or until removal from an
20 artificial womb or other similar environment designed to
21 nurture the development of such organism.

22 "Human cloning" means human asexual reproduction,
23 accomplished by introducing the genetic material of a human
24 somatic cell into a fertilized or unfertilized oocyte whose
25 nucleus has been or will be removed or inactivated, to produce
26 a living organism with a human or predominantly human genetic
27 constitution.

28 "Human embryo" means a living organism of the species homo
29 sapiens from the single-celled state to 8 weeks' development.

30 "Human somatic cell" means a cell having a complete set of
31 chromosomes obtained from a living or deceased human organism

1 of the species homo sapiens at any stage of development.

2 "Oocyte" means a female germ cell, an ovum.

3 Section 15. Human cloning prohibition.

4 (a) A person shall not intentionally or knowingly do any of
5 the following:

6 (1) perform or attempt to perform human cloning;

7 (2) transfer or receive a cloned human embryo for any
8 purpose;

9 (3) transfer or receive, in whole or in part, any
10 oocyte, human embryo, fetus, or human somatic cell, for the
11 purpose of human cloning; or

12 (4) participate in performing or in an attempt to
13 perform human cloning.

14 (b) This Section does not restrict areas of scientific
15 research not specifically prohibited, including in vitro
16 fertilization; the administration of fertility-enhancing
17 drugs; or research in the use of nuclear transfer or other
18 cloning techniques to produce molecules, deoxyribonucleic
19 acid, tissues, organs, plants, animals other than humans, or
20 cells other than human embryos.

21 Section 20. Sentence.

22 (a) A person who violates any of paragraphs (1) through (4)
23 of subsection (a) of Section 15 is guilty of a Class A
24 misdemeanor.

25 (b) A person who violates any of paragraphs (1) through (4)
26 of subsection (a) of Section 15 in a manner that results in a
27 pecuniary gain:

28 (1) if the violator is an individual, shall pay a civil
29 penalty of not more than \$250,000 or an amount equal to the
30 amount of gross gain multiplied by 2, whichever is greater.

31 (2) if the violator is a corporation, firm, clinic,
32 hospital, laboratory, or research facility, shall pay a
33 civil penalty of not more than \$1,000,000 or an amount
34 equal to the amount of gross gain multiplied by 2,

1 whichever is greater.

2 (c) Administrative penalties collected in accordance with
3 this Act shall be paid into the General Revenue Fund.

4 Section 25. Policy encouraging research. The policy of the
5 State of Illinois shall be as follows:

6 (1) That research involving the derivation and use of
7 human adult stem cells and stem cells derived from
8 umbilical cord blood and from placenta shall be encouraged
9 and permitted and that the ethical and medical implications
10 of this research shall be given full consideration.

11 (2) That research involving the derivation and use of
12 human adult stem cells shall be reviewed by an approved
13 institutional review board, as determined by the
14 Department of Public Health.

15 Section 105. The Department of Professional Regulation Law
16 of the Civil Administrative Code of Illinois is amended by
17 adding Section 2105-160 as follows:

18 (20 ILCS 2105/2105-160 new)

19 Sec. 2105-160. Violations of the Human Cloning and Adult
20 Stem Cell Research Act. A violation of Section 15 of the Human
21 Cloning and Adult Stem Cell Research Act is grounds for denial
22 of an application for, denial of renewal of, or revocation of
23 any license, permit, certification, or any other form of
24 permission required to practice or engage in any trade,
25 occupation, or profession regulated by the Department.

26 Section 110. The Medical Practice Act of 1987 is amended by
27 changing Section 22 as follows:

28 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

29 (Section scheduled to be repealed on January 1, 2007)

30 Sec. 22. Disciplinary action.

31 (A) The Department may revoke, suspend, place on

1 probationary status, or take any other disciplinary action as
2 the Department may deem proper with regard to the license or
3 visiting professor permit of any person issued under this Act
4 to practice medicine, or to treat human ailments without the
5 use of drugs and without operative surgery upon any of the
6 following grounds:

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

9 (a) a facility licensed pursuant to the Ambulatory
10 Surgical Treatment Center Act;

11 (b) an institution licensed under the Hospital
12 Licensing Act; or

13 (c) an ambulatory surgical treatment center or
14 hospitalization or care facility maintained by the
15 State or any agency thereof, where such department or
16 agency has authority under law to establish and enforce
17 standards for the ambulatory surgical treatment
18 centers, hospitalization, or care facilities under its
19 management and control; or

20 (d) ambulatory surgical treatment centers,
21 hospitalization or care facilities maintained by the
22 Federal Government; or

23 (e) ambulatory surgical treatment centers,
24 hospitalization or care facilities maintained by any
25 university or college established under the laws of
26 this State and supported principally by public funds
27 raised by taxation.

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

31 (3) The conviction of a felony in this or any other
32 jurisdiction, except as otherwise provided in subsection B
33 of this Section, whether or not related to practice under
34 this Act, or the entry of a guilty or nolo contendere plea
35 to a felony charge.

36 (3.5) The conviction of an offense described in Section

1 15 of the Human Cloning and Adult Stem Cell Research Act.

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

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

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

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

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

14 (9) Fraud or misrepresentation in applying for, or
15 procuring, a license under this Act or in connection with
16 applying for renewal of a license under this Act.

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

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

24 (12) Disciplinary action of another state or
25 jurisdiction against a license or other authorization to
26 practice as a medical doctor, doctor of osteopathy, doctor
27 of osteopathic medicine or doctor of chiropractic, a
28 certified copy of the record of the action taken by the
29 other state or jurisdiction being prima facie evidence
30 thereof.

31 (13) Violation of any provision of this Act or of the
32 Medical Practice Act prior to the repeal of that Act, or
33 violation of the rules, or a final administrative action of
34 the Director, after consideration of the recommendation of
35 the Disciplinary Board.

36 (14) Dividing with anyone other than physicians with

1 whom the licensee practices in a partnership, Professional
2 Association, limited liability company, or Medical or
3 Professional Corporation any fee, commission, rebate or
4 other form of compensation for any professional services
5 not actually and personally rendered. Nothing contained in
6 this subsection prohibits persons holding valid and
7 current licenses under this Act from practicing medicine in
8 partnership under a partnership agreement, including a
9 limited liability partnership, in a limited liability
10 company under the Limited Liability Company Act, in a
11 corporation authorized by the Medical Corporation Act, as
12 an association authorized by the Professional Association
13 Act, or in a corporation under the Professional Corporation
14 Act or from pooling, sharing, dividing or apportioning the
15 fees and monies received by them or by the partnership,
16 corporation or association in accordance with the
17 partnership agreement or the policies of the Board of
18 Directors of the corporation or association. Nothing
19 contained in this subsection prohibits 2 or more
20 corporations authorized by the Medical Corporation Act,
21 from forming a partnership or joint venture of such
22 corporations, and providing medical, surgical and
23 scientific research and knowledge by employees of these
24 corporations if such employees are licensed under this Act,
25 or from pooling, sharing, dividing, or apportioning the
26 fees and monies received by the partnership or joint
27 venture in accordance with the partnership or joint venture
28 agreement. Nothing contained in this subsection shall
29 abrogate the right of 2 or more persons, holding valid and
30 current licenses under this Act, to each receive adequate
31 compensation for concurrently rendering professional
32 services to a patient and divide a fee; provided, the
33 patient has full knowledge of the division, and, provided,
34 that the division is made in proportion to the services
35 performed and responsibility assumed by each.

36 (15) A finding by the Medical Disciplinary Board that

1 the registrant after having his or her license placed on
2 probationary status or subjected to conditions or
3 restrictions violated the terms of the probation or failed
4 to comply with such terms or conditions.

5 (16) Abandonment of a patient.

6 (17) Prescribing, selling, administering,
7 distributing, giving or self-administering any drug
8 classified as a controlled substance (designated product)
9 or narcotic for other than medically accepted therapeutic
10 purposes.

11 (18) Promotion of the sale of drugs, devices,
12 appliances or goods provided for a patient in such manner
13 as to exploit the patient for financial gain of the
14 physician.

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

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

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

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

33 (23) Being named as a perpetrator in an indicated
34 report by the Department of Children and Family Services
35 under the Abused and Neglected Child Reporting Act, and
36 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 for
8 professional services, including filing false statements
9 for collection of fees for which services are not rendered,
10 including, but not limited to, filing such false statements
11 for collection of monies for services not rendered from the
12 medical assistance program of the Department of Public Aid
13 under the Illinois Public Aid 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 the
18 inability to practice under this Act with reasonable
19 judgment, skill or safety.

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

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

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

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

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

35 (33) Violating state or federal laws or regulations
36 relating to controlled substances.

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

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

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

26 (37) Failure to transfer copies of medical records as
27 required by law.

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

33 (39) Violating the Health Care Worker Self-Referral
34 Act.

35 (40) Willful failure to provide notice when notice is
36 required under the Parental Notice of Abortion Act of 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 collaborate
6 and provide medical direction.

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

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

33 The entry of an order or judgment by any circuit court
34 establishing that any person holding a license under this Act
35 is a person in need of mental treatment operates as a
36 suspension of that license. That person may resume their

1 practice only upon the entry of a Departmental order based upon
2 a finding by the Medical Disciplinary Board that they have been
3 determined to be recovered from mental illness by the court and
4 upon the Disciplinary Board's recommendation that they be
5 permitted to resume their practice.

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

14 The Department, upon the recommendation of the
15 Disciplinary Board, shall adopt rules which set forth standards
16 to be used in determining:

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

19 (b) what constitutes dishonorable, unethical or
20 unprofessional conduct of a character likely to deceive,
21 defraud, or harm the public;

22 (c) what constitutes immoral conduct in the commission
23 of any act, including, but not limited to, commission of an
24 act of sexual misconduct related to the licensee's
25 practice; and

26 (d) what constitutes gross negligence in the practice
27 of medicine.

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

31 In enforcing this Section, the Medical Disciplinary Board,
32 upon a showing of a possible violation, may compel any
33 individual licensed to practice under this Act, or who has
34 applied for licensure or a permit pursuant to this Act, to
35 submit to a mental or physical examination, or both, as
36 required by and at the expense of the Department. The examining

1 physician or physicians shall be those specifically designated
2 by the Disciplinary Board. The Medical Disciplinary Board or
3 the Department may order the examining physician to present
4 testimony concerning this mental or physical examination of the
5 licensee or applicant. No information shall be excluded by
6 reason of any common law or statutory privilege relating to
7 communication between the licensee or applicant and the
8 examining physician. The individual to be examined may have, at
9 his or her own expense, another physician of his or her choice
10 present during all aspects of the examination. Failure of any
11 individual to submit to mental or physical examination, when
12 directed, shall be grounds for suspension of his or her license
13 until such time as the individual submits to the examination if
14 the Disciplinary Board finds, after notice and hearing, that
15 the refusal to submit to the examination was without reasonable
16 cause. If the Disciplinary Board finds a physician unable to
17 practice because of the reasons set forth in this Section, the
18 Disciplinary Board shall require such physician to submit to
19 care, counseling, or treatment by physicians approved or
20 designated by the Disciplinary Board, as a condition for
21 continued, reinstated, or renewed licensure to practice. Any
22 physician, whose license was granted pursuant to Sections 9,
23 17, or 19 of this Act, or, continued, reinstated, renewed,
24 disciplined or supervised, subject to such terms, conditions or
25 restrictions who shall fail to comply with such terms,
26 conditions or restrictions, or to complete a required program
27 of care, counseling, or treatment, as determined by the Chief
28 Medical Coordinator or Deputy Medical Coordinators, shall be
29 referred to the Director for a determination as to whether the
30 licensee shall have their license suspended immediately,
31 pending a hearing by the Disciplinary Board. In instances in
32 which the Director immediately suspends a license under this
33 Section, a hearing upon such person's license must be convened
34 by the Disciplinary Board within 15 days after such suspension
35 and completed without appreciable delay. The Disciplinary
36 Board shall have the authority to review the subject

1 physician's record of treatment and counseling regarding the
2 impairment, to the extent permitted by applicable federal
3 statutes and regulations safeguarding the confidentiality of
4 medical records.

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

10 The Department may promulgate rules for the imposition of
11 fines in disciplinary cases, not to exceed \$5,000 for each
12 violation of this Act. Fines may be imposed in conjunction with
13 other forms of disciplinary action, but shall not be the
14 exclusive disposition of any disciplinary action arising out of
15 conduct resulting in death or injury to a patient. Any funds
16 collected from such fines shall be deposited in the Medical
17 Disciplinary Fund.

18 (B) The Department shall revoke the license or visiting
19 permit of any person issued under this Act to practice medicine
20 or to treat human ailments without the use of drugs and without
21 operative surgery, who has been convicted a second time of
22 committing any felony under the Illinois Controlled Substances
23 Act, or who has been convicted a second time of committing a
24 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois
25 Public Aid Code. A person whose license or visiting permit is
26 revoked under this subsection B of Section 22 of this Act shall
27 be prohibited from practicing medicine or treating human
28 ailments without the use of drugs and without operative
29 surgery.

30 (C) The Medical Disciplinary Board shall recommend to the
31 Department civil penalties and any other appropriate
32 discipline in disciplinary cases when the Board finds that a
33 physician willfully performed an abortion with actual
34 knowledge that the person upon whom the abortion has been
35 performed is a minor or an incompetent person without notice as
36 required under the Parental Notice of Abortion Act of 1995.

1 Upon the Board's recommendation, the Department shall impose,
2 for the first violation, a civil penalty of \$1,000 and for a
3 second or subsequent violation, a civil penalty of \$5,000.

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

6 Section 115. The Nursing and Advanced Practice Nursing Act
7 is amended by changing Sections 10-45 and 15-50 as follows:

8 (225 ILCS 65/10-45)

9 (Section scheduled to be repealed on January 1, 2008)

10 Sec. 10-45. Grounds for disciplinary action.

11 (a) The Department may, upon recommendation of the Board,
12 refuse to issue or to renew, or may revoke, suspend, place on
13 probation, reprimand, or take other disciplinary action as the
14 Department may deem appropriate with regard to a license for
15 any one or combination of the causes set forth in subsection
16 (b) below. Fines up to \$2,500 may be imposed in conjunction
17 with other forms of disciplinary action for those violations
18 that result in monetary gain for the licensee. Fines shall not
19 be the exclusive disposition of any disciplinary action arising
20 out of conduct resulting in death or injury to a patient. Fines
21 shall not be assessed in disciplinary actions involving mental
22 or physical illness or impairment. All fines collected under
23 this Section shall be deposited in the Nursing Dedicated and
24 Professional Fund.

25 (b) Grounds for disciplinary action include the following:

26 (1) Material deception in furnishing information to
27 the Department.

28 (2) Material violations of any provision of this Act or
29 violation of the rules of or final administrative action of
30 the Director, after consideration of the recommendation of
31 the Board.

32 (3) Conviction of any crime under the laws of any
33 jurisdiction of the United States: (i) which is a felony;
34 or (ii) which is a misdemeanor, an essential element of

1 which is dishonesty, or (iii) of any crime which is
2 directly related to the practice of the profession.

3 (3.5) The conviction of an offense described in Section
4 15 of the Human Cloning and Adult Stem Cell Research Act.

5 (4) A pattern of practice or other behavior which
6 demonstrates incapacity or incompetency to practice under
7 this Act.

8 (5) Knowingly aiding or assisting another person in
9 violating any provision of this Act or rules.

10 (6) Failing, within 90 days, to provide a response to a
11 request for information in response to a written request
12 made by the Department by certified mail.

13 (7) Engaging in dishonorable, unethical or
14 unprofessional conduct of a character likely to deceive,
15 defraud or harm the public, as defined by rule.

16 (8) Unlawful sale or distribution of any drug,
17 narcotic, or prescription device, or unlawful conversion
18 of any drug, narcotic or prescription device.

19 (9) Habitual or excessive use or addiction to alcohol,
20 narcotics, stimulants, or any other chemical agent or drug
21 which results in a licensee's inability to practice with
22 reasonable judgment, skill or safety.

23 (10) Discipline by another U.S. jurisdiction or
24 foreign nation, if at least one of the grounds for the
25 discipline is the same or substantially equivalent to those
26 set forth in this Section.

27 (11) A finding that the licensee, after having her or
28 his license placed on probationary status, has violated the
29 terms of probation.

30 (12) Being named as a perpetrator in an indicated
31 report by the Department of Children and Family Services
32 and 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
35 neglected child as defined in the Abused and Neglected
36 Child Reporting Act.

1 (13) Willful omission to file or record, or willfully
2 impeding the filing or recording or inducing another person
3 to omit to file or record medical reports as required by
4 law or willfully failing to report an instance of suspected
5 child abuse or neglect as required by the Abused and
6 Neglected Child Reporting Act.

7 (14) Gross negligence in the practice of nursing.

8 (15) Holding oneself out to be practicing nursing under
9 any name other than one's own.

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

13 (17) Allowing another person or organization to use the
14 licensees' license to deceive the public.

15 (18) Willfully making or filing false records or
16 reports in the licensee's practice, including but not
17 limited to false records to support claims against the
18 medical assistance program of the Department of Public Aid
19 under the Illinois Public Aid Code.

20 (19) Attempting to subvert or cheat on a nurse
21 licensing examination administered under this Act.

22 (20) Immoral conduct in the commission of an act, such
23 as sexual abuse, sexual misconduct, or sexual
24 exploitation, related to the licensee's practice.

25 (21) Willfully or negligently violating the
26 confidentiality between nurse and patient except as
27 required by law.

28 (22) Practicing under a false or assumed name, except
29 as provided by law.

30 (23) The use of any false, fraudulent, or deceptive
31 statement in any document connected with the licensee's
32 practice.

33 (24) Directly or indirectly giving to or receiving from
34 a person, firm, corporation, partnership, or association a
35 fee, commission, rebate, or other form of compensation for
36 professional services not actually or personally rendered.

1 (25) Failure of a licensee to report to the Department
2 any adverse final action taken against such licensee by
3 another licensing jurisdiction (any other jurisdiction of
4 the United States or any foreign state or country), by any
5 peer review body, by any health care institution, by any
6 professional or nursing society or association, by any
7 governmental agency, by any law enforcement agency, or by
8 any court or a nursing liability claim related to acts or
9 conduct similar to acts or conduct that would constitute
10 grounds for action as defined in this Section.

11 (26) Failure of a licensee to report to the Department
12 surrender by the licensee of a license or authorization to
13 practice nursing in another state or jurisdiction, or
14 current surrender by the licensee of membership on any
15 nursing staff or in any nursing or professional association
16 or society while under disciplinary investigation by any of
17 those authorities or bodies for acts or conduct similar to
18 acts or conduct that would constitute grounds for action as
19 defined by this Section.

20 (27) A violation of the Health Care Worker
21 Self-Referral Act.

22 (28) Physical illness, including but not limited to
23 deterioration through the aging process or loss of motor
24 skill, mental illness, or disability that results in the
25 inability to practice the profession with reasonable
26 judgment, skill, or safety.

27 (c) The determination by a circuit court that a licensee is
28 subject to involuntary admission or judicial admission as
29 provided in the Mental Health and Developmental Disabilities
30 Code, as amended, operates as an automatic suspension. The
31 suspension will end only upon a finding by a court that the
32 patient is no longer subject to involuntary admission or
33 judicial admission and issues an order so finding and
34 discharging the patient; and upon the recommendation of the
35 Board to the Director that the licensee be allowed to resume
36 his or her practice.

1 (d) The Department may refuse to issue or may suspend the
2 license of any person who fails to file a return, or to pay the
3 tax, penalty or interest shown in a filed return, or to pay any
4 final assessment of the tax, penalty, or interest as required
5 by any tax Act administered by the Illinois Department of
6 Revenue, until such time as the requirements of any such tax
7 Act are satisfied.

8 (e) In enforcing this Section, the Department or Board upon
9 a showing of a possible violation may compel an individual
10 licensed to practice under this Act, or who has applied for
11 licensure under this Act, to submit to a mental or physical
12 examination, or both, as required by and at the expense of the
13 Department. The Department or Board may order the examining
14 physician to present testimony concerning the mental or
15 physical examination of the licensee or applicant. No
16 information shall be excluded by reason of any common law or
17 statutory privilege relating to communications between the
18 licensee or applicant and the examining physician. The
19 examining physicians shall be specifically designated by the
20 Board or Department. The individual to be examined may have, at
21 his or her own expense, another physician of his or her choice
22 present during all aspects of this examination. Failure of an
23 individual to submit to a mental or physical examination, when
24 directed, shall be grounds for suspension of his or her license
25 until the individual submits to the examination if the
26 Department finds, after notice and hearing, that the refusal to
27 submit to the examination was without reasonable cause.

28 If the Department or Board finds an individual unable to
29 practice because of the reasons set forth in this Section, the
30 Department or Board may require that individual to submit to
31 care, counseling, or treatment by physicians approved or
32 designated by the Department or Board, as a condition, term, or
33 restriction for continued, reinstated, or renewed licensure to
34 practice; or, in lieu of care, counseling, or treatment, the
35 Department may file, or the Board may recommend to the
36 Department to file, a complaint to immediately suspend, revoke,

1 or otherwise discipline the license of the individual. An
2 individual whose license was granted, continued, reinstated,
3 renewed, disciplined or supervised subject to such terms,
4 conditions, or restrictions, and who fails to comply with such
5 terms, conditions, or restrictions, shall be referred to the
6 Director for a determination as to whether the individual shall
7 have his or her license suspended immediately, pending a
8 hearing by the Department.

9 In instances in which the Director immediately suspends a
10 person's license under this Section, a hearing on that person's
11 license must be convened by the Department within 15 days after
12 the suspension and completed without appreciable delay. The
13 Department and Board shall have the authority to review the
14 subject individual's record of treatment and counseling
15 regarding the impairment to the extent permitted by applicable
16 federal statutes and regulations safeguarding the
17 confidentiality of medical records.

18 An individual licensed under this Act and affected under
19 this Section shall be afforded an opportunity to demonstrate to
20 the Department or Board that he or she can resume practice in
21 compliance with acceptable and prevailing standards under the
22 provisions of his or her license.

23 (Source: P.A. 90-742, eff. 8-13-98.)

24 (225 ILCS 65/15-50)

25 (Section scheduled to be repealed on January 1, 2008)

26 Sec. 15-50. Grounds for disciplinary action.

27 (a) The Department may, upon the recommendation of the APN
28 Board, refuse to issue or to renew, or may revoke, suspend,
29 place on probation, censure or reprimand, or take other
30 disciplinary action as the Department may deem appropriate with
31 regard to a license issued under this Title, including the
32 issuance of fines not to exceed \$5,000 for each violation, for
33 any one or combination of the grounds for discipline set forth
34 in Section 10-45 of this Act or for any one or combination of
35 the following causes:

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(1) Gross negligence in the practice of advanced practice nursing.

(2) Exceeding the terms of a collaborative agreement or the prescriptive authority delegated to him or her by his or her collaborating physician or alternate collaborating physician in guidelines established under a written collaborative agreement.

(3) Making a false or misleading statement regarding his or her skill or the efficacy or value of the medicine, treatment, or remedy prescribed by him or her in the course of treatment.

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

(5) Promotion of the sale of drugs, devices, appliances, or goods provided for a patient in a manner to exploit the patient for financial gain.

(6) Violating State or federal laws or regulations relating to controlled substances.

(6.5) The conviction of an offense described in Section 15 of the Human Cloning and Adult Stem Cell Research Act.

(7) Willfully or negligently violating the confidentiality between advanced practice nurse, collaborating physician, and patient, except as required by law.

(8) Failure of a licensee to report to the Department any adverse final action taken against such licensee by another licensing jurisdiction (any other jurisdiction of the United States or any foreign state or country), any peer review body, any health care institution, a professional or nursing or advanced practice nursing society or association, a governmental agency, a law enforcement agency, or a court or a liability claim relating to acts or conduct similar to acts or conduct that

1 would constitute grounds for action as defined in this
2 Section.

3 (9) Failure of a licensee to report to the Department
4 surrender by the licensee of a license or authorization to
5 practice nursing or advanced practice nursing in another
6 state or jurisdiction, or current surrender by the licensee
7 of membership on any nursing staff or organized health care
8 professional staff or in any nursing, advanced practice
9 nurse, or professional association or society while under
10 disciplinary investigation by any of those authorities or
11 bodies for acts or conduct similar to acts or conduct that
12 would constitute grounds for action as defined in this
13 Section.

14 (10) Failing, within 60 days, to provide information in
15 response to a written request made by the Department.

16 (11) Failure to establish and maintain records of
17 patient care and treatment as required by law.

18 (12) Any violation of any Section of this Title or Act.

19 When the Department has received written reports
20 concerning incidents required to be reported in items (8) and
21 (9), the licensee's failure to report the incident to the
22 Department under those items shall not be the sole grounds for
23 disciplinary action.

24 (b) The Department may refuse to issue or may suspend the
25 license of any person who fails to file a return, to pay the
26 tax, penalty, or interest shown in a filed return, or to pay
27 any final assessment of the tax, penalty, or interest as
28 required by a tax Act administered by the Department of
29 Revenue, until the requirements of the tax Act are satisfied.

30 (c) In enforcing this Section, the Department or APN Board,
31 upon a showing of a possible violation, may compel an
32 individual licensed to practice under this Title, or who has
33 applied for licensure under this Title, to submit to a mental
34 or physical examination or both, as required by and at the
35 expense of the Department. The Department or APN Board may
36 order the examining physician to present testimony concerning

1 the mental or physical examination of the licensee or
2 applicant. No information shall be excluded by reason of any
3 common law or statutory privilege relating to communications
4 between the licensee or applicant and the examining physician.
5 The examining physician shall be specifically designated by the
6 APN Board or Department. The individual to be examined may
7 have, at his or her own expense, another physician of his or
8 her choice present during all aspects of this examination.
9 Failure of an individual to submit to a mental or physical
10 examination when directed shall be grounds for suspension of
11 his or her license until the individual submits to the
12 examination if the Department finds, after notice and hearing,
13 that the refusal to submit to the examination was without
14 reasonable cause.

15 If the Department or APN Board finds an individual unable
16 to practice because of the reasons set forth in this Section,
17 the Department or APN Board may require that individual to
18 submit to care, counseling, or treatment by physicians approved
19 or designated by the Department or APN Board as a condition,
20 term, or restriction for continued, reinstated, or renewed
21 licensure to practice; or, in lieu of care, counseling, or
22 treatment, the Department may file, or the APN Board may
23 recommend to the Department to file, a complaint to immediately
24 suspend, revoke, or otherwise discipline the license of the
25 individual. An individual whose license was granted,
26 continued, reinstated, renewed, disciplined or supervised
27 subject to terms, conditions, or restrictions, and who fails to
28 comply with the terms, conditions, or restrictions, shall be
29 referred to the Director for a determination as to whether the
30 individual shall have his or her license suspended immediately,
31 pending a hearing by the Department.

32 In instances in which the Director immediately suspends a
33 person's license under this Section, a hearing on that person's
34 license shall be convened by the Department within 15 days
35 after the suspension and shall be completed without appreciable
36 delay. The Department and APN Board shall have the authority to

1 review the subject individual's record of treatment and
2 counseling regarding the impairment to the extent permitted by
3 applicable federal statutes and regulations safeguarding the
4 confidentiality of medical records.

5 An individual licensed under this Title and affected under
6 this Section shall be afforded an opportunity to demonstrate to
7 the Department or APN Board that he or she can resume practice
8 in compliance with acceptable and prevailing standards under
9 the provisions of his or her license.

10 (Source: P.A. 90-742, eff. 8-13-98.)

11 Section 120. The Physician Assistant Practice Act of 1987
12 is amended by changing Section 21 as follows:

13 (225 ILCS 95/21) (from Ch. 111, par. 4621)

14 (Section scheduled to be repealed on January 1, 2008)

15 Sec. 21. Grounds for disciplinary action.

16 (a) The Department may refuse to issue or to renew, or may
17 revoke, suspend, place on probation, censure or reprimand, or
18 take other disciplinary action with regard to any license
19 issued under this Act as the Department may deem proper,
20 including the issuance of fines not to exceed \$5000 for each
21 violation, for any one or combination of the following causes:

22 (1) Material misstatement in furnishing information to
23 the Department.

24 (2) Violations of this Act, or the rules adopted under
25 this Act.

26 (3) Conviction of any crime under the laws of any U.S.
27 jurisdiction that is a felony or that is a misdemeanor, an
28 essential element of which is dishonesty, or of any crime
29 which is directly related to the practice of the
30 profession.

31 (3.5) Conviction of an offense described in Section 15
32 of the Human Cloning and Adult Stem Cell Research Act.

33 (4) Making any misrepresentation for the purpose of
34 obtaining licenses.

1 (5) Professional incompetence.

2 (6) Aiding or assisting another person in violating any
3 provision of this Act or its rules.

4 (7) Failing, within 60 days, to provide information in
5 response to a written request made by the Department.

6 (8) Engaging in dishonorable, unethical, or
7 unprofessional conduct, as defined by rule, of a character
8 likely to deceive, defraud, or harm the public.

9 (9) Habitual or excessive use or addiction to alcohol,
10 narcotics, stimulants, or any other chemical agent or drug
11 that results in a physician assistant's inability to
12 practice with reasonable judgment, skill, or safety.

13 (10) Discipline by another U.S. jurisdiction or
14 foreign nation, if at least one of the grounds for
15 discipline is the same or substantially equivalent to those
16 set forth in this Section.

17 (11) Directly or indirectly giving to or receiving from
18 any person, firm, corporation, partnership, or association
19 any fee, commission, rebate or other form of compensation
20 for any professional services not actually or personally
21 rendered.

22 (12) A finding by the Disciplinary Board that the
23 licensee, after having his or her license placed on
24 probationary status has violated the terms of probation.

25 (13) Abandonment of a patient.

26 (14) Willfully making or filing false records or
27 reports in his or her practice, including but not limited
28 to false records filed with state agencies or departments.

29 (15) Willfully failing to report an instance of
30 suspected child abuse or neglect as required by the Abused
31 and Neglected Child Reporting Act.

32 (16) Physical illness, including but not limited to
33 deterioration through the aging process, or loss of motor
34 skill, mental illness, or disability that results in the
35 inability to practice the profession with reasonable
36 judgment, skill or safety.

1 (17) Being named as a perpetrator in an indicated
2 report by the Department of Children and Family Services
3 under the Abused and Neglected Child Reporting Act, and
4 upon proof by clear and convincing evidence that the
5 licensee has caused a child to be an abused child or
6 neglected child as defined in the Abused and Neglected
7 Child Reporting Act.

8 (18) Conviction in this State or another state of any
9 crime that is a felony under the laws of this State, or
10 conviction of a felony in a federal court.

11 (19) Gross malpractice resulting in permanent injury
12 or death of a patient.

13 (20) Employment of fraud, deception or any unlawful
14 means in applying for or securing a license as a physician
15 assistant.

16 (21) Exceeding the authority delegated to him or her by
17 his or her supervising physician in guidelines established
18 by the physician/physician assistant team.

19 (22) Immoral conduct in the commission of any act, such
20 as sexual abuse, sexual misconduct or sexual exploitation
21 related to the licensee's practice.

22 (23) Violation of the Health Care Worker Self-Referral
23 Act.

24 (24) Practicing under a false or assumed name, except
25 as provided by law.

26 (25) Making a false or misleading statement regarding
27 his or her skill or the efficacy or value of the medicine,
28 treatment, or remedy prescribed by him or her in the course
29 of treatment.

30 (26) Allowing another person to use his or her license
31 to practice.

32 (27) Prescribing, selling, administering,
33 distributing, giving, or self-administering a drug
34 classified as a controlled substance (designated product)
35 or narcotic for other than medically-accepted therapeutic
36 purposes.

1 (28) Promotion of the sale of drugs, devices,
2 appliances, or goods provided for a patient in a manner to
3 exploit the patient for financial gain.

4 (29) A pattern of practice or other behavior that
5 demonstrates incapacity or incompetence to practice under
6 this Act.

7 (30) Violating State or federal laws or regulations
8 relating to controlled substances.

9 (31) Exceeding the limited prescriptive authority
10 delegated by the supervising physician or violating the
11 written guidelines delegating that authority.

12 (32) Practicing without providing to the Department a
13 notice of supervision or delegation of prescriptive
14 authority.

15 (b) The Department may refuse to issue or may suspend the
16 license of any person who fails to file a return, or to pay the
17 tax, penalty or interest shown in a filed return, or to pay any
18 final assessment of the tax, penalty, or interest as required
19 by any tax Act administered by the Illinois Department of
20 Revenue, until such time as the requirements of any such tax
21 Act are satisfied.

22 (c) The determination by a circuit court that a licensee is
23 subject to involuntary admission or judicial admission as
24 provided in the Mental Health and Developmental Disabilities
25 Code operates as an automatic suspension. The suspension will
26 end only upon a finding by a court that the patient is no
27 longer subject to involuntary admission or judicial admission
28 and issues an order so finding and discharging the patient, and
29 upon the recommendation of the Disciplinary Board to the
30 Director that the licensee be allowed to resume his or her
31 practice.

32 (d) In enforcing this Section, the Department upon a
33 showing of a possible violation may compel an individual
34 licensed to practice under this Act, or who has applied for
35 licensure under this Act, to submit to a mental or physical
36 examination, or both, as required by and at the expense of the

1 Department. The Department may order the examining physician to
2 present testimony concerning the mental or physical
3 examination of the licensee or applicant. No information shall
4 be excluded by reason of any common law or statutory privilege
5 relating to communications between the licensee or applicant
6 and the examining physician. The examining physicians shall be
7 specifically designated by the Department. The individual to be
8 examined may have, at his or her own expense, another physician
9 of his or her choice present during all aspects of this
10 examination. Failure of an individual to submit to a mental or
11 physical examination, when directed, shall be grounds for
12 suspension of his or her license until the individual submits
13 to the examination if the Department finds, after notice and
14 hearing, that the refusal to submit to the examination was
15 without reasonable cause.

16 If the Department finds an individual unable to practice
17 because of the reasons set forth in this Section, the
18 Department may require that individual to submit to care,
19 counseling, or treatment by physicians approved or designated
20 by the Department, as a condition, term, or restriction for
21 continued, reinstated, or renewed licensure to practice; or, in
22 lieu of care, counseling, or treatment, the Department may file
23 a complaint to immediately suspend, revoke, or otherwise
24 discipline the license of the individual. An individual whose
25 license was granted, continued, reinstated, renewed,
26 disciplined, or supervised subject to such terms, conditions,
27 or restrictions, and who fails to comply with such terms,
28 conditions, or restrictions, shall be referred to the Director
29 for a determination as to whether the individual shall have his
30 or her license suspended immediately, pending a hearing by the
31 Department.

32 In instances in which the Director immediately suspends a
33 person's license under this Section, a hearing on that person's
34 license must be convened by the Department within 15 days after
35 the suspension and completed without appreciable delay. The
36 Department shall have the authority to review the subject

1 individual's record of treatment and counseling regarding the
2 impairment to the extent permitted by applicable federal
3 statutes and regulations safeguarding the confidentiality of
4 medical records.

5 An individual licensed under this Act and affected under
6 this Section shall be afforded an opportunity to demonstrate to
7 the Department that he or she can resume practice in compliance
8 with acceptable and prevailing standards under the provisions
9 of his or her license.

10 (Source: P.A. 90-61, eff. 12-30-97; 90-116, eff. 7-14-97;
11 90-655, eff. 7-30-98.)

12 Section 999. Effective date. This Act takes effect upon
13 becoming law.