



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1476

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

225 ILCS 60/23
225 ILCS 60/36

from Ch. 111, par. 4400-23
from Ch. 111, par. 4400-36

Amends the Medical Practice Act of 1987. Provides that upon any person's request, the Department of Financial and Professional Regulation shall disclose to the person the status of the Disciplinary Board's review of a specific report or complaint. Provides that the request may be made at any time, including prior to the Disciplinary Board's determination as to whether there are sufficient facts to warrant further investigation or action. Provides that the Department shall, at least 14 days prior to the date set for the hearing, notify in writing any person who filed a complaint against the accused of the time and place for the hearing of the charges against the accused before the Disciplinary Board and inform such person whether he or she may provide testimony at the hearing.

LRB097 06656 CEL 46742 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning professional regulation.

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

4 Section 5. The Medical Practice Act of 1987 is amended by
5 changing Sections 23 and 36 as follows:

6 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

7 (Section scheduled to be repealed on November 30, 2011)

8 (Text of Section WITH the changes made by P.A. 94-677,
9 which has been held unconstitutional, and by P.A. 96-1372,
10 which amended language added by P.A. 94-677)

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

13 (A) Entities required to report.

14 (1) Health care institutions. The chief administrator
15 or executive officer of any health care institution
16 licensed by the Illinois Department of Public Health shall
17 report to the Disciplinary Board when any person's clinical
18 privileges are terminated or are restricted based on a
19 final determination, in accordance with that institution's
20 by-laws or rules and regulations, that a person has either
21 committed an act or acts which may directly threaten
22 patient care, and not of an administrative nature, or that
23 a person may be mentally or physically disabled in such a

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

1 required, in a manner and at such time as the Disciplinary
2 Board shall determine by rule. The filing of such reports
3 shall be construed as the filing of a report for purposes
4 of subsection (C) of this Section.

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

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

24 (4) State's Attorneys. The State's Attorney of each
25 county shall report to the Disciplinary Board all instances
26 in which a person licensed under this Act is convicted or

1 otherwise found guilty of the commission of any felony. The
2 State's Attorney of each county may report to the
3 Disciplinary Board through a verified complaint any
4 instance in which the State's Attorney believes that a
5 physician has willfully violated the notice requirements
6 of the Parental Notice of Abortion Act of 1995.

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

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

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

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

3 (3) The name and date of birth of any patient or
4 patients whose treatment is a subject of the report, if
5 available, or other means of identification if such
6 information is not available, identification of the
7 hospital or other healthcare facility where the care at
8 issue in the report was rendered, provided, however, no
9 medical records may be revealed.

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

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

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

19 The Disciplinary Board or Department may also exercise the
20 power under Section 38 of this Act to subpoena copies of
21 hospital or medical records in mandatory report cases alleging
22 death or permanent bodily injury. Appropriate rules shall be
23 adopted by the Department with the approval of the Disciplinary
24 Board.

25 When the Department has received written reports
26 concerning incidents required to be reported in items (34),

1 (35), and (36) of subsection (A) of Section 22, the licensee's
2 failure to report the incident to the Department under those
3 items shall not be the sole grounds for disciplinary action.

4 Nothing contained in this Section shall act to in any way,
5 waive or modify the confidentiality of medical reports and
6 committee reports to the extent provided by law. Any
7 information reported or disclosed shall be kept for the
8 confidential use of the Disciplinary Board, the Medical
9 Coordinators, the Disciplinary Board's attorneys, the medical
10 investigative staff, and authorized clerical staff, as
11 provided in this Act, and shall be afforded the same status as
12 is provided information concerning medical studies in Part 21
13 of Article VIII of the Code of Civil Procedure, except that the
14 Department may disclose information and documents to a federal,
15 State, or local law enforcement agency pursuant to a subpoena
16 in an ongoing criminal investigation or to a health care
17 licensing body of this State or another state or jurisdiction
18 pursuant to an official request made by that licensing body.
19 Furthermore, information and documents disclosed to a federal,
20 State, or local law enforcement agency may be used by that
21 agency only for the investigation and prosecution of a criminal
22 offense, or, in the case of disclosure to a health care
23 licensing body, only for investigations and disciplinary
24 action proceedings with regard to a license. Information and
25 documents disclosed to the Department of Public Health may be
26 used by that Department only for investigation and disciplinary

1 action regarding the license of a health care institution
2 licensed by the Department of Public Health.

3 (C) Immunity from prosecution. Any individual or
4 organization acting in good faith, and not in a wilful and
5 wanton manner, in complying with this Act by providing any
6 report or other information to the Disciplinary Board or a peer
7 review committee, or assisting in the investigation or
8 preparation of such information, or by voluntarily reporting to
9 the Disciplinary Board or a peer review committee information
10 regarding alleged errors or negligence by a person licensed
11 under this Act, or by participating in proceedings of the
12 Disciplinary Board or a peer review committee, or by serving as
13 a member of the Disciplinary Board or a peer review committee,
14 shall not, as a result of such actions, be subject to criminal
15 prosecution or civil damages.

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

1 wilful and wanton.

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

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

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

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

24 The notification shall include a written notice setting
25 forth the person's right to examine the report. Included in
26 such notification shall be the address at which the file is

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

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

21 When the Disciplinary Board makes its initial review of the
22 materials contained within its disciplinary files, the
23 Disciplinary Board shall, in writing, make a determination as
24 to whether there are sufficient facts to warrant further
25 investigation or action. Failure to make such determination
26 within the time provided shall be deemed to be a determination

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

3 Should the Disciplinary Board find that there are not
4 sufficient facts to warrant further investigation, or action,
5 the report shall be accepted for filing and the matter shall be
6 deemed closed and so reported to the Secretary. The Secretary
7 shall then have 30 days to accept the Medical Disciplinary
8 Board's decision or request further investigation. The
9 Secretary shall inform the Board in writing of the decision to
10 request further investigation, including the specific reasons
11 for the decision. The individual or entity filing the original
12 report or complaint and the person who is the subject of the
13 report or complaint shall be notified in writing by the
14 Secretary of any final action on their report or complaint.
15 Upon any person's request, the Department shall disclose to the
16 person the status of the Disciplinary Board's review of a
17 specific report or complaint. Such request may be made at any
18 time, including prior to the Disciplinary Board's
19 determination as to whether there are sufficient facts to
20 warrant further investigation or action.

21 (F) Summary reports. The Disciplinary Board shall prepare,
22 on a timely basis, but in no event less than once every other
23 month, a summary report of final actions taken upon
24 disciplinary files maintained by the Disciplinary Board. The
25 summary reports shall be made available to the public upon
26 request and payment of the fees set by the Department. This

1 publication may be made available to the public on the
2 Department's Internet website.

3 (G) Any violation of this Section shall be a Class A
4 misdemeanor.

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

18 (Source: P.A. 94-677, eff. 8-25-05; 95-639, eff. 10-5-07;
19 96-1372, eff. 7-29-10.)

20 (Text of Section WITHOUT the changes made by P.A. 94-677,
21 which has been held unconstitutional, and by P.A. 96-1372,
22 which amended language added by P.A. 94-677)

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

25 (A) Entities required to report.

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

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

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

24 (3) Professional liability insurers. Every insurance
25 company which offers policies of professional liability
26 insurance to persons licensed under this Act, or any other

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

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

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

1 be mentally or physically disabled in such a manner as to
2 endanger patients under that person's care.

3 (B) Mandatory reporting. All reports required by items
4 (34), (35), and (36) of subsection (A) of Section 22 and by
5 Section 23 shall be submitted to the Disciplinary Board in a
6 timely fashion. The reports shall be filed in writing within 60
7 days after a determination that a report is required under this
8 Act. All reports shall contain the following information:

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

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

13 (3) The name or other means of identification of any
14 patient or patients whose treatment is a subject of the
15 report, provided, however, no medical records may be
16 revealed without the written consent of the patient or
17 patients.

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

21 (5) If court action is involved, the identity of the
22 court in which the action is filed, along with the docket
23 number and date of filing of the action.

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

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

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

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

26 (C) Immunity from prosecution. Any individual or

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

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

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

1 The member must notify the Attorney General within 7 days
2 of receipt of notice of the initiation of any action involving
3 services of the Disciplinary Board. Failure to so notify the
4 Attorney General shall constitute an absolute waiver of the
5 right to a defense and indemnification.

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

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

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

1 the person was notified by the Disciplinary Board of the
2 existence of the original report.

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

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

19 Should the Disciplinary Board find that there are not
20 sufficient facts to warrant further investigation, or action,
21 the report shall be accepted for filing and the matter shall be
22 deemed closed and so reported to the Director. The Director
23 shall then have 30 days to accept the Medical Disciplinary
24 Board's decision or request further investigation. The
25 Director shall inform the Board in writing of the decision to
26 request further investigation, including the specific reasons

1 for the decision. The individual or entity filing the original
2 report or complaint and the person who is the subject of the
3 report or complaint shall be notified in writing by the
4 Director of any final action on their report or complaint. Upon
5 any person's request, the Department shall disclose to the
6 person the status of the Disciplinary Board's review of a
7 specific report or complaint. Such request may be made at any
8 time, including prior to the Disciplinary Board's
9 determination as to whether there are sufficient facts to
10 warrant further investigation or action.

11 (F) Summary reports. The Disciplinary Board shall prepare,
12 on a timely basis, but in no event less than once every other
13 month, a summary report of final actions taken upon
14 disciplinary files maintained by the Disciplinary Board. The
15 summary reports shall be made available to the public upon
16 request and payment of the fees set by the Department. This
17 publication may be made available to the public on the
18 Department's Internet website.

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

21 (H) If any such person violates the provisions of this
22 Section an action may be brought in the name of the People of
23 the State of Illinois, through the Attorney General of the
24 State of Illinois, for an order enjoining such violation or for
25 an order enforcing compliance with this Section. Upon filing of
26 a verified petition in such court, the court may issue a

1 temporary restraining order without notice or bond and may
2 preliminarily or permanently enjoin such violation, and if it
3 is established that such person has violated or is violating
4 the injunction, the court may punish the offender for contempt
5 of court. Proceedings under this paragraph shall be in addition
6 to, and not in lieu of, all other remedies and penalties
7 provided for by this Section.

8 (Source: P.A. 95-639, eff. 10-5-07.)

9 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

10 (Section scheduled to be repealed on November 30, 2011)

11 (Text of Section WITH the changes made by P.A. 94-677,
12 which has been held unconstitutional, and by P.A. 96-1372,
13 which amended language added by P.A. 94-677)

14 Sec. 36. Upon the motion of either the Department or the
15 Disciplinary Board or upon the verified complaint in writing of
16 any person setting forth facts which, if proven, would
17 constitute grounds for suspension or revocation under Section
18 22 of this Act, the Department shall investigate the actions of
19 any person, so accused, who holds or represents that they hold
20 a license. Such person is hereinafter called the accused.

21 The Department shall, before suspending, revoking, placing
22 on probationary status, or taking any other disciplinary action
23 as the Department may deem proper with regard to any license at
24 least 30 days prior to the date set for the hearing, notify the
25 accused in writing of any charges made and the time and place

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

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

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

1 accused in their last notification to the Department.

2 All information gathered by the Department during its
3 investigation including information subpoenaed under Section
4 23 or 38 of this Act and the investigative file shall be kept
5 for the confidential use of the Secretary, Disciplinary Board,
6 the Medical Coordinators, persons employed by contract to
7 advise the Medical Coordinator or the Department, the
8 Disciplinary Board's attorneys, the medical investigative
9 staff, and authorized clerical staff, as provided in this Act
10 and shall be afforded the same status as is provided
11 information concerning medical studies in Part 21 of Article
12 VIII of the Code of Civil Procedure, except that the Department
13 may disclose information and documents to a federal, State, or
14 local law enforcement agency pursuant to a subpoena in an
15 ongoing criminal investigation to a health care licensing body
16 of this State or another state or jurisdiction pursuant to an
17 official request made by that licensing body. Furthermore,
18 information and documents disclosed to a federal, State, or
19 local law enforcement agency may be used by that agency only
20 for the investigation and prosecution of a criminal offense or,
21 in the case of disclosure to a health care licensing body, only
22 for investigations and disciplinary action proceedings with
23 regard to a license issued by that licensing body.

24 (Source: P.A. 94-677, eff. 8-25-05; 96-1372, eff. 7-29-10.)

25 (Text of Section WITHOUT the changes made by P.A. 94-677,

1 which has been held unconstitutional, and by P.A. 96-1372,
2 which amended language added by P.A. 94-677)

3 Sec. 36. Upon the motion of either the Department or the
4 Disciplinary Board or upon the verified complaint in writing of
5 any person setting forth facts which, if proven, would
6 constitute grounds for suspension or revocation under Section
7 22 of this Act, the Department shall investigate the actions of
8 any person, so accused, who holds or represents that they hold
9 a license. Such person is hereinafter called the accused.

10 The Department shall, before suspending, revoking, placing
11 on probationary status, or taking any other disciplinary action
12 as the Department may deem proper with regard to any license at
13 least 30 days prior to the date set for the hearing, notify the
14 accused in writing of any charges made and the time and place
15 for a hearing of the charges before the Disciplinary Board,
16 direct them to file their written answer thereto to the
17 Disciplinary Board under oath within 20 days after the service
18 on them of such notice and inform them that if they fail to
19 file such answer default will be taken against them and their
20 license may be suspended, revoked, placed on probationary
21 status, or have other disciplinary action, including limiting
22 the scope, nature or extent of their practice, as the
23 Department may deem proper taken with regard thereto. The
24 Department shall, at least 14 days prior to the date set for
25 the hearing, notify in writing any person who filed a complaint
26 against the accused of the time and place for the hearing of

1 the charges against the accused before the Disciplinary Board
2 and inform such person whether he or she may provide testimony
3 at the hearing.

4 Where a physician has been found, upon complaint and
5 investigation of the Department, and after hearing, to have
6 performed an abortion procedure in a wilful and wanton manner
7 upon a woman who was not pregnant at the time such abortion
8 procedure was performed, the Department shall automatically
9 revoke the license of such physician to practice medicine in
10 Illinois.

11 Such written notice and any notice in such proceedings
12 thereafter may be served by delivery of the same, personally,
13 to the accused person, or by mailing the same by registered or
14 certified mail to the address last theretofore specified by the
15 accused in their last notification to the Department.

16 All information gathered by the Department during its
17 investigation including information subpoenaed under Section
18 23 or 38 of this Act and the investigative file shall be kept
19 for the confidential use of the Director, Disciplinary Board,
20 the Medical Coordinators, persons employed by contract to
21 advise the Medical Coordinator or the Department, the
22 Disciplinary Board's attorneys, the medical investigative
23 staff, and authorized clerical staff, as provided in this Act
24 and shall be afforded the same status as is provided
25 information concerning medical studies in Part 21 of Article
26 VIII of the Code of Civil Procedure.

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