



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2887

Introduced 2/22/2011, by Rep. Jil Tracy

SYNOPSIS AS INTRODUCED:

215 ILCS 5/155.18	from Ch. 73, par. 767.18
215 ILCS 5/155.18a	
215 ILCS 5/155.19	from Ch. 73, par. 767.19
215 ILCS 5/1204	from Ch. 73, par. 1065.904
225 ILCS 60/7	from Ch. 111, par. 4400-7
225 ILCS 60/22	from Ch. 111, par. 4400-22
225 ILCS 60/23	from Ch. 111, par. 4400-23
225 ILCS 60/24	from Ch. 111, par. 4400-24
225 ILCS 60/24.1	
225 ILCS 60/36	from Ch. 111, par. 4400-36
735 ILCS 5/2-622	from Ch. 110, par. 2-622
735 ILCS 5/2-1303	from Ch. 110, par. 2-1303
735 ILCS 5/2-1704.5	
735 ILCS 5/8-1901	from Ch. 110, par. 8-1901
735 ILCS 5/8-2006	
735 ILCS 5/8-2501	from Ch. 110, par. 8-2501
745 ILCS 49/30	

Amends the Illinois Insurance Code, the Medical Practice Act of 1987, the Code of Civil Procedure, and the Good Samaritan Act to reenact certain provisions of Public Act 94-677, which was declared to be unconstitutional. Includes explanatory and validation provisions. Makes changes relating to the reenactment, including revisory changes. Also makes these substantive changes: Amends the Code of Civil Procedure to lower the rate of interest payable on judgments; to provide for annual indexing of those rates; and to delay the accrual of interest in certain cases where a federal Medicare lien may exist against the judgment. Includes an inseverability provision. Effective immediately.

LRB097 09757 AMC 49895 b

1 AN ACT concerning civil law.

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

4 Section 1. Findings; purpose; text and revisory changes;
5 validation; additional material.

6 (a) The Illinois Supreme Court, in *Lebron v. Gottlieb*
7 *Memorial Hospital*, found that the limitations on noneconomic
8 damages in medical malpractice actions that were created in
9 Public Act 94-677, contained in Section 2-1706.5 of the Code of
10 Civil Procedure, violate the separation of powers clause of the
11 Illinois Constitution. Because Public Act 94-677 contained an
12 inseverability provision, the Court held the Act to be void in
13 its entirety. The Court emphasized, however, that "because the
14 other provisions contained in Public Act 94-677 are deemed
15 invalid solely on inseverability grounds, the legislature
16 remains free to reenact any provisions it deems appropriate".

17 (b) It is the purpose of this Act to reenact certain
18 provisions of Public Act 94-677 that did not involve
19 limitations on noneconomic damages in medical malpractice
20 actions and to validate certain actions taken in reliance on
21 those provisions.

22 (c) This Act reenacts (i) Sections 155.18, 155.18a, 155.19,
23 and 1204 of the Illinois Insurance Code; (ii) Sections 7, 22,
24 23, 24, 24.1, and 36 of the Medical Practice Act of 1987; (iii)

1 Sections 2-622, 2-1704.5, 8-1901, and 8-2501 of the Code of
2 Civil Procedure; and (iv) Section 30 of the Good Samaritan Act.
3 In those Sections, certain effective date references and
4 applicability provisions have been changed to reflect the
5 reenactment. This Act does not reenact any other provisions of
6 Public Act 94-677.

7 (d) Public Act 94-677 amended existing Sections 155.18,
8 155.19, and 1204 of the Illinois Insurance Code and added a new
9 Section 155.18a. Section 1204 was subsequently amended by
10 Public Act 95-331, which was a revisory bill that combined the
11 changes made by Public Act 94-277 with those made by Public Act
12 94-677. Sections 155.18, 155.18a, and 155.19 have not been
13 amended since the enactment of Public Act 94-677.

14 Executive Order No. 2004-6 changed the Department of
15 Insurance into the Division of Insurance within the Department
16 of Financial and Professional Regulation. In conformance with
17 that executive order, Public Act 94-677 changed certain
18 references in the affected Sections from the Director of
19 Insurance to the Secretary of Financial and Professional
20 Regulation. Public Act 96-811 superseded the executive order
21 and re-established the Department of Insurance as a separate
22 department, once again under the supervision of the Director of
23 Insurance. Therefore, in reenacting these Sections, revisory
24 changes have been included that conform the text to Public Act
25 96-811 by changing references to the Secretary back to the
26 Director. A revisory change is also made in a reference to the

1 effective date of Public Act 94-677, which is replaced by the
2 actual date.

3 In this Act, the base text of the reenacted Sections is set
4 forth as it existed at the time of the Supreme Court's
5 decision, including any amendments that occurred after P.A.
6 94-677. Striking and underscoring is used only to show the
7 changes being made to that base text.

8 (e) All otherwise lawful actions taken in reasonable
9 reliance on or pursuant to the Sections reenacted by this Act,
10 as set forth in Public Act 94-677 or subsequently amended, by
11 any officer, employee, agency, or unit of State or local
12 government or by any other person or entity, are hereby
13 validated.

14 With respect to actions taken in relation to matters
15 arising under the Sections reenacted by this Act, a person is
16 rebuttably presumed to have acted in reasonable reliance on and
17 pursuant to the provisions of Public Act 94-677, as those
18 provisions had been amended at the time the action was taken.

19 With respect to their administration of matters arising
20 under the Sections reenacted by this Act, officers, employees,
21 agencies, and units of State and local government shall
22 continue to apply the provisions of Public Act 94-677, as those
23 provisions had been amended at the relevant time.

24 (f) This Act also contains material making new substantive
25 changes. It amends Sections 2-1303 and 8-2006 of the Code of
26 Civil Procedure to lower the rate of interest payable on

1 judgments; to provide for annual indexing of those rates; and
2 to delay the accrual of interest in certain cases where a
3 federal Medicare lien may exist against the judgment.

4 Section 5. The Illinois Insurance Code is amended by
5 reenacting and changing Sections 155.18, 155.18a, 155.19, and
6 1204 as follows:

7 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

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

18 (b) The following standards shall apply to the making and
19 use of rates pertaining to all classes of medical liability
20 insurance:

21 (1) Rates shall not be excessive or inadequate nor
22 shall they be unfairly discriminatory.

23 (2) Consideration shall be given, to the extent
24 applicable, to past and prospective loss experience within

1 and outside this State, to a reasonable margin for
2 underwriting profit and contingencies, to past and
3 prospective expenses both countrywide and those especially
4 applicable to this State, and to all other factors,
5 including judgment factors, deemed relevant within and
6 outside this State.

7 Consideration may also be given in the making and use
8 of rates to dividends, savings or unabsorbed premium
9 deposits allowed or returned by companies to their
10 policyholders, members or subscribers.

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

17 (4) Risks may be grouped by classifications for the
18 establishment of rates and minimum premiums.
19 Classification rates may be modified to produce rates for
20 individual risks in accordance with rating plans which
21 establish standards for measuring variations in hazards or
22 expense provisions, or both. Such standards may measure any
23 difference among risks that have a probable effect upon
24 losses or expenses. Such classifications or modifications
25 of classifications of risks may be established based upon
26 size, expense, management, individual experience, location

1 or dispersion of hazard, or any other reasonable
2 considerations and shall apply to all risks under the same
3 or substantially the same circumstances or conditions. The
4 rate for an established classification should be related
5 generally to the anticipated loss and expense factors of
6 the class.

7 (c) (1) Every company writing medical liability insurance
8 shall file with the Director of Insurance ~~Secretary of~~
9 ~~Financial and Professional Regulation~~ the rates and rating
10 schedules it uses for medical liability insurance. A rate shall
11 go into effect upon filing, except as otherwise provided in
12 this Section.

13 (2) If (i) 1% of a company's insureds within a specialty or
14 25 of the company's insureds (whichever is greater) request a
15 public hearing, (ii) the Director ~~Secretary~~ at his or her
16 discretion decides to convene a public hearing, or (iii) the
17 percentage increase in a company's rate is greater than 6%,
18 then the Director ~~Secretary~~ shall convene a public hearing in
19 accordance with this paragraph (2). The Director ~~Secretary~~
20 shall notify the public of any application by an insurer for a
21 rate increase to which this paragraph (2) applies. A public
22 hearing under this paragraph (2) must be concluded within 90
23 days after the request, decision, or increase that gave rise to
24 the hearing. The Director ~~Secretary~~ may, by order, adjust a
25 rate or take any other appropriate action at the conclusion of
26 the hearing.

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

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

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

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

19 (1) that any rate, rating plan or rating system
20 violates the provisions of this Section applicable to it,
21 he shall issue an order to the company which has been the
22 subject of the hearing specifying in what respects such
23 violation exists and, in that order, may adjust the rate;

24 (2) that the violation of any of the provisions of this
25 Section by any company which has been the subject of the
26 hearing was wilful or that any company has repeatedly

1 violated any provision of this Section, he may take either
2 or both of the following actions:

3 (A) Suspend or revoke, in whole or in part, the
4 certificate of authority of such company with respect
5 to the class of insurance which has been the subject of
6 the hearing.

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

10 The burden is on the company to justify the rate or
11 proposed rate at the public hearing.

12 (e) Every company writing medical liability insurance in
13 this State shall offer to each of its medical liability
14 insureds the option to make premium payments in quarterly
15 installments as prescribed by and filed with the Director
16 ~~Secretary~~. This offer shall be included in the initial offer or
17 in the first policy renewal occurring after August 25, 2005 ~~the~~
18 ~~effective date of this amendatory Act of the 94th General~~
19 ~~Assembly~~, but no earlier than January 1, 2006.

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

25 (g) Every company writing medical liability insurance is
26 encouraged, but not required, to offer their medical liability

1 insureds a plan providing premium discounts for participation
2 in risk management activities. Any such plan shall be reported
3 to the Department.

4 (h) A company writing medical liability insurance in
5 Illinois must give 180 days' notice before the company
6 discontinues the writing of medical liability insurance in
7 Illinois.

8 (Source: P.A. 94-677, eff. 8-25-05.)

9 (215 ILCS 5/155.18a)

10 Sec. 155.18a. Professional Liability Insurance Resource
11 Center. The Director of Insurance ~~Secretary of Financial and~~
12 ~~Professional Regulation~~ shall establish a Professional
13 Liability Insurance Resource Center on the Department's
14 Internet website containing the name, telephone number, and
15 base rates of each licensed company providing medical liability
16 insurance and the name, address, and telephone number of each
17 producer who sells medical liability insurance and the name of
18 each licensed company for which the producer sells medical
19 liability insurance. Each company and producer shall submit the
20 information to the Department on or before September 30 of each
21 year in order to be listed on the website. Hyperlinks to
22 company websites shall be included, if available. The
23 publication of the information on the Department's website
24 shall commence on January 1, 2006. The Department shall update
25 the information on the Professional Liability Insurance

1 Resource Center at least annually.

2 (Source: P.A. 94-677, eff. 8-25-05.)

3 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

4 Sec. 155.19. All claims filed after December 31, 1976 with
5 any insurer and all suits filed after December 31, 1976 in any
6 court in this State, alleging liability on the part of any
7 physician, hospital or other health care provider for medically
8 related injuries, shall be reported to the Director of
9 Insurance ~~Secretary of Financial and Professional Regulation~~
10 in such form and under such terms and conditions as may be
11 prescribed by the Director ~~Secretary~~. In addition, and
12 notwithstanding any other provision of law to the contrary, any
13 insurer, stop loss insurer, captive insurer, risk retention
14 group, county risk retention trust, religious or charitable
15 risk pooling trust, surplus line insurer, or other entity
16 authorized or permitted by law to provide medical liability
17 insurance in this State shall report to the Director ~~Secretary~~,
18 in such form and under such terms and conditions as may be
19 prescribed by the Director ~~Secretary~~, all claims filed after
20 December 31, 2005 and all suits filed after December 31, 2005
21 in any court in this State alleging liability on the part of
22 any physician, hospital, or health care provider for medically
23 related injuries. Each clerk of the circuit court shall provide
24 to the Director ~~Secretary~~ such information as the Director
25 ~~Secretary~~ may deem necessary to verify the accuracy and

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

19 With due regard for appropriate maintenance of the
20 confidentiality thereof, the Director ~~Secretary~~ shall release,
21 on an annual basis, to the Governor, the General Assembly and
22 the general public statistical reports based on such data and
23 information.

24 If the Director ~~Secretary~~ finds that any entity required to
25 report information in its possession under this Section has
26 violated any provision of this Section by filing late,

1 incomplete, or inaccurate reports, the Director ~~Secretary~~ may
2 fine the entity up to \$1,000 for each offense. Each day during
3 which a violation occurs constitutes a separate offense.

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

7 (Source: P.A. 94-677, eff. 8-25-05.)

8 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

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

24 (B) Such report required by subsection (A) of this Section
25 may include, but not be limited to, the following specific

1 types of insurance written by such insurer:

2 (1) Political subdivision liability insurance reported
3 separately in the following categories:

4 (a) municipalities;

5 (b) school districts;

6 (c) other political subdivisions;

7 (2) Public official liability insurance;

8 (3) Dram shop liability insurance;

9 (4) Day care center liability insurance;

10 (5) Labor, fraternal or religious organizations
11 liability insurance;

12 (6) Errors and omissions liability insurance;

13 (7) Officers and directors liability insurance
14 reported separately as follows:

15 (a) non-profit entities;

16 (b) for-profit entities;

17 (8) Products liability insurance;

18 (9) Medical malpractice insurance;

19 (10) Attorney malpractice insurance;

20 (11) Architects and engineers malpractice insurance;

21 and

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

24 (a) motor vehicle physical damage insurance;

25 (b) motor vehicle liability insurance.

26 (C) Such report may include, but need not be limited to the

1 following data, both specific to this State and companywide, in
2 the aggregate or by type of insurance for the previous year on
3 a calendar year basis:

4 (1) Direct premiums written;

5 (2) Direct premiums earned;

6 (3) Number of policies;

7 (4) Net investment income, using appropriate estimates
8 where necessary;

9 (5) Losses paid;

10 (6) Losses incurred;

11 (7) Loss reserves:

12 (a) Losses unpaid on reported claims;

13 (b) Losses unpaid on incurred but not reported
14 claims;

15 (8) Number of claims:

16 (a) Paid claims;

17 (b) Arising claims;

18 (9) Loss adjustment expenses:

19 (a) Allocated loss adjustment expenses;

20 (b) Unallocated loss adjustment expenses;

21 (10) Net underwriting gain or loss;

22 (11) Net operation gain or loss, including net
23 investment income;

24 (12) Any other information requested by the Director
25 ~~Secretary~~.

26 (C-3) Additional information by an advisory organization

1 as defined in Section 463 of this Code.

2 (1) An advisory organization as defined in Section 463
3 of this Code shall report annually the following
4 information in such format as may be prescribed by the
5 Director ~~Secretary~~:

6 (a) paid and incurred losses for each of the past
7 10 years;

8 (b) medical payments and medical charges, if
9 collected, for each of the past 10 years;

10 (c) the following indemnity payment information:
11 cumulative payments by accident year by calendar year
12 of development. This array will show payments made and
13 frequency of claims in the following categories:
14 medical only, permanent partial disability (PPD),
15 permanent total disability (PTD), temporary total
16 disability (TTD), and fatalities;

17 (d) injuries by frequency and severity;

18 (e) by class of employee.

19 (2) The report filed with the Director ~~Secretary of~~
20 ~~Financial and Professional Regulation~~ under paragraph (1)
21 of this subsection (C-3) shall be made available, on an
22 aggregate basis, to the General Assembly and to the general
23 public. The identity of the petitioner, the respondent, the
24 attorneys, and the insurers shall not be disclosed.

25 (3) Reports required under this subsection (C-3) shall
26 be filed with the Director ~~Secretary~~ no later than

1 September 1 in 2006 and no later than September 1 of each
2 year thereafter.

3 (C-5) Additional information required from medical
4 malpractice insurers.

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

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

12 (b) earned exposures by ISO code, policy type, and
13 policy year by county for each of the past 10 years;
14 and

15 (c) the following actuarial information:

16 (i) Base class and territory equivalent
17 exposures by report year by relative accident
18 year.

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

1 on pending claims.

2 (iii) Cumulative loss array by report year by
3 calendar year of development. This array will show
4 frequency of claims in the following categories:
5 open, closed with indemnity (CWI), closed with
6 expense (CWE), and closed no pay (CNP); paid
7 severity in the following categories: indemnity
8 and allocated loss adjustment expenses (ALAE) on
9 closed claims; and indemnity and expense reserves
10 on pending claims.

11 (iv) Maturity year and tail factors.

12 (v) Any expense, contingency ddr (death,
13 disability, and retirement), commission, tax,
14 and/or off-balance factors.

15 (2) The following information must also be annually
16 provided to the Department:

17 (a) copies of the company's reserve and surplus
18 studies; and

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

21 (3) All information collected by the Director
22 ~~Secretary~~ under paragraphs (1) and (2) shall be made
23 available, on a company-by-company basis, to the General
24 Assembly and the general public. This provision shall
25 supersede any other provision of State law that may
26 otherwise protect such information from public disclosure

1 as confidential.

2 (D) In addition to the information which may be requested
3 under subsection (C), the Director ~~Secretary~~ may also request
4 on a companywide, aggregate basis, Federal Income Tax
5 recoverable, net realized capital gain or loss, net unrealized
6 capital gain or loss, and all other expenses not requested in
7 subsection (C) above.

8 (E) Violations - Suspensions - Revocations.

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

18 (2) No forfeiture liability under paragraph (1) of this
19 subsection may attach unless a written notice of apparent
20 liability has been issued by the Director ~~Secretary~~ and
21 received by the respondent, or the Director ~~Secretary~~ sends
22 written notice of apparent liability by registered or
23 certified mail, return receipt requested, to the last known
24 address of the respondent. Any respondent so notified must
25 be granted an opportunity to request a hearing within 10
26 days from receipt of notice, or to show in writing, why he

1 should not be held liable. A notice issued under this
2 Section must set forth the date, facts and nature of the
3 act or omission with which the respondent is charged and
4 must specifically identify the particular provision of
5 this Article, rule, regulation or order of which a
6 violation is charged.

7 (3) No forfeiture liability under paragraph (1) of this
8 subsection may attach for any violation occurring more than
9 2 years prior to the date of issuance of the notice of
10 apparent liability and in no event may the total civil
11 penalty forfeiture imposed for the acts or omissions set
12 forth in any one notice of apparent liability exceed
13 \$100,000.

14 (4) All administrative hearings conducted pursuant to
15 this Article are subject to 50 Ill. Adm. Code 2402 and all
16 administrative hearings are subject to the Administrative
17 Review Law.

18 (5) The civil penalty forfeitures provided for in this
19 Section are payable to the General Revenue Fund of the
20 State of Illinois, and may be recovered in a civil suit in
21 the name of the State of Illinois brought in the Circuit
22 Court in Sangamon County or in the Circuit Court of the
23 county where the respondent is domiciled or has its
24 principal operating office.

25 (6) In any case where the Director ~~Secretary~~ issues a
26 notice of apparent liability looking toward the imposition

1 of a civil penalty forfeiture under this Section that fact
2 may not be used in any other proceeding before the Director
3 ~~Secretary~~ to the prejudice of the respondent to whom the
4 notice was issued, unless (a) the civil penalty forfeiture
5 has been paid, or (b) a court has ordered payment of the
6 civil penalty forfeiture and that order has become final.

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

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

1 obtained.

2 (9) No suspension or revocation under this Section may
3 become effective until 5 days from the date that the notice
4 of suspension or revocation has been personally delivered
5 or delivered by registered or certified mail to the company
6 or person. A suspension or revocation under this Section is
7 stayed upon the filing, by the company or person, of a
8 petition for judicial review under the Administrative
9 Review Law.

10 (Source: P.A. 94-277, eff. 7-20-05; 94-677, eff. 8-25-05;
11 95-331, eff. 8-21-07.)

12 Section 10. The Medical Practice Act of 1987 is amended by
13 reenacting and changing Sections 7, 22, 23, 24, 24.1, and 36 as
14 follows:

15 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

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

17 Sec. 7. Medical Disciplinary Board.

18 (A) There is hereby created the Illinois State Medical
19 Disciplinary Board (hereinafter referred to as the
20 "Disciplinary Board"). The Disciplinary Board shall consist of
21 11 members, to be appointed by the Governor by and with the
22 advice and consent of the Senate. All members shall be
23 residents of the State, not more than 6 of whom shall be
24 members of the same political party. All members shall be

1 voting members. Five members shall be physicians licensed to
2 practice medicine in all of its branches in Illinois possessing
3 the degree of doctor of medicine, and it shall be the goal that
4 at least one of the members practice in the field of
5 neurosurgery, one of the members practice in the field of
6 obstetrics and gynecology, and one of the members practice in
7 the field of cardiology. One member shall be a physician
8 licensed to practice in Illinois possessing the degree of
9 doctor of osteopathy or osteopathic medicine. One member shall
10 be a physician licensed to practice in Illinois and possessing
11 the degree of doctor of chiropractic. Four members shall be
12 members of the public, who shall not be engaged in any way,
13 directly or indirectly, as providers of health care.

14 (B) Members of the Disciplinary Board shall be appointed
15 for terms of 4 years. Upon the expiration of the term of any
16 member, their successor shall be appointed for a term of 4
17 years by the Governor by and with the advice and consent of the
18 Senate. The Governor shall fill any vacancy for the remainder
19 of the unexpired term by and with the advice and consent of the
20 Senate. Upon recommendation of the Board, any member of the
21 Disciplinary Board may be removed by the Governor for
22 misfeasance, malfeasance, or wilful neglect of duty, after
23 notice, and a public hearing, unless such notice and hearing
24 shall be expressly waived in writing. Each member shall serve
25 on the Disciplinary Board until their successor is appointed
26 and qualified. No member of the Disciplinary Board shall serve

1 more than 2 consecutive 4 year terms.

2 In making appointments the Governor shall attempt to insure
3 that the various social and geographic regions of the State of
4 Illinois are properly represented.

5 In making the designation of persons to act for the several
6 professions represented on the Disciplinary Board, the
7 Governor shall give due consideration to recommendations by
8 members of the respective professions and by organizations
9 therein.

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

15 (D) (Blank).

16 (E) Six voting members of the Disciplinary Board, at least
17 4 of whom are physicians, shall constitute a quorum. A vacancy
18 in the membership of the Disciplinary Board shall not impair
19 the right of a quorum to exercise all the rights and perform
20 all the duties of the Disciplinary Board. Any action taken by
21 the Disciplinary Board under this Act may be authorized by
22 resolution at any regular or special meeting and each such
23 resolution shall take effect immediately. The Disciplinary
24 Board shall meet at least quarterly. The Disciplinary Board is
25 empowered to adopt all rules and regulations necessary and
26 incident to the powers 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 Secretary of the
3 Department, hereinafter referred to as the Secretary, shall
4 determine. The Secretary 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 Secretary shall select a Chief Medical Coordinator
9 and not less than 2 Deputy Medical Coordinators who shall not
10 be members of the Disciplinary Board. Each medical coordinator
11 shall be a physician licensed to practice medicine in all of
12 its branches, and the Secretary shall set their rates of
13 compensation. The Secretary shall assign at least one medical
14 coordinator to a region composed of Cook County and such other
15 counties as the Secretary may deem appropriate, and such
16 medical coordinator or coordinators shall locate their office
17 in Chicago. The Secretary shall assign at least one medical
18 coordinator to a region composed of the balance of counties in
19 the State, and such medical coordinator or coordinators shall
20 locate their office in Springfield. Each medical coordinator
21 shall be the chief enforcement officer of this Act in his or
22 her assigned region and shall serve at the will of the
23 Disciplinary Board.

24 The Secretary shall employ, in conformity with the
25 Personnel Code, not less than one full time investigator for
26 every 2,500 physicians licensed in the State. Each investigator

1 shall be a college graduate with at least 2 years'
2 investigative experience or one year advanced medical
3 education. Upon the written request of the Disciplinary Board,
4 the Secretary shall employ, in conformity with the Personnel
5 Code, such other professional, technical, investigative, and
6 clerical help, either on a full or part-time basis as the
7 Disciplinary Board deems necessary for the proper performance
8 of its duties.

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

16 (I) Members of the Disciplinary Board shall be immune from
17 suit in any action based upon any disciplinary proceedings or
18 other acts performed in good faith as members of the
19 Disciplinary Board.

20 (J) The Disciplinary Board may compile and establish a
21 statewide roster of physicians and other medical
22 professionals, including the several medical specialties, of
23 such physicians and medical professionals, who have agreed to
24 serve from time to time as advisors to the medical
25 coordinators. Such advisors shall assist the medical
26 coordinators or the Disciplinary Board in their investigations

1 and participation in complaints against physicians. Such
2 advisors shall serve under contract and shall be reimbursed at
3 a reasonable rate for the services provided, plus reasonable
4 expenses incurred. While serving in this capacity, the advisor,
5 for any act undertaken in good faith and in the conduct of
6 their duties under this Section, shall be immune from civil
7 suit.

8 (Source: P.A. 93-138, eff. 7-10-03; 94-677, eff. 8-25-05.)

9 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

11 Sec. 22. Disciplinary action.

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

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

21 (a) a facility licensed pursuant to the Ambulatory
22 Surgical Treatment Center Act;

23 (b) an institution licensed under the Hospital
24 Licensing Act;

25 (c) an ambulatory surgical treatment center or

1 hospitalization or care facility maintained by the
2 State or any agency thereof, where such department or
3 agency has authority under law to establish and enforce
4 standards for the ambulatory surgical treatment
5 centers, hospitalization, or care facilities under its
6 management and control;

7 (d) ambulatory surgical treatment centers,
8 hospitalization or care facilities maintained by the
9 Federal Government; or

10 (e) ambulatory surgical treatment centers,
11 hospitalization or care facilities maintained by any
12 university or college established under the laws of
13 this State and supported principally by public funds
14 raised by taxation.

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

18 (3) The conviction of a felony in this or any other
19 jurisdiction, except as otherwise provided in subsection B
20 of this Section, whether or not related to practice under
21 this Act, or the entry of a guilty or nolo contendere plea
22 to a felony charge.

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

24 (5) Engaging in dishonorable, unethical or
25 unprofessional conduct of a character likely to deceive,
26 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

1 Medical Practice Act prior to the repeal of that Act, or
2 violation of the rules, or a final administrative action of
3 the Secretary, after consideration of the recommendation
4 of the Disciplinary Board.

5 (14) Violation of the prohibition against fee
6 splitting in Section 22.2 of this Act.

7 (15) A finding by the Medical Disciplinary Board that
8 the registrant after having his or her license placed on
9 probationary status or subjected to conditions or
10 restrictions violated the terms of the probation or failed
11 to comply with such terms or conditions.

12 (16) Abandonment of a patient.

13 (17) Prescribing, selling, administering,
14 distributing, giving or self-administering any drug
15 classified as a controlled substance (designated product)
16 or narcotic for other than medically accepted therapeutic
17 purposes.

18 (18) Promotion of the sale of drugs, devices,
19 appliances or goods provided for a patient in such manner
20 as to exploit the patient for financial gain of the
21 physician.

22 (19) Offering, undertaking or agreeing to cure or treat
23 disease by a secret method, procedure, treatment or
24 medicine, or the treating, operating or prescribing for any
25 human condition by a method, means or procedure which the
26 licensee refuses to divulge upon demand of the Department.

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

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

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

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

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

25 (25) Gross and wilful and continued overcharging for
26 professional services, including filing false statements

1 for collection of fees for which services are not rendered,
2 including, but not limited to, filing such false statements
3 for collection of monies for services not rendered from the
4 medical assistance program of the Department of Healthcare
5 and Family Services (formerly Department of Public Aid)
6 under the Illinois Public Aid Code.

7 (26) A pattern of practice or other behavior which
8 demonstrates incapacity or incompetence to practice under
9 this Act.

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

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

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

19 (30) Wilfully or negligently violating the
20 confidentiality between physician and patient except as
21 required by law.

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

25 (32) Aiding and abetting an individual not licensed
26 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

1 claim related to acts or conduct similar to acts or conduct
2 which would constitute grounds for action as defined in
3 this Section.

4 (37) Failure to provide copies of medical records as
5 required by law.

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

11 (39) Violating the Health Care Worker Self-Referral
12 Act.

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

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

17 (42) Entering into an excessive number of written
18 collaborative agreements with licensed advanced practice
19 nurses resulting in an inability to adequately
20 collaborate.

21 (43) Repeated failure to adequately collaborate with a
22 licensed advanced practice nurse.

23 Except for actions involving the ground numbered (26), all
24 proceedings to suspend, revoke, place on probationary status,
25 or take any other disciplinary action as the Department may
26 deem proper, with regard to a license on any of the foregoing

1 grounds, must be commenced within 5 years next after receipt by
2 the Department of a complaint alleging the commission of or
3 notice of the conviction order for any of the acts described
4 herein. Except for the grounds numbered (8), (9), (26), and
5 (29), no action shall be commenced more than 10 years after the
6 date of the incident or act alleged to have violated this
7 Section. For actions involving the ground numbered (26), a
8 pattern of practice or other behavior includes all incidents
9 alleged to be part of the pattern of practice or other behavior
10 that occurred or a report pursuant to Section 23 of this Act
11 received within the 10-year period preceding the filing of the
12 complaint. In the event of the settlement of any claim or cause
13 of action in favor of the claimant or the reduction to final
14 judgment of any civil action in favor of the plaintiff, such
15 claim, cause of action or civil action being grounded on the
16 allegation that a person licensed under this Act was negligent
17 in providing care, the Department shall have an additional
18 period of 2 years from the date of notification to the
19 Department under Section 23 of this Act of such settlement or
20 final judgment in which to investigate and commence formal
21 disciplinary proceedings under Section 36 of this Act, except
22 as otherwise provided by law. The time during which the holder
23 of the license was outside the State of Illinois shall not be
24 included within any period of time limiting the commencement of
25 disciplinary action by the Department.

26 The entry of an order or judgment by any circuit court

1 establishing that any person holding a license under this Act
2 is a person in need of mental treatment operates as a
3 suspension of that license. That person may resume their
4 practice only upon the entry of a Departmental order based upon
5 a finding by the Medical Disciplinary Board that they have been
6 determined to be recovered from mental illness by the court and
7 upon the Disciplinary Board's recommendation that they be
8 permitted to resume their practice.

9 The Department may refuse to issue or take disciplinary
10 action concerning the license of any person who fails to file a
11 return, or to pay the tax, penalty or interest shown in a filed
12 return, or to pay any final assessment of tax, penalty or
13 interest, as required by any tax Act administered by the
14 Illinois Department of Revenue, until such time as the
15 requirements of any such tax Act are satisfied as determined by
16 the Illinois Department of Revenue.

17 The Department, upon the recommendation of the
18 Disciplinary Board, shall adopt rules which set forth standards
19 to be used in determining:

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

22 (b) what constitutes dishonorable, unethical or
23 unprofessional conduct of a character likely to deceive,
24 defraud, or harm the public;

25 (c) what constitutes immoral conduct in the commission
26 of any act, including, but not limited to, commission of an

1 act of sexual misconduct related to the licensee's
2 practice; and

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

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

8 In enforcing this Section, the Medical Disciplinary Board,
9 upon a showing of a possible violation, may compel any
10 individual licensed to practice under this Act, or who has
11 applied for licensure or a permit pursuant to this Act, to
12 submit to a mental or physical examination, or both, as
13 required by and at the expense of the Department. The examining
14 physician or physicians shall be those specifically designated
15 by the Disciplinary Board. The Medical Disciplinary Board or
16 the Department may order the examining physician to present
17 testimony concerning this mental or physical examination of the
18 licensee or applicant. No information shall be excluded by
19 reason of any common law or statutory privilege relating to
20 communication between the licensee or applicant and the
21 examining physician. The individual to be examined may have, at
22 his or her own expense, another physician of his or her choice
23 present during all aspects of the examination. Failure of any
24 individual to submit to mental or physical examination, when
25 directed, shall be grounds for suspension of his or her license
26 until such time as the individual submits to the examination if

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

1 medical records.

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

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

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

1 surgery.

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

12 (Source: P.A. 94-566, eff. 9-11-05; 94-677, eff. 8-25-05;
13 95-331, eff. 8-21-07; 96-608, eff. 8-24-09; 96-1000, eff.
14 7-2-10.)

15 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

17 Sec. 23. Reports relating to professional conduct and
18 capacity.

19 (A) Entities required to report.

20 (1) Health care institutions. The chief administrator
21 or executive officer of any health care institution
22 licensed by the Illinois Department of Public Health shall
23 report to the Disciplinary Board when any person's clinical
24 privileges are terminated or are restricted based on a
25 final determination, in accordance with that institution's

1 by-laws or rules and regulations, that a person has either
2 committed an act or acts which may directly threaten
3 patient care, and not of an administrative nature, or that
4 a person may be mentally or physically disabled in such a
5 manner as to endanger patients under that person's care.
6 Such officer also shall report if a person accepts
7 voluntary termination or restriction of clinical
8 privileges in lieu of formal action based upon conduct
9 related directly to patient care and not of an
10 administrative nature, or in lieu of formal action seeking
11 to determine whether a person may be mentally or physically
12 disabled in such a manner as to endanger patients under
13 that person's care. The Medical Disciplinary Board shall,
14 by rule, provide for the reporting to it of all instances
15 in which a person, licensed under this Act, who is impaired
16 by reason of age, drug or alcohol abuse or physical or
17 mental impairment, is under supervision and, where
18 appropriate, is in a program of rehabilitation. Such
19 reports shall be strictly confidential and may be reviewed
20 and considered only by the members of the Disciplinary
21 Board, or by authorized staff as provided by rules of the
22 Disciplinary Board. Provisions shall be made for the
23 periodic report of the status of any such person not less
24 than twice annually in order that the Disciplinary Board
25 shall have current information upon which to determine the
26 status of any such person. Such initial and periodic

1 reports of impaired physicians shall not be considered
2 records within the meaning of The State Records Act and
3 shall be disposed of, following a determination by the
4 Disciplinary Board that such reports are no longer
5 required, in a manner and at such time as the Disciplinary
6 Board shall determine by rule. The filing of such reports
7 shall be construed as the filing of a report for purposes
8 of subsection (C) of this Section.

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

18 (3) Professional liability insurers. Every insurance
19 company which offers policies of professional liability
20 insurance to persons licensed under this Act, or any other
21 entity which seeks to indemnify the professional liability
22 of a person licensed under this Act, shall report to the
23 Disciplinary Board the settlement of any claim or cause of
24 action, or final judgment rendered in any cause of action,
25 which alleged negligence in the furnishing of medical care
26 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

1 days after a determination that a report is required under this
2 Act. All reports shall contain the following information:

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

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

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

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

17 (5) If court action is involved, the identity of the
18 court in which the action is filed, along with the docket
19 number and date of filing of the action.

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

23 The Disciplinary Board or Department may also exercise the
24 power under Section 38 of this Act to subpoena copies of
25 hospital or medical records in mandatory report cases alleging
26 death or permanent bodily injury. Appropriate rules shall be

1 adopted by the Department with the approval of the Disciplinary
2 Board.

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

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

1 licensing body, only for investigations and disciplinary
2 action proceedings with regard to a license. Information and
3 documents disclosed to the Department of Public Health may be
4 used by that Department only for investigation and disciplinary
5 action regarding the license of a health care institution
6 licensed by the Department of Public Health.

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

20 (D) Indemnification. Members of the Disciplinary Board,
21 the Medical Coordinators, the Disciplinary Board's attorneys,
22 the medical investigative staff, physicians retained under
23 contract to assist and advise the medical coordinators in the
24 investigation, and authorized clerical staff shall be
25 indemnified by the State for any actions occurring within the
26 scope of services on the Disciplinary Board, done in good faith

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

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

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

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

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

1 report.

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

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

25 When the Disciplinary Board makes its initial review of the
26 materials contained within its disciplinary files, the

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

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

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

1 (G) Any violation of this Section shall be a Class A
2 misdemeanor.

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

16 (Source: P.A. 94-677, eff. 8-25-05; 95-639, eff. 10-5-07;
17 96-1372, eff. 7-29-10.)

18 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

20 Sec. 24. Report of violations; medical associations. Any
21 physician licensed under this Act, the Illinois State Medical
22 Society, the Illinois Association of Osteopathic Physicians
23 and Surgeons, the Illinois Chiropractic Society, the Illinois
24 Prairie State Chiropractic Association, or any component
25 societies of any of these 4 groups, and any other person, may

1 report to the Disciplinary Board any information the physician,
2 association, society, or person may have that appears to show
3 that a physician is or may be in violation of any of the
4 provisions of Section 22 of this Act.

5 The Department may enter into agreements with the Illinois
6 State Medical Society, the Illinois Association of Osteopathic
7 Physicians and Surgeons, the Illinois Prairie State
8 Chiropractic Association, or the Illinois Chiropractic Society
9 to allow these organizations to assist the Disciplinary Board
10 in the review of alleged violations of this Act. Subject to the
11 approval of the Department, any organization party to such an
12 agreement may subcontract with other individuals or
13 organizations to assist in review.

14 Any physician, association, society, or person
15 participating in good faith in the making of a report under
16 this Act or participating in or assisting with an investigation
17 or review under this Act shall have immunity from any civil,
18 criminal, or other liability that might result by reason of
19 those actions.

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

25 Upon request by the Department after a mandatory report has
26 been filed with the Department, an attorney for any party

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

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

22 (Source: P.A. 94-677, eff. 8-25-05.)

23 (225 ILCS 60/24.1)

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

25 Sec. 24.1. Physician profile.

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

3 (b) The Department shall make available to the public a
4 profile of each physician. The Department shall make this
5 information available through an Internet web site and, if
6 requested, in writing. The physician profile shall contain the
7 following information:

8 (1) the full name of the physician;

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

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

18 (4) a description of any final disciplinary actions by
19 licensing boards in other states within the most recent 5
20 years;

21 (5) a description of revocation or involuntary
22 restriction of hospital privileges for reasons related to
23 competence or character that have been taken by the
24 hospital's governing body or any other official of the
25 hospital after procedural due process has been afforded, or
26 the resignation from or nonrenewal of medical staff

1 membership or the restriction of privileges at a hospital
2 taken in lieu of or in settlement of a pending disciplinary
3 case related to competence or character in that hospital.
4 Only cases which have occurred within the most recent 5
5 years shall be disclosed by the Department to the public;

6 (6) all medical malpractice court judgments and all
7 medical malpractice arbitration awards in which a payment
8 was awarded to a complaining party during the most recent 5
9 years and all settlements of medical malpractice claims in
10 which a payment was made to a complaining party within the
11 most recent 5 years. A medical malpractice judgment or
12 award that has been appealed shall be identified
13 prominently as "Under Appeal" on the profile within 20 days
14 of formal written notice to the Department. Information
15 concerning all settlements shall be accompanied by the
16 following statement: "Settlement of a claim may occur for a
17 variety of reasons which do not necessarily reflect
18 negatively on the professional competence or conduct of the
19 physician. A payment in settlement of a medical malpractice
20 action or claim should not be construed as creating a
21 presumption that medical malpractice has occurred."
22 Nothing in this subdivision (6) shall be construed to limit
23 or prevent the Disciplinary Board from providing further
24 explanatory information regarding the significance of
25 categories in which settlements are reported. Pending
26 malpractice claims shall not be disclosed by the Department

1 to the public. Nothing in this subdivision (6) shall be
2 construed to prevent the Disciplinary Board from
3 investigating and the Department from disciplining a
4 physician on the basis of medical malpractice claims that
5 are pending;

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

8 (8) graduate medical education;

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

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

13 (11) names of the hospitals where the physician has
14 privileges;

15 (12) appointments to medical school faculties and
16 indication as to whether a physician has a responsibility
17 for graduate medical education within the most recent 5
18 years;

19 (13) information regarding publications in
20 peer-reviewed medical literature within the most recent 5
21 years;

22 (14) information regarding professional or community
23 service activities and awards;

24 (15) the location of the physician's primary practice
25 setting;

26 (16) identification of any translating services that

1 may be available at the physician's primary practice
2 location;

3 (17) an indication of whether the physician
4 participates in the Medicaid program.

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

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

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

21 (Source: P.A. 94-677, eff. 8-25-05.)

22 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

24 Sec. 36. Upon the motion of either the Department or the
25 Disciplinary Board or upon the verified complaint in writing of

1 any person setting forth facts which, if proven, would
2 constitute grounds for suspension or revocation under Section
3 22 of this Act, the Department shall investigate the actions of
4 any person, so accused, who holds or represents that they hold
5 a license. Such person is hereinafter called the accused.

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

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

1 Such written notice and any notice in such proceedings
2 thereafter may be served by delivery of the same, personally,
3 to the accused person, or by mailing the same by registered or
4 certified mail to the address last theretofore specified by the
5 accused in their last notification to the Department.

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

1 regard to a license issued by that licensing body.

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

3 Section 15. The Code of Civil Procedure is amended by
4 reenacting and changing Sections 2-622, 2-1704.5, 8-1901, and
5 8-2501 and by changing Sections 2-1303 and 8-2006 as follows:

6 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

7 Sec. 2-622. Healing art malpractice.

8 (a) In any action, whether in tort, contract or otherwise,
9 in which the plaintiff seeks damages for injuries or death by
10 reason of medical, hospital, or other healing art malpractice,
11 the plaintiff's attorney or the plaintiff, if the plaintiff is
12 proceeding pro se, shall file an affidavit, attached to the
13 original and all copies of the complaint, declaring one of the
14 following:

15 1. That the affiant has consulted and reviewed the
16 facts of the case with a health professional who the
17 affiant reasonably believes: (i) is knowledgeable in the
18 relevant issues involved in the particular action; (ii)
19 practices or has practiced within the last 5 years or
20 teaches or has taught within the last 5 years in the same
21 area of health care or medicine that is at issue in the
22 particular action; and (iii) meets the expert witness
23 standards set forth in paragraphs (a) through (d) of
24 Section 8-2501; that the reviewing health professional has

1 determined in a written report, after a review of the
2 medical record and other relevant material involved in the
3 particular action that there is a reasonable and
4 meritorious cause for the filing of such action; and that
5 the affiant has concluded on the basis of the reviewing
6 health professional's review and consultation that there
7 is a reasonable and meritorious cause for filing of such
8 action. A single written report must be filed to cover each
9 defendant in the action. As to defendants who are
10 individuals, the written report must be from a health
11 professional licensed in the same profession, with the same
12 class of license, as the defendant. For written reports
13 filed as to all other defendants, who are not individuals,
14 the written report must be from a physician licensed to
15 practice medicine in all its branches who is qualified by
16 experience with the standard of care, methods, procedures
17 and treatments relevant to the allegations at issue in the
18 case. In either event, the written report must identify the
19 profession of the reviewing health professional. A copy of
20 the written report, clearly identifying the plaintiff and
21 the reasons for the reviewing health professional's
22 determination that a reasonable and meritorious cause for
23 the filing of the action exists, including the reviewing
24 health care professional's name, address, current license
25 number, and state of licensure, must be attached to the
26 affidavit. Information regarding the preparation of a

1 written report by the reviewing health professional shall
2 not be used to discriminate against that professional in
3 the issuance of medical liability insurance or in the
4 setting of that professional's medical liability insurance
5 premium. No professional organization may discriminate
6 against a reviewing health professional on the basis that
7 the reviewing health professional has prepared a written
8 report.

9 2. That the affiant was unable to obtain a consultation
10 required by paragraph 1 because a statute of limitations
11 would impair the action and the consultation required could
12 not be obtained before the expiration of the statute of
13 limitations. If an affidavit is executed pursuant to this
14 paragraph, the affidavit and written report required by
15 paragraph 1 shall be filed within 90 days after the filing
16 of the complaint. No additional 90-day extensions pursuant
17 to this paragraph shall be granted, except where there has
18 been a withdrawal of the plaintiff's counsel. The defendant
19 shall be excused from answering or otherwise pleading until
20 30 days after being served with an affidavit and a report
21 required by paragraph 1.

22 3. That a request has been made by the plaintiff or his
23 attorney for examination and copying of records pursuant to
24 Part 20 of Article VIII of this Code and the party required
25 to comply under those Sections has failed to produce such
26 records within 60 days of the receipt of the request. If an

1 affidavit is executed pursuant to this paragraph, the
2 affidavit and written report required by paragraph 1 shall
3 be filed within 90 days following receipt of the requested
4 records. All defendants except those whose failure to
5 comply with Part 20 of Article VIII of this Code is the
6 basis for an affidavit under this paragraph shall be
7 excused from answering or otherwise pleading until 30 days
8 after being served with the affidavit and report required
9 by paragraph 1.

10 (b) Where an affidavit and written report are required
11 pursuant to this Section a separate affidavit and written
12 report shall be filed as to each defendant who has been named
13 in the complaint and shall be filed as to each defendant named
14 at a later time.

15 (c) Where the plaintiff intends to rely on the doctrine of
16 "res ipsa loquitur", as defined by Section 2-1113 of this Code,
17 the affidavit and written report must state that, in the
18 opinion of the reviewing health professional, negligence has
19 occurred in the course of medical treatment. The affiant shall
20 certify upon filing of the complaint that he is relying on the
21 doctrine of "res ipsa loquitur".

22 (d) When the attorney intends to rely on the doctrine of
23 failure to inform of the consequences of the procedure, the
24 attorney shall certify upon the filing of the complaint that
25 the reviewing health professional has, after reviewing the
26 medical record and other relevant materials involved in the

1 particular action, concluded that a reasonable health
2 professional would have informed the patient of the
3 consequences of the procedure.

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

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

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

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

1 filed on or after its effective date.

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

5 (j) The changes to this Section made by Public Act 94-677
6 and reenacted by this amendatory Act of the 94th General
7 Assembly apply to causes of action accruing on or after August
8 25, 2005, as those changes may be amended from time to time ~~its~~
9 effective date.

10 (Source: P.A. 94-677, eff. 8-25-05.)

11 (735 ILCS 5/2-1303) (from Ch. 110, par. 2-1303)

12 Sec. 2-1303. Interest on judgment.

13 (a) Judgments recovered in any court shall draw interest at
14 the rate of 3% ~~9%~~ per annum from the date of the judgment until
15 satisfied or 1% ~~6%~~ per annum when the judgment debtor is a unit
16 of local government, as defined in Section 1 of Article VII of
17 the Constitution, a school district, a community college
18 district, or any other governmental entity. The interest rate
19 shall be increased or decreased in accordance with the
20 provisions of Section 8-2006. When judgment is entered upon any
21 award, report or verdict, interest shall be computed at the
22 above rate, from the time when made or rendered to the time of
23 entering judgment upon the same, and included in the judgment,
24 except as provided in subsection (b) of this Section. Interest
25 shall be computed and charged only on the unsatisfied portion

1 of the judgment as it exists from time to time. The judgment
2 debtor may by tender of payment of judgment, costs and interest
3 accrued to the date of tender, stop the further accrual of
4 interest on such judgment notwithstanding the prosecution of an
5 appeal, or other steps to reverse, vacate or modify the
6 judgment.

7 (b) In cases where a federal Medicare lien may exist
8 against the judgment, this statutory interest shall be computed
9 from the day after the federal Medicare program provides
10 confirmation of any lien against the judgment.

11 (Source: P.A. 85-907.)

12 (735 ILCS 5/2-1704.5)

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

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

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

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

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

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

7 Based upon evidence presented at trial, the trier of fact
8 may also vary the amount of future costs under this Section
9 from year to year to account for different annual expenditures,
10 including the immediate medical and life care needs of the
11 plaintiff. The jury shall not be informed of an election to pay
12 for future medical expenses and costs of life care by
13 purchasing an annuity.

14 (c) When an election is made to pay for future medical
15 expenses and costs of life care by purchasing an annuity, the
16 court shall enter a judgment ordering that the defendant pay
17 the plaintiff an amount equal to 20% of the present cash value
18 of future medical expenses and cost of life care determined
19 under subsection (b)(1) of this Section and ordering that the
20 remaining future expenses and costs be paid by the purchase of
21 an annuity by or on behalf of the defendant from a company that
22 has itself, or is irrevocably supported financially by a
23 company that has, at least 2 of the following 4 ratings: "A+ X"
24 or higher from A.M. Best Company; "AA-" or higher from Standard
25 & Poor's; "Aa3" or higher from Moody's; and "AA-" or higher
26 from Fitch. The annuity must guarantee that the plaintiff will

1 receive annual payments equal to 80% of the amount determined
2 in subsection (b)(2) inflated by the rate determined in
3 subsection (b)(3) for the life of the plaintiff.

4 (d) If the company providing the annuity becomes unable to
5 pay amounts required by the annuity, the defendant shall secure
6 a replacement annuity for the remainder of the plaintiff's life
7 from a company that satisfies the requirements of subsection
8 (c).

9 (e) A plaintiff receiving future payments by means of an
10 annuity under this Section may seek leave of court to assign or
11 otherwise transfer the right to receive such payments in
12 exchange for a negotiated lump sum value of the remaining
13 future payments or any portion of the remaining future payments
14 under the annuity to address an unanticipated financial
15 hardship under such terms as approved by the court.

16 (f) This Section applies to all causes of action accruing
17 on or after August 25, 2005 ~~the effective date of this~~
18 ~~amendatory Act of the 94th General Assembly.~~

19 (Source: P.A. 94-677, eff. 8-25-05.)

20 (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

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

22 (a) The providing of, or payment for, medical, surgical,
23 hospital, or rehabilitation services, facilities, or equipment
24 by or on behalf of any person, or the offer to provide, or pay
25 for, any one or more of the foregoing, shall not be construed

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

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

26 (c) The changes to this Section made by Public Act 94-677

1 and reenacted by this amendatory Act of the 97th ~~94th~~ General
2 Assembly apply to causes of action accruing on or after August
3 25, 2005, as those changes may be amended from time to time ~~its~~
4 ~~effective date.~~

5 (Source: P.A. 94-677, eff. 8-25-05.)

6 (735 ILCS 5/8-2006)

7 Sec. 8-2006. Copying fees and interest rates; adjustment
8 for inflation. ~~Every Beginning in 2003, every~~ January 20, the
9 copying fee limits established in Sections 8-2001 and 8-2005
10 and the interest rates established in Section 2-1303 shall
11 automatically be increased or decreased, as applicable, by a
12 percentage equal to the percentage change in the consumer price
13 index-u during the preceding 12-month calendar year. "Consumer
14 price index-u" means the index published by the Bureau of Labor
15 Statistics of the United States Department of Labor that
16 measures the average change in prices of goods and services
17 purchased by all urban consumers, United States city average,
18 all items, 1982-84 = 100. The new amount resulting from each
19 annual adjustment shall be determined by the Comptroller and
20 made available to the public via the Comptroller's official
21 website by January 31 of every year.

22 (Source: P.A. 94-982, eff. 6-30-06; 95-478, eff. 1-1-08
23 (changed from 8-27-07 by P.A. 95-480).)

24 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

1 Sec. 8-2501. Expert Witness Standards. In any case in which
2 the standard of care applicable to a medical professional is at
3 issue, the court shall apply the following standards to
4 determine if a witness qualifies as an expert witness and can
5 testify on the issue of the appropriate standard of care.

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

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

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

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

23 An expert shall provide evidence of active practice,
24 teaching, or engaging in university-based research. If
25 retired, an expert must provide evidence of attendance and
26 completion of continuing education courses for 3 years previous

1 to giving testimony. An expert who has not actively practiced,
2 taught, or been engaged in university-based research, or any
3 combination thereof, during the preceding 5 years may not be
4 qualified as an expert witness.

5 The changes to this Section made by Public Act 94-677 and
6 reenacted by this amendatory Act of the 97th ~~94th~~ General
7 Assembly apply to causes of action accruing on or after August
8 25, 2005, as those changes may be amended from time to time ~~its~~
9 effective date.

10 (Source: P.A. 94-677, eff. 8-25-05.)

11 Section 20. The Good Samaritan Act is amended by reenacting
12 and changing Section 30 as follows:

13 (745 ILCS 49/30)

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

16 (a) A person licensed under the Medical Practice Act of
17 1987, a person licensed to practice the treatment of human
18 ailments in any other state or territory of the United States,
19 or a health care professional, including but not limited to an
20 advanced practice nurse, retired physician, physician
21 assistant, nurse, pharmacist, physical therapist, podiatrist,
22 or social worker licensed in this State or any other state or
23 territory of the United States, who, in good faith, provides
24 medical treatment, diagnosis, or advice as a part of the

1 services of an established free medical clinic providing care,
2 including but not limited to home visits, without charge to
3 patients which is limited to care that does not require the
4 services of a licensed hospital or ambulatory surgical
5 treatment center and who receives no fee or compensation from
6 that source shall not be liable for civil damages as a result
7 of his or her acts or omissions in providing that medical
8 treatment, except for willful or wanton misconduct.

9 (b) For purposes of this Section, a "free medical clinic"
10 is an organized community based program providing medical care
11 without charge to individuals, at which the care provided does
12 not include an overnight stay in a health-care facility.

13 (c) The provisions of subsection (a) of this Section do not
14 apply to a particular case unless the free medical clinic has
15 posted in a conspicuous place on its premises an explanation of
16 the exemption from civil liability provided herein.

17 (d) The immunity from civil damages provided under
18 subsection (a) also applies to physicians, retired physicians,
19 hospitals, and other health care providers that provide further
20 medical treatment, diagnosis, or advice, including but not
21 limited to hospitalization, office visits, and home visits, to
22 a patient upon referral from an established free medical clinic
23 without fee or compensation.

24 (d-5) A free medical clinic may receive reimbursement from
25 the Illinois Department of Public Aid, provided any
26 reimbursements shall be used only to pay overhead expenses of

1 operating the free medical clinic and may not be used, in whole
2 or in part, to provide a fee or other compensation to any
3 person licensed under the Medical Practice Act of 1987 or any
4 other health care professional who is receiving an exemption
5 under this Section. Any health care professional receiving an
6 exemption under this Section may not receive any fee or other
7 compensation in connection with any services provided to, or
8 any ownership interest in, the clinic. Medical care shall not
9 include an overnight stay in a health care facility.

10 (e) Nothing in this Section prohibits a free medical clinic
11 from accepting voluntary contributions for medical services
12 provided to a patient who has acknowledged his or her ability
13 and willingness to pay a portion of the value of the medical
14 services provided.

15 (f) Any voluntary contribution collected for providing
16 care at a free medical clinic shall be used only to pay
17 overhead expenses of operating the clinic. No portion of any
18 moneys collected shall be used to provide a fee or other
19 compensation to any person licensed under Medical Practice Act
20 of 1987.

21 (g) The changes to this Section made by Public Act 94-677
22 and reenacted by this amendatory Act of the 97th ~~94th~~ General
23 Assembly apply to causes of action accruing on or after August
24 25, 2005, as those changes may be amended from time to time ~~its~~
25 effective date.

26 (Source: P.A. 94-677, eff. 8-25-05.)

1 Section 97. Inseverability. The provisions of this Act are
2 mutually dependent and inseverable. If any provision is held
3 invalid, then this entire Act, including all new and amendatory
4 provisions, is invalid.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.