



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1580

Introduced 2/15/2005, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

225 ILCS 60/22	from Ch. 111, par. 4400-22
225 ILCS 60/23	from Ch. 111, par. 4400-23
225 ILCS 60/23.1 new	

Amends the Medical Practice Act of 1987. Changes the period of time within which certain disciplinary action proceedings concerning licensure under the Act must be commenced from 3 years to 5 years and provides that, except for actions based on grounds concerning cheating on or attempting to subvert licensing examinations, practicing under a false or an assumed name, and fraud or misrepresentation in applying for, procuring, or renewing a license, actions must be commenced within 8 years (rather than 5 years). Provides for the public release of individual profiles on persons licensed under the Act, including information relating to criminal charges, administrative disciplinary actions, hospital privilege revocations, and medical malpractice awards. Provides that a physician may elect to include certain information in his or her profile. Provides that certain information collected for physician profiles is not confidential. Provides that, when collecting information or compiling reports intended to compare physicians, the Disciplinary Board shall require that only the most basic identifying information from mandatory reports may be used, and details about a patient or personal details about a physician that are not already a matter of public record through another source must not be released. Effective immediately.

LRB094 09576 RAS 39828 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning education.

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

4 Section 5. The Medical Practice Act of 1987 is amended by
5 changing Sections 22 and 23 and by adding Section 23.1 as
6 follows:

7 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

8 (Section scheduled to be repealed on January 1, 2007)

9 Sec. 22. Disciplinary action.

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

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

19 (a) a facility licensed pursuant to the Ambulatory
20 Surgical Treatment Center Act;

21 (b) an institution licensed under the Hospital
22 Licensing Act; or

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

30 (d) ambulatory surgical treatment centers,
31 hospitalization or care facilities maintained by the
32 Federal Government; or

1 (e) ambulatory surgical treatment centers,
2 hospitalization or care facilities maintained by any
3 university or college established under the laws of
4 this State and supported principally by public funds
5 raised by taxation.

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

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

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

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

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

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

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

26 (9) Fraud or misrepresentation in applying for, or
27 procuring, a license under this Act or in connection with
28 applying for renewal of a license under this Act.

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

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

36 (12) Disciplinary action of another state or

1 jurisdiction against a license or other authorization to
2 practice as a medical doctor, doctor of osteopathy, doctor
3 of osteopathic medicine or doctor of chiropractic, a
4 certified copy of the record of the action taken by the
5 other state or jurisdiction being prima facie evidence
6 thereof.

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

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

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

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

17 (16) Abandonment of a patient.

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

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

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

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

35 (21) Wilfully making or filing false records or reports
36 in his or her practice as a physician, including, but not

1 limited to, false records to support claims against the
2 medical assistance program of the Department of Public Aid
3 under the Illinois Public Aid Code.

4 (22) Wilful omission to file or record, or wilfully
5 impeding the filing or recording, or inducing another
6 person to omit to file or record, medical reports as
7 required by law, or wilfully failing to report an instance
8 of suspected abuse or neglect as required by law.

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

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

19 (25) Gross and wilful and continued overcharging for
20 professional services, including filing false statements
21 for collection of fees for which services are not rendered,
22 including, but not limited to, filing such false statements
23 for collection of monies for services not rendered from the
24 medical assistance program of the Department of Public Aid
25 under the Illinois Public Aid Code.

26 (26) A pattern of practice or other behavior which
27 demonstrates incapacity or incompetence to practice under
28 this Act.

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

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

36 (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.

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

23 (35) Failure to report to the Department surrender of a
24 license or authorization to practice as a medical doctor, a
25 doctor of osteopathy, a doctor of osteopathic medicine, or
26 doctor of chiropractic in another state or jurisdiction, or
27 surrender of membership on any medical staff or in any
28 medical or professional association or society, while
29 under disciplinary investigation by any of those
30 authorities or bodies, for acts or conduct similar to acts
31 or conduct which would constitute grounds for action as
32 defined in this Section.

33 (36) Failure to report to the Department any adverse
34 judgment, settlement, or award arising from a liability
35 claim related to acts or conduct similar to acts or conduct
36 which would constitute grounds for action as defined in

1 this Section.

2 (37) Failure to transfer copies of medical records as
3 required by law.

4 (38) Failure to furnish the Department, its
5 investigators or representatives, relevant information,
6 legally requested by the Department after consultation
7 with the Chief Medical Coordinator or the Deputy Medical
8 Coordinator.

9 (39) Violating the Health Care Worker Self-Referral
10 Act.

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

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

15 (42) Entering into an excessive number of written
16 collaborative agreements with licensed advanced practice
17 nurses resulting in an inability to adequately collaborate
18 and provide medical direction.

19 (43) Repeated failure to adequately collaborate with
20 or provide medical direction to a licensed advanced
21 practice nurse.

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

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

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

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

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

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

31 (b) what constitutes dishonorable, unethical or
32 unprofessional conduct of a character likely to deceive,
33 defraud, or harm the public;

34 (c) what constitutes immoral conduct in the commission
35 of any act, including, but not limited to, commission of an
36 act of sexual misconduct related to the licensee's

1 practice; and

2 (d) what constitutes gross negligence in the practice
3 of medicine.

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

7 In enforcing this Section, the Medical Disciplinary Board,
8 upon a showing of a possible violation, may compel any
9 individual licensed to practice under this Act, or who has
10 applied for licensure or a permit pursuant to this Act, to
11 submit to a mental or physical examination, or both, as
12 required by and at the expense of the Department. The examining
13 physician or physicians shall be those specifically designated
14 by the Disciplinary Board. The Medical Disciplinary Board or
15 the Department may order the examining physician to present
16 testimony concerning this mental or physical examination of the
17 licensee or applicant. No information shall be excluded by
18 reason of any common law or statutory privilege relating to
19 communication between the licensee or applicant and the
20 examining physician. The individual to be examined may have, at
21 his or her own expense, another physician of his or her choice
22 present during all aspects of the examination. Failure of any
23 individual to submit to mental or physical examination, when
24 directed, shall be grounds for suspension of his or her license
25 until such time as the individual submits to the examination if
26 the Disciplinary Board finds, after notice and hearing, that
27 the refusal to submit to the examination was without reasonable
28 cause. If the Disciplinary Board finds a physician unable to
29 practice because of the reasons set forth in this Section, the
30 Disciplinary Board shall require such physician to submit to
31 care, counseling, or treatment by physicians approved or
32 designated by the Disciplinary Board, as a condition for
33 continued, reinstated, or renewed licensure to practice. Any
34 physician, whose license was granted pursuant to Sections 9,
35 17, or 19 of this Act, or, continued, reinstated, renewed,
36 disciplined or supervised, subject to such terms, conditions or

1 restrictions who shall fail to comply with such terms,
2 conditions or restrictions, or to complete a required program
3 of care, counseling, or treatment, as determined by the Chief
4 Medical Coordinator or Deputy Medical Coordinators, shall be
5 referred to the Director for a determination as to whether the
6 licensee shall have their license suspended immediately,
7 pending a hearing by the Disciplinary Board. In instances in
8 which the Director immediately suspends a license under this
9 Section, a hearing upon such person's license must be convened
10 by the Disciplinary Board within 15 days after such suspension
11 and completed without appreciable delay. The Disciplinary
12 Board shall have the authority to review the subject
13 physician's record of treatment and counseling regarding the
14 impairment, to the extent permitted by applicable federal
15 statutes and regulations safeguarding the confidentiality of
16 medical records.

17 An individual licensed under this Act, affected under this
18 Section, shall be afforded an opportunity to demonstrate to the
19 Disciplinary Board that they can resume practice in compliance
20 with acceptable and prevailing standards under the provisions
21 of their license.

22 The Department may promulgate rules for the imposition of
23 fines in disciplinary cases, not to exceed \$5,000 for each
24 violation of this Act. Fines may be imposed in conjunction with
25 other forms of disciplinary action, but shall not be the
26 exclusive disposition of any disciplinary action arising out of
27 conduct resulting in death or injury to a patient. Any funds
28 collected from such fines shall be deposited in the Medical
29 Disciplinary Fund.

30 (B) The Department shall revoke the license or visiting
31 permit of any person issued under this Act to practice medicine
32 or to treat human ailments without the use of drugs and without
33 operative surgery, who has been convicted a second time of
34 committing any felony under the Illinois Controlled Substances
35 Act, or who has been convicted a second time of committing a
36 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois

1 Public Aid Code. A person whose license or visiting permit is
2 revoked under this subsection B of Section 22 of this Act shall
3 be prohibited from practicing medicine or treating human
4 ailments without the use of drugs and without operative
5 surgery.

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

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

18 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

19 Sec. 23. Reports relating to professional conduct and
20 capacity.

21 (A) Entities required to report.

22 (1) Health care institutions. The chief administrator
23 or executive officer of any health care institution
24 licensed by the Illinois Department of Public Health shall
25 report to the Disciplinary Board when any person's clinical
26 privileges are terminated or restricted based on a final
27 determination, in accordance with that institution's
28 by-laws or rules and regulations, that a person has either
29 committed an act or acts which may directly threaten
30 patient care, and not of an administrative nature, or that
31 a person may be mentally or physically disabled in such a
32 manner as to endanger patients under that person's care.
33 Such officer also shall report if a person accepts
34 voluntary termination or restriction of clinical
35 privileges in lieu of formal action based upon conduct

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

27 (2) Professional associations. The President or chief
28 executive officer of any association or society, of persons
29 licensed under this Act, operating within this State shall
30 report to the Disciplinary Board when the association or
31 society renders a final determination that a person has
32 committed unprofessional conduct related directly to
33 patient care or that a person may be mentally or physically
34 disabled in such a manner as to endanger patients under
35 that person's care.

36 (3) Professional liability insurers. Every insurance

1 company which offers policies of professional liability
2 insurance to persons licensed under this Act, or any other
3 entity which seeks to indemnify the professional liability
4 of a person licensed under this Act, shall report to the
5 Disciplinary Board the settlement of any claim or cause of
6 action, or final judgment rendered in any cause of action,
7 which alleged negligence in the furnishing of medical care
8 by such licensed person when such settlement or final
9 judgment is in favor of the plaintiff.

10 (4) State's Attorneys. The State's Attorney of each
11 county shall report to the Disciplinary Board all instances
12 in which a person licensed under this Act is convicted or
13 otherwise found guilty of the commission of any felony. The
14 State's Attorney of each county may report to the
15 Disciplinary Board through a verified complaint any
16 instance in which the State's Attorney believes that a
17 physician has willfully violated the notice requirements
18 of the Parental Notice of Abortion Act of 1995.

19 (5) State agencies. All agencies, boards, commissions,
20 departments, or other instrumentalities of the government
21 of the State of Illinois shall report to the Disciplinary
22 Board any instance arising in connection with the
23 operations of such agency, including the administration of
24 any law by such agency, in which a person licensed under
25 this Act has either committed an act or acts which may be a
26 violation of this Act or which may constitute
27 unprofessional conduct related directly to patient care or
28 which indicates that a person licensed under this Act may
29 be mentally or physically disabled in such a manner as to
30 endanger patients under that person's care.

31 (B) Mandatory reporting. All reports required by items
32 (34), (35), and (36) of subsection (A) of Section 22 and by
33 Section 23 shall be submitted to the Disciplinary Board in a
34 timely fashion. The reports shall be filed in writing within 60
35 days after a determination that a report is required under this
36 Act. All reports shall contain the following information:

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

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

5 (3) The name or other means of identification of any
6 patient or patients whose treatment is a subject of the
7 report, provided, however, no medical records may be
8 revealed without the written consent of the patient or
9 patients.

10 (4) A brief description of the facts which gave rise to
11 the issuance of the report, including the dates of any
12 occurrences deemed to necessitate the filing of the report.

13 (5) If court action is involved, the identity of the
14 court in which the action is filed, along with the docket
15 number and date of filing of the action.

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

19 The Department shall have the right to inform patients of
20 the right to provide written consent for the Department to
21 obtain copies of hospital and medical records. The Disciplinary
22 Board or Department may exercise the power under Section 38 of
23 this Act to subpoena copies of hospital or medical records in
24 mandatory report cases alleging death or permanent bodily
25 injury when consent to obtain records is not provided by a
26 patient or legal representative. Appropriate rules shall be
27 adopted by the Department with the approval of the Disciplinary
28 Board.

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

34 Nothing contained in this Section shall act to in any way,
35 waive or modify the confidentiality of medical reports and
36 committee reports to the extent provided by law. Except for

1 information required for physician profiles under Section 23.1
2 of this Act, any information reported or disclosed shall be
3 kept for the confidential use of the Disciplinary Board, the
4 Medical Coordinators, the Disciplinary Board's attorneys, the
5 medical investigative staff, and authorized clerical staff, as
6 provided in this Act, and shall be afforded the same status as
7 is provided information concerning medical studies in Part 21
8 of Article VIII of the Code of Civil Procedure.

9 (C) Immunity from prosecution. Any individual or
10 organization acting in good faith, and not in a wilful and
11 wanton manner, in complying with this Act by providing any
12 report or other information to the Disciplinary Board, or
13 assisting in the investigation or preparation of such
14 information, or by participating in proceedings of the
15 Disciplinary Board, or by serving as a member of the
16 Disciplinary Board, shall not, as a result of such actions, be
17 subject to criminal prosecution or civil damages.

18 (D) Indemnification. Members of the Disciplinary Board,
19 the Medical Coordinators, the Disciplinary Board's attorneys,
20 the medical investigative staff, physicians retained under
21 contract to assist and advise the medical coordinators in the
22 investigation, and authorized clerical staff shall be
23 indemnified by the State for any actions occurring within the
24 scope of services on the Disciplinary Board, done in good faith
25 and not wilful and wanton in nature. The Attorney General shall
26 defend all such actions unless he or she determines either that
27 there would be a conflict of interest in such representation or
28 that the actions complained of were not in good faith or were
29 wilful and wanton.

30 Should the Attorney General decline representation, the
31 member shall have the right to employ counsel of his or her
32 choice, whose fees shall be provided by the State, after
33 approval by the Attorney General, unless there is a
34 determination by a court that the member's actions were not in
35 good faith or were wilful and wanton.

36 The member must notify the Attorney General within 7 days

1 of receipt of notice of the initiation of any action involving
2 services of the Disciplinary Board. Failure to so notify the
3 Attorney General shall constitute an absolute waiver of the
4 right to a defense and indemnification.

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

8 (E) Deliberations of Disciplinary Board. Upon the receipt
9 of any report called for by this Act, other than those reports
10 of impaired persons licensed under this Act required pursuant
11 to the rules of the Disciplinary Board, the Disciplinary Board
12 shall notify in writing, by certified mail, the person who is
13 the subject of the report. Such notification shall be made
14 within 30 days of receipt by the Disciplinary Board of the
15 report.

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

28 The Disciplinary Board shall review all reports received by
29 it, together with any supporting information and responding
30 statements submitted by persons who are the subject of reports.
31 The review by the Disciplinary Board shall be in a timely
32 manner but in no event, shall the Disciplinary Board's initial
33 review of the material contained in each disciplinary file be
34 less than 61 days nor more than 180 days after the receipt of
35 the initial report by the Disciplinary Board.

36 When the Disciplinary Board makes its initial review of the

1 materials contained within its disciplinary files, the
2 Disciplinary Board shall, in writing, make a determination as
3 to whether there are sufficient facts to warrant further
4 investigation or action. Failure to make such determination
5 within the time provided shall be deemed to be a determination
6 that there are not sufficient facts to warrant further
7 investigation or action.

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

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

34 (G) Any violation of this Section shall be a Class A
35 misdemeanor.

36 (H) If any such person violates the provisions of this

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

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

15 (225 ILCS 60/23.1 new)

16 Sec. 23.1. Public disclosure of disciplinary records.

17 (a) The Disciplinary Board shall collect from the reports
18 required in subsection (A) of Section 23 all of the following
19 information to create individual profiles on licensees, in a
20 format created by the Disciplinary Board that shall be
21 available for dissemination to the public:

22 (1) A description of any criminal convictions for
23 felonies within the most recent 10 years. For the purposes
24 of this item, a person shall be deemed to be convicted of a
25 crime if he or she pled guilty or if he or she was found or
26 adjudged guilty by a court of competent jurisdiction.

27 (2) A description of any final disciplinary actions
28 taken by the Disciplinary Board within the most recent 10
29 years. All final disciplinary actions shall remain a matter
30 of public record.

31 (3) A description of any final disciplinary actions
32 taken by licensing boards in other states within the most
33 recent 10 years, but in no event earlier than the year
34 1995. This information shall come from the Federation of
35 State Medical Boards or other national reporting agencies.

1 Information that is confidential in the reporting state
2 shall not be included in the profile.

3 (4) A description of revocation or involuntary
4 restriction of hospital privileges as required in
5 subsection (A)(1) of Section 23. Only cases that have
6 occurred within the most recent 10 years shall be disclosed
7 by the Disciplinary Board to the public.

8 (5) All medical malpractice court judgments, and
9 medical malpractice arbitration awards in which a payment
10 is made to a complaining party, within the most recent 10
11 years, but in no event earlier than the year 1995.
12 Dispositions of paid claims shall be reported in a minimum
13 of 3 graduated categories indicating the level of
14 significance of the award. Information concerning paid
15 medical malpractice claims shall be put in context by
16 comparing an individual licensee's medical malpractice
17 judgment and arbitration awards to the experience of other
18 licensees within the same specialty. Nothing in this
19 Section shall be construed to limit or prevent the
20 Disciplinary Board from providing further explanatory
21 information regarding the significance of categories in
22 which payments are reported.

23 Pending malpractice claims shall not be disclosed by
24 the Disciplinary Board to the public. Nothing in this
25 Section shall be construed to prevent the Disciplinary
26 Board from investigating and disciplining a licensee on the
27 basis of medical malpractice claims that are pending.

28 (6) Names of medical schools and dates of graduation.

29 The Disciplinary Board shall provide each licensee with a
30 copy of his or her profile prior to release to the public. A
31 licensee shall be provided a reasonable time to correct factual
32 inaccuracies that appear in his or her profile.

33 (a-5) A licensee may elect to include in his or her profile
34 the following information that shall be available for
35 dissemination to the public:

36 (1) specialty board certification;

- 1 (2) number of years in practice;
2 (3) names of the hospitals where the licensee has
3 privileges;
4 (4) appointments to medical school faculties and
5 indication as to whether a licensee has had a
6 responsibility for graduate medical education within the
7 most recent 10 years;
8 (5) publications in peer-reviewed medical literature
9 within the most recent 10 years;
10 (6) professional or community service activities and
11 awards;
12 (7) the location of the licensee's primary practice
13 setting;
14 (8) the identification of any translating services
15 that may be available at the licensee's primary practice
16 location; and
17 (9) an indication of whether the licensee participates
18 in the Medicaid program.
19 (b) The Department shall maintain a toll free telephone
20 line for responding to requests for information about the
21 disciplinary records of physicians in Illinois.
22 (c) When collecting information or compiling reports
23 intended to compare physicians, the Disciplinary Board shall
24 require that:
25 (1) physicians shall be meaningfully involved in the
26 development of all aspects of the profile methodology,
27 including collection methods, formatting, and methods and
28 means for release and dissemination;
29 (2) the entire methodology for collecting and
30 analyzing the data shall be disclosed to all relevant
31 physician organizations and to all physicians under
32 review;
33 (3) data collection and analytical methodologies shall
34 be used that meet accepted standards of validity and
35 reliability;
36 (4) the limitations of the data sources and analytic

1 methodologies used to develop physician profiles shall be
2 clearly identified and acknowledged, including but not
3 limited to the appropriate and inappropriate uses of the
4 data;

5 (5) provider profiles and other information that have
6 been compiled regarding physician performance shall be
7 shared with physicians under review prior to dissemination
8 provided that an opportunity for corrections and additions
9 of helpful explanatory comments shall be afforded before
10 publication, and provided further that the profiles shall
11 include only data that reflect care under the control of
12 the physician for whom the profile is prepared;

13 (6) comparisons among physician profiles shall adjust
14 for patient case mix and other relevant risk factors and
15 control for provider peer groups, when appropriate;

16 (7) effective safeguards to protect against the
17 unauthorized use or disclosure of physician profiles shall
18 be developed and implemented;

19 (8) effective safeguards to protect against the
20 dissemination of inconsistent, incomplete, invalid,
21 inaccurate, or subjective profile data shall be developed
22 and implemented;

23 (9) the quality and accuracy of physician profiles,
24 data sources, and methodologies shall be evaluated
25 regularly; and

26 (10) only the most basic identifying information from
27 mandatory reports may be used, and details about a patient
28 or personal details about a physician not already a matter
29 of public record through another source must not be
30 released.

31 Section 99. Effective date. This Act takes effect upon
32 becoming law.