



Filed: 5/26/2005

09400SB0475ham001

LRB094 07024 WGH 47172 a

1 AMENDMENT TO SENATE BILL 475

2 AMENDMENT NO. _____. Amend Senate Bill 475 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 1. FINDINGS

5 Section 101. Findings. The General Assembly finds as
6 follows:

7 (1) The increasing cost of medical liability insurance
8 results in increased financial burdens on physicians and
9 hospitals.

10 (2) The increasing cost of medical liability insurance
11 in Illinois is believed to have contributed to the
12 reduction of the availability of medical care in portions
13 of the State and is believed to have discouraged some
14 medical students from choosing Illinois as the place they
15 will receive their medical education and practice
16 medicine.

17 (3) The public would benefit from making the services
18 of hospitals and physicians more available.

19 (4) This health care crisis, which endangers the public
20 health, safety, and welfare of the citizens of Illinois,
21 requires significant reforms to the civil justice system
22 currently endangering health care for citizens of
23 Illinois. Limiting non-economic damages is one of these
24 significant reforms designed to benefit the people of the

1 State of Illinois. An increasing number of citizens or
2 municipalities are enacting ordinances that limit damages
3 and help maintain the health care delivery system in
4 Illinois and protect the health, safety, and welfare of the
5 people of Illinois.

6 (5) In order to preserve the public health, safety, and
7 welfare of the people of Illinois, the current medical
8 malpractice situation requires reforms that enhance the
9 State's oversight of physicians and ability to discipline
10 physicians, that increase the State's oversight of medical
11 liability insurance carriers, that reduce the number of
12 nonmeritorious healing art malpractice actions, that limit
13 non-economic damages in healing art malpractice actions,
14 that encourage physicians to provide voluntary services at
15 free medical clinics, that encourage physicians and
16 hospitals to continue providing health care services in
17 Illinois, and that encourage physicians to practice in
18 medical care shortage areas.

19 ARTICLE 3. AMENDATORY PROVISIONS

20 Section 310. The Illinois Insurance Code is amended by
21 changing Sections 155.18, 155.19, and 1204 and by adding
22 Section 155.18a as follows:

23 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

24 Sec. 155.18. (a) This Section shall apply to insurance on
25 risks based upon negligence by a physician, hospital or other
26 health care provider, referred to herein as medical liability
27 insurance. This Section shall not apply to contracts of
28 reinsurance, nor to any farm, county, district or township
29 mutual insurance company transacting business under an Act
30 entitled "An Act relating to local mutual district, county and
31 township insurance companies", approved March 13, 1936, as now

1 or hereafter amended, nor to any such company operating under a
2 special charter.

3 (b) The following standards shall apply to the making and
4 use of rates pertaining to all classes of medical liability
5 insurance:

6 (1) Rates shall not be excessive or inadequate, ~~as~~
7 ~~herein defined,~~ nor shall they be unfairly discriminatory.
8 ~~No rate shall be held to be excessive unless such rate is~~
9 ~~unreasonably high for the insurance provided, and a~~
10 ~~reasonable degree of competition does not exist in the area~~
11 ~~with respect to the classification to which such rate is~~
12 ~~applicable.~~

13 ~~No rate shall be held inadequate unless it is~~
14 ~~unreasonably low for the insurance provided and continued~~
15 ~~use of it would endanger solvency of the company.~~

16 (2) Consideration shall be given, to the extent
17 applicable, to past and prospective loss experience within
18 and outside this State, to a reasonable margin for
19 underwriting profit and contingencies, to past and
20 prospective expenses both countrywide and those especially
21 applicable to this State, and to all other factors,
22 including judgment factors, deemed relevant within and
23 outside this State.

24 Consideration may also be given in the making and use
25 of rates to dividends, savings or unabsorbed premium
26 deposits allowed or returned by companies to their
27 policyholders, members or subscribers.

28 (3) The systems of expense provisions included in the
29 rates for use by any company or group of companies may
30 differ from those of other companies or groups of companies
31 to reflect the operating methods of any such company or
32 group with respect to any kind of insurance, or with
33 respect to any subdivision or combination thereof.

34 (4) Risks may be grouped by classifications for the

1 establishment of rates and minimum premiums.
2 Classification rates may be modified to produce rates for
3 individual risks in accordance with rating plans which
4 establish standards for measuring variations in hazards or
5 expense provisions, or both. Such standards may measure any
6 difference among risks that have a probable effect upon
7 losses or expenses. Such classifications or modifications
8 of classifications of risks may be established based upon
9 size, expense, management, individual experience, location
10 or dispersion of hazard, or any other reasonable
11 considerations and shall apply to all risks under the same
12 or substantially the same circumstances or conditions. The
13 rate for an established classification should be related
14 generally to the anticipated loss and expense factors of
15 the class.

16 (c) (1) Every company writing medical liability insurance
17 shall file with the Secretary of Financial and Professional
18 Regulation ~~Director of Insurance~~ the rates and rating schedules
19 it uses for medical liability insurance. A rate shall go into
20 effect upon filing, except as otherwise provided in this
21 Section.

22 (2) If (i) 1% of a company's insureds within a specialty or
23 25 of the company's insureds (whichever is greater) request a
24 public hearing, (ii) the Secretary at his or her discretion
25 decides to convene a public hearing, or (iii) the percentage
26 increase in a company's rate is greater than 6%, then the
27 Secretary shall convene a public hearing in accordance with
28 this paragraph (2). The Secretary shall notify the public of
29 any application by an insurer for a rate increase to which this
30 paragraph (2) applies. A public hearing under this paragraph
31 (2) must be concluded within 90 days after the request,
32 decision, or increase that gave rise to the hearing. The
33 Secretary may, by order, adjust a rate or take any other
34 appropriate action at the conclusion of the hearing.

1 (3) A rate ~~(1) This~~ filing shall occur upon a company's
2 commencement of medical liability insurance business in this
3 State at least annually and thereafter as often as the rates
4 are changed or amended.

5 (4) (2) For the purposes of this Section, any change in
6 premium to the company's insureds as a result of a change in
7 the company's base rates or a change in its increased limits
8 factors shall constitute a change in rates and shall require a
9 filing with the Secretary Director.

10 (5) (3) It shall be certified in such filing by an officer
11 of the company and a qualified actuary that the company's rates
12 are based on sound actuarial principles and are not
13 inconsistent with the company's experience. The Secretary may
14 request any additional statistical data and other pertinent
15 information necessary to determine the manner the company used
16 to set the filed rates and the reasonableness of those rates.
17 This data and information shall be made available, on a
18 company-by-company basis, to the general public.

19 (d) If after a public hearing the Secretary Director finds:

20 (1) that any rate, rating plan or rating system
21 violates the provisions of this Section applicable to it,
22 he shall ~~may~~ issue an order to the company which has been
23 the subject of the hearing specifying in what respects such
24 violation exists and, in that order, may adjust the rate
25 ~~stating when, within a reasonable period of time, the~~
26 ~~further use of such rate or rating system by such company~~
27 ~~in contracts of insurance made thereafter shall be~~
28 ~~prohibited;~~

29 (2) that the violation of any of the provisions of this
30 Section ~~applicable to it~~ by any company which has been the
31 subject of the hearing was wilful or that any company has
32 repeatedly violated any provision of this Section, he may
33 take either or both of the following actions:

34 (A) Suspend ~~suspend~~ or revoke, in whole or in part,

1 the certificate of authority of such company with
2 respect to the class of insurance which has been the
3 subject of the hearing.

4 (B) Impose a penalty of up to \$1,000 against the
5 company for each violation. Each day during which a
6 violation occurs constitutes a separate violation.

7 The burden is on the company to justify the rate or
8 proposed rate at the public hearing.

9 (e) Every company writing medical liability insurance in
10 this State shall offer to each of its medical liability
11 insureds the option to make premium payments in quarterly
12 installments as prescribed by and filed with the Secretary.
13 This offer shall be included in the initial offer or in the
14 first policy renewal occurring after the effective date of this
15 amendatory Act of the 94th General Assembly, but no earlier
16 than January 1, 2006.

17 (f) Every company writing medical liability insurance is
18 encouraged, but not required, to offer the opportunity for
19 participation in a plan offering deductibles to its medical
20 liability insureds. Any plan to offer deductibles shall be
21 filed with the Department.

22 (g) Every company writing medical liability insurance is
23 encouraged, but not required, to offer their medical liability
24 insureds a plan providing premium discounts for participation
25 in risk management activities. Any such plan shall be reported
26 to the Department.

27 (h) A company writing medical liability insurance in
28 Illinois must give 180 days' notice before the company
29 discontinues the writing of medical liability insurance in
30 Illinois.

31 (Source: P.A. 79-1434.)

32 (215 ILCS 5/155.18a new)

33 Sec. 155.18a. Professional Liability Insurance Resource

1 Center. The Secretary of Financial and Professional Regulation
2 shall establish a Professional Liability Insurance Resource
3 Center on the Department's Internet website containing the
4 name, telephone number, and base rates of each licensed company
5 providing medical liability insurance and the name, address,
6 and telephone number of each producer who sells medical
7 liability insurance and the name of each licensed company for
8 which the producer sells medical liability insurance. Each
9 company and producer shall submit the information to the
10 Department on or before September 30 of each year in order to
11 be listed on the website. Hyperlinks to company websites shall
12 be included, if available. The publication of the information
13 on the Department's website shall commence on January 1, 2006.
14 The Department shall update the information on the Professional
15 Liability Insurance Resource Center at least annually.

16 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

17 Sec. 155.19. All claims filed after December 31, 1976 with
18 any insurer and all suits filed after December 31, 1976 in any
19 court in this State, alleging liability on the part of any
20 physician, hospital or other health care provider for medically
21 related injuries, shall be reported to the Secretary of
22 Financial and Professional Regulation ~~Director of Insurance~~ in
23 such form and under such terms and conditions as may be
24 prescribed by the Secretary ~~Director~~. In addition, and
25 notwithstanding any other provision of law to the contrary, any
26 insurer, stop loss insurer, captive insurer, risk retention
27 group, county risk retention trust, religious or charitable
28 risk pooling trust, surplus line insurer, or other entity
29 authorized or permitted by law to provide medical liability
30 insurance in this State shall report to the Secretary, in such
31 form and under such terms and conditions as may be prescribed
32 by the Secretary, all claims filed after December 31, 2005 and
33 all suits filed after December 31, 2005 in any court in this

1 State alleging liability on the part of any physician,
2 hospital, or health care provider for medically-related
3 injuries. Each clerk of the circuit court shall provide to the
4 Secretary such information as the Secretary may deem necessary
5 to verify the accuracy and completeness of reports made to the
6 Secretary under this Section. The Secretary ~~Director~~ shall
7 maintain complete and accurate records of all ~~such~~ claims and
8 suits including their nature, amount, disposition (categorized
9 by verdict, settlement, dismissal, or otherwise and including
10 disposition of any post-trial motions and types of damages
11 awarded, if any, including but not limited to economic damages
12 and non-economic damages) and other information as he may deem
13 useful or desirable in observing and reporting on health care
14 provider liability trends in this State. Records received by
15 the Secretary under this Section shall be available to the
16 general public; however, the records made available to the
17 general public shall not include the names or addresses of the
18 parties to any claims or suits. The Secretary ~~Director~~ shall
19 release to appropriate disciplinary and licensing agencies any
20 such data or information which may assist such agencies in
21 improving the quality of health care or which may be useful to
22 such agencies for the purpose of professional discipline.

23 With due regard for appropriate maintenance of the
24 confidentiality thereof, the Secretary ~~Director~~ shall ~~may~~
25 release, on an annual basis, from time to time to the Governor,
26 the General Assembly and the general public statistical reports
27 based on such data and information.

28 If the Secretary finds that any entity required to report
29 information in its possession under this Section has violated
30 any provision of this Section by filing late, incomplete, or
31 inaccurate reports, the Secretary may fine the entity up to
32 \$1,000 for each offense. Each day during which a violation
33 occurs constitutes a separate offense.

34 The Secretary ~~Director~~ may promulgate such rules and

1 regulations as may be necessary to carry out the provisions of
2 this Section.

3 (Source: P.A. 79-1434.)

4 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

5 Sec. 1204. (A) The Secretary ~~Director~~ shall promulgate
6 rules and regulations which shall require each insurer licensed
7 to write property or casualty insurance in the State and each
8 syndicate doing business on the Illinois Insurance Exchange to
9 record and report its loss and expense experience and other
10 data as may be necessary to assess the relationship of
11 insurance premiums and related income as compared to insurance
12 costs and expenses. The Secretary ~~Director~~ may designate one or
13 more rate service organizations or advisory organizations to
14 gather and compile such experience and data. The Secretary
15 ~~Director~~ shall require each insurer licensed to write property
16 or casualty insurance in this State and each syndicate doing
17 business on the Illinois Insurance Exchange to submit a report,
18 on a form furnished by the Secretary ~~Director~~, showing its
19 direct writings in this State and companywide.

20 (B) Such report required by subsection (A) of this Section
21 may include, but not be limited to, the following specific
22 types of insurance written by such insurer:

23 (1) Political subdivision liability insurance reported
24 separately in the following categories:

25 (a) municipalities;

26 (b) school districts;

27 (c) other political subdivisions;

28 (2) Public official liability insurance;

29 (3) Dram shop liability insurance;

30 (4) Day care center liability insurance;

31 (5) Labor, fraternal or religious organizations
32 liability insurance;

33 (6) Errors and omissions liability insurance;

1 (7) Officers and directors liability insurance
2 reported separately as follows:

3 (a) non-profit entities;

4 (b) for-profit entities;

5 (8) Products liability insurance;

6 (9) Medical malpractice insurance;

7 (10) Attorney malpractice insurance;

8 (11) Architects and engineers malpractice insurance;

9 and

10 (12) Motor vehicle insurance reported separately for
11 commercial and private passenger vehicles as follows:

12 (a) motor vehicle physical damage insurance;

13 (b) motor vehicle liability insurance.

14 (C) Such report may include, but need not be limited to the
15 following data, both specific to this State and companywide, in
16 the aggregate or by type of insurance for the previous year on
17 a calendar year basis:

18 (1) Direct premiums written;

19 (2) Direct premiums earned;

20 (3) Number of policies;

21 (4) Net investment income, using appropriate estimates
22 where necessary;

23 (5) Losses paid;

24 (6) Losses incurred;

25 (7) Loss reserves:

26 (a) Losses unpaid on reported claims;

27 (b) Losses unpaid on incurred but not reported
28 claims;

29 (8) Number of claims:

30 (a) Paid claims;

31 (b) Arising claims;

32 (9) Loss adjustment expenses:

33 (a) Allocated loss adjustment expenses;

34 (b) Unallocated loss adjustment expenses;

1 (10) Net underwriting gain or loss;

2 (11) Net operation gain or loss, including net
3 investment income;

4 (12) Any other information requested by the Secretary
5 Director.

6 (C-5) Additional information required from medical
7 malpractice insurers.

8 (1) In addition to the other requirements of this
9 Section, the following information shall be included in the
10 report required by subsection (A) of this Section in such
11 form and under such terms and conditions as may be
12 prescribed by the Secretary:

13 (a) paid and incurred losses by county for each of
14 the past 10 policy years;

15 (b) earned exposures by ISO code, policy type, and
16 policy year by county for each of the past 10 years;
17 and

18 (c) the following actuarial information:

19 (i) Base class and territory equivalent
20 exposures by report year by relative accident
21 year.

22 (ii) Cumulative loss array by accident year by
23 calendar year of development. This array will show
24 frequency of claims in the following categories:
25 open, closed with indemnity (CWI), closed with
26 expense (CWE), and closed no pay (CNP); paid
27 severity in the following categories: indemnity
28 and allocated loss adjustment expenses (ALAE) on
29 closed claims; and indemnity and expense reserves
30 on pending claims.

31 (iii) Cumulative loss array by report year by
32 calendar year of development. This array will show
33 frequency of claims in the following categories:
34 open, closed with indemnity (CWI), closed with

1 expense (CWE), and closed no pay (CNP); paid
2 severity in the following categories: indemnity
3 and allocated loss adjustment expenses (ALAE) on
4 closed claims; and indemnity and expense reserves
5 on pending claims.

6 (iv) Maturity year and tail factors.

7 (v) Any expense, contingency ddr (death,
8 disability, and retirement), commission, tax,
9 and/or off-balance factors.

10 (2) The following information must also be annually
11 provided to the Department:

12 (a) copies of the company's reserve and surplus
13 studies; and

14 (b) consulting actuarial report and data
15 supporting the company's rate filing.

16 (3) All information collected by the Secretary under
17 paragraphs (1) and (2) shall be made available, on a
18 company-by-company basis, to the General Assembly and the
19 general public. This provision shall supersede any other
20 provision of State law that may otherwise protect such
21 information from public disclosure as confidential.

22 (D) In addition to the information which may be requested
23 under subsection (C), the Secretary ~~Director~~ may also request
24 on a companywide, aggregate basis, Federal Income Tax
25 recoverable, net realized capital gain or loss, net unrealized
26 capital gain or loss, and all other expenses not requested in
27 subsection (C) above.

28 (E) Violations - Suspensions - Revocations.

29 (1) Any company or person subject to this Article, who
30 willfully or repeatedly fails to observe or who otherwise
31 violates any of the provisions of this Article or any rule
32 or regulation promulgated by the Secretary ~~Director~~ under
33 authority of this Article or any final order of the
34 Secretary ~~Director~~ entered under the authority of this

1 Article shall by civil penalty forfeit to the State of
2 Illinois a sum not to exceed \$2,000. Each day during which
3 a violation occurs constitutes a separate offense.

4 (2) No forfeiture liability under paragraph (1) of this
5 subsection may attach unless a written notice of apparent
6 liability has been issued by the Secretary ~~Director~~ and
7 received by the respondent, or the Secretary ~~Director~~ sends
8 written notice of apparent liability by registered or
9 certified mail, return receipt requested, to the last known
10 address of the respondent. Any respondent so notified must
11 be granted an opportunity to request a hearing within 10
12 days from receipt of notice, or to show in writing, why he
13 should not be held liable. A notice issued under this
14 Section must set forth the date, facts and nature of the
15 act or omission with which the respondent is charged and
16 must specifically identify the particular provision of
17 this Article, rule, regulation or order of which a
18 violation is charged.

19 (3) No forfeiture liability under paragraph (1) of this
20 subsection may attach for any violation occurring more than
21 2 years prior to the date of issuance of the notice of
22 apparent liability and in no event may the total civil
23 penalty forfeiture imposed for the acts or omissions set
24 forth in any one notice of apparent liability exceed
25 \$100,000.

26 (4) All administrative hearings conducted pursuant to
27 this Article are subject to 50 Ill. Adm. Code 2402 and all
28 administrative hearings are subject to the Administrative
29 Review Law.

30 (5) The civil penalty forfeitures provided for in this
31 Section are payable to the General Revenue Fund of the
32 State of Illinois, and may be recovered in a civil suit in
33 the name of the State of Illinois brought in the Circuit
34 Court in Sangamon County or in the Circuit Court of the

1 county where the respondent is domiciled or has its
2 principal operating office.

3 (6) In any case where the Secretary ~~Director~~ issues a
4 notice of apparent liability looking toward the imposition
5 of a civil penalty forfeiture under this Section that fact
6 may not be used in any other proceeding before the
7 Secretary ~~Director~~ to the prejudice of the respondent to
8 whom the notice was issued, unless (a) the civil penalty
9 forfeiture has been paid, or (b) a court has ordered
10 payment of the civil penalty forfeiture and that order has
11 become final.

12 (7) When any person or company has a license or
13 certificate of authority under this Code and knowingly
14 fails or refuses to comply with a lawful order of the
15 Secretary ~~Director~~ requiring compliance with this Article,
16 entered after notice and hearing, within the period of time
17 specified in the order, the Secretary ~~Director~~ may, in
18 addition to any other penalty or authority provided, revoke
19 or refuse to renew the license or certificate of authority
20 of such person or company, or may suspend the license or
21 certificate of authority of such person or company until
22 compliance with such order has been obtained.

23 (8) When any person or company has a license or
24 certificate of authority under this Code and knowingly
25 fails or refuses to comply with any provisions of this
26 Article, the Secretary ~~Director~~ may, after notice and
27 hearing, in addition to any other penalty provided, revoke
28 or refuse to renew the license or certificate of authority
29 of such person or company, or may suspend the license or
30 certificate of authority of such person or company, until
31 compliance with such provision of this Article has been
32 obtained.

33 (9) No suspension or revocation under this Section may
34 become effective until 5 days from the date that the notice

1 of suspension or revocation has been personally delivered
2 or delivered by registered or certified mail to the company
3 or person. A suspension or revocation under this Section is
4 stayed upon the filing, by the company or person, of a
5 petition for judicial review under the Administrative
6 Review Law.

7 (Source: P.A. 93-32, eff. 7-1-03.)

8 Section 315. The Medical Practice Act of 1987 is amended by
9 changing Sections 7, 22, 23, 24, and 36 and adding Section 24.1
10 as follows:

11 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

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

13 Sec. 7. Medical Disciplinary Board.

14 (A) There is hereby created the Illinois State Medical
15 Disciplinary Board (hereinafter referred to as the
16 "Disciplinary Board"). The Disciplinary Board shall consist of
17 11 ~~9~~ members, to be appointed by the Governor by and with the
18 advice and consent of the Senate. All members shall be
19 residents of the State, not more than 6 ~~5~~ of whom shall be
20 members of the same political party. All members shall be
21 voting members. Five members shall be physicians licensed to
22 practice medicine in all of its branches in Illinois possessing
23 the degree of doctor of medicine, and it shall be the goal that
24 at least one of the members practice in the field of
25 neurosurgery, one of the members practice in the field of
26 obstetrics and gynecology, and one of the members practice in
27 the field of cardiology. One member shall be a physician
28 licensed to practice in Illinois possessing the degree of
29 doctor of osteopathy or osteopathic medicine. One member shall
30 be a physician licensed to practice in Illinois and possessing
31 the degree of doctor of chiropractic. Four members ~~Two~~ shall be
32 members of the public, who shall not be engaged in any way,

1 directly or indirectly, as providers of health care. ~~The 2~~
2 ~~public members shall act as voting members. One member shall be~~
3 ~~a physician licensed to practice in Illinois possessing the~~
4 ~~degree of doctor of osteopathy or osteopathic medicine. One~~
5 ~~member shall be a physician licensed to practice in Illinois~~
6 ~~and possessing the degree of doctor of chiropractic.~~

7 (B) Members of the Disciplinary Board shall be appointed
8 for terms of 4 years. Upon the expiration of the term of any
9 member, their successor shall be appointed for a term of 4
10 years by the Governor by and with the advice and consent of the
11 Senate. The Governor shall fill any vacancy for the remainder
12 of the unexpired term by and with the advice and consent of the
13 Senate. Upon recommendation of the Board, any member of the
14 Disciplinary Board may be removed by the Governor for
15 misfeasance, malfeasance, or wilful neglect of duty, after
16 notice, and a public hearing, unless such notice and hearing
17 shall be expressly waived in writing. Each member shall serve
18 on the Disciplinary Board until their successor is appointed
19 and qualified. No member of the Disciplinary Board shall serve
20 more than 2 consecutive 4 year terms.

21 In making appointments the Governor shall attempt to insure
22 that the various social and geographic regions of the State of
23 Illinois are properly represented.

24 In making the designation of persons to act for the several
25 professions represented on the Disciplinary Board, the
26 Governor shall give due consideration to recommendations by
27 members of the respective professions and by organizations
28 therein.

29 (C) The Disciplinary Board shall annually elect one of its
30 voting members as chairperson and one as vice chairperson. No
31 officer shall be elected more than twice in succession to the
32 same office. Each officer shall serve until their successor has
33 been elected and qualified.

34 (D) (Blank).

1 (E) Six ~~Four~~ voting members of the Disciplinary Board, at
2 least 4 of whom are physicians, shall constitute a quorum. A
3 vacancy in the membership of the Disciplinary Board shall not
4 impair the right of a quorum to exercise all the rights and
5 perform all the duties of the Disciplinary Board. Any action
6 taken by the Disciplinary Board under this Act may be
7 authorized by resolution at any regular or special meeting and
8 each such resolution shall take effect immediately. The
9 Disciplinary Board shall meet at least quarterly. The
10 Disciplinary Board is empowered to adopt all rules and
11 regulations necessary and incident to the powers granted to it
12 under this Act.

13 (F) Each member, and member-officer, of the Disciplinary
14 Board shall receive a per diem stipend as the Secretary
15 ~~Director~~ of the Department, hereinafter referred to as the
16 Secretary Director, shall determine. The Secretary Director
17 shall also determine the per diem stipend that each ex-officio
18 member shall receive. Each member shall be paid their necessary
19 expenses while engaged in the performance of their duties.

20 (G) The Secretary Director shall select a Chief Medical
21 Coordinator and not less than 2 ~~a~~ Deputy Medical Coordinators
22 ~~Coordinator~~ who shall not be members of the Disciplinary Board.
23 Each medical coordinator shall be a physician licensed to
24 practice medicine in all of its branches, and the Secretary
25 ~~Director~~ shall set their rates of compensation. The Secretary
26 ~~Director~~ shall assign at least one medical coordinator to a
27 region composed of Cook County and such other counties as the
28 Secretary Director may deem appropriate, and such medical
29 coordinator or coordinators shall locate their office in
30 Chicago. The Secretary Director shall assign at least one ~~the~~
31 ~~remaining~~ medical coordinator to a region composed of the
32 balance of counties in the State, and such medical coordinator
33 or coordinators shall locate their office in Springfield. Each
34 medical coordinator shall be the chief enforcement officer of

1 this Act in his or her ~~their~~ assigned region and shall serve at
2 the will of the Disciplinary Board.

3 The Secretary ~~Director~~ shall employ, in conformity with the
4 Personnel Code, not less than one full time investigator for
5 every 2,500 ~~5000~~ physicians licensed in the State. Each
6 investigator shall be a college graduate with at least 2 years'
7 investigative experience or one year advanced medical
8 education. Upon the written request of the Disciplinary Board,
9 the Secretary ~~Director~~ shall employ, in conformity with the
10 Personnel Code, such other professional, technical,
11 investigative, and clerical help, either on a full or part-time
12 basis as the Disciplinary Board deems necessary for the proper
13 performance of its duties.

14 (H) Upon the specific request of the Disciplinary Board,
15 signed by either the chairman, vice chairman, or a medical
16 coordinator of the Disciplinary Board, the Department of Human
17 Services or the Department of State Police shall make available
18 any and all information that they have in their possession
19 regarding a particular case then under investigation by the
20 Disciplinary Board.

21 (I) Members of the Disciplinary Board shall be immune from
22 suit in any action based upon any disciplinary proceedings or
23 other acts performed in good faith as members of the
24 Disciplinary Board.

25 (J) The Disciplinary Board may compile and establish a
26 statewide roster of physicians and other medical
27 professionals, including the several medical specialties, of
28 such physicians and medical professionals, who have agreed to
29 serve from time to time as advisors to the medical
30 coordinators. Such advisors shall assist the medical
31 coordinators or the Disciplinary Board in their investigations
32 and participation in complaints against physicians. Such
33 advisors shall serve under contract and shall be reimbursed at
34 a reasonable rate for the services provided, plus reasonable

1 expenses incurred. While serving in this capacity, the advisor,
2 for any act undertaken in good faith and in the conduct of
3 their duties under this Section, shall be immune from civil
4 suit.

5 (Source: P.A. 93-138, eff. 7-10-03.)

6 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

8 Sec. 22. Disciplinary action.

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

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

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

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

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

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

32 (e) ambulatory surgical treatment centers,
33 hospitalization or care facilities maintained by any

1 university or college established under the laws of
2 this State and supported principally by public funds
3 raised by taxation.

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

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

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

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

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

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

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

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

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

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

34 (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 Secretary ~~Director~~, after consideration of the
11 recommendation of 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

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

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

19 (16) Abandonment of a patient.

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

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

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

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

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

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

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

33 (27) Mental illness or disability which results in the
34 inability to practice under this Act with reasonable

1 judgment, skill or safety.

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

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

8 (30) Wilfully or negligently violating the
9 confidentiality between physician and patient except as
10 required by law.

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

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

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

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

30 (35) Failure to report to the Department surrender of a
31 license or authorization to practice as a medical doctor, a
32 doctor of osteopathy, a doctor of osteopathic medicine, or
33 doctor of chiropractic in another state or jurisdiction, or
34 surrender of membership on any medical staff or in any

1 medical or professional association or society, while
2 under disciplinary investigation by any of those
3 authorities or bodies, for acts or conduct similar to acts
4 or conduct which would constitute grounds for action as
5 defined in this Section.

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

11 (37) Failure to transfer copies of medical records as
12 required by law.

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

18 (39) Violating the Health Care Worker Self-Referral
19 Act.

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

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

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

28 (43) Repeated failure to adequately collaborate with
29 or provide medical direction to a licensed advanced
30 practice nurse.

31 Except for actions involving the ground numbered (26), all
32 ~~All~~ proceedings to suspend, revoke, place on probationary
33 status, or take any other disciplinary action as the Department
34 may deem proper, with regard to a license on any of the

1 foregoing grounds, must be commenced within 5 ~~3~~ years next
2 after receipt by the Department of a complaint alleging the
3 commission of or notice of the conviction order for any of the
4 acts described herein. Except for the grounds numbered (8),
5 (9), (26), and (29), no action shall be commenced more than 10
6 ~~5~~ years after the date of the incident or act alleged to have
7 violated this Section. For actions involving the ground
8 numbered (26), a pattern of practice or other behavior includes
9 all incidents alleged to be part of the pattern of practice or
10 other behavior that occurred or a report pursuant to Section 23
11 of this Act received within the 10-year period preceding the
12 filing of the complaint. In the event of the settlement of any
13 claim or cause of action in favor of the claimant or the
14 reduction to final judgment of any civil action in favor of the
15 plaintiff, such claim, cause of action or civil action being
16 grounded on the allegation that a person licensed under this
17 Act was negligent in providing care, the Department shall have
18 an additional period of 2 years ~~one year~~ from the date of
19 notification to the Department under Section 23 of this Act of
20 such settlement or final judgment in which to investigate and
21 commence formal disciplinary proceedings under Section 36 of
22 this Act, except as otherwise provided by law. The time during
23 which the holder of the license was outside the State of
24 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 upon
32 a finding by the Medical Disciplinary Board that they have been
33 determined to be recovered from mental illness by the court and
34 upon the Disciplinary Board's recommendation that they be

1 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 a
4 return, or to pay the tax, penalty or interest shown in a filed
5 return, or to pay any final assessment of tax, penalty or
6 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 by
9 the Illinois Department of Revenue.

10 The Department, upon the recommendation of the
11 Disciplinary Board, shall adopt rules which set forth standards
12 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 commission
19 of any act, including, but not limited to, commission of an
20 act of sexual misconduct related to the licensee's
21 practice; and

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

24 However, no such rule shall be admissible into evidence in
25 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 Board,
28 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 examining
33 physician or physicians shall be those specifically designated
34 by the Disciplinary Board. The Medical Disciplinary Board or

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

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

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

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

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

30 (C) The Medical Disciplinary Board shall recommend to the
31 Department civil penalties and any other appropriate
32 discipline in disciplinary cases when the Board finds that a
33 physician willfully performed an abortion with actual
34 knowledge that the person upon whom the abortion has been

1 performed is a minor or an incompetent person without notice as
2 required under the Parental Notice of Abortion Act of 1995.
3 Upon the Board's recommendation, the Department shall impose,
4 for the first violation, a civil penalty of \$1,000 and for a
5 second or subsequent violation, a civil penalty of \$5,000.

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

8 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

10 Sec. 23. Reports relating to professional conduct and
11 capacity.

12 (A) Entities required to report.

13 (1) Health care institutions. The chief administrator
14 or executive officer of any health care institution
15 licensed by the Illinois Department of Public Health shall
16 report to the Disciplinary Board when any person's clinical
17 privileges are terminated or are restricted based on a
18 final determination, in accordance with that institution's
19 by-laws or rules and regulations, that a person has either
20 committed an act or acts which may directly threaten
21 patient care, and not of an administrative nature, or that
22 a person may be mentally or physically disabled in such a
23 manner as to endanger patients under that person's care.
24 Such officer also shall report if a person accepts
25 voluntary termination or restriction of clinical
26 privileges in lieu of formal action based upon conduct
27 related directly to patient care and not of an
28 administrative nature, or in lieu of formal action seeking
29 to determine whether a person may be mentally or physically
30 disabled in such a manner as to endanger patients under
31 that person's care. The Medical Disciplinary Board shall,
32 by rule, provide for the reporting to it of all instances
33 in which a person, licensed under this Act, who is impaired

1 by reason of age, drug or alcohol abuse or physical or
2 mental impairment, is under supervision and, where
3 appropriate, is in a program of rehabilitation. Such
4 reports shall be strictly confidential and may be reviewed
5 and considered only by the members of the Disciplinary
6 Board, or by authorized staff as provided by rules of the
7 Disciplinary Board. Provisions shall be made for the
8 periodic report of the status of any such person not less
9 than twice annually in order that the Disciplinary Board
10 shall have current information upon which to determine the
11 status of any such person. Such initial and periodic
12 reports of impaired physicians shall not be considered
13 records within the meaning of The State Records Act and
14 shall be disposed of, following a determination by the
15 Disciplinary Board that such reports are no longer
16 required, in a manner and at such time as the Disciplinary
17 Board shall determine by rule. The filing of such reports
18 shall be construed as the filing of a report for purposes
19 of subsection (C) of this Section.

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

29 (3) Professional liability insurers. Every insurance
30 company which offers policies of professional liability
31 insurance to persons licensed under this Act, or any other
32 entity which seeks to indemnify the professional liability
33 of a person licensed under this Act, shall report to the
34 Disciplinary Board the settlement of any claim or cause of

1 action, or final judgment rendered in any cause of action,
2 which alleged negligence in the furnishing of medical care
3 by such licensed person when such settlement or final
4 judgment is in favor of the plaintiff.

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

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

26 (B) Mandatory reporting. All reports required by items
27 (34), (35), and (36) of subsection (A) of Section 22 and by
28 Section 23 shall be submitted to the Disciplinary Board in a
29 timely fashion. The reports shall be filed in writing within 60
30 days after a determination that a report is required under this
31 Act. All reports shall contain the following information:

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

34 (2) The name, address and telephone number of the

1 person who is the subject of the report.

2 (3) The name and date of birth ~~or other means of~~
3 ~~identification~~ of any patient or patients whose treatment
4 is a subject of the report, if available, or other means of
5 identification if such information is not available,
6 identification of the hospital or other healthcare
7 facility where the care at issue in the report was
8 rendered, provided, however, no medical records may be
9 revealed ~~without the written consent of the patient or~~
10 ~~patients.~~

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

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

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

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

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

1 Nothing contained in this Section shall act to in any way,
2 waive or modify the confidentiality of medical reports and
3 committee reports to the extent provided by law. Any
4 information reported or disclosed shall be kept for the
5 confidential use of the Disciplinary Board, the Medical
6 Coordinators, the Disciplinary Board's attorneys, the medical
7 investigative staff, and authorized clerical staff, as
8 provided in this Act, and shall be afforded the same status as
9 is provided information concerning medical studies in Part 21
10 of Article VIII of the Code of Civil Procedure, except that the
11 Department may disclose information and documents to a federal,
12 State, or local law enforcement agency pursuant to a subpoena
13 in an ongoing criminal investigation. Furthermore, information
14 and documents disclosed to a federal, State, or local law
15 enforcement agency may be used by that agency only for the
16 investigation and prosecution of a criminal offense.

17 (C) Immunity from prosecution. Any individual or
18 organization acting in good faith, and not in a wilful and
19 wanton manner, in complying with this Act by providing any
20 report or other information to the Disciplinary Board or a peer
21 review committee, or assisting in the investigation or
22 preparation of such information, or by voluntarily reporting to
23 the Disciplinary Board or a peer review committee information
24 regarding alleged errors or negligence by a person licensed
25 under this Act, or by participating in proceedings of the
26 Disciplinary Board or a peer review committee, or by serving as
27 a member of the Disciplinary Board or a peer review committee,
28 shall not, as a result of such actions, be subject to criminal
29 prosecution or civil damages.

30 (D) Indemnification. Members of the Disciplinary Board,
31 the Medical Coordinators, the Disciplinary Board's attorneys,
32 the medical investigative staff, physicians retained under
33 contract to assist and advise the medical coordinators in the
34 investigation, and authorized clerical staff shall be

1 indemnified by the State for any actions occurring within the
2 scope of services on the Disciplinary Board, done in good faith
3 and not wilful and wanton in nature. The Attorney General shall
4 defend all such actions unless he or she determines either that
5 there would be a conflict of interest in such representation or
6 that the actions complained of were not in good faith or were
7 wilful and wanton.

8 Should the Attorney General decline representation, the
9 member shall have the right to employ counsel of his or her
10 choice, whose fees shall be provided by the State, after
11 approval by the Attorney General, unless there is a
12 determination by a court that the member's actions were not in
13 good faith or were wilful and wanton.

14 The member must notify the Attorney General within 7 days
15 of receipt of notice of the initiation of any action involving
16 services of the Disciplinary Board. Failure to so notify the
17 Attorney General shall constitute an absolute waiver of the
18 right to a defense and indemnification.

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

22 (E) Deliberations of Disciplinary Board. Upon the receipt
23 of any report called for by this Act, other than those reports
24 of impaired persons licensed under this Act required pursuant
25 to the rules of the Disciplinary Board, the Disciplinary Board
26 shall notify in writing, by certified mail, the person who is
27 the subject of the report. Such notification shall be made
28 within 30 days of receipt by the Disciplinary Board of the
29 report.

30 The notification shall include a written notice setting
31 forth the person's right to examine the report. Included in
32 such notification shall be the address at which the file is
33 maintained, the name of the custodian of the reports, and the
34 telephone number at which the custodian may be reached. The

1 person who is the subject of the report shall submit a written
2 statement responding, clarifying, adding to, or proposing the
3 amending of the report previously filed. The person who is the
4 subject of the report shall also submit with the written
5 statement any medical records related to the report. The
6 statement and accompanying medical records shall become a
7 permanent part of the file and must be received by the
8 Disciplinary Board no more than 30 ~~60~~ days after the date on
9 which the person was notified by the Disciplinary Board of the
10 existence of the original report.

11 The Disciplinary Board shall review all reports received by
12 it, together with any supporting information and responding
13 statements submitted by persons who are the subject of reports.
14 The review by the Disciplinary Board shall be in a timely
15 manner but in no event, shall the Disciplinary Board's initial
16 review of the material contained in each disciplinary file be
17 less than 61 days nor more than 180 days after the receipt of
18 the initial report by the Disciplinary Board.

19 When the Disciplinary Board makes its initial review of the
20 materials contained within its disciplinary files, the
21 Disciplinary Board shall, in writing, make a determination as
22 to whether there are sufficient facts to warrant further
23 investigation or action. Failure to make such determination
24 within the time provided shall be deemed to be a determination
25 that there are not sufficient facts to warrant further
26 investigation or action.

27 Should the Disciplinary Board find that there are not
28 sufficient facts to warrant further investigation, or action,
29 the report shall be accepted for filing and the matter shall be
30 deemed closed and so reported to the Secretary ~~Director~~. The
31 Secretary ~~Director~~ shall then have 30 days to accept the
32 Medical Disciplinary Board's decision or request further
33 investigation. The Secretary ~~Director~~ shall inform the Board in
34 writing of the decision to request further investigation,

1 including the specific reasons for the decision. The individual
2 or entity filing the original report or complaint and the
3 person who is the subject of the report or complaint shall be
4 notified in writing by the Secretary ~~Director~~ of any final
5 action on their report or complaint.

6 (F) Summary reports. The Disciplinary Board shall prepare,
7 on a timely basis, but in no event less than one every other
8 month, a summary report of final actions taken upon
9 disciplinary files maintained by the Disciplinary Board. The
10 summary reports shall be sent by the Disciplinary Board to
11 every health care facility licensed by the Illinois Department
12 of Public Health, every professional association and society of
13 persons licensed under this Act functioning on a statewide
14 basis in this State, the American Medical Association, the
15 American Osteopathic Association, the American Chiropractic
16 Association, all insurers providing professional liability
17 insurance to persons licensed under this Act in the State of
18 Illinois, the Federation of State Medical Licensing Boards, and
19 the Illinois Pharmacists Association.

20 (G) Any violation of this Section shall be a Class A
21 misdemeanor.

22 (H) If any such person violates the provisions of this
23 Section an action may be brought in the name of the People of
24 the State of Illinois, through the Attorney General of the
25 State of Illinois, for an order enjoining such violation or for
26 an order enforcing compliance with this Section. Upon filing of
27 a verified petition in such court, the court may issue a
28 temporary restraining order without notice or bond and may
29 preliminarily or permanently enjoin such violation, and if it
30 is established that such person has violated or is violating
31 the injunction, the court may punish the offender for contempt
32 of court. Proceedings under this paragraph shall be in addition
33 to, and not in lieu of, all other remedies and penalties
34 provided for by this Section.

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

3 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

5 Sec. 24. Report of violations; medical associations. Any
6 physician licensed under this Act, the Illinois State Medical
7 Society, the Illinois Association of Osteopathic Physicians
8 and Surgeons, the Illinois Chiropractic Society, the Illinois
9 Prairie State Chiropractic Association, or any component
10 societies of any of these 4 groups, and any other person, may
11 report to the Disciplinary Board any information the physician,
12 association, society, or person may have that appears to show
13 that a physician is or may be in violation of any of the
14 provisions of Section 22 of this Act.

15 The Department may enter into agreements with the Illinois
16 State Medical Society, the Illinois Association of Osteopathic
17 Physicians and Surgeons, the Illinois Prairie State
18 Chiropractic Association, or the Illinois Chiropractic Society
19 to allow these organizations to assist the Disciplinary Board
20 in the review of alleged violations of this Act. Subject to the
21 approval of the Department, any organization party to such an
22 agreement may subcontract with other individuals or
23 organizations to assist in review.

24 Any physician, association, society, or person
25 participating in good faith in the making of a report, under
26 this Act or participating in or assisting with an investigation
27 or review under this Act ~~Section~~ shall have immunity from any
28 civil, criminal, or other liability that might result by reason
29 of those actions.

30 The medical information in the custody of an entity under
31 contract with the Department participating in an investigation
32 or review shall be privileged and confidential to the same
33 extent as are information and reports under the provisions of

1 Part 21 of Article VIII of the Code of Civil Procedure.

2 Upon request by the Department after a mandatory report has
3 been filed with the Department, an attorney for any party
4 seeking to recover damages for injuries or death by reason of
5 medical, hospital, or other healing art malpractice shall
6 provide patient records related to the physician involved in
7 the disciplinary proceeding to the Department within 30 days of
8 the Department's request for use by the Department in any
9 disciplinary matter under this Act. An attorney who provides
10 patient records to the Department in accordance with this
11 requirement shall not be deemed to have violated any
12 attorney-client privilege. Notwithstanding any other provision
13 of law, consent by a patient shall not be required for the
14 provision of patient records in accordance with this
15 requirement.

16 For the purpose of any civil or criminal proceedings, the
17 good faith of any physician, association, society or person
18 shall be presumed. The Disciplinary Board may request the
19 Illinois State Medical Society, the Illinois Association of
20 Osteopathic Physicians and Surgeons, the Illinois Prairie
21 State Chiropractic Association, or the Illinois Chiropractic
22 Society to assist the Disciplinary Board in preparing for or
23 conducting any medical competency examination as the Board may
24 deem appropriate.

25 (Source: P.A. 88-324.)

26 (225 ILCS 60/24.1 new)

27 Sec. 24.1. Physician profile.

28 (a) This Section may be cited as the Patients' Right to
29 Know Law.

30 (b) The Department shall make available to the public a
31 profile of each physician. The Department shall make this
32 information available through an Internet web site and, if
33 requested, in writing. The physician profile shall contain the

1 following information:

2 (1) the full name of the physician;

3 (2) a description of any criminal convictions for
4 felonies and Class A misdemeanors, as determined by the
5 Department, within the most recent 5 years. For the
6 purposes of this Section, a person shall be deemed to be
7 convicted of a crime if he or she pleaded guilty or if he
8 was found or adjudged guilty by a court of competent
9 jurisdiction;

10 (3) a description of any final Department disciplinary
11 actions within the most recent 5 years;

12 (4) a description of any final disciplinary actions by
13 licensing boards in other states within the most recent 5
14 years;

15 (5) a description of revocation or involuntary
16 restriction of hospital privileges for reasons related to
17 competence or character that have been taken by the
18 hospital's governing body or any other official of the
19 hospital after procedural due process has been afforded, or
20 the resignation from or nonrenewal of medical staff
21 membership or the restriction of privileges at a hospital
22 taken in lieu of or in settlement of a pending disciplinary
23 case related to competence or character in that hospital.
24 Only cases which have occurred within the most recent 5
25 years shall be disclosed by the Department to the public;

26 (6) all medical malpractice court judgments and all
27 medical malpractice arbitration awards in which a payment
28 was awarded to a complaining party during the most recent 5
29 years and all settlements of medical malpractice claims in
30 which a payment was made to a complaining party within the
31 most recent 5 years. A medical malpractice judgment or
32 award that has been appealed shall be identified
33 prominently as "Under Appeal" on the profile within 20 days
34 of formal written notice to the Department. Information

1 concerning all settlements shall be accompanied by the
2 following statement: "Settlement of a claim may occur for a
3 variety of reasons which do not necessarily reflect
4 negatively on the professional competence or conduct of the
5 physician. A payment in settlement of a medical malpractice
6 action or claim should not be construed as creating a
7 presumption that medical malpractice has occurred."
8 Nothing in this subdivision (6) shall be construed to limit
9 or prevent the Disciplinary Board from providing further
10 explanatory information regarding the significance of
11 categories in which settlements are reported. Pending
12 malpractice claims shall not be disclosed by the Department
13 to the public. Nothing in this subdivision (6) shall be
14 construed to prevent the Disciplinary Board from
15 investigating and the Department from disciplining a
16 physician on the basis of medical malpractice claims that
17 are pending;

18 (7) names of medical schools attended, dates of
19 attendance, and date of graduation;

20 (8) graduate medical education;

21 (9) specialty board certification. The toll-free
22 number of the American Board of Medical Specialties shall
23 be included to verify current board certification status;

24 (10) number of years in practice and locations;

25 (11) names of the hospitals where the physician has
26 privileges;

27 (12) appointments to medical school faculties and
28 indication as to whether a physician has a responsibility
29 for graduate medical education within the most recent 5
30 years;

31 (13) information regarding publications in
32 peer-reviewed medical literature within the most recent 5
33 years;

34 (14) information regarding professional or community

1 service activities and awards;

2 (15) the location of the physician's primary practice
3 setting;

4 (16) identification of any translating services that
5 may be available at the physician's primary practice
6 location;

7 (17) an indication of whether the physician
8 participates in the Medicaid program.

9 (c) The Disciplinary Board shall provide individual
10 physicians with a copy of their profiles prior to release to
11 the public. A physician shall be provided 60 days to correct
12 factual inaccuracies that appear in such profile.

13 (d) A physician may elect to have his or her profile omit
14 certain information provided pursuant to subdivisions (12)
15 through (14) of subsection (b) concerning academic
16 appointments and teaching responsibilities, publication in
17 peer-reviewed journals and professional and community service
18 awards. In collecting information for such profiles and in
19 disseminating the same, the Disciplinary Board shall inform
20 physicians that they may choose not to provide such information
21 required pursuant to subdivisions (12) through (14) of
22 subsection (b).

23 (e) The Department shall promulgate such rules as it deems
24 necessary to accomplish the requirements of this Section.

25 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

27 Sec. 36. Upon the motion of either the Department or the
28 Disciplinary Board or upon the verified complaint in writing of
29 any person setting forth facts which, if proven, would
30 constitute grounds for suspension or revocation under Section
31 22 of this Act, the Department shall investigate the actions of
32 any person, so accused, who holds or represents that they hold
33 a license. Such person is hereinafter called the accused.

1 The Department shall, before suspending, revoking, placing
2 on probationary status, or taking any other disciplinary action
3 as the Department may deem proper with regard to any license at
4 least 30 days prior to the date set for the hearing, notify the
5 accused in writing of any charges made and the time and place
6 for a hearing of the charges before the Disciplinary Board,
7 direct them to file their written answer thereto to the
8 Disciplinary Board under oath within 20 days after the service
9 on them of such notice and inform them that if they fail to
10 file such answer default will be taken against them and their
11 license may be suspended, revoked, placed on probationary
12 status, or have other disciplinary action, including limiting
13 the scope, nature or extent of their practice, as the
14 Department may deem proper taken with regard thereto.

15 Where a physician has been found, upon complaint and
16 investigation of the Department, and after hearing, to have
17 performed an abortion procedure in a wilful and wanton manner
18 upon a woman who was not pregnant at the time such abortion
19 procedure was performed, the Department shall automatically
20 revoke the license of such physician to practice medicine in
21 Illinois.

22 Such written notice and any notice in such proceedings
23 thereafter may be served by delivery of the same, personally,
24 to the accused person, or by mailing the same by registered or
25 certified mail to the address last theretofore specified by the
26 accused in their last notification to the Department.

27 All information gathered by the Department during its
28 investigation including information subpoenaed under Section
29 23 or 38 of this Act and the investigative file shall be kept
30 for the confidential use of the Secretary ~~Director~~,
31 Disciplinary Board, the Medical Coordinators, persons employed
32 by contract to advise the Medical Coordinator or the
33 Department, the Disciplinary Board's attorneys, the medical
34 investigative staff, and authorized clerical staff, as

1 provided in this Act and shall be afforded the same status as
2 is provided information concerning medical studies in Part 21
3 of Article VIII of the Code of Civil Procedure, except that the
4 Department may disclose information and documents to a federal,
5 State, or local law enforcement agency pursuant to a subpoena
6 in an ongoing criminal investigation. Furthermore, information
7 and documents disclosed to a federal, State, or local law
8 enforcement agency may be used by that agency only for the
9 investigation and prosecution of a criminal offense.

10 (Source: P.A. 90-699, eff. 1-1-99.)

11 Section 320. The Clerks of Courts Act is amended by adding
12 Section 27.10 as follows:

13 (705 ILCS 105/27.10 new)

14 Sec. 27.10. Secretary of Financial and Professional
15 Regulation. Each clerk of the circuit court shall provide to
16 the Secretary of Financial and Professional Regulation such
17 information as the Secretary of Financial and Professional
18 Regulation requests under Section 155.19 of the Illinois
19 Insurance Code.

20 Section 330. The Code of Civil Procedure is amended by
21 reenacting and changing Sections 2-622 and 8-2501, by changing
22 Section 8-1901, and by adding Sections 2-1704.5 and 2-1706.5 as
23 follows:

24 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

25 (Text of Section WITHOUT the changes made by P.A. 89-7,
26 which has been held unconstitutional)

27 Sec. 2-622. Healing art malpractice.

28 (a) In any action, whether in tort, contract or otherwise,
29 in which the plaintiff seeks damages for injuries or death by
30 reason of medical, hospital, or other healing art malpractice,

1 the plaintiff's attorney or the plaintiff, if the plaintiff is
2 proceeding pro se, shall file an affidavit, attached to the
3 original and all copies of the complaint, declaring one of the
4 following:

5 1. That the affiant has consulted and reviewed the
6 facts of the case with a health professional who the
7 affiant reasonably believes: (i) is knowledgeable in the
8 relevant issues involved in the particular action; (ii)
9 practices or has practiced within the last 5 ~~6~~ years or
10 teaches or has taught within the last 5 ~~6~~ years in the same
11 area of health care or medicine that is at issue in the
12 particular action; and (iii) meets the expert witness
13 standards set forth in paragraphs (a) through (d) of
14 Section 8-2501; is qualified by experience or demonstrated
15 ~~competence in the subject of the case;~~ that the reviewing
16 health professional has determined in a written report,
17 after a review of the medical record and other relevant
18 material involved in the particular action that there is a
19 reasonable and meritorious cause for the filing of such
20 action; and that the affiant has concluded on the basis of
21 the reviewing health professional's review and
22 consultation that there is a reasonable and meritorious
23 cause for filing of such action. A single written report
24 must be filed to cover each defendant in the action. As to
25 defendants who are individuals, the ~~If the affidavit is~~
26 ~~filed as to a defendant who is a physician licensed to~~
27 ~~treat human ailments without the use of drugs or medicines~~
28 ~~and without operative surgery, a dentist, a podiatrist, a~~
29 ~~psychologist, or a naprapath,~~ The written report must be
30 from a health professional licensed in the same profession,
31 with the same class of license, as the defendant. For
32 written reports ~~affidavits~~ filed as to all other
33 defendants, who are not individuals, the written report
34 must be from a physician licensed to practice medicine in

1 all its branches who is qualified by experience with the
2 standard of care, methods, procedures and treatments
3 relevant to the allegations at issue in the case. In either
4 event, the written report ~~affidavit~~ must identify the
5 profession of the reviewing health professional. A copy of
6 the written report, clearly identifying the plaintiff and
7 the reasons for the reviewing health professional's
8 determination that a reasonable and meritorious cause for
9 the filing of the action exists, including the reviewing
10 health care professional's name, address, current license
11 number, and state of licensure, must be attached to the
12 affidavit, ~~but information which would identify the~~
13 ~~reviewing health professional may be deleted from the copy~~
14 ~~so attached.~~ Information regarding the preparation of a
15 written report by the reviewing health professional shall
16 not be used to discriminate against that professional in
17 the issuance of medical liability insurance or in the
18 setting of that professional's medical liability insurance
19 premium. No professional organization may discriminate
20 against a reviewing health professional on the basis that
21 the reviewing health professional has prepared a written
22 report.

23 2. That the affiant was unable to obtain a consultation
24 required by paragraph 1 because a statute of limitations
25 would impair the action and the consultation required could
26 not be obtained before the expiration of the statute of
27 limitations. If an affidavit is executed pursuant to this
28 paragraph, the affidavit ~~certificate~~ and written report
29 required by paragraph 1 shall be filed within 90 days after
30 the filing of the complaint. No additional 90-day
31 extensions pursuant to this paragraph shall be granted,
32 except where there has been a withdrawal of the plaintiff's
33 counsel. The defendant shall be excused from answering or
34 otherwise pleading until 30 days after being served with an

1 affidavit and a report ~~a certificate~~ required by paragraph
2 1.

3 3. That a request has been made by the plaintiff or his
4 attorney for examination and copying of records pursuant to
5 Part 20 of Article VIII of this Code and the party required
6 to comply under those Sections has failed to produce such
7 records within 60 days of the receipt of the request. If an
8 affidavit is executed pursuant to this paragraph, the
9 affidavit ~~certificate~~ and written report required by
10 paragraph 1 shall be filed within 90 days following receipt
11 of the requested records. All defendants except those whose
12 failure to comply with Part 20 of Article VIII of this Code
13 is the basis for an affidavit under this paragraph shall be
14 excused from answering or otherwise pleading until 30 days
15 after being served with the affidavit and report
16 ~~certificate~~ required by paragraph 1.

17 (b) Where an affidavit ~~a certificate~~ and written report are
18 required pursuant to this Section a separate affidavit
19 ~~certificate~~ and written report shall be filed as to each
20 defendant who has been named in the complaint and shall be
21 filed as to each defendant named at a later time.

22 (c) Where the plaintiff intends to rely on the doctrine of
23 "res ipsa loquitur", as defined by Section 2-1113 of this Code,
24 the affidavit ~~certificate~~ and written report must state that,
25 in the opinion of the reviewing health professional, negligence
26 has occurred in the course of medical treatment. The affiant
27 shall certify upon filing of the complaint that he is relying
28 on the doctrine of "res ipsa loquitur".

29 (d) When the attorney intends to rely on the doctrine of
30 failure to inform of the consequences of the procedure, the
31 attorney shall certify upon the filing of the complaint that
32 the reviewing health professional has, after reviewing the
33 medical record and other relevant materials involved in the
34 particular action, concluded that a reasonable health

1 professional would have informed the patient of the
2 consequences of the procedure.

3 (e) Allegations and denials in the affidavit, made without
4 reasonable cause and found to be untrue, shall subject the
5 party pleading them or his attorney, or both, to the payment of
6 reasonable expenses, actually incurred by the other party by
7 reason of the untrue pleading, together with reasonable
8 attorneys' fees to be summarily taxed by the court upon motion
9 made within 30 days of the judgment or dismissal. In no event
10 shall the award for attorneys' fees and expenses exceed those
11 actually paid by the moving party, including the insurer, if
12 any. In proceedings under this paragraph (e), the moving party
13 shall have the right to depose and examine any and all
14 reviewing health professionals who prepared reports used in
15 conjunction with an affidavit required by this Section.

16 (f) A reviewing health professional who in good faith
17 prepares a report used in conjunction with an affidavit
18 required by this Section shall have civil immunity from
19 liability which otherwise might result from the preparation of
20 such report.

21 (g) The failure of the plaintiff to file an affidavit and
22 report in compliance with ~~to file a certificate required by~~
23 this Section shall be grounds for dismissal under Section
24 2-619.

25 (h) This Section does not apply to or affect any actions
26 pending at the time of its effective date, but applies to cases
27 filed on or after its effective date.

28 (i) This amendatory Act of 1997 does not apply to or
29 affect any actions pending at the time of its effective date,
30 but applies to cases filed on or after its effective date.

31 (j) The changes to this Section made by this amendatory Act
32 of the 94th General Assembly apply to causes of action accruing
33 on or after its effective date.

34 (Source: P.A. 86-646; 90-579, eff. 5-1-98.)

1 (735 ILCS 5/2-1704.5 new)

2 Sec. 2-1704.5. Guaranteed payment of future medical
3 expenses and costs of life care.

4 (a) At any time, but no later than 5 days after a verdict
5 in the plaintiff's favor for a plaintiff's future medical
6 expenses and costs of life care is reached, either party in a
7 medical malpractice action may elect, or the court may enter an
8 order, to have the payment of the plaintiff's future medical
9 expenses and costs of life care made under this Section.

10 (b) In all cases in which a defendant in a medical
11 malpractice action is found liable for the plaintiff's future
12 medical expenses and costs of care, the trier of fact shall
13 make the following findings based on evidence presented at
14 trial:

15 (1) the present cash value of the plaintiff's future
16 medical expenses and costs of life care;

17 (2) the current year annual cost of the plaintiff's
18 future medical expenses and costs of life care; and

19 (3) the annual composite rate of inflation that should
20 be applied to the costs specified in item (2).

21 Based upon evidence presented at trial, the trier of fact
22 may also vary the amount of future costs under this Section
23 from year to year to account for different annual expenditures,
24 including the immediate medical and life care needs of the
25 plaintiff. The jury shall not be informed of an election to pay
26 for future medical expenses and costs of life care by
27 purchasing an annuity.

28 (c) When an election is made to pay for future medical
29 expenses and costs of life care by purchasing an annuity, the
30 court shall enter a judgment ordering that the defendant pay
31 the plaintiff an amount equal to 20% of the present cash value
32 of future medical expenses and cost of life care determined
33 under subsection (b)(1) of this Section and ordering that the

1 remaining future expenses and costs be paid by the purchase of
2 an annuity by or on behalf of the defendant from a company that
3 has itself, or is irrevocably supported financially by a
4 company that has, at least 2 of the following 4 ratings: "A+ X"
5 or higher from A.M. Best Company; "AA-" or higher from Standard
6 & Poor's; "Aa3" or higher from Moody's; and "AA-" or higher
7 from Fitch. The annuity must guarantee that the plaintiff will
8 receive annual payments equal to 80% of the amount determined
9 in subsection (b)(2) inflated by the rate determined in
10 subsection (b)(3) for the life of the plaintiff.

11 (d) If the company providing the annuity becomes unable to
12 pay amounts required by the annuity, the defendant shall secure
13 a replacement annuity for the remainder of the plaintiff's life
14 from a company that satisfies the requirements of subsection
15 (c).

16 (e) A plaintiff receiving future payments by means of an
17 annuity under this Section may seek leave of court to assign or
18 otherwise transfer the right to receive such payments in
19 exchange for a negotiated lump sum value of the remaining
20 future payments or any portion of the remaining future payments
21 under the annuity to address an unanticipated financial
22 hardship under such terms as approved by the court.

23 (f) This Section applies to all causes of action accruing
24 on or after the effective date of this amendatory Act of the
25 94th General Assembly.

26 (735 ILCS 5/2-1706.5 new)

27 Sec. 2-1706.5. Standards for economic and non-economic
28 damages.

29 (a) In any medical malpractice action or wrongful death
30 action based on medical malpractice in which economic and
31 non-economic damages may be awarded, the following standards
32 shall apply:

33 (1) In a case of an award against a hospital and its

1 personnel or hospital affiliates, as defined in Section
2 10.8 of the Hospital Licensing Act, the total amount of
3 non-economic damages shall not exceed \$1,000,000 awarded
4 to all plaintiffs in any civil action arising out of the
5 care.

6 (2) In a case of an award against a physician and the
7 physician's business or corporate entity and personnel or
8 health care professional, the total amount of non-economic
9 damages shall not exceed \$500,000 awarded to all plaintiffs
10 in any civil action arising out of the care.

11 (3) In awarding damages in a medical malpractice case,
12 the finder of fact shall render verdicts with a specific
13 award of damages for economic loss, if any, and a specific
14 award of damages for non-economic loss, if any.

15 The trier of fact shall not be informed of the provisions
16 of items (1) and (2) of this subsection (a).

17 (b) In any medical malpractice action where an individual
18 plaintiff earns less than the annual average weekly wage, as
19 determined by the Illinois Workers' Compensation Commission,
20 at the time the action is filed, any award may include an
21 amount equal to the wage the individual plaintiff earns or the
22 annual average weekly wage.

23 (c) This Section applies to all causes of action accruing
24 on or after the effective date of this amendatory Act of the
25 94th General Assembly.

26 (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

27 Sec. 8-1901. Admission of liability - Effect.

28 (a) The providing of, or payment for, medical, surgical,
29 hospital, or rehabilitation services, facilities, or equipment
30 by or on behalf of any person, or the offer to provide, or pay
31 for, any one or more of the foregoing, shall not be construed
32 as an admission of any liability by such person or persons.
33 Testimony, writings, records, reports or information with

1 respect to the foregoing shall not be admissible in evidence as
2 an admission of any liability in any action of any kind in any
3 court or before any commission, administrative agency, or other
4 tribunal in this State, except at the instance of the person or
5 persons so making any such provision, payment or offer.

6 (b) Any expression of grief, apology, or explanation
7 provided by a health care provider, including, but not limited
8 to, a statement that the health care provider is "sorry" for
9 the outcome to a patient, the patient's family, or the
10 patient's legal representative about an inadequate or
11 unanticipated treatment or care outcome that is provided within
12 72 hours of when the provider knew or should have known of the
13 potential cause of such outcome shall not be admissible as
14 evidence in any action of any kind in any court or before any
15 tribunal, board, agency, or person. The disclosure of any such
16 information, whether proper, or improper, shall not waive or
17 have any effect upon its confidentiality or inadmissibility. As
18 used in this Section, a "health care provider" is any hospital,
19 nursing home or other facility, or employee or agent thereof, a
20 physician, or other licensed health care professional. Nothing
21 in this Section precludes the discovery or admissibility of any
22 other facts regarding the patient's treatment or outcome as
23 otherwise permitted by law.

24 (c) The changes to this Section made by this amendatory Act
25 of the 94th General Assembly apply to causes of action accruing
26 on or after its effective date.

27 (Source: P.A. 82-280.)

28 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

29 (Text of Section WITHOUT the changes made by P.A. 89-7,
30 which has been held unconstitutional)

31 Sec. 8-2501. Expert Witness Standards. In any case in which
32 the standard of care applicable to ~~given by~~ a medical
33 professional ~~profession~~ is at issue, the court shall apply the

1 following standards to determine if a witness qualifies as an
2 expert witness and can testify on the issue of the appropriate
3 standard of care.

4 (a) Whether the witness is board certified or board
5 eligible, or has completed a residency, in the same or
6 substantially similar medical specialties as the defendant and
7 is otherwise qualified by significant experience with the
8 standard of care, methods, procedures, and treatments relevant
9 to the allegations against the defendant ~~Relationship of the~~
10 ~~medical specialties of the witness to the medical problem or~~
11 ~~problems and the type of treatment administered in the case;~~

12 (b) Whether the witness has devoted a majority ~~substantial~~
13 ~~portion~~ of his or her work time to the practice of medicine,
14 teaching or University based research in relation to the
15 medical care and type of treatment at issue which gave rise to
16 the medical problem of which the plaintiff complains;

17 (c) whether the witness is licensed in the same profession
18 with the same class of license as the defendant if the
19 defendant is an individual; and

20 (d) whether, in the case against a nonspecialist, the
21 witness can demonstrate a sufficient familiarity with the
22 standard of care practiced in this State.

23 An expert shall provide evidence of active practice,
24 teaching, or engaging in university-based research. If
25 retired, an expert must provide evidence of attendance and
26 completion of continuing education courses for 3 years previous
27 to giving testimony. An expert who has not actively practiced,
28 taught, or been engaged in university-based research, or any
29 combination thereof, during the preceding 5 years may not be
30 qualified as an expert witness.

31 The changes to this Section made by this amendatory Act of
32 the 94th General Assembly apply to causes of action accruing on
33 or after its effective date.

34 (Source: P.A. 84-7.)

1 Section 340. The Good Samaritan Act is amended by changing
2 Section 30 as follows:

3 (745 ILCS 49/30)

4 Sec. 30. Free medical clinic; exemption from civil
5 liability for services performed without compensation.

6 (a) A person licensed under the Medical Practice Act of
7 1987, a person licensed to practice the treatment of human
8 ailments in any other state or territory of the United States,
9 or a health care professional, including but not limited to an
10 advanced practice nurse, retired physician, physician
11 assistant, nurse, pharmacist, physical therapist, podiatrist,
12 or social worker licensed in this State or any other state or
13 territory of the United States, who, in good faith, provides
14 medical treatment, diagnosis, or advice as a part of the
15 services of an established free medical clinic providing care,
16 including but not limited to home visits, without charge to
17 ~~medically indigent~~ patients which is limited to care that does
18 not require the services of a licensed hospital or ambulatory
19 surgical treatment center and who receives no fee or
20 compensation from that source shall not be liable for civil
21 damages as a result of his or her acts or omissions in
22 providing that medical treatment, except for willful or wanton
23 misconduct.

24 (b) For purposes of this Section, a "free medical clinic"
25 is an organized community based program providing medical care
26 without charge to individuals ~~unable to pay for it,~~ at which
27 the care provided does not include ~~the use of general~~
28 ~~anesthesia or require~~ an overnight stay in a health-care
29 facility.

30 (c) The provisions of subsection (a) of this Section do not
31 apply to a particular case unless the free medical clinic has
32 posted in a conspicuous place on its premises an explanation of

1 the exemption from civil liability provided herein.

2 (d) The immunity from civil damages provided under
3 subsection (a) also applies to physicians, retired physicians,
4 hospitals, and other health care providers that provide further
5 medical treatment, diagnosis, or advice, including but not
6 limited to hospitalization, office visits, and home visits, to
7 a patient upon referral from an established free medical clinic
8 without fee or compensation.

9 (d-5) A free medical clinic may receive reimbursement from
10 the Illinois Department of Public Aid, provided any
11 reimbursements shall be used only to pay overhead expenses of
12 operating the free medical clinic and may not be used, in whole
13 or in part, to provide a fee or other compensation to any
14 person licensed under the Medical Practice Act of 1987 or any
15 other health care professional who is receiving an exemption
16 under this Section. Any health care professional receiving an
17 exemption under this Section may not receive any fee or other
18 compensation in connection with any services provided to, or
19 any ownership interest in, the clinic. Medical care shall not
20 include an overnight stay in a health care facility.

21 (e) Nothing in this Section prohibits a free medical clinic
22 from accepting voluntary contributions for medical services
23 provided to a patient who has acknowledged his or her ability
24 and willingness to pay a portion of the value of the medical
25 services provided.

26 (f) Any voluntary contribution collected for providing
27 care at a free medical clinic shall be used only to pay
28 overhead expenses of operating the clinic. No portion of any
29 moneys collected shall be used to provide a fee or other
30 compensation to any person licensed under Medical Practice Act
31 of 1987.

32 (g) The changes to this Section made by this amendatory Act
33 of the 94th General Assembly apply to causes of action accruing
34 on or after its effective date.

1 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

2 ARTICLE 4. SORRY WORKS! PILOT PROGRAM ACT

3 Section 401. Short title. This Article 4 may be cited as
4 the Sorry Works! Pilot Program Act, and references in this
5 Article to "this Act" mean this Article.

6 Section 405. Sorry Works! pilot program. The Sorry Works!
7 pilot program is established. During the first year of the
8 program's operation, participation in the program shall be open
9 to one hospital. Hospitals may participate only with the
10 approval of the hospital administration and the hospital's
11 organized medical staff. During the second year of the
12 program's operation, participation in the program shall be open
13 to one additional hospital.

14 The first participating hospital selected by the committee
15 established under Section 410 shall be located in a county with
16 a population greater than 200,000 that is contiguous with the
17 Mississippi River.

18 Under the program, participating hospitals and physicians
19 shall promptly acknowledge and apologize for mistakes in
20 patient care and promptly offer fair settlements.
21 Participating hospitals shall encourage patients and families
22 to retain their own legal counsel to ensure that their rights
23 are protected and to help facilitate negotiations for fair
24 settlements. Participating hospitals shall report to the
25 committee their total costs for healing art malpractice
26 verdicts, settlements, and defense litigation for the
27 preceding 5 years to enable the committee to determine average
28 costs for that hospital during that period. The committee shall
29 develop standards and protocols to compare costs for cases
30 handled by traditional means and cases handled under the Sorry
31 Works! protocol.

1 If the committee determines that the total costs of cases
2 handled under the Sorry Works! protocol by a hospital
3 participating in the program exceed the total costs that would
4 have been incurred if the cases had been handled by traditional
5 means, the hospital may apply for a grant from the Sorry Works!
6 Fund, a special fund that is created in the State Treasury, for
7 an amount, as determined by the committee, by which the total
8 costs exceed the total costs that would have been incurred if
9 the cases had been handled by traditional means; however, the
10 total of all grants from the Fund for cases in any single
11 participating hospital in any year may not exceed the amount in
12 the Fund or \$2,000,000, whichever is less. All grants shall be
13 subject to appropriation. Moneys in the Fund shall consist of
14 funds transferred into the Fund or otherwise made available
15 from any source.

16 Section 410. Establishment of committee.

17 (a) A committee is established to develop, oversee, and
18 implement the Sorry Works! pilot program. The committee shall
19 have 9 members, each of whom shall be a voting member. Six
20 members of the committee shall constitute a quorum. The
21 committee shall be comprised as follows:

22 (1) The President of the Senate, the Minority Leader of
23 the Senate, the Speaker of the House of Representatives,
24 and the Minority Leader of the House of Representatives
25 shall each appoint 2 members.

26 (2) The Secretary of Financial and Professional
27 Regulation or his or her designee.

28 (b) The committee shall establish criteria for the program,
29 including but not limited to: selection of hospitals,
30 physicians, and insurers to participate in the program; and
31 creation of a subcommittee to review cases from hospitals and
32 determine whether hospitals, physicians, and insurers are
33 entitled to compensation under the program.

1 (c) The committee shall communicate with hospitals,
2 physicians, and insurers that are interested in participating
3 in the program. The committee shall make final decisions as to
4 which applicants are accepted for the program.

5 (d) The committee shall report to the Governor and the
6 General Assembly annually.

7 (e) The committee shall publish data regarding the program.

8 (f) Committee members shall receive no compensation for the
9 performance of their duties as members, but each member shall
10 be paid necessary expenses while engaged in the performance of
11 those duties.

12 Section 415. Termination of program.

13 (a) The program may be terminated at any time if the
14 committee, by a vote of two-thirds of its members, votes to
15 terminate the program.

16 (b) If the program is not terminated under subsection (a),
17 the program shall terminate after its second year of operation.

18 Section 495. The State Finance Act is amended by adding
19 Section 5.640 as follows:

20 (30 ILCS 105/5.640 new)

21 Sec. 5.640. The Sorry Works! Fund.

22 ARTICLE 9. MISCELLANEOUS

23 Section 995. Inseverability. The provisions of this Act are
24 mutually dependent and inseverable. If any provision is held
25 invalid, then this entire Act, including all new and amendatory
26 provisions, is invalid.

27 Section 999. Effective date. This Act takes effect upon
28 becoming law."