

1 AN ACT in relation to health.

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

4 Section 1. Short title. This Act may be cited as the
5 Woman's Right to Know Act.

6 Section 5. Legislative findings and intent.

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

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

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

21 (3) The U.S. Supreme Court has stated: "In
22 attempting to ensure that a woman apprehends the full
23 consequences of her decision, the State furthers the
24 legitimate purpose of reducing the risk that a woman may
25 elect an abortion, only to discover later, with
26 devastating psychological consequences, that her decision
27 was not fully informed." (Planned Parenthood of
28 Southeastern Pennsylvania v. Casey, 112 U.S. 2791, 2823
29 (1992)).

30 (4) The decision to abort "is an important, and
31 often a stressful one, and it is desirable and imperative

1 that it be made with full knowledge of its nature and
2 consequences." (Planned Parenthood v. Danforth, 428 U.S.
3 52, 67 (1976).

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

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

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

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

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

34 (2) Fostering the development of standards of

1 professional conduct in the practice of abortion.

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

9 (4) Reducing the risk that a woman may elect an
10 abortion, only to discover later, with devastating
11 psychological consequences, that her decision was not
12 fully informed. Planned Parenthood v. Casey, 112 S. Ct.
13 2971, 2823 (1992).

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

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

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

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

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

33 "Probable gestational age of the unborn child" means the

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

8 "Qualified person assisting the physician" means a
9 licensed social worker, a registered nurse, or a physician
10 assistant to whom a physician who is to perform or induce an
11 abortion has delegated the responsibility, as the physician's
12 agent, for providing the information required under Section
13 15.

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

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

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

27 Section 15. Informed consent requirement.

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

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

1 (c) Except in the case of a medical emergency, consent
2 to an abortion is voluntary and informed if and only if:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 this information may be omitted.

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

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

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

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

1 choice, present during her private counseling.

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

9 (4.5) Whoever provides the information that is
10 required under subdivision (c)(1) or (c)(2), or both,
11 identifies himself or herself by name and position.

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

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

1 (7) If the woman considering an abortion has been
2 adjudicated incompetent, the requirements to provide
3 information to the woman under Section 15 apply to also
4 require provision of the information to the person
5 appointed as the woman's guardian.

6 Section 20. Publication of materials.

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

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

1 services, child support laws, and programs and the credit
2 for expenses for household and dependent care and
3 services necessary for gainful employment. The
4 materials shall state that it is unlawful to perform an
5 abortion for which consent has been coerced, that the
6 father of a child is liable for assistance in the support
7 of the child, even in instances in which the father has
8 offered to pay for an abortion, and that adoptive parents
9 may pay the costs of prenatal care, childbirth, and
10 neonatal care. The material shall include the following
11 statement: "There are many public and private agencies
12 willing and able to help you to carry your child to term,
13 and to assist you and your child after your child is
14 born, whether you choose to keep your child or to place
15 her or him for adoption. The State of Illinois strongly
16 urges you to contact one or more of these agencies before
17 making a final decision about abortion. The law requires
18 that your physician or his or her agent give you the
19 opportunity to call agencies like these before you
20 undergo an abortion." The materials shall include
21 information, for a woman whose pregnancy is the result of
22 sexual assault or incest, on legal protections available
23 to the woman and her child if she wishes to oppose
24 establishment of paternity or to terminate the father's
25 parental rights.

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

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

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

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

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

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

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

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

16 Section 40. Common law rights. Nothing in this Act
17 limits the common law rights of a person that are not in
18 conflict with this Act.

19 Section 50. Construction. Nothing in this Act shall be
20 construed as creating or recognizing a right to abortion or
21 as making lawful an abortion that is otherwise unlawful.

22 Section 55. Severability. If any provision, word,
23 phrase, or clause of this Act or its application to any
24 person or circumstance is held invalid, the invalidity of
25 that provision or application does not affect the provisions,
26 words, phrases, clauses, or applications of the Act which can
27 be given effect without the invalid provision, word, phrase,
28 clause, or application, and to this end the provisions,
29 words, phrases, and clauses of this Act are declared to be

1 severable.

2 Section 90. The Medical Practice Act of 1987 is amended
3 by changing Sections 22 and 23 as follows:

4 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

5 Sec. 22. Disciplinary action.

6 (A) The Department may revoke, suspend, place on
7 probationary status, or take any other disciplinary action as
8 the Department may deem proper with regard to the license or
9 visiting professor permit of any person issued under this Act
10 to practice medicine, or to treat human ailments without the
11 use of drugs and without operative surgery upon any of the
12 following grounds:

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

15 (a) a facility licensed pursuant to the
16 Ambulatory Surgical Treatment Center Act;

17 (b) an institution licensed under the Hospital
18 Licensing Act; or

19 (c) an ambulatory surgical treatment center or
20 hospitalization or care facility maintained by the
21 State or any agency thereof, where such department
22 or agency has authority under law to establish and
23 enforce standards for the ambulatory surgical
24 treatment centers, hospitalization, or care
25 facilities under its management and control; or

26 (d) ambulatory surgical treatment centers,
27 hospitalization or care facilities maintained by the
28 Federal Government; or

29 (e) ambulatory surgical treatment centers,
30 hospitalization or care facilities maintained by any
31 university or college established under the laws of
32 this State and supported principally by public funds

1 raised by taxation.

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

5 (3) The conviction of a felony in this or any other
6 jurisdiction, except as otherwise provided in subsection
7 B of this Section, whether or not related to practice
8 under this Act, or the entry of a guilty or nolo
9 contendere plea to a felony charge.

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

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

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

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

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

22 (9) Fraud or misrepresentation in applying for, or
23 procuring, a license under this Act or in connection with
24 applying for renewal of a license under this Act.

25 (10) Making a false or misleading statement
26 regarding their skill or the efficacy or value of the
27 medicine, treatment, or remedy prescribed by them at
28 their direction in the treatment of any disease or other
29 condition of the body or mind.

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

32 (12) Disciplinary action of another state or
33 jurisdiction against a license or other authorization to
34 practice as a medical doctor, doctor of osteopathy,

1 doctor of osteopathic medicine or doctor of chiropractic,
2 a certified copy of the record of the action taken by the
3 other state or jurisdiction being prima facie evidence
4 thereof.

5 (13) Violation of any provision of this Act or of
6 the Medical Practice Act prior to the repeal of that Act,
7 or violation of the rules, or a final administrative
8 action of the Director, after consideration of the
9 recommendation of the Disciplinary Board.

10 (14) Dividing with anyone other than physicians
11 with whom the licensee practices in a partnership,
12 Professional Association, limited liability company, or
13 Medical or Professional Corporation any fee, commission,
14 rebate or other form of compensation for any professional
15 services not actually and personally rendered. Nothing
16 contained in this subsection prohibits persons holding
17 valid and current licenses under this Act from practicing
18 medicine in partnership under a partnership agreement,
19 including a limited liability partnership, in a limited
20 liability company under the Limited Liability Company
21 Act, in a corporation authorized by the Medical
22 Corporation Act, as an association authorized by the
23 Professional Association Act, or in a corporation under
24 the Professional Corporation Act or from pooling,
25 sharing, dividing or apportioning the fees and monies
26 received by them or by the partnership, corporation or
27 association in accordance with the partnership agreement
28 or the policies of the Board of Directors of the
29 corporation or association. Nothing contained in this
30 subsection prohibits 2 or more corporations authorized by
31 the Medical Corporation Act, from forming a partnership
32 or joint venture of such corporations, and providing
33 medical, surgical and scientific research and knowledge
34 by employees of these corporations if such employees are

1 licensed under this Act, or from pooling, sharing,
2 dividing, or apportioning the fees and monies received by
3 the partnership or joint venture in accordance with the
4 partnership or joint venture agreement. Nothing
5 contained in this subsection shall abrogate the right of
6 2 or more persons, holding valid and current licenses
7 under this Act, to each receive adequate compensation for
8 concurrently rendering professional services to a patient
9 and divide a fee; provided, the patient has full
10 knowledge of the division, and, provided, that the
11 division is made in proportion to the services performed
12 and responsibility assumed by each.

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

18 (16) Abandonment of a patient.

19 (17) Prescribing, selling, administering,
20 distributing, giving or self-administering any drug
21 classified as a controlled substance (designated product)
22 or narcotic for other than medically accepted therapeutic
23 purposes.

24 (18) Promotion of the sale of drugs, devices,
25 appliances or goods provided for a patient in such manner
26 as to exploit the patient for financial gain of the
27 physician.

28 (19) Offering, undertaking or agreeing to cure or
29 treat disease by a secret method, procedure, treatment or
30 medicine, or the treating, operating or prescribing for
31 any human condition by a method, means or procedure which
32 the licensee refuses to divulge upon demand of the
33 Department.

34 (20) Immoral conduct in the commission of any act

1 including, but not limited to, commission of an act of
2 sexual misconduct related to the licensee's practice.

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

8 (22) Wilful omission to file or record, or wilfully
9 impeding the filing or recording, or inducing another
10 person to omit to file or record, medical reports as
11 required by law, or wilfully failing to report an
12 instance of suspected abuse or neglect as required by
13 law.

14 (23) Being named as a perpetrator in an indicated
15 report by the Department of Children and Family Services
16 under the Abused and Neglected Child Reporting Act, and
17 upon proof by clear and convincing evidence that the
18 licensee has caused a child to be an abused child or
19 neglected child as defined in the Abused and Neglected
20 Child Reporting Act.

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

24 (25) Gross and wilful and continued overcharging
25 for professional services, including filing false
26 statements for collection of fees for which services are
27 not rendered, including, but not limited to, filing such
28 false statements for collection of monies for services
29 not rendered from the medical assistance program of the
30 Department of Public Aid under the Illinois Public Aid
31 Code.

32 (26) A pattern of practice or other behavior which
33 demonstrates incapacity or incompetence to practice under
34 this Act.

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

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

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

11 (30) Wilfully or negligently violating the
12 confidentiality between physician and patient except as
13 required by law.

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

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

20 (33) Violating state or federal laws or regulations
21 relating to controlled substances.

22 (34) Failure to report to the Department any
23 adverse final action taken against them by another
24 licensing jurisdiction (any other state or any territory
25 of the United States or any foreign state or country), by
26 any peer review body, by any health care institution, by
27 any professional society or association related to
28 practice under this Act, by any governmental agency, by
29 any law enforcement agency, or by any court for acts or
30 conduct similar to acts or conduct which would constitute
31 grounds for action as defined in this Section.

32 (35) Failure to report to the Department surrender
33 of a license or authorization to practice as a medical
34 doctor, a doctor of osteopathy, a doctor of osteopathic

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

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

13 (37) Failure to transfer copies of medical records
14 as 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
23 is required under the Parental Notice of Abortion Act of
24 1995.

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

27 (42) Entering into an excessive number of written
28 collaborative agreements with licensed advanced practice
29 nurses resulting in an inability to adequately
30 collaborate and provide medical direction.

31 (43) Repeated failure to adequately collaborate
32 with or provide medical direction to a licensed advanced
33 practice nurse.

34 (44) Willful failure to provide a woman with the

1 information required under subdivision (c)(1) or (c)(2)
2 of Section 15 of the Woman's Right to Know Act.

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

27 The entry of an order or judgment by any circuit court
28 establishing that any person holding a license under this Act
29 is a person in need of mental treatment operates as a
30 suspension of that license. That person may resume their
31 practice only upon the entry of a Departmental order based
32 upon a finding by the Medical Disciplinary Board that they
33 have been determined to be recovered from mental illness by
34 the court and upon the Disciplinary Board's recommendation

1 that they be permitted to resume their practice.

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

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

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

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

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

22 (d) what constitutes gross negligence in the
23 practice of medicine.

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

27 In enforcing this Section, the Medical Disciplinary
28 Board, upon a showing of a possible violation, may compel any
29 individual licensed to practice under this Act, or who has
30 applied for licensure or a permit pursuant to this Act, to
31 submit to a mental or physical examination, or both, as
32 required by and at the expense of the Department. The
33 examining physician or physicians shall be those specifically
34 designated by the Disciplinary Board. The Medical

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

1 completed without appreciable delay. The Disciplinary Board
2 shall have the authority to review the subject physician's
3 record of treatment and counseling regarding the impairment,
4 to the extent permitted by applicable federal statutes and
5 regulations safeguarding the confidentiality of medical
6 records.

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

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

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

32 (C) The Medical Disciplinary Board shall recommend to
33 the Department civil penalties and any other appropriate
34 discipline in disciplinary cases when the Board finds that a

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

9 (D) The Medical Disciplinary Board shall recommend to
 10 the Department civil penalties and any other appropriate
 11 discipline in disciplinary cases when the Board finds that a
 12 physician willfully performed an abortion without providing
 13 the woman with the information required under subdivision
 14 (c)(1) or (c)(2) of Section 15 of the Woman's Right to Know
 15 Act. Upon the Board's recommendation, the Department shall
 16 impose, for the first violation, a civil penalty of \$1,000
 17 and for a second or subsequent violation, a civil penalty of
 18 \$5,000.

19 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96;
 20 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff.
 21 8-13-98.)

22 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

23 Sec. 23. Reports relating to professional conduct and
 24 capacity.

25 (A) Entities required to report.

26 (1) Health care institutions. The chief
 27 administrator or executive officer of any health care
 28 institution licensed by the Illinois Department of Public
 29 Health shall report to the Disciplinary Board when any
 30 person's clinical privileges are terminated or are
 31 restricted based on a final determination, in accordance
 32 with that institution's by-laws or rules and regulations,
 33 that a person has either committed an act or acts which

1 may directly threaten patient care, and not of an
2 administrative nature, or that a person may be mentally
3 or physically disabled in such a manner as to endanger
4 patients under that person's care. Such officer also
5 shall report if a person accepts voluntary termination or
6 restriction of clinical privileges in lieu of formal
7 action based upon conduct related directly to patient
8 care and not of an administrative nature, or in lieu of
9 formal action seeking to determine whether a person may
10 be mentally or physically disabled in such a manner as to
11 endanger patients under that person's care. The Medical
12 Disciplinary Board shall, by rule, provide for the
13 reporting to it of all instances in which a person,
14 licensed under this Act, who is impaired by reason of
15 age, drug or alcohol abuse or physical or mental
16 impairment, is under supervision and, where appropriate,
17 is in a program of rehabilitation. Such reports shall be
18 strictly confidential and may be reviewed and considered
19 only by the members of the Disciplinary Board, or by
20 authorized staff as provided by rules of the Disciplinary
21 Board. Provisions shall be made for the periodic report
22 of the status of any such person not less than twice
23 annually in order that the Disciplinary Board shall have
24 current information upon which to determine the status of
25 any such person. Such initial and periodic reports of
26 impaired physicians shall not be considered records
27 within the meaning of The State Records Act and shall be
28 disposed of, following a determination by the
29 Disciplinary Board that such reports are no longer
30 required, in a manner and at such time as the
31 Disciplinary Board shall determine by rule. The filing
32 of such reports shall be construed as the filing of a
33 report for purposes of subsection (C) of this Section.

34 (2) Professional associations. The President or

1 chief executive officer of any association or society, of
2 persons licensed under this Act, operating within this
3 State shall report to the Disciplinary Board when the
4 association or society renders a final determination that
5 a person has committed unprofessional conduct related
6 directly to patient care or that a person may be mentally
7 or physically disabled in such a manner as to endanger
8 patients under that person's care.

9 (3) Professional liability insurers. Every
10 insurance company which offers policies of professional
11 liability insurance to persons licensed under this Act,
12 or any other entity which seeks to indemnify the
13 professional liability of a person licensed under this
14 Act, shall report to the Disciplinary Board the
15 settlement of any claim or cause of action, or final
16 judgment rendered in any cause of action, which alleged
17 negligence in the furnishing of medical care by such
18 licensed person when such settlement or final judgment is
19 in favor of the plaintiff.

20 (4) State's Attorneys. The State's Attorney of
21 each county shall report to the Disciplinary Board all
22 instances in which a person licensed under this Act is
23 convicted or otherwise found guilty of the commission of
24 any felony. The State's Attorney of each county may
25 report to the Disciplinary Board through a verified
26 complaint any instance in which the State's Attorney
27 believes that a physician has willfully violated the
28 requirements to provide information to a woman under
29 subdivision (c)(1) or (c)(2) of Section 15 of the Woman's
30 Right to Know Act. The State's Attorney of each county
31 may report to the Disciplinary Board through a verified
32 complaint any instance in which the State's Attorney
33 believes that a physician has willfully violated the
34 notice requirements of the Parental Notice of Abortion

1 Act of 1995.

2 (5) State agencies. All agencies, boards,
3 commissions, departments, or other instrumentalities of
4 the government of the State of Illinois shall report to
5 the Disciplinary Board any instance arising in connection
6 with the operations of such agency, including the
7 administration of any law by such agency, in which a
8 person licensed under this Act has either committed an
9 act or acts which may be a violation of this Act or which
10 may constitute unprofessional conduct related directly to
11 patient care or which indicates that a person licensed
12 under this Act may be mentally or physically disabled in
13 such a manner as to endanger patients under that person's
14 care.

15 (B) Mandatory reporting. All reports required by items
16 (34), (35), and (36) of subsection (A) of Section 22 and by
17 Section 23 shall be submitted to the Disciplinary Board in a
18 timely fashion. The reports shall be filed in writing within
19 60 days after a determination that a report is required under
20 this Act. All reports shall contain the following
21 information:

22 (1) The name, address and telephone number of the
23 person making the report.

24 (2) The name, address and telephone number of the
25 person who is the subject of the report.

26 (3) The name or other means of identification of
27 any patient or patients whose treatment is a subject of
28 the report, provided, however, no medical records may be
29 revealed without the written consent of the patient or
30 patients.

31 (4) A brief description of the facts which gave
32 rise to the issuance of the report, including the dates
33 of any occurrences deemed to necessitate the filing of
34 the report.

1 (5) If court action is involved, the identity of
2 the court in which the action is filed, along with the
3 docket number and date of filing of the action.

4 (6) Any further pertinent information which the
5 reporting party deems to be an aid in the evaluation of
6 the report.

7 The Department shall have the right to inform patients of
8 the right to provide written consent for the Department to
9 obtain copies of hospital and medical records. The
10 Disciplinary Board or Department may exercise the power under
11 Section 38 of this Act to subpoena copies of hospital or
12 medical records in mandatory report cases alleging death or
13 permanent bodily injury when consent to obtain records is not
14 provided by a patient or legal representative. Appropriate
15 rules shall be adopted by the Department with the approval of
16 the Disciplinary Board.

17 When the Department has received written reports
18 concerning incidents required to be reported in items (34),
19 (35), and (36) of subsection (A) of Section 22, the
20 licensee's failure to report the incident to the Department
21 under those items shall not be the sole grounds for
22 disciplinary action.

23 Nothing contained in this Section shall act to in any
24 way, waive or modify the confidentiality of medical reports
25 and committee reports to the extent provided by law. Any
26 information reported or disclosed shall be kept for the
27 confidential use of the Disciplinary Board, the Medical
28 Coordinators, the Disciplinary Board's attorneys, the medical
29 investigative staff, and authorized clerical staff, as
30 provided in this Act, and shall be afforded the same status
31 as is provided information concerning medical studies in Part
32 21 of Article VIII of the Code of Civil Procedure.

33 (C) Immunity from prosecution. Any individual or
34 organization acting in good faith, and not in a wilful and

1 wanton manner, in complying with this Act by providing any
2 report or other information to the Disciplinary Board, or
3 assisting in the investigation or preparation of such
4 information, or by participating in proceedings of the
5 Disciplinary Board, or by serving as a member of the
6 Disciplinary Board, shall not, as a result of such actions,
7 be subject to criminal prosecution or civil damages.

8 (D) Indemnification. Members of the Disciplinary Board,
9 the Medical Coordinators, the Disciplinary Board's attorneys,
10 the medical investigative staff, physicians retained under
11 contract to assist and advise the medical coordinators in the
12 investigation, and authorized clerical staff shall be
13 indemnified by the State for any actions occurring within the
14 scope of services on the Disciplinary Board, done in good
15 faith and not wilful and wanton in nature. The Attorney
16 General shall defend all such actions unless he or she
17 determines either that there would be a conflict of interest
18 in such representation or that the actions complained of were
19 not in good faith or were wilful and wanton.

20 Should the Attorney General decline representation, the
21 member shall have the right to employ counsel of his or her
22 choice, whose fees shall be provided by the State, after
23 approval by the Attorney General, unless there is a
24 determination by a court that the member's actions were not
25 in good faith or were wilful and wanton.

26 The member must notify the Attorney General within 7 days
27 of receipt of notice of the initiation of any action
28 involving services of the Disciplinary Board. Failure to so
29 notify the Attorney General shall constitute an absolute
30 waiver of the right to a defense and indemnification.

31 The Attorney General shall determine within 7 days after
32 receiving such notice, whether he or she will undertake to
33 represent the member.

34 (E) Deliberations of Disciplinary Board. Upon the

1 receipt of any report called for by this Act, other than
2 those reports of impaired persons licensed under this Act
3 required pursuant to the rules of the Disciplinary Board, the
4 Disciplinary Board shall notify in writing, by certified
5 mail, the person who is the subject of the report. Such
6 notification shall be made within 30 days of receipt by the
7 Disciplinary Board of the report.

8 The notification shall include a written notice setting
9 forth the person's right to examine the report. Included in
10 such notification shall be the address at which the file is
11 maintained, the name of the custodian of the reports, and the
12 telephone number at which the custodian may be reached. The
13 person who is the subject of the report shall submit a
14 written statement responding, clarifying, adding to, or
15 proposing the amending of the report previously filed. The
16 statement shall become a permanent part of the file and must
17 be received by the Disciplinary Board no more than 60 days
18 after the date on which the person was notified by the
19 Disciplinary Board of the existence of the original report.

20 The Disciplinary Board shall review all reports received
21 by it, together with any supporting information and
22 responding statements submitted by persons who are the
23 subject of reports. The review by the Disciplinary Board
24 shall be in a timely manner but in no event, shall the
25 Disciplinary Board's initial review of the material contained
26 in each disciplinary file be less than 61 days nor more than
27 180 days after the receipt of the initial report by the
28 Disciplinary Board.

29 When the Disciplinary Board makes its initial review of
30 the materials contained within its disciplinary files, the
31 Disciplinary Board shall, in writing, make a determination as
32 to whether there are sufficient facts to warrant further
33 investigation or action. Failure to make such determination
34 within the time provided shall be deemed to be a

1 determination that there are not sufficient facts to warrant
2 further investigation or action.

3 Should the Disciplinary Board find that there are not
4 sufficient facts to warrant further investigation, or action,
5 the report shall be accepted for filing and the matter shall
6 be deemed closed and so reported to the Director. The
7 Director shall then have 30 days to accept the Medical
8 Disciplinary Board's decision or request further
9 investigation. The Director shall inform the Board in
10 writing of the decision to request further investigation,
11 including the specific reasons for the decision. The
12 individual or entity filing the original report or complaint
13 and the person who is the subject of the report or complaint
14 shall be notified in writing by the Director of any final
15 action on their report or complaint.

16 (F) Summary reports. The Disciplinary Board shall
17 prepare, on a timely basis, but in no event less than one
18 every other month, a summary report of final actions taken
19 upon disciplinary files maintained by the Disciplinary Board.
20 The summary reports shall be sent by the Disciplinary Board
21 to every health care facility licensed by the Illinois
22 Department of Public Health, every professional association
23 and society of persons licensed under this Act functioning on
24 a statewide basis in this State, the American Medical
25 Association, the American Osteopathic Association, the
26 American Chiropractic Association, all insurers providing
27 professional liability insurance to persons licensed under
28 this Act in the State of Illinois, the Federation of State
29 Medical Licensing Boards, and the Illinois Pharmacists
30 Association.

31 (G) Any violation of this Section shall be a Class A
32 misdemeanor.

33 (H) If any such person violates the provisions of this
34 Section an action may be brought in the name of the People of

1 the State of Illinois, through the Attorney General of the
2 State of Illinois, for an order enjoining such violation or
3 for an order enforcing compliance with this Section. Upon
4 filing of a verified petition in such court, the court may
5 issue a temporary restraining order without notice or bond
6 and may preliminarily or permanently enjoin such violation,
7 and if it is established that such person has violated or is
8 violating the injunction, the court may punish the offender
9 for contempt of court. Proceedings under this paragraph
10 shall be in addition to, and not in lieu of, all other
11 remedies and penalties provided for by this Section.

12 (Source: P.A. 89-18, eff. 6-1-95; 89-702, eff. 7-1-97;
13 90-699, eff. 1-1-99.)

14 Section 99. Effective date. This Act takes effect 90
15 days after becoming law.