



Sen. Dale A. Righter

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09300HB3589sam008

LRB093 02055 AMC 54276 a

1 AMENDMENT TO HOUSE BILL 3589

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3589 by replacing  
3 the title with the following:

4 "AN ACT in relation to health."; and

5 by replacing everything after the enacting clause with the  
6 following:

7 "ARTICLE 1

8 Section 1-1. Short title. This Article may be cited as the  
9 Stem Cell Research Law.

10 Section 1-5. Declaration of findings. The General Assembly  
11 finds and declares all of the following:

12 (1) An estimated 128 million Americans suffer from the  
13 crippling economic and psychological burden of chronic,  
14 degenerative, and acute diseases, including diabetes,  
15 Parkinson's disease, cancer, and Alzheimer's disease.

16 (2) The costs of treatment and lost productivity of  
17 chronic, degenerative, and acute diseases in the United  
18 States constitutes hundreds of billions of dollars every  
19 year. Estimates of the economic costs of these diseases do  
20 not account for the extreme human loss and suffering  
21 associated with these conditions.

1           (3) Stem cell research offers immense promise for  
2           developing new medical therapies for these debilitating  
3           diseases and a critical means to explore fundamental  
4           questions of biology. Stem cell research could lead to  
5           unprecedented treatments and potential cures for diabetes,  
6           Alzheimer's disease, cancer, and other diseases.

7           (4) The United States has historically been a haven for  
8           open scientific inquiry and technological innovation, and  
9           this environment, coupled with the commitment of public and  
10          private resources, has made the United States the  
11          preeminent world leader in biomedicine and biotechnology.

12          (5) Stem cell research raises significant ethical and  
13          policy concerns, and, while not unique, the ethical and  
14          policy concerns associated with stem cell research must be  
15          carefully considered.

16          (6) Public policy on stem cell research must balance  
17          ethical and medical considerations. The policy must be  
18          based on an understanding of the science associated with  
19          stem cell research and grounded on a thorough consideration  
20          of the ethical concerns regarding this research. Public  
21          policy on stem cell research must be carefully crafted to  
22          ensure that researchers have the tools necessary to fulfill  
23          the promise of stem cell research.

24          Section 1-10. Policy permitting research. The policy of  
25          the State of Illinois shall be as follows:

26                 (1) That research involving the derivation and use of  
27                 stem cells shall be permitted and that the ethical and  
28                 medical implications of this research shall be given full  
29                 consideration.

30                 (2) That research involving the use of stem cells shall  
31                 be reviewed by an approved institutional review board, as  
32                 determined by the Department of Public Health.

## 1 ARTICLE 5

2 Section 5-1. Short title. This Article may be cited as the  
3 Human Cloning Law.

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

9 Section 5-10. Human cloning prohibited.

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

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

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

26 (d) Nothing in this Law shall be construed to restrict or  
27 prohibit biomedical research using cloning technology that is  
28 not expressly prohibited by this Law, including the cloning of  
29 human genes, cells, and tissues.

30 Section 5-15. Administrative penalties. For violations of

1 Section 5-10, the Attorney General may, after appropriate  
2 notice and opportunity for hearing, by order, levy  
3 administrative penalties as follows:

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

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

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

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

17 Section 5-90. Repeal. This Law is repealed on January 1,  
18 2009.

19 Section 5-905. The Department of Public Health Powers and  
20 Duties Law of the Civil Administrative Code of Illinois is  
21 amended by adding Section 2310-330.5 as follows:

22 (20 ILCS 2310/2310-330.5 new)

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

27 Section 5-910. The Ambulatory Surgical Treatment Center  
28 Act is amended by adding Section 10f-5 as follows:

29 (210 ILCS 5/10f-5 new)

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

5       Section 5-915. The Hospital Licensing Act is amended by  
6 adding Section 7.6 as follows:

7           (210 ILCS 85/7.6 new)

8       Sec. 7.6. Revocation of license for violation of the Human  
9 Cloning Law. The Director shall revoke the license of a  
10 hospital that violates the Human Cloning Law. This Section is  
11 repealed on January 1, 2009.

12       Section 5-920. The Medical Practice Act of 1987 is amended  
13 by changing Section 22 as follows:

14           (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

15       Sec. 22. Disciplinary action.

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

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

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

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

29               (c) an ambulatory surgical treatment center or  
30 hospitalization or care facility maintained by the

1 State or any agency thereof, where such department or  
2 agency has authority under law to establish and enforce  
3 standards for the ambulatory surgical treatment  
4 centers, hospitalization, or care facilities under its  
5 management and control; or

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

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

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

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

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

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

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

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

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

34 (9) Fraud or misrepresentation in applying for, or

1       procuring, a license under this Act or in connection with  
2       applying for renewal of a license under this Act.

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

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

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

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

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

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

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

29 (16) Abandonment of a patient.

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



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

5           (19) Offering, undertaking or agreeing to cure or treat  
6           disease by a secret method, procedure, treatment or  
7           medicine, or the treating, operating or prescribing for any  
8           human condition by a method, means or procedure which the  
9           licensee refuses to divulge upon demand of the 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 reports  
14          in his or her practice as a physician, including, but not  
15          limited to, false records to support claims against the  
16          medical assistance program of the Department of Public Aid  
17          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 instance  
22          of suspected abuse or neglect as required by law.

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

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

33          (25) Gross and wilful and continued overcharging for  
34          professional services, including filing false statements

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

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

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

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

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

18 (30) Wilfully or negligently violating the  
19 confidentiality between physician and patient except as  
20 required by law.

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

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

27 (33) Violating state or federal laws or regulations  
28 relating to controlled substances.

29 (34) Failure to report to the Department any adverse  
30 final action taken against them by another licensing  
31 jurisdiction (any other state or any territory of the  
32 United States or any foreign state or country), by any peer  
33 review body, by any health care institution, by any  
34 professional society or association related to practice

1 under this Act, by any governmental agency, by any law  
2 enforcement agency, or by any court for acts or conduct  
3 similar to acts or conduct which would constitute grounds  
4 for action as defined in this Section.

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

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

20 (37) Failure to transfer copies of medical records as  
21 required by law.

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

27 (39) Violating the Health Care Worker Self-Referral  
28 Act.

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

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

33 (42) Entering into an excessive number of written  
34 collaborative agreements with licensed advanced practice

1 nurses resulting in an inability to adequately collaborate  
2 and provide medical direction.

3 (43) Repeated failure to adequately collaborate with  
4 or provide medical direction to a licensed advanced  
5 practice nurse.

6 (44) Violating the Human Cloning Law. This item (44) is  
7 inoperative upon the repeal of the Human Cloning Law.

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

31 The entry of an order or judgment by any circuit court  
32 establishing that any person holding a license under this Act  
33 is a person in need of mental treatment operates as a  
34 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

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

1 Section, a hearing upon such person's license must be convened  
2 by the Disciplinary Board within 15 days after such suspension  
3 and completed without appreciable delay. The Disciplinary  
4 Board shall have the authority to review the subject  
5 physician's record of treatment and counseling regarding the  
6 impairment, to the extent permitted by applicable federal  
7 statutes and regulations safeguarding the confidentiality of  
8 medical records.

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

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

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

34 (C) The Medical Disciplinary Board shall recommend to the

1 Department civil penalties and any other appropriate  
2 discipline in disciplinary cases when the Board finds that a  
3 physician willfully performed an abortion with actual  
4 knowledge that the person upon whom the abortion has been  
5 performed is a minor or an incompetent person without notice as  
6 required under the Parental Notice of Abortion Act of 1995.  
7 Upon the Board's recommendation, the Department shall impose,  
8 for the first violation, a civil penalty of \$1,000 and for a  
9 second or subsequent violation, a civil penalty of \$5,000.

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

12 Section 5-925. The Criminal Code of 1961 is amended by  
13 adding Section 12-36 as follows:

14 (720 ILCS 5/12-36 new)

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

16 (a) No person shall engage in activity which involves the  
17 use of a human somatic cell nucleus transfer technology to  
18 produce a human embryo for the purpose of producing a human  
19 clone.

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

22 (c) Definition. For purposes of this Section, "human clone"  
23 means a human being created by transferring the nucleus from a  
24 human cell from whatever source into a human egg cell from  
25 which the nucleus has been removed for any purpose regardless  
26 of whether or not the resulting product could result in a human  
27 embryo, human fetus, or human being, and regardless of whether  
28 or not it is intended to be implanted into a person and may or  
29 may not result in a pregnancy and a birth of a human being. For  
30 the purposes of this Section, "clone" does not refer to  
31 duplicating or replicating human DNA sequences, organs,  
32 tissues, or cells.



