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1 AMENDMENT TO SENATE BILL 1353

2 AMENDMENT NO. _____. Amend Senate Bill 1353 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Open Meetings Act is amended by changing
5 Section 2 as follows:

6 (5 ILCS 120/2) (from Ch. 102, par. 42)

7 Sec. 2. Open meetings.

8 (a) Openness required. All meetings of public bodies shall
9 be open to the public unless excepted in subsection (c) and
10 closed in accordance with Section 2a.

11 (b) Construction of exceptions. The exceptions contained
12 in subsection (c) are in derogation of the requirement that
13 public bodies meet in the open, and therefore, the exceptions
14 are to be strictly construed, extending only to subjects
15 clearly within their scope. The exceptions authorize but do not
16 require the holding of a closed meeting to discuss a subject
17 included within an enumerated exception.

18 (c) Exceptions. A public body may hold closed meetings to
19 consider the following subjects:

20 (1) The appointment, employment, compensation,
21 discipline, performance, or dismissal of specific
22 employees of the public body or legal counsel for the
23 public body, including hearing testimony on a complaint
24 lodged against an employee of the public body or against

1 legal counsel for the public body to determine its
2 validity.

3 (2) Collective negotiating matters between the public
4 body and its employees or their representatives, or
5 deliberations concerning salary schedules for one or more
6 classes of employees.

7 (3) The selection of a person to fill a public office,
8 as defined in this Act, including a vacancy in a public
9 office, when the public body is given power to appoint
10 under law or ordinance, or the discipline, performance or
11 removal of the occupant of a public office, when the public
12 body is given power to remove the occupant under law or
13 ordinance.

14 (4) Evidence or testimony presented in open hearing, or
15 in closed hearing where specifically authorized by law, to
16 a quasi-adjudicative body, as defined in this Act, provided
17 that the body prepares and makes available for public
18 inspection a written decision setting forth its
19 determinative reasoning.

20 (5) The purchase or lease of real property for the use
21 of the public body, including meetings held for the purpose
22 of discussing whether a particular parcel should be
23 acquired.

24 (6) The setting of a price for sale or lease of
25 property owned by the public body.

26 (7) The sale or purchase of securities, investments, or
27 investment contracts.

28 (8) Security procedures and the use of personnel and
29 equipment to respond to an actual, a threatened, or a
30 reasonably potential danger to the safety of employees,
31 students, staff, the public, or public property.

32 (9) Student disciplinary cases.

33 (10) The placement of individual students in special
34 education programs and other matters relating to

1 individual students.

2 (11) Litigation, when an action against, affecting or
3 on behalf of the particular public body has been filed and
4 is pending before a court or administrative tribunal, or
5 when the public body finds that an action is probable or
6 imminent, in which case the basis for the finding shall be
7 recorded and entered into the minutes of the closed
8 meeting.

9 (12) The establishment of reserves or settlement of
10 claims as provided in the Local Governmental and
11 Governmental Employees Tort Immunity Act, if otherwise the
12 disposition of a claim or potential claim might be
13 prejudiced, or the review or discussion of claims, loss or
14 risk management information, records, data, advice or
15 communications from or with respect to any insurer of the
16 public body or any intergovernmental risk management
17 association or self insurance pool of which the public body
18 is a member.

19 (13) Conciliation of complaints of discrimination in
20 the sale or rental of housing, when closed meetings are
21 authorized by the law or ordinance prescribing fair housing
22 practices and creating a commission or administrative
23 agency for their enforcement.

24 (14) Informant sources, the hiring or assignment of
25 undercover personnel or equipment, or ongoing, prior or
26 future criminal investigations, when discussed by a public
27 body with criminal investigatory responsibilities.

28 (15) Professional ethics or performance when
29 considered by an advisory body appointed to advise a
30 licensing or regulatory agency on matters germane to the
31 advisory body's field of competence.

32 (16) Self evaluation, practices and procedures or
33 professional ethics, when meeting with a representative of
34 a statewide association of which the public body is a

1 member.

2 (17) The recruitment, credentialing, discipline or
3 formal peer review of physicians or other health care
4 professionals for a hospital, or other institution
5 providing medical care, that is operated by the public
6 body.

7 (18) Deliberations for decisions of the Prisoner
8 Review Board.

9 (19) Review or discussion of applications received
10 under the Experimental Organ Transplantation Procedures
11 Act.

12 (20) The classification and discussion of matters
13 classified as confidential or continued confidential by
14 the State Employees Suggestion Award Board.

15 (21) Discussion of minutes of meetings lawfully closed
16 under this Act, whether for purposes of approval by the
17 body of the minutes or semi-annual review of the minutes as
18 mandated by Section 2.06.

19 (22) Deliberations for decisions of the State
20 Emergency Medical Services Disciplinary Review Board.

21 (23) The operation by a municipality of a municipal
22 utility or the operation of a municipal power agency or
23 municipal natural gas agency when the discussion involves
24 (i) contracts relating to the purchase, sale, or delivery
25 of electricity or natural gas or (ii) the results or
26 conclusions of load forecast studies.

27 (24) Meetings of a residential health care facility
28 resident sexual assault and death review team or the
29 Residential Health Care Facility Resident Sexual Assault
30 and Death Review Teams Executive Council under the
31 Residential Health Care Facility Resident Sexual Assault
32 and Death Review Team Act.

33 (25) The establishment of reserves administration,
34 adjudication, or settlement of claims as provided in

1 Article XLV of the Illinois Insurance Code if otherwise the
2 disposition of a claim or potential claim might be
3 prejudiced, or the review or discussion of claims, loss or
4 risk management information, records, data, advice or
5 communications from or with respect to any self-insurance
6 trust administration or adjudication of any claim, or
7 insurer created by the public body.

8 (d) Definitions. For purposes of this Section:

9 "Employee" means a person employed by a public body whose
10 relationship with the public body constitutes an
11 employer-employee relationship under the usual common law
12 rules, and who is not an independent contractor.

13 "Public office" means a position created by or under the
14 Constitution or laws of this State, the occupant of which is
15 charged with the exercise of some portion of the sovereign
16 power of this State. The term "public office" shall include
17 members of the public body, but it shall not include
18 organizational positions filled by members thereof, whether
19 established by law or by a public body itself, that exist to
20 assist the body in the conduct of its business.

21 "Quasi-adjudicative body" means an administrative body
22 charged by law or ordinance with the responsibility to conduct
23 hearings, receive evidence or testimony and make
24 determinations based thereon, but does not include local
25 electoral boards when such bodies are considering petition
26 challenges.

27 (e) Final action. No final action may be taken at a closed
28 meeting. Final action shall be preceded by a public recital of
29 the nature of the matter being considered and other information
30 that will inform the public of the business being conducted.

31 (Source: P.A. 93-57, eff. 7-1-03; 93-79, eff. 7-2-03; 93-422,
32 eff. 8-5-03; 93-577, eff. 8-21-03; revised 9-8-03.)

33 Section 10. The Counties Code is amended by changing

1 Section 5-1005 as follows:

2 (55 ILCS 5/5-1005) (from Ch. 34, par. 5-1005)

3 Sec. 5-1005. Powers. Each county shall have power:

4 1. To purchase and hold the real and personal estate
5 necessary for the uses of the county, and to purchase and hold,
6 for the benefit of the county, real estate sold by virtue of
7 judicial proceedings in which the county is plaintiff.

8 2. To sell and convey or lease any real or personal estate
9 owned by the county.

10 3. To make all contracts and do all other acts in relation
11 to the property and concerns of the county necessary to the
12 exercise of its corporate powers.

13 4. To take all necessary measures and institute proceedings
14 to enforce all laws for the prevention of cruelty to animals.

15 5. To purchase and hold or lease real estate upon which may
16 be erected and maintained buildings to be utilized for purposes
17 of agricultural experiments and to purchase, hold and use
18 personal property for the care and maintenance of such real
19 estate in connection with such experimental purposes.

20 6. To cause to be erected, or otherwise provided, suitable
21 buildings for, and maintain a county hospital and necessary
22 branch hospitals and/or a county sheltered care home or county
23 nursing home for the care of such sick, chronically ill or
24 infirm persons as may by law be proper charges upon the county,
25 or upon other governmental units, and to provide for the
26 management of the same. The county board may establish rates to
27 be paid by persons seeking care and treatment in such hospital
28 or home in accordance with their financial ability to meet such
29 charges, either personally or through a hospital plan or
30 hospital insurance, and the rates to be paid by governmental
31 units, including the State, for the care of sick, chronically
32 ill or infirm persons admitted therein upon the request of such
33 governmental units. Any hospital maintained by a county under

1 this Section is authorized to provide any service and enter
2 into any contract or other arrangement not prohibited for a
3 hospital that is licensed under the Hospital Licensing Act,
4 incorporated under the General Not-For-Profit Corporation Act,
5 and exempt from taxation under paragraph (3) of subsection (c)
6 of Section 501 of the Internal Revenue Code.

7 7. To contribute such sums of money toward erecting,
8 building, maintaining, and supporting any non-sectarian public
9 hospital located within its limits as the county board of the
10 county shall deem proper.

11 8. To purchase and hold real estate for the preservation of
12 forests, prairies and other natural areas and to maintain and
13 regulate the use thereof.

14 9. To purchase and hold real estate for the purpose of
15 preserving historical spots in the county, to restore, maintain
16 and regulate the use thereof and to donate any historical spot
17 to the State.

18 10. To appropriate funds from the county treasury to be
19 used in any manner to be determined by the board for the
20 suppression, eradication and control of tuberculosis among
21 domestic cattle in such county.

22 11. To take all necessary measures to prevent forest fires
23 and encourage the maintenance and planting of trees and the
24 preservation of forests.

25 12. To authorize the closing on Saturday mornings of all
26 offices of all county officers at the county seat of each
27 county, and to otherwise regulate and fix the days and the
28 hours of opening and closing of such offices, except when the
29 days and the hours of opening and closing of the office of any
30 county officer are otherwise fixed by law; but the power herein
31 conferred shall not apply to the office of State's Attorney and
32 the offices of judges and clerks of courts and, in counties of
33 500,000 or more population, the offices of county clerk.

34 13. To provide for the conservation, preservation and

1 propagation of insectivorous birds through the expenditure of
2 funds provided for such purpose.

3 14. To appropriate funds from the county treasury and
4 expend the same for care and treatment of tuberculosis
5 residents.

6 15. In counties having less than 1,000,000 inhabitants, to
7 take all necessary or proper steps for the extermination of
8 mosquitoes, flies or other insects within the county.

9 16. To install an adequate system of accounts and financial
10 records in the offices and divisions of the county, suitable to
11 the needs of the office and in accordance with generally
12 accepted principles of accounting for governmental bodies,
13 which system may include such reports as the county board may
14 determine.

15 17. To purchase and hold real estate for the construction
16 and maintenance of motor vehicle parking facilities for persons
17 using county buildings, but the purchase and use of such real
18 estate shall not be for revenue producing purposes.

19 18. To acquire and hold title to real property located
20 within the county, or partly within and partly outside the
21 county by dedication, purchase, gift, legacy or lease, for park
22 and recreational purposes and to charge reasonable fees for the
23 use of or admission to any such park or recreational area and
24 to provide police protection for such park or recreational
25 area. Personnel employed to provide such police protection
26 shall be conservators of the peace within such park or
27 recreational area and shall have power to make arrests on view
28 of the offense or upon warrants for violation of any of the
29 ordinances governing such park or recreational area or for any
30 breach of the peace in the same manner as the police in
31 municipalities organized and existing under the general laws of
32 the State. All such real property outside the county shall be
33 contiguous to the county and within the boundaries of the State
34 of Illinois.

1 19. To appropriate funds from the county treasury to be
2 used to provide supportive social services designed to prevent
3 the unnecessary institutionalization of elderly residents, or,
4 for operation of, and equipment for, senior citizen centers
5 providing social services to elderly residents.

6 20. To appropriate funds from the county treasury and loan
7 such funds to a county water commission created under the
8 "Water Commission Act", approved June 30, 1984, as now or
9 hereafter amended, in such amounts and upon such terms as the
10 county may determine or the county and the commission may
11 agree. The county shall not under any circumstances be
12 obligated to make such loans. The county shall not be required
13 to charge interest on any such loans.

14 21. To establish an independent entity to administer a
15 medical care risk retention trust program, to contribute such
16 sums of money to the risk retention trust program as the county
17 board of the county shall deem proper to operate the medical
18 care risk retention trust program, to establish uniform
19 eligibility requirements for participation in the risk
20 retention trust program, to appoint an administrator of the
21 risk retention trust program, to charge premiums, to establish
22 a billing procedure to collect premiums, and to ensure timely
23 administration and adjudication of claims under the program. A
24 single medical care risk retention trust program may be
25 established jointly by more than one county, in accordance with
26 an agreement between the participating counties, if at least
27 one of the participating counties has a population of 200,000
28 or more according to the most recent federal decennial census.

29 All contracts for the purchase of coal under this Section
30 shall be subject to the provisions of "An Act concerning the
31 use of Illinois mined coal in certain plants and institutions",
32 filed July 13, 1937, as amended.

33 (Source: P.A. 86-962; 86-1028.)

1 Section 15. The Illinois Insurance Code is amended by
2 changing Sections 155.18, 155.19, and 1204 and by adding
3 Section 155.18a and Article XLV as follows:

4 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

5 Sec. 155.18. (a) This Section shall apply to insurance on
6 risks based upon negligence by a physician, hospital or other
7 health care provider, referred to herein as medical liability
8 insurance. This Section shall not apply to contracts of
9 reinsurance, nor to any farm, county, district or township
10 mutual insurance company transacting business under an Act
11 entitled "An Act relating to local mutual district, county and
12 township insurance companies", approved March 13, 1936, as now
13 or hereafter amended, nor to any such company operating under a
14 special charter.

15 (b) The following standards shall apply to the making and
16 use of rates pertaining to all classes of medical liability
17 insurance:

18 (1) Rates shall not be excessive or inadequate, ~~as~~
19 ~~herein defined,~~ nor shall they be unfairly discriminatory.
20 ~~No rate shall be held to be excessive unless such rate is~~
21 ~~unreasonably high for the insurance provided, and a~~
22 ~~reasonable degree of competition does not exist in the area~~
23 ~~with respect to the classification to which such rate is~~
24 ~~applicable.~~

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

28 (2) Consideration shall be given, to the extent
29 applicable, to past and prospective loss experience within
30 and outside this State, to a reasonable margin for
31 underwriting profit and contingencies, to past and
32 prospective expenses both countrywide and those especially
33 applicable to this State, and to all other factors,

1 including judgment factors, deemed relevant within and
2 outside this State.

3 Consideration may also be given in the making and use
4 of rates to dividends, savings or unabsorbed premium
5 deposits allowed or returned by companies to their
6 policyholders, members or subscribers.

7 (3) The systems of expense provisions included in the
8 rates for use by any company or group of companies may
9 differ from those of other companies or groups of companies
10 to reflect the operating methods of any such company or
11 group with respect to any kind of insurance, or with
12 respect to any subdivision or combination thereof.

13 (4) Risks may be grouped by classifications for the
14 establishment of rates and minimum premiums.
15 Classification rates may be modified to produce rates for
16 individual risks in accordance with rating plans which
17 establish standards for measuring variations in hazards or
18 expense provisions, or both. Such standards may measure any
19 difference among risks that have a probable effect upon
20 losses or expenses. Such classifications or modifications
21 of classifications of risks may be established based upon
22 size, expense, management, individual experience, location
23 or dispersion of hazard, or any other reasonable
24 considerations and shall apply to all risks under the same
25 or substantially the same circumstances or conditions. The
26 rate for an established classification should be related
27 generally to the anticipated loss and expense factors of
28 the class.

29 (c) (1) Every company writing medical liability insurance
30 shall file with the Secretary of Financial and Professional
31 Regulation ~~Director of Insurance~~ the rates and rating schedules
32 it uses for medical liability insurance. A rate shall go into
33 effect upon filing, except as otherwise provided in this
34 Section.

1 (2) If the percentage increase in a company's rate is
2 higher than the percentage increase in the Consumer Price Index
3 for All Urban Consumers, United States city average, medical
4 care, 1982-84 = 100, published by the Bureau of Labor
5 Statistics of the United States Department of Labor for the
6 period between the last previous rate filing for rates covered
7 in the increase for that company and the current rate filing,
8 then the company's rate increase may be approved by the
9 Secretary only in accordance with this paragraph (2). The
10 Secretary shall notify the public of any application by an
11 insurer for a rate increase to which this paragraph (2)
12 applies. The application shall be deemed approved 60 days after
13 public notice unless (A) an insured requests a public hearing
14 within 45 days of public notice and the Secretary determines to
15 convene the public hearing, or (B) the Secretary at his or her
16 discretion convenes a public hearing. In any event, a rate
17 increase application to which this paragraph (2) applies shall
18 be deemed approved as filed 180 days after the rate application
19 is received by the Secretary unless that application has been
20 disapproved or otherwise adjusted by an order of the Secretary
21 subsequent to a public hearing. If the rate is adjusted but not
22 disapproved in total, the order shall specify that the rate
23 shall go into effect as adjusted.

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

28 (4) ~~(2)~~ For the purposes of this Section, any change in
29 premium to the company's insureds as a result of a change in
30 the company's base rates or a change in its increased limits
31 factors shall constitute a change in rates and shall require a
32 filing with the Secretary ~~Director~~.

33 (5) ~~(3)~~ It shall be certified in such filing by an officer
34 of the company and a qualified actuary that the company's rates

1 are based on sound actuarial principles and are not
2 inconsistent with the company's experience. The Secretary may
3 request any additional statistical data and other pertinent
4 information necessary to determine the manner the company used
5 to set the filed rates and the reasonableness of those rates.

6 (c-5) At the request of an insured, the Secretary shall
7 convene a public hearing for the purpose of receiving testimony
8 from the company and from any interested persons regarding the
9 company's rate. The Secretary may also convene a public hearing
10 under this subsection (c-5) at any time at his or her
11 discretion.

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

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

22 (2) that the violation of any of the provisions of this
23 Section ~~applicable to it~~ by any company which has been the
24 subject of the hearing was wilful or that any company has
25 repeatedly violated any provision of this Section, he may
26 take either or both of the following actions:

27 (A) Suspend ~~suspend~~ or revoke, in whole or in part,
28 the certificate of authority of such company with
29 respect to the class of insurance which has been the
30 subject of the hearing.

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

34 The burden is on the company to justify the rate or

1 proposed rate at the public hearing.

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

10 (f) Medical liability insurers are required to offer their
11 medical liability insureds a plan providing premium discounts
12 for participation in risk management activities. Any such plan
13 shall be reported to the Department.

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

15 (215 ILCS 5/155.18a new)

16 Sec. 155.18a. Professional Liability Insurance Resource
17 Center. The Secretary of Financial and Professional Regulation
18 shall establish a Professional Liability Insurance Resource
19 Center on the Internet containing the names and telephone
20 numbers of all licensed companies providing medical liability
21 insurance and producers who sell medical liability insurance.
22 Each company and producer shall submit the information to the
23 Department on or before September 30 of each year in order to
24 be listed on the website. Hyperlinks to company websites shall
25 be included, if available. The publication of the information
26 on the Department's website shall commence on January 1, 2006.
27 The Department shall update the information on the Professional
28 Liability Insurance Resource Center at least annually.

29 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

30 Sec. 155.19. All claims filed after December 31, 1976 with
31 any insurer and all suits filed after December 31, 1976 in any
32 court in this State, alleging liability on the part of any

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

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

31 If the Secretary finds that any entity required to report
32 information in its possession under this Section has violated
33 any provision of this Section by filing late, incomplete, or
34 inaccurate reports, the Secretary may fine the entity up to

1 \$1,000 for each offense. Each day during which a violation
2 occurs constitutes a separate offense.

3 The Secretary ~~Director~~ may promulgate such rules and
4 regulations as may be necessary to carry out the provisions of
5 this Section.

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

7 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

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

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

26 (1) Political subdivision liability insurance reported
27 separately in the following categories:

28 (a) municipalities;

29 (b) school districts;

30 (c) other political subdivisions;

31 (2) Public official liability insurance;

32 (3) Dram shop liability insurance;

33 (4) Day care center liability insurance;

1 (5) Labor, fraternal or religious organizations
2 liability insurance;

3 (6) Errors and omissions liability insurance;

4 (7) Officers and directors liability insurance
5 reported separately as follows:

6 (a) non-profit entities;

7 (b) for-profit entities;

8 (8) Products liability insurance;

9 (9) Medical malpractice insurance;

10 (10) Attorney malpractice insurance;

11 (11) Architects and engineers malpractice insurance;

12 and

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

15 (a) motor vehicle physical damage insurance;

16 (b) motor vehicle liability insurance.

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

21 (1) Direct premiums written;

22 (2) Direct premiums earned;

23 (3) Number of policies;

24 (4) Net investment income, using appropriate estimates
25 where necessary;

26 (5) Losses paid;

27 (6) Losses incurred;

28 (7) Loss reserves:

29 (a) Losses unpaid on reported claims;

30 (b) Losses unpaid on incurred but not reported
31 claims;

32 (8) Number of claims:

33 (a) Paid claims;

34 (b) Arising claims;

1 (9) Loss adjustment expenses:

2 (a) Allocated loss adjustment expenses;

3 (b) Unallocated loss adjustment expenses;

4 (10) Net underwriting gain or loss;

5 (11) Net operation gain or loss, including net
6 investment income;

7 (12) Any other information requested by the Secretary
8 ~~Director~~.

9 (C-5) Additional information required from medical
10 malpractice insurers.

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

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

18 (b) earned exposures by ISO code, policy type, and
19 policy year by county for each of the past 10 years.

20 (2) The following information must also be annually
21 provided to the Department:

22 (a) copies of the company's reserve and surplus
23 studies; and

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

26 (3) All information collected by the Secretary under
27 paragraphs (1) and (2) shall be made available, on a
28 company-by-company basis, to the General Assembly and the
29 general public. This provision shall supersede any other
30 provision of State law that may otherwise protect such
31 information from public disclosure as confidential.

32 (D) In addition to the information which may be requested
33 under subsection (C), the Secretary ~~Director~~ may also request
34 on a companywide, aggregate basis, Federal Income Tax

1 recoverable, net realized capital gain or loss, net unrealized
2 capital gain or loss, and all other expenses not requested in
3 subsection (C) above.

4 (E) Violations - Suspensions - Revocations.

5 (1) Any company or person subject to this Article, who
6 willfully or repeatedly fails to observe or who otherwise
7 violates any of the provisions of this Article or any rule
8 or regulation promulgated by the Secretary ~~Director~~ under
9 authority of this Article or any final order of the
10 Secretary ~~Director~~ entered under the authority of this
11 Article shall by civil penalty forfeit to the State of
12 Illinois a sum not to exceed \$2,000. Each day during which
13 a violation occurs constitutes a separate offense.

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

29 (3) No forfeiture liability under paragraph (1) of this
30 subsection may attach for any violation occurring more than
31 2 years prior to the date of issuance of the notice of
32 apparent liability and in no event may the total civil
33 penalty forfeiture imposed for the acts or omissions set
34 forth in any one notice of apparent liability exceed

1 \$100,000.

2 (4) All administrative hearings conducted pursuant to
3 this Article are subject to 50 Ill. Adm. Code 2402 and all
4 administrative hearings are subject to the Administrative
5 Review Law.

6 (5) The civil penalty forfeitures provided for in this
7 Section are payable to the General Revenue Fund of the
8 State of Illinois, and may be recovered in a civil suit in
9 the name of the State of Illinois brought in the Circuit
10 Court in Sangamon County or in the Circuit Court of the
11 county where the respondent is domiciled or has its
12 principal operating office.

13 (6) In any case where the Secretary ~~Director~~ issues a
14 notice of apparent liability looking toward the imposition
15 of a civil penalty forfeiture under this Section that fact
16 may not be used in any other proceeding before the
17 Secretary ~~Director~~ to the prejudice of the respondent to
18 whom the notice was issued, unless (a) the civil penalty
19 forfeiture has been paid, or (b) a court has ordered
20 payment of the civil penalty forfeiture and that order has
21 become final.

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

33 (8) When any person or company has a license or
34 certificate of authority under this Code and knowingly

1 fails or refuses to comply with any provisions of this
2 Article, the Secretary ~~Director~~ may, after notice and
3 hearing, in addition to any other penalty provided, revoke
4 or refuse to renew the license or certificate of authority
5 of such person or company, or may suspend the license or
6 certificate of authority of such person or company, until
7 compliance with such provision of this Article has been
8 obtained.

9 (9) No suspension or revocation under this Section may
10 become effective until 5 days from the date that the notice
11 of suspension or revocation has been personally delivered
12 or delivered by registered or certified mail to the company
13 or person. A suspension or revocation under this Section is
14 stayed upon the filing, by the company or person, of a
15 petition for judicial review under the Administrative
16 Review Law.

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

18 (215 ILCS 5/Art. XLV heading new)

19 Article XLV. COUNTY RISK RETENTION ARRANGEMENTS
20 FOR THE PROVISION OF MEDICAL MALPRACTICE INSURANCE

21 (215 ILCS 5/1501 new)

22 Sec. 1501. Scope of Article. This Article applies only to
23 trusts sponsored by counties and organized under this Article
24 to provide medical malpractice insurance authorized under
25 paragraph (21) of Section 5-1005 of the Counties Code for
26 physicians and health care professionals providing medical
27 care and health care within the county's limits. In the case of
28 a single trust sponsored and organized by more than one county
29 in accordance with the requirements of paragraph (21) of
30 Section 5-1005 of the Counties Code, the powers and duties of a
31 county under this Article shall be exercised jointly by the
32 counties participating in the trust program in accordance with

1 the agreement between the counties.

2 (215 ILCS 5/1502 new)

3 Sec. 1502. Definitions. As used in this Article:

4 "Risk retention trust" or "trust" means a risk retention
5 trust created under this Article.

6 "Trust sponsor" means a county that has created a risk
7 retention trust.

8 "Pool retention fund" means a separate fund maintained for
9 payment of first dollar claims, up to a specified amount per
10 claim ("specific retention") and up to an aggregate amount for
11 a 12-month period ("aggregate retention").

12 "Contingency reserve fund" means a separate fund
13 maintained for payment of claims in excess of the pool
14 retention fund amount.

15 "Coverage grant" means the document describing specific
16 coverages and terms of coverage that are provided by a risk
17 retention trust created under this Article.

18 "Licensed service company" means an entity licensed by the
19 Department to perform claims adjusting, loss control, and data
20 processing.

21 (215 ILCS 5/1503 new)

22 Sec. 1503. Name. The corporate name of any risk retention
23 trust shall not be the same as or deceptively similar to the
24 name of any domestic insurance company or of any foreign or
25 alien insurance company authorized to transact business in this
26 State.

27 (215 ILCS 5/1504 new)

28 Sec. 1504. Principal office place of business. The
29 principal office of any risk retention trust shall be located
30 in this State.

1 (215 ILCS 5/1505 new)

2 Sec. 1505. Creation.

3 (1) Any county with a population of 200,000 or more
4 according to the most recent federal decennial census may
5 create a risk retention trust for the pooling of risks to
6 provide professional liability coverage authorized under
7 paragraph (21) of Section 5-1005 of the Counties Code for its
8 physicians and health care professionals providing medical
9 care and related health care within the county's limits. A
10 single risk retention trust may also be created jointly by more
11 than one county in accordance with the requirements of
12 paragraph (21) of Section 5-1005 of the Counties Code. A trust
13 shall be administered by at least 3 trustees who may be
14 individuals or corporate trustees and are appointed by the
15 trust sponsor and who represent physicians who have agreed in
16 writing to participate in the trust.

17 (2) The trustees shall appoint a qualified licensed
18 administrator who shall administer the affairs of the risk
19 retention trust.

20 (3) The trustees shall retain a licensed service company to
21 perform claims adjusting, loss control, and data processing and
22 any other delegated administrative duties.

23 (4) The trust sponsor, the trustees, and the trust
24 administrator shall be fiduciaries of the trust.

25 (5) A trust shall be consummated by a written trust
26 agreement and shall be subject to the laws of this State
27 governing the creation and operation of trusts, to the extent
28 not inconsistent with this Article.

29 (215 ILCS 5/1506 new)

30 Sec. 1506. Participation.

31 (1) A physician or health care professional providing
32 medical care and related health care within the county's limits
33 may participate in a risk retention trust if the physician or

1 health care professional:

2 (a) meets the underwriting standards for acceptance
3 into the trust;

4 (b) files a written application for coverage, agreeing
5 to meet all of the membership conditions of the trust;

6 (c) provides medical care and related health care in
7 the county sponsoring the trust;

8 (d) agrees to meet the ongoing loss control provisions
9 and risk pooling arrangements set forth by the trust;

10 (e) pays premium contributions on a timely basis as
11 required; and

12 (f) pays predetermined annual required contributions
13 into the contingency reserve fund.

14 (2) A physician or health care professional accepted for
15 trust membership and participating in the trust is liable for
16 payment to the trust of the amount of his or her annual premium
17 contribution and his or her annual predetermined contingency
18 reserve fund contribution.

19 (215 ILCS 5/1507 new)

20 Sec. 1507. Coverage grants; payment of claims.

21 (1) A risk retention trust may not issue coverage grants
22 until it has established a contingency reserve fund in an
23 amount deemed appropriate by the trust and filed with the
24 Department. A risk retention trust must have and at all times
25 maintain a pool retention fund or a line or letter of credit at
26 least equal to its unpaid liabilities as determined by an
27 independent actuary.

28 (2) Every coverage grant issued or delivered in this State
29 by a risk retention trust shall provide for the extent of the
30 liability of trust members to the extent that funds are needed
31 to pay a member's share of the depleted contingency reserve
32 fund needed to maintain the reserves required by this Section.

33 (3) All claims shall be paid first from the pool retention

1 fund. If that fund becomes depleted, any additional claims
2 shall be paid from the contingency reserve fund.

3 (215 ILCS 5/1508 new)

4 Sec. 1508. Applicable Illinois Insurance Code provisions.
5 Other than this Article, only Sections 155.19, 155.20, and
6 155.25 and subsections (a) through (c) of Section 155.18 of
7 this Code shall apply to county risk retention trusts. The
8 Secretary shall advise the county board of any determinations
9 made pursuant to subsection (b) of Section 155.18 of this Code.

10 (215 ILCS 5/1509 new)

11 Sec. 1509. Authorized investments. In addition to other
12 investments authorized by law, a risk retention trust with
13 assets of at least \$5,000,000 may invest in any combination of
14 the following:

15 (1) the common stocks listed on a recognized exchange
16 or market;

17 (2) stock and convertible debt investments, or
18 investment grade corporate bonds, in or issued by any
19 corporation, the book value of which may not exceed 5% of
20 the total intergovernmental risk management entity's
21 investment account at book value in which those securities
22 are held, determined as of the date of the investment,
23 provided that investments in the stock of any one
24 corporation may not exceed 5% of the total outstanding
25 stock of the corporation and that the investments in the
26 convertible debt of any one corporation may not exceed 5%
27 of the total amount of such debt that may be outstanding;

28 (3) the straight preferred stocks or convertible
29 preferred stocks and convertible debt securities issued or
30 guaranteed by a corporation whose common stock is listed on
31 a recognized exchange or market;

32 (4) mutual funds or commingled funds that meet the

1 following requirements:

2 (A) the mutual fund or commingled fund is managed
3 by an investment company as defined in and registered
4 under the federal Investment Company Act of 1940 and
5 registered under the Illinois Securities Law of 1953 or
6 an investment adviser as defined under the federal
7 Investment Advisers Act of 1940;

8 (B) the mutual fund has been in operation for at
9 least 5 years; and

10 (C) the mutual fund has total net assets of
11 \$150,000,000 or more;

12 (5) commercial grade real estate located in the State
13 of Illinois.

14 Any investment adviser retained by a trust must be a
15 fiduciary who has the power to manage, acquire, or dispose of
16 any asset of the trust and has acknowledged in writing that he
17 or she is a fiduciary with respect to the trust and that he or
18 she will adhere to all of the guidelines of the trust and is
19 one or more of the following:

20 (i) registered as an investment adviser under the
21 federal Investment Advisers Act of 1940;

22 (ii) registered as an investment adviser under the
23 Illinois Securities Law of 1953;

24 (iii) a bank as defined in the federal Investment
25 Advisers Act of 1940;

26 (iv) an insurance company authorized to transact
27 business in this State.

28 Nothing in this Section shall be construed to authorize a
29 risk retention trust to accept the deposit of public funds
30 except for trust risk retention purposes.

31 Section 20. The Medical Practice Act of 1987 is amended by
32 changing Sections 7, 22, 23, 24, and 36 and adding Section 24.1
33 as follows:

1 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

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

3 Sec. 7. Medical Disciplinary Board.

4 (A) There is hereby created the Illinois State Medical
5 Disciplinary Board (hereinafter referred to as the
6 "Disciplinary Board"). The Disciplinary Board shall consist of
7 11 ~~9~~ members, to be appointed by the Governor by and with the
8 advice and consent of the Senate. All members shall be
9 residents of the State, not more than 6 ~~5~~ of whom shall be
10 members of the same political party. All members shall be
11 voting members. Five members shall be physicians licensed to
12 practice medicine in all of its branches in Illinois possessing
13 the degree of doctor of medicine, and it shall be the goal that
14 at least one of the members practice in the field of
15 neurosurgery, one of the members practice in the field of
16 obstetrics and gynecology, and one of the members practice in
17 the field of cardiology. One member shall be a physician
18 licensed to practice in Illinois possessing the degree of
19 doctor of osteopathy or osteopathic medicine. One member shall
20 be a physician licensed to practice in Illinois and possessing
21 the degree of doctor of chiropractic. Four members ~~Two~~ shall be
22 members of the public, who shall not be engaged in any way,
23 directly or indirectly, as providers of health care. ~~The 2~~
24 ~~public members shall act as voting members. One member shall be~~
25 ~~a physician licensed to practice in Illinois possessing the~~
26 ~~degree of doctor of osteopathy or osteopathic medicine. One~~
27 ~~member shall be a physician licensed to practice in Illinois~~
28 ~~and possessing the degree of doctor of chiropractic.~~

29 (B) Members of the Disciplinary Board shall be appointed
30 for terms of 4 years. Upon the expiration of the term of any
31 member, their successor shall be appointed for a term of 4
32 years by the Governor by and with the advice and consent of the
33 Senate. The Governor shall fill any vacancy for the remainder

1 of the unexpired term by and with the advice and consent of the
2 Senate. Upon recommendation of the Board, any member of the
3 Disciplinary Board may be removed by the Governor for
4 misfeasance, malfeasance, or wilful neglect of duty, after
5 notice, and a public hearing, unless such notice and hearing
6 shall be expressly waived in writing. Each member shall serve
7 on the Disciplinary Board until their successor is appointed
8 and qualified. No member of the Disciplinary Board shall serve
9 more than 2 consecutive 4 year terms.

10 In making appointments the Governor shall attempt to insure
11 that the various social and geographic regions of the State of
12 Illinois are properly represented.

13 In making the designation of persons to act for the several
14 professions represented on the Disciplinary Board, the
15 Governor shall give due consideration to recommendations by
16 members of the respective professions and by organizations
17 therein.

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

23 (D) (Blank).

24 (E) Six ~~Four~~ voting members of the Disciplinary Board shall
25 constitute a quorum. A vacancy in the membership of the
26 Disciplinary Board shall not impair the right of a quorum to
27 exercise all the rights and perform all the duties of the
28 Disciplinary Board. Any action taken by the Disciplinary Board
29 under this Act may be authorized by resolution at any regular
30 or special meeting and each such resolution shall take effect
31 immediately. The Disciplinary Board shall meet at least
32 quarterly. The Disciplinary Board is empowered to adopt all
33 rules and regulations necessary and incident to the powers
34 granted to it under this Act.

1 (F) Each member, and member-officer, of the Disciplinary
2 Board shall receive a per diem stipend as the Director of the
3 Department, hereinafter referred to as the Director, shall
4 determine. The Director shall also determine the per diem
5 stipend that each ex-officio member shall receive. Each member
6 shall be paid their necessary expenses while engaged in the
7 performance of their duties.

8 (G) The Director shall select a Chief Medical Coordinator
9 and not less than 2 ~~a~~ Deputy Medical Coordinators ~~Coordinator~~
10 who shall not be members of the Disciplinary Board. Each
11 medical coordinator shall be a physician licensed to practice
12 medicine in all of its branches, and the Director shall set
13 their rates of compensation. The Director shall assign at least
14 one medical coordinator to a region composed of Cook County and
15 such other counties as the Director may deem appropriate, and
16 such medical coordinator or coordinators shall locate their
17 office in Chicago. The Director shall assign at least one ~~the~~
18 ~~remaining~~ medical coordinator to a region composed of the
19 balance of counties in the State, and such medical coordinator
20 or coordinators shall locate their office in Springfield. Each
21 medical coordinator shall be the chief enforcement officer of
22 this Act in his or her ~~their~~ assigned region and shall serve at
23 the will of the Disciplinary Board.

24 The Director shall employ, in conformity with the Personnel
25 Code, not less than one full time investigator for every 2,500
26 ~~5000~~ physicians licensed in the State. Each investigator shall
27 be a college graduate with at least 2 years' investigative
28 experience or one year advanced medical education. Upon the
29 written request of the Disciplinary Board, the Director shall
30 employ, in conformity with the Personnel Code, such other
31 professional, technical, investigative, and clerical help,
32 either on a full or part-time basis as the Disciplinary Board
33 deems necessary for the proper performance of its duties.

34 (H) Upon the specific request of the Disciplinary Board,

1 signed by either the chairman, vice chairman, or a medical
2 coordinator of the Disciplinary Board, the Department of Human
3 Services or the Department of State Police shall make available
4 any and all information that they have in their possession
5 regarding a particular case then under investigation by the
6 Disciplinary Board.

7 (I) Members of the Disciplinary Board shall be immune from
8 suit in any action based upon any disciplinary proceedings or
9 other acts performed in good faith as members of the
10 Disciplinary Board.

11 (J) The Disciplinary Board may compile and establish a
12 statewide roster of physicians and other medical
13 professionals, including the several medical specialties, of
14 such physicians and medical professionals, who have agreed to
15 serve from time to time as advisors to the medical
16 coordinators. Such advisors shall assist the medical
17 coordinators in their investigations and participation in
18 complaints against physicians. Such advisors shall serve under
19 contract and shall be reimbursed at a reasonable rate for the
20 services provided, plus reasonable expenses incurred. While
21 serving in this capacity, the advisor, for any act undertaken
22 in good faith and in the conduct of their duties under this
23 Section, shall be immune from civil suit.

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

25 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

27 Sec. 22. Disciplinary action.

28 (A) The Department may revoke, suspend, place on
29 probationary status, refuse to renew, or take any other
30 disciplinary action as the Department may deem proper with
31 regard to the license or visiting professor permit of any
32 person issued under this Act to practice medicine, or to treat
33 human ailments without the use of drugs and without operative

1 surgery upon any of the following grounds:

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

4 (a) a facility licensed pursuant to the Ambulatory
5 Surgical Treatment Center Act;

6 (b) an institution licensed under the Hospital
7 Licensing Act; or

8 (c) an ambulatory surgical treatment center or
9 hospitalization or care facility maintained by the
10 State or any agency thereof, where such department or
11 agency has authority under law to establish and enforce
12 standards for the ambulatory surgical treatment
13 centers, hospitalization, or care facilities under its
14 management and control; or

15 (d) ambulatory surgical treatment centers,
16 hospitalization or care facilities maintained by the
17 Federal Government; or

18 (e) ambulatory surgical treatment centers,
19 hospitalization or care facilities maintained by any
20 university or college established under the laws of
21 this State and supported principally by public funds
22 raised by taxation.

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

26 (3) The conviction of a felony in this or any other
27 jurisdiction, except as otherwise provided in subsection B
28 of this Section, whether or not related to practice under
29 this Act, or the entry of a guilty or nolo contendere plea
30 to a felony charge.

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

32 (5) Engaging in dishonorable, unethical or
33 unprofessional conduct of a character likely to deceive,
34 defraud or harm the public.

1 (6) Obtaining any fee by fraud, deceit, or
2 misrepresentation.

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

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

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

12 (10) Making a false or misleading statement regarding
13 their skill or the efficacy or value of the medicine,
14 treatment, or remedy prescribed by them at their direction
15 in the treatment of any disease or other condition of the
16 body or mind.

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

19 (12) Disciplinary action of another state or
20 jurisdiction against a license or other authorization to
21 practice as a medical doctor, doctor of osteopathy, doctor
22 of osteopathic medicine or doctor of chiropractic, a
23 certified copy of the record of the action taken by the
24 other state or jurisdiction being prima facie evidence
25 thereof.

26 (13) Violation of any provision of this Act or of the
27 Medical Practice Act prior to the repeal of that Act, or
28 violation of the rules, or a final administrative action of
29 the Director, after consideration of the recommendation of
30 the Disciplinary Board.

31 (14) Dividing with anyone other than physicians with
32 whom the licensee practices in a partnership, Professional
33 Association, limited liability company, or Medical or
34 Professional Corporation any fee, commission, rebate or

1 other form of compensation for any professional services
2 not actually and personally rendered. Nothing contained in
3 this subsection prohibits persons holding valid and
4 current licenses under this Act from practicing medicine in
5 partnership under a partnership agreement, including a
6 limited liability partnership, in a limited liability
7 company under the Limited Liability Company Act, in a
8 corporation authorized by the Medical Corporation Act, as
9 an association authorized by the Professional Association
10 Act, or in a corporation under the Professional Corporation
11 Act or from pooling, sharing, dividing or apportioning the
12 fees and monies received by them or by the partnership,
13 corporation or association in accordance with the
14 partnership agreement or the policies of the Board of
15 Directors of the corporation or association. Nothing
16 contained in this subsection prohibits 2 or more
17 corporations authorized by the Medical Corporation Act,
18 from forming a partnership or joint venture of such
19 corporations, and providing medical, surgical and
20 scientific research and knowledge by employees of these
21 corporations if such employees are licensed under this Act,
22 or from pooling, sharing, dividing, or apportioning the
23 fees and monies received by the partnership or joint
24 venture in accordance with the partnership or joint venture
25 agreement. Nothing contained in this subsection shall
26 abrogate the right of 2 or more persons, holding valid and
27 current licenses under this Act, to each receive adequate
28 compensation for concurrently rendering professional
29 services to a patient and divide a fee; provided, the
30 patient has full knowledge of the division, and, provided,
31 that the division is made in proportion to the services
32 performed and responsibility assumed by each.

33 (15) A finding by the Medical Disciplinary Board that
34 the registrant after having his or her license placed on

1 probationary status or subjected to conditions or
2 restrictions violated the terms of the probation or failed
3 to comply with such terms or conditions.

4 (16) Abandonment of a patient.

5 (17) Prescribing, selling, administering,
6 distributing, giving or self-administering any drug
7 classified as a controlled substance (designated product)
8 or narcotic for other than medically accepted therapeutic
9 purposes.

10 (18) Promotion of the sale of drugs, devices,
11 appliances or goods provided for a patient in such manner
12 as to exploit the patient for financial gain of the
13 physician.

14 (19) Offering, undertaking or agreeing to cure or treat
15 disease by a secret method, procedure, treatment or
16 medicine, or the treating, operating or prescribing for any
17 human condition by a method, means or procedure which the
18 licensee refuses to divulge upon demand of the Department.

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

22 (21) Wilfully making or filing false records or reports
23 in his or her practice as a physician, including, but not
24 limited to, false records to support claims against the
25 medical assistance program of the Department of Public Aid
26 under the Illinois Public Aid Code.

27 (22) Wilful omission to file or record, or wilfully
28 impeding the filing or recording, or inducing another
29 person to omit to file or record, medical reports as
30 required by law, or wilfully failing to report an instance
31 of suspected abuse or neglect as required by law.

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

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

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

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

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

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

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

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

27 (30) Wilfully or negligently violating the
28 confidentiality between physician and patient except as
29 required by law.

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

33 (32) Aiding and abetting an individual not licensed
34 under this Act in the practice of a profession licensed

1 under this Act.

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

5 (34) Failure to report to the Department any adverse
6 final action taken against them by another licensing
7 jurisdiction (any other state or any territory of the
8 United States or any foreign state or country), by any peer
9 review body, by any health care institution, by any
10 professional society or association related to practice
11 under this Act, by any governmental agency, by any law
12 enforcement agency, or by any court for acts or conduct
13 similar to acts or conduct which would constitute grounds
14 for action as defined in this Section.

15 (35) Failure to report to the Department surrender of a
16 license or authorization to practice as a medical doctor, a
17 doctor of osteopathy, a doctor of osteopathic medicine, or
18 doctor of chiropractic in another state or jurisdiction, or
19 surrender of membership on any medical staff or in any
20 medical or professional association or society, while
21 under disciplinary investigation by any of those
22 authorities or bodies, for acts or conduct similar to acts
23 or conduct which would constitute grounds for action as
24 defined in this Section.

25 (36) Failure to report to the Department any adverse
26 judgment, settlement, or award arising from a liability
27 claim related to acts or conduct similar to acts or conduct
28 which would constitute grounds for action as defined in
29 this Section.

30 (37) Failure to transfer copies of medical records as
31 required by law.

32 (38) Failure to furnish the Department, its
33 investigators or representatives, relevant information,
34 legally requested by the Department after consultation

1 with the Chief Medical Coordinator or the Deputy Medical
2 Coordinator.

3 (39) Violating the Health Care Worker Self-Referral
4 Act.

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

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

9 (42) Entering into an excessive number of written
10 collaborative agreements with licensed advanced practice
11 nurses resulting in an inability to adequately collaborate
12 and provide medical direction.

13 (43) Repeated failure to adequately collaborate with
14 or provide medical direction to a licensed advanced
15 practice nurse.

16 Except for actions involving the ground numbered (26), all
17 ~~All~~ proceedings to suspend, revoke, place on probationary
18 status, or take any other disciplinary action as the Department
19 may deem proper, with regard to a license on any of the
20 foregoing grounds, must be commenced within 5 ~~3~~ years next
21 after receipt by the Department of a complaint alleging the
22 commission of or notice of the conviction order for any of the
23 acts described herein. Except for the grounds numbered (8),
24 (9), (26), and (29), no action shall be commenced more than 10
25 ~~5~~ years after the date of the incident or act alleged to have
26 violated this Section. For actions involving the ground
27 numbered (26), a pattern of practice or other behavior includes
28 any incident that occurred within 10 years before the last
29 incident alleged to be part of the pattern of practice or other
30 behavior, regardless of whether the underlying incident or act
31 in the pattern is time-barred. An action involving the ground
32 numbered (26) must be commenced within the time limits for
33 proceedings for the last incident or act alleged as part of the
34 pattern of practice or other behavior. In the event of the

1 settlement of any claim or cause of action in favor of the
2 claimant or the reduction to final judgment of any civil action
3 in favor of the plaintiff, such claim, cause of action or civil
4 action being grounded on the allegation that a person licensed
5 under this Act was negligent in providing care, the Department
6 shall have an additional period of 2 years ~~one year~~ from the
7 date of notification to the Department under Section 23 of this
8 Act of such settlement or final judgment in which to
9 investigate and commence formal disciplinary proceedings under
10 Section 36 of this Act, except as otherwise provided by law.
11 The Department shall expunge the records of discipline solely
12 for administrative matters 3 years after final disposition or
13 after the statute of limitations has expired, whichever is
14 later. The time during which the holder of the license was
15 outside the State of Illinois shall not be included within any
16 period of time limiting the commencement of disciplinary action
17 by the Department.

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

27 The Department may refuse to issue or take disciplinary
28 action concerning the license of any person who fails to file a
29 return, or to pay the tax, penalty or interest shown in a filed
30 return, or to pay any final assessment of tax, penalty or
31 interest, as required by any tax Act administered by the
32 Illinois Department of Revenue, until such time as the
33 requirements of any such tax Act are satisfied as determined by
34 the Illinois Department of Revenue.

1 The Department, upon the recommendation of the
2 Disciplinary Board, shall adopt rules which set forth standards
3 to be used in determining:

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

6 (b) what constitutes dishonorable, unethical or
7 unprofessional conduct of a character likely to deceive,
8 defraud, or harm the public;

9 (c) what constitutes immoral conduct in the commission
10 of any act, including, but not limited to, commission of an
11 act of sexual misconduct related to the licensee's
12 practice; and

13 (d) what constitutes gross negligence in the practice
14 of medicine.

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

18 In enforcing this Section, the Medical Disciplinary Board,
19 upon a showing of a possible violation, may compel any
20 individual licensed to practice under this Act, or who has
21 applied for licensure or a permit pursuant to this Act, to
22 submit to a mental or physical examination, or both, as
23 required by and at the expense of the Department. The examining
24 physician or physicians shall be those specifically designated
25 by the Disciplinary Board. The Medical Disciplinary Board or
26 the Department may order the examining physician to present
27 testimony concerning this mental or physical examination of the
28 licensee or applicant. No information shall be excluded by
29 reason of any common law or statutory privilege relating to
30 communication between the licensee or applicant and the
31 examining physician. The individual to be examined may have, at
32 his or her own expense, another physician of his or her choice
33 present during all aspects of the examination. Failure of any
34 individual to submit to mental or physical examination, when

1 directed, shall be grounds for suspension of his or her license
2 until such time as the individual submits to the examination if
3 the Disciplinary Board finds, after notice and hearing, that
4 the refusal to submit to the examination was without reasonable
5 cause. If the Disciplinary Board finds a physician unable to
6 practice because of the reasons set forth in this Section, the
7 Disciplinary Board shall require such physician to submit to
8 care, counseling, or treatment by physicians approved or
9 designated by the Disciplinary Board, as a condition for
10 continued, reinstated, or renewed licensure to practice. Any
11 physician, whose license was granted pursuant to Sections 9,
12 17, or 19 of this Act, or, continued, reinstated, renewed,
13 disciplined or supervised, subject to such terms, conditions or
14 restrictions who shall fail to comply with such terms,
15 conditions or restrictions, or to complete a required program
16 of care, counseling, or treatment, as determined by the Chief
17 Medical Coordinator or Deputy Medical Coordinators, shall be
18 referred to the Director for a determination as to whether the
19 licensee shall have their license suspended immediately,
20 pending a hearing by the Disciplinary Board. In instances in
21 which the Director immediately suspends a license under this
22 Section, a hearing upon such person's license must be convened
23 by the Disciplinary Board within 15 days after such suspension
24 and completed without appreciable delay. The Disciplinary
25 Board shall have the authority to review the subject
26 physician's record of treatment and counseling regarding the
27 impairment, to the extent permitted by applicable federal
28 statutes and regulations safeguarding the confidentiality of
29 medical records.

30 An individual licensed under this Act, affected under this
31 Section, shall be afforded an opportunity to demonstrate to the
32 Disciplinary Board that they can resume practice in compliance
33 with acceptable and prevailing standards under the provisions
34 of their license.

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

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

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

31 (D) If a person has committed a total of 3 or more
32 violations of item (4) of subsection (A) of this Section or any
33 substantially similar provision of another jurisdiction, or
34 any combination thereof, the Department must refuse to issue a

1 license to the person and must revoke any license issued to the
2 person under this Act.

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

5 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

7 Sec. 23. Reports relating to professional conduct and
8 capacity.

9 (A) Entities required to report.

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

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

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

26 (3) Professional liability insurers. Every insurance
27 company which offers policies of professional liability
28 insurance to persons licensed under this Act, or any other
29 entity which seeks to indemnify the professional liability
30 of a person licensed under this Act, shall report to the
31 Disciplinary Board the settlement of any claim or cause of
32 action, or final judgment rendered in any cause of action,
33 which alleged negligence in the furnishing of medical care
34 by such licensed person when such settlement or final

1 judgment is in favor of the plaintiff.

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

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

23 (B) Mandatory reporting. All reports required by items
24 (34), (35), and (36) of subsection (A) of Section 22 and by
25 Section 23 shall be submitted to the Disciplinary Board in a
26 timely fashion. The reports shall be filed in writing within 60
27 days after a determination that a report is required under this
28 Act. All reports shall contain the following information:

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

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

33 (3) The name and date of birth ~~or other means of~~
34 ~~identification~~ of any patient or patients whose treatment

1 is a subject of the report, if available, or other means of
2 identification if such information is not available,
3 identification of the hospital or other healthcare
4 facility where the care at issue in the report was
5 rendered, and any medical records related to the report
6 ~~provided, however, no medical records may be revealed~~
7 ~~without the written consent of the patient or patients.~~

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

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

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

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

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

32 Nothing contained in this Section shall act to in any way,
33 waive or modify the confidentiality of medical reports and
34 committee reports to the extent provided by law. Any

1 information reported or disclosed shall be kept for the
2 confidential use of the Disciplinary Board, the Medical
3 Coordinators, the Disciplinary Board's attorneys, the medical
4 investigative staff, and authorized clerical staff, as
5 provided in this Act, and shall be afforded the same status as
6 is provided information concerning medical studies in Part 21
7 of Article VIII of the Code of Civil Procedure, except that the
8 Department may disclose information and documents to a federal,
9 State, or local law enforcement agency pursuant to a subpoena
10 in an ongoing criminal investigation. Furthermore, information
11 and documents disclosed to a federal, State, or local law
12 enforcement agency may be used by that agency only for the
13 investigation and prosecution of a criminal offense.

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

27 (D) Indemnification. Members of the Disciplinary Board,
28 the Medical Coordinators, the Disciplinary Board's attorneys,
29 the medical investigative staff, physicians retained under
30 contract to assist and advise the medical coordinators in the
31 investigation, and authorized clerical staff shall be
32 indemnified by the State for any actions occurring within the
33 scope of services on the Disciplinary Board, done in good faith
34 and not wilful and wanton in nature. The Attorney General shall

1 defend all such actions unless he or she determines either that
2 there would be a conflict of interest in such representation or
3 that the actions complained of were not in good faith or were
4 wilful and wanton.

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

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

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

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

27 The notification shall include a written notice setting
28 forth the person's right to examine the report. Included in
29 such notification shall be the address at which the file is
30 maintained, the name of the custodian of the reports, and the
31 telephone number at which the custodian may be reached. The
32 person who is the subject of the report shall submit a written
33 statement responding, clarifying, adding to, or proposing the
34 amending of the report previously filed. The person who is the

1 subject of the report shall also submit with the written
2 statement any medical records related to the report. The
3 statement and accompanying medical records shall become a
4 permanent part of the file and must be received by the
5 Disciplinary Board no more than 60 days after the date on which
6 the person was notified by the Disciplinary Board of the
7 existence of the original report.

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

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

24 Should the Disciplinary Board find that there are not
25 sufficient facts to warrant further investigation, or action,
26 the report shall be accepted for filing and the matter shall be
27 deemed closed and so reported to the Director. The Director
28 shall then have 30 days to accept the Medical Disciplinary
29 Board's decision or request further investigation. The
30 Director shall inform the Board in writing of the decision to
31 request further investigation, including the specific reasons
32 for the decision. The individual or entity filing the original
33 report or complaint and the person who is the subject of the
34 report or complaint shall be notified in writing by the

1 Director of any final action on their report or complaint.

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

16 (G) Any violation of this Section shall be a Class A
17 misdemeanor.

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

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

33 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

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

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

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

27 The medical information in the custody of an entity under
28 contract with the Department participating in an investigation
29 or review shall be privileged and confidential to the same
30 extent as are information and reports under the provisions of
31 Part 21 of Article VIII of the Code of Civil Procedure.

32 Upon request by the Department after a mandatory report has
33 been filed with the Department, an attorney for any party
34 seeking to recover damages for injuries or death by reason of

1 medical, hospital, or other healing art malpractice shall
2 provide patient records to the Department within 30 days of the
3 Department's request for use by the Department in any
4 disciplinary matter under this Act. An attorney who provides
5 patient records to the Department in accordance with this
6 requirement shall not be deemed to have violated any
7 attorney-client privilege. Notwithstanding any other provision
8 of law, consent by a patient shall not be required for the
9 provision of patient records in accordance with this
10 requirement.

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

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

21 (225 ILCS 60/24.1 new)

22 Sec. 24.1. Physician profile.

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

25 (b) The Department shall make available to the public a
26 profile of each physician. The Department shall make this
27 information available through an Internet web site and, if
28 requested, in writing. The physician profile shall contain the
29 following information:

30 (1) the full name of the physician;

31 (2) a description of any criminal convictions for
32 felonies and Class A misdemeanors, as determined by the
33 Department, within the most recent 10 years. For the

1 purposes of this Section, a person shall be deemed to be
2 convicted of a crime if he or she pleaded guilty or if he
3 was found or adjudged guilty by a court of competent
4 jurisdiction;

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

7 (4) a description of any final disciplinary actions by
8 licensing boards in other states within the most recent 10
9 years;

10 (5) a description of revocation or involuntary
11 restriction of hospital privileges for reasons related to
12 competence or character that have been taken by the
13 hospital's governing body or any other official of the
14 hospital after procedural due process has been afforded, or
15 the resignation from or nonrenewal of medical staff
16 membership or the restriction of privileges at a hospital
17 taken in lieu of or in settlement of a pending disciplinary
18 case related to competence or character in that hospital.
19 Only cases which have occurred within the most recent 10
20 years shall be disclosed by the Department to the public;

21 (6) all medical malpractice court judgments and all
22 medical malpractice arbitration awards in which a payment
23 was awarded to a complaining party during the most recent
24 10 years and all settlements of medical malpractice claims
25 in which a payment was made to a complaining party within
26 the most recent 10 years. Dispositions of paid claims shall
27 be reported in a minimum of 3 graduated categories
28 indicating the level of significance of the award or
29 settlement. Information concerning paid medical
30 malpractice claims shall be put in context by comparing an
31 individual physician's medical malpractice judgment awards
32 and settlements to the experience of other physicians
33 within the same specialty. Information concerning all
34 settlements shall be accompanied by the following

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

16 (7) names of medical schools attended, dates of
17 attendance, and date of graduation;

18 (8) graduate medical education;

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

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

23 (11) names of the hospitals where the physician has
24 privileges;

25 (12) appointments to medical school faculties and
26 indication as to whether a physician has a responsibility
27 for graduate medical education within the most recent 10
28 years;

29 (13) information regarding publications in
30 peer-reviewed medical literature within the most recent 10
31 years;

32 (14) information regarding professional or community
33 service activities and awards;

34 (15) the location of the physician's primary practice

1 setting;

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

5 (17) an indication of whether the physician
6 participates in the Medicaid program.

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

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

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

23 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

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

32 The Department shall, before suspending, revoking, placing
33 on probationary status, or taking any other disciplinary action

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

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

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

25 All information gathered by the Department during its
26 investigation including information subpoenaed under Section
27 23 or 38 of this Act and the investigative file shall be kept
28 for the confidential use of the Director, Disciplinary Board,
29 the Medical Coordinators, persons employed by contract to
30 advise the Medical Coordinator or the Department, the
31 Disciplinary Board's attorneys, the medical investigative
32 staff, and authorized clerical staff, as provided in this Act
33 and shall be afforded the same status as is provided
34 information concerning medical studies in Part 21 of Article

1 VIII of the Code of Civil Procedure, except that the Department
2 may disclose information and documents to a federal, State, or
3 local law enforcement agency pursuant to a subpoena in an
4 ongoing criminal investigation. Furthermore, information and
5 documents disclosed to a federal, State, or local law
6 enforcement agency may be used by that agency only for the
7 investigation and prosecution of a criminal offense.

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

9 Section 25. The Clerks of Courts Act is amended by adding
10 Section 27.10 as follows:

11 (705 ILCS 105/27.10 new)

12 Sec. 27.10. Secretary of Financial and Professional
13 Regulation. Each clerk of the circuit court shall provide to
14 the Secretary of Financial and Professional Regulation such
15 information as he or she requests under Section 155.19 of the
16 Illinois Insurance Code.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law."