

1 AN ACT concerning health.

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

4 Section 1. Short title. This Act may be cited as the Right  
5 to Try Act.

6 Section 5. Findings. The General Assembly finds that the  
7 process of approval for investigational drugs, biological  
8 products, and devices in the United States often takes many  
9 years, and a patient with a terminal illness does not have the  
10 luxury of waiting until such drug, product, or device receives  
11 final approval from the United States Food and Drug  
12 Administration. As a result, the standards of the United States  
13 Food and Drug Administration for the use of investigational  
14 drugs, biological products, and devices may deny the benefits  
15 of potentially life-saving treatments to terminally ill  
16 patients. A patient with a terminal illness has a fundamental  
17 right to attempt to preserve his or her own life by accessing  
18 investigational drugs, biological products, and devices.  
19 Whether to use available investigational drugs, biological  
20 products, and devices is a decision that rightfully should be  
21 made by the patient with a terminal illness in consultation  
22 with his or her physician and is not a decision to be made by  
23 the government.

1 Section 10. Definitions. For the purposes of this Act:

2 "Accident and health insurer" has the meaning given to that  
3 term in Section 126.2 of the Illinois Insurance Code.

4 "Eligible patient" means a person who:

5 (1) has a terminal illness;

6 (2) has considered all other treatment options  
7 approved by the United States Food and Drug Administration;

8 (3) has received a prescription or recommendation from  
9 his or her physician for an investigational drug,  
10 biological product, or device;

11 (4) has given his or her informed consent in writing  
12 for the use of the investigational drug, biological  
13 product, or device or, if he or she is a minor or lacks the  
14 mental capacity to provide informed consent, a parent or  
15 legal guardian has given informed consent on his or her  
16 behalf; and

17 (5) has documentation from his or her physician  
18 indicating that he or she has met the requirements of this  
19 Act.

20 "Investigational drug, biological product, or device"  
21 means a drug, biological product, or device that has  
22 successfully completed Phase I of a clinical trial, but has not  
23 been approved for general use by the United States Food and  
24 Drug Administration.

25 "Phase I of a clinical trial" means the stage of a clinical

1 trial where an investigational drug, biological product, or  
2 device has been tested in a small group for the first time to  
3 evaluate its safety, determine a safe dosage range, and  
4 identify side effects.

5 "Terminal illness" means a disease that, without  
6 life-sustaining measures, can reasonably be expected to result  
7 in death in 24 months or less.

8 Section 15. Availability of drugs, biological products,  
9 and devices.

10 (a) A manufacturer of an investigational drug, biological  
11 product, or device may make available such drug, product, or  
12 device to eligible patients. Nothing in this Act shall be  
13 construed to require a manufacturer to make available any drug,  
14 product, or device.

15 (b) A manufacturer may:

16 (1) provide an investigational drug, biological  
17 product, or device to an eligible patient without receiving  
18 compensation; or

19 (2) require an eligible patient to pay the costs of or  
20 associated with the manufacture of the investigational  
21 drug, biological product, or device.

22 Section 20. Insurance coverage. An accident and health  
23 insurer may choose to provide coverage for the cost of an  
24 investigational drug, biological product, or device. Nothing

1 in this Act shall be construed to require an accident and  
2 health insurer to provide coverage for the cost of any  
3 investigational drug, biological product, or device.

4 Section 80. The Nursing Home Care Act is amended by  
5 changing Section 2-104 as follows:

6 (210 ILCS 45/2-104) (from Ch. 111 1/2, par. 4152-104)

7 Sec. 2-104. (a) A resident shall be permitted to retain the  
8 services of his own personal physician at his own expense or  
9 under an individual or group plan of health insurance, or under  
10 any public or private assistance program providing such  
11 coverage. However, the facility is not liable for the  
12 negligence of any such personal physician. Every resident shall  
13 be permitted to obtain from his own physician or the physician  
14 attached to the facility complete and current information  
15 concerning his medical diagnosis, treatment and prognosis in  
16 terms and language the resident can reasonably be expected to  
17 understand. Every resident shall be permitted to participate in  
18 the planning of his total care and medical treatment to the  
19 extent that his condition permits. No resident shall be  
20 subjected to experimental research or treatment without first  
21 obtaining his informed, written consent. The conduct of any  
22 experimental research or treatment shall be authorized and  
23 monitored by an institutional review board appointed by the  
24 Director. The membership, operating procedures and review

1 criteria for the institutional review board shall be prescribed  
2 under rules and regulations of the Department and shall comply  
3 with the requirements for institutional review boards  
4 established by the federal Food and Drug Administration. No  
5 person who has received compensation in the prior 3 years from  
6 an entity that manufactures, distributes, or sells  
7 pharmaceuticals, biologics, or medical devices may serve on the  
8 institutional review board.

9 The institutional review board may approve only research or  
10 treatment that meets the standards of the federal Food and Drug  
11 Administration with respect to (i) the protection of human  
12 subjects and (ii) financial disclosure by clinical  
13 investigators. The Office of State Long Term Care Ombudsman and  
14 the State Protection and Advocacy organization shall be given  
15 an opportunity to comment on any request for approval before  
16 the board makes a decision. Those entities shall not be  
17 provided information that would allow a potential human subject  
18 to be individually identified, unless the board asks the  
19 Ombudsman for help in securing information from or about the  
20 resident. The board shall require frequent reporting of the  
21 progress of the approved research or treatment and its impact  
22 on residents, including immediate reporting of any adverse  
23 impact to the resident, the resident's representative, the  
24 Office of the State Long Term Care Ombudsman, and the State  
25 Protection and Advocacy organization. The board may not approve  
26 any retrospective study of the records of any resident about

1 the safety or efficacy of any care or treatment if the resident  
2 was under the care of the proposed researcher or a business  
3 associate when the care or treatment was given, unless the  
4 study is under the control of a researcher without any business  
5 relationship to any person or entity who could benefit from the  
6 findings of the study.

7 No facility shall permit experimental research or  
8 treatment to be conducted on a resident, or give access to any  
9 person or person's records for a retrospective study about the  
10 safety or efficacy of any care or treatment, without the prior  
11 written approval of the institutional review board. No nursing  
12 home administrator, or person licensed by the State to provide  
13 medical care or treatment to any person, may assist or  
14 participate in any experimental research on or treatment of a  
15 resident, including a retrospective study, that does not have  
16 the prior written approval of the board. Such conduct shall be  
17 grounds for professional discipline by the Department of  
18 Financial and Professional Regulation.

19 The institutional review board may exempt from ongoing  
20 review research or treatment initiated on a resident before the  
21 individual's admission to a facility and for which the board  
22 determines there is adequate ongoing oversight by another  
23 institutional review board. Nothing in this Section shall  
24 prevent a facility, any facility employee, or any other person  
25 from assisting or participating in any experimental research on  
26 or treatment of a resident, if the research or treatment began

1 before the person's admission to a facility, until the board  
2 has reviewed the research or treatment and decided to grant or  
3 deny approval or to exempt the research or treatment from  
4 ongoing review.

5 The institutional review board requirements of this  
6 subsection (a) do not apply to investigational drugs,  
7 biological products, or devices used by a resident with a  
8 terminal illness as set forth in the Right to Try Act.

9 (b) All medical treatment and procedures shall be  
10 administered as ordered by a physician. All new physician  
11 orders shall be reviewed by the facility's director of nursing  
12 or charge nurse designee within 24 hours after such orders have  
13 been issued to assure facility compliance with such orders.

14 All physician's orders and plans of treatment shall have  
15 the authentication of the physician. For the purposes of this  
16 subsection (b), "authentication" means an original written  
17 signature or an electronic signature system that allows for the  
18 verification of a signer's credentials. A stamp signature, with  
19 or without initials, is not sufficient.

20 According to rules adopted by the Department, every woman  
21 resident of child-bearing age shall receive routine  
22 obstetrical and gynecological evaluations as well as necessary  
23 prenatal care.

24 (c) Every resident shall be permitted to refuse medical  
25 treatment and to know the consequences of such action, unless  
26 such refusal would be harmful to the health and safety of

1 others and such harm is documented by a physician in the  
2 resident's clinical record. The resident's refusal shall free  
3 the facility from the obligation to provide the treatment.

4 (d) Every resident, resident's guardian, or parent if the  
5 resident is a minor shall be permitted to inspect and copy all  
6 his clinical and other records concerning his care and  
7 maintenance kept by the facility or by his physician. The  
8 facility may charge a reasonable fee for duplication of a  
9 record.

10 (Source: P.A. 96-1372, eff. 7-29-10; 97-179, eff. 1-1-12.)

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

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

14 (Section scheduled to be repealed on December 31, 2015)

15 Sec. 22. Disciplinary action.

16 (A) The Department may revoke, suspend, place on probation,  
17 reprimand, refuse to issue or renew, or take any other  
18 disciplinary or non-disciplinary action as the Department may  
19 deem proper with regard to the license or permit of any person  
20 issued under this Act, including imposing fines not to exceed  
21 \$10,000 for each violation, upon any of the following grounds:

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

24 (a) a facility licensed pursuant to the Ambulatory

1 Surgical Treatment Center Act;

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

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 or  
7 agency has authority under law to establish and enforce  
8 standards for the ambulatory surgical treatment  
9 centers, hospitalization, or care facilities under its  
10 management and control;

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 wilful  
20 and wanton manner on a woman who was not pregnant at the  
21 time the abortion procedure was performed.

22 (3) A plea of guilty or nolo contendere, finding of  
23 guilt, jury verdict, or entry of judgment or sentencing,  
24 including, but not limited to, convictions, preceding  
25 sentences of supervision, conditional discharge, or first  
26 offender probation, under the laws of any jurisdiction of

1 the United States of any crime that is a felony.

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) Adverse action taken by another state or  
25 jurisdiction against a license or other authorization to  
26 practice as a medical doctor, doctor of osteopathy, doctor

1 of osteopathic medicine or doctor of chiropractic, a  
2 certified copy of the record of the action taken by the  
3 other state or jurisdiction being prima facie evidence  
4 thereof. This includes any adverse action taken by a State  
5 or federal agency that prohibits a medical doctor, doctor  
6 of osteopathy, doctor of osteopathic medicine, or doctor of  
7 chiropractic from providing services to the agency's  
8 participants.

9 (13) Violation of any provision of this Act or of the  
10 Medical Practice Act prior to the repeal of that Act, or  
11 violation of the rules, or a final administrative action of  
12 the Secretary, after consideration of the recommendation  
13 of the Disciplinary Board.

14 (14) Violation of the prohibition against fee  
15 splitting in Section 22.2 of this Act.

16 (15) A finding by the Disciplinary Board that the  
17 registrant after having his or her license placed on  
18 probationary status or subjected to conditions or  
19 restrictions violated the terms of the probation or failed  
20 to comply with such terms or conditions.

21 (16) Abandonment of a patient.

22 (17) Prescribing, selling, administering,  
23 distributing, giving or self-administering any drug  
24 classified as a controlled substance (designated product)  
25 or narcotic for other than medically accepted therapeutic  
26 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 Healthcare  
17          and Family Services (formerly Department of Public Aid)  
18          under the Illinois Public Aid Code.

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

24          (23) Being named as a perpetrator in an indicated  
25          report by the Department of Children and Family Services  
26          under the Abused and Neglected Child Reporting Act, and

1           upon proof by clear and convincing evidence that the  
2           licensee has caused a child to be an abused child or  
3           neglected child as defined in the Abused and Neglected  
4           Child Reporting Act.

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

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

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

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

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

26          (29) Cheating on or attempt to subvert the licensing

1 examinations administered under this Act.

2 (30) Wilfully or negligently violating the  
3 confidentiality between physician and patient except as  
4 required by law.

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

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

11 (33) Violating state or federal laws or regulations  
12 relating to controlled substances, legend drugs, or  
13 ephedra as defined in the Ephedra Prohibition Act.

14 (34) Failure to report to the Department any adverse  
15 final action taken against them by another licensing  
16 jurisdiction (any other state or any territory of the  
17 United States or any foreign state or country), by any peer  
18 review body, by any health care institution, by any  
19 professional society or association related to practice  
20 under this Act, by any governmental agency, by any law  
21 enforcement agency, or by any court for acts or conduct  
22 similar to acts or conduct which would constitute grounds  
23 for action as defined in this Section.

24 (35) Failure to report to the Department surrender of a  
25 license or authorization to practice as a medical doctor, a  
26 doctor of osteopathy, a doctor of osteopathic medicine, or

1 doctor of chiropractic in another state or jurisdiction, or  
2 surrender of membership on any medical staff or in any  
3 medical or professional association or society, while  
4 under disciplinary investigation by any of those  
5 authorities or bodies, for acts or conduct similar to acts  
6 or conduct which would constitute grounds for action as  
7 defined in this Section.

8 (36) Failure to report to the Department any adverse  
9 judgment, settlement, or award arising from a liability  
10 claim related to acts or conduct similar to acts or conduct  
11 which would constitute grounds for action as defined in  
12 this Section.

13 (37) Failure to provide copies of medical records as  
14 required by law.

15 (38) Failure to furnish the Department, its  
16 investigators or representatives, relevant information,  
17 legally requested by the Department after consultation  
18 with the Chief Medical Coordinator or the Deputy Medical  
19 Coordinator.

20 (39) Violating the Health Care Worker Self-Referral  
21 Act.

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

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

26 (42) Entering into an excessive number of written

1 collaborative agreements with licensed advanced practice  
2 nurses resulting in an inability to adequately  
3 collaborate.

4 (43) Repeated failure to adequately collaborate with a  
5 licensed advanced practice nurse.

6 (44) Violating the Compassionate Use of Medical  
7 Cannabis Pilot Program Act.

8 (45) Entering into an excessive number of written  
9 collaborative agreements with licensed prescribing  
10 psychologists resulting in an inability to adequately  
11 collaborate.

12 (46) Repeated failure to adequately collaborate with a  
13 licensed prescribing psychologist.

14 Except for actions involving the ground numbered (26), all  
15 proceedings to suspend, revoke, place on probationary status,  
16 or take any other disciplinary action as the Department may  
17 deem proper, with regard to a license on any of the foregoing  
18 grounds, must be commenced within 5 years next after receipt by  
19 the Department of a complaint alleging the commission of or  
20 notice of the conviction order for any of the acts described  
21 herein. Except for the grounds numbered (8), (9), (26), and  
22 (29), no action shall be commenced more than 10 years after the  
23 date of the incident or act alleged to have violated this  
24 Section. For actions involving the ground numbered (26), a  
25 pattern of practice or other behavior includes all incidents  
26 alleged to be part of the pattern of practice or other behavior

1 that occurred, or a report pursuant to Section 23 of this Act  
2 received, within the 10-year period preceding the filing of the  
3 complaint. In the event of the settlement of any claim or cause  
4 of action in favor of the claimant or the reduction to final  
5 judgment of any civil action in favor of the plaintiff, such  
6 claim, cause of action or civil action being grounded on the  
7 allegation that a person licensed under this Act was negligent  
8 in providing care, the Department shall have an additional  
9 period of 2 years from the date of notification to the  
10 Department under Section 23 of this Act of such settlement or  
11 final judgment in which to investigate and commence formal  
12 disciplinary proceedings under Section 36 of this Act, except  
13 as otherwise provided by law. The time during which the holder  
14 of the license was outside the State of Illinois shall not be  
15 included within any period of time limiting the commencement of  
16 disciplinary action by the Department.

17 The entry of an order or judgment by any circuit court  
18 establishing that any person holding a license under this Act  
19 is a person in need of mental treatment operates as a  
20 suspension of that license. That person may resume their  
21 practice only upon the entry of a Departmental order based upon  
22 a finding by the Disciplinary Board that they have been  
23 determined to be recovered from mental illness by the court and  
24 upon the Disciplinary Board's recommendation that they be  
25 permitted to resume their practice.

26 The Department may refuse to issue or take disciplinary

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

8 The Department, upon the recommendation of the  
9 Disciplinary Board, shall adopt rules which set forth standards  
10 to be used in determining:

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

13 (b) what constitutes dishonorable, unethical or  
14 unprofessional conduct of a character likely to deceive,  
15 defraud, or harm the public;

16 (c) what constitutes immoral conduct in the commission  
17 of any act, including, but not limited to, commission of an  
18 act of sexual misconduct related to the licensee's  
19 practice; and

20 (d) what constitutes gross negligence in the practice  
21 of medicine.

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

25 In enforcing this Section, the Disciplinary Board or the  
26 Licensing Board, upon a showing of a possible violation, may

1 compel, in the case of the Disciplinary Board, any individual  
2 who is licensed to practice under this Act or holds a permit to  
3 practice under this Act, or, in the case of the Licensing  
4 Board, any individual who has applied for licensure or a permit  
5 pursuant to this Act, to submit to a mental or physical  
6 examination and evaluation, or both, which may include a  
7 substance abuse or sexual offender evaluation, as required by  
8 the Licensing Board or Disciplinary Board and at the expense of  
9 the Department. The Disciplinary Board or Licensing Board shall  
10 specifically designate the examining physician licensed to  
11 practice medicine in all of its branches or, if applicable, the  
12 multidisciplinary team involved in providing the mental or  
13 physical examination and evaluation, or both. The  
14 multidisciplinary team shall be led by a physician licensed to  
15 practice medicine in all of its branches and may consist of one  
16 or more or a combination of physicians licensed to practice  
17 medicine in all of its branches, licensed chiropractic  
18 physicians, licensed clinical psychologists, licensed clinical  
19 social workers, licensed clinical professional counselors, and  
20 other professional and administrative staff. Any examining  
21 physician or member of the multidisciplinary team may require  
22 any person ordered to submit to an examination and evaluation  
23 pursuant to this Section to submit to any additional  
24 supplemental testing deemed necessary to complete any  
25 examination or evaluation process, including, but not limited  
26 to, blood testing, urinalysis, psychological testing, or

1 neuropsychological testing. The Disciplinary Board, the  
2 Licensing Board, or the Department may order the examining  
3 physician or any member of the multidisciplinary team to  
4 provide to the Department, the Disciplinary Board, or the  
5 Licensing Board any and all records, including business  
6 records, that relate to the examination and evaluation,  
7 including any supplemental testing performed. The Disciplinary  
8 Board, the Licensing Board, or the Department may order the  
9 examining physician or any member of the multidisciplinary team  
10 to present testimony concerning this examination and  
11 evaluation of the licensee, permit holder, or applicant,  
12 including testimony concerning any supplemental testing or  
13 documents relating to the examination and evaluation. No  
14 information, report, record, or other documents in any way  
15 related to the examination and evaluation shall be excluded by  
16 reason of any common law or statutory privilege relating to  
17 communication between the licensee, permit holder, or  
18 applicant and the examining physician or any member of the  
19 multidisciplinary team. No authorization is necessary from the  
20 licensee, permit holder, or applicant ordered to undergo an  
21 evaluation and examination for the examining physician or any  
22 member of the multidisciplinary team to provide information,  
23 reports, records, or other documents or to provide any  
24 testimony regarding the examination and evaluation. The  
25 individual to be examined may have, at his or her own expense,  
26 another physician of his or her choice present during all

1 aspects of the examination. Failure of any individual to submit  
2 to mental or physical examination and evaluation, or both, when  
3 directed, shall result in an automatic suspension, without  
4 hearing, until such time as the individual submits to the  
5 examination. If the Disciplinary Board or Licensing Board finds  
6 a physician unable to practice following an examination and  
7 evaluation because of the reasons set forth in this Section,  
8 the Disciplinary Board or Licensing Board shall require such  
9 physician to submit to care, counseling, or treatment by  
10 physicians, or other health care professionals, approved or  
11 designated by the Disciplinary Board, as a condition for  
12 issued, continued, reinstated, or renewed licensure to  
13 practice. Any physician, whose license was granted pursuant to  
14 Sections 9, 17, or 19 of this Act, or, continued, reinstated,  
15 renewed, disciplined or supervised, subject to such terms,  
16 conditions or restrictions who shall fail to comply with such  
17 terms, conditions or restrictions, or to complete a required  
18 program of care, counseling, or treatment, as determined by the  
19 Chief Medical Coordinator or Deputy Medical Coordinators,  
20 shall be referred to the Secretary for a determination as to  
21 whether the licensee shall have their license suspended  
22 immediately, pending a hearing by the Disciplinary Board. In  
23 instances in which the Secretary immediately suspends a license  
24 under this Section, a hearing upon such person's license must  
25 be convened by the Disciplinary Board within 15 days after such  
26 suspension and completed without appreciable delay. The

1 Disciplinary Board shall have the authority to review the  
2 subject physician's record of treatment and counseling  
3 regarding the impairment, to the extent permitted by applicable  
4 federal statutes and regulations safeguarding the  
5 confidentiality of medical records.

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

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

19 All fines imposed under this Section shall be paid within  
20 60 days after the effective date of the order imposing the fine  
21 or in accordance with the terms set forth in the order imposing  
22 the fine.

23 (B) The Department shall revoke the license or permit  
24 issued under this Act to practice medicine or a chiropractic  
25 physician who has been convicted a second time of committing  
26 any felony under the Illinois Controlled Substances Act or the

1 Methamphetamine Control and Community Protection Act, or who  
2 has been convicted a second time of committing a Class 1 felony  
3 under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A  
4 person whose license or permit is revoked under this subsection  
5 B shall be prohibited from practicing medicine or treating  
6 human ailments without the use of drugs and without operative  
7 surgery.

8 (C) The Department shall not revoke, suspend, place on  
9 probation, reprimand, refuse to issue or renew, or take any  
10 other disciplinary or non-disciplinary action against the  
11 license or permit issued under this Act to practice medicine to  
12 a physician based solely upon the recommendation of the  
13 physician to an eligible patient, as defined under Section 10  
14 of the Right to Try Act, regarding, or prescription for, or  
15 treatment with, an investigational drug, biological product,  
16 or device.

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

1 (Source: P.A. 97-622, eff. 11-23-11; 98-601, eff. 12-30-13;  
2 98-668, eff. 6-25-14; 98-1140, eff. 12-30-14.)