



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1388

Introduced 2/9/2011, by Sen. Michael W. Frerichs

SYNOPSIS AS INTRODUCED:

See Index

Amends the Regulatory Sunset Act. Extends the repeal date of the Medical Practice Act of 1987 from November 30, 2011 to January 1, 2021. Also includes revisory changes. Amends the Medical Practice Act of 1987. Provides that in determining what action to take or whether to proceed with prosecution of a complaint, the Complaint Committee shall consider any recommendation made by the Department. Sets forth criteria that the Licensing Board may consider in making a determination of professional capacity, and makes other changes concerning professional capacity. Makes a change concerning a visiting professor permit. Changes references from "licensure without examination" to "licensure by endorsement". Makes a change concerning requiring an examination. Adds specific requirements for mental and physical examinations required by the Licensing Board or Disciplinary Board, and authorizes a substance abuse or sexual offender evaluation. Changes the reporting requirements for State's Attorneys. Allows the disclosure of certain confidential information to a medical licensing authority of another state or jurisdiction in certain instances. Repeals a Section concerning the practice of medicine by persons licensed in any other state who have applied for a license to practice medicine in this State. Makes other changes. Also reenacts certain provisions of Public Act 94-677, which was declared to be unconstitutional; includes explanatory and validation provisions. Effective immediately.

LRB097 05716 EFG 45780 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning professional regulation.

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

4 Section 1. Findings; purpose; base text and changes;
5 validation.

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) Public Act 94-677 amended Sections 7, 22, 23, 24, 24.1
18 and 36 of the Medical Practice Act of 1987; those provisions
19 did not involve limitations on noneconomic damages in medical
20 malpractice actions. It is one of the purposes of this Act to
21 reenact those provisions, and to validate certain actions taken
22 in reliance on those provisions.

23 (c) In this Act, the reenacted provisions of P.A. 94-677
24 are included in the base text of the affected Sections without

1 the use of striking and underscoring.

2 Sections 22, 23, and 36 of the Medical Practice Act of 1987
3 have been amended since P.A. 94-677. The base text of those
4 Sections includes both the reenacted changes made by P.A.
5 94-677 and the changes made by subsequent amendments. Sections
6 22 and 23 of the Medical Practice Act of 1987 also contain new
7 changes, unrelated to the reenactment; the new changes are
8 shown with striking and underscoring.

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

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

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

25 Section 5. The Regulatory Sunset Act is amended by changing

1 Sections 4.21 and 4.31 as follows:

2 (5 ILCS 80/4.21)

3 Sec. 4.21. Act ~~Acts~~ repealed on January 1, 2011 ~~and~~
4 ~~November 30, 2011.~~ (a) The following Act is ~~Acts are~~ repealed
5 on January 1, 2011:

6 The Fire Equipment Distributor and Employee Regulation Act
7 of 2000.

8 ~~(b) The following Act is repealed on November 30, 2011:~~

9 ~~The Medical Practice Act of 1987.~~

10 (Source: P.A. 96-1041, eff. 7-14-10; 96-1492, eff. 12-30-10.)

11 (5 ILCS 80/4.31)

12 Sec. 4.31. Acts ~~Act~~ repealed on January 1, 2021. The
13 following Acts are ~~Act is~~ repealed on January 1, 2021:

14 The Crematory Regulation Act.

15 The Cemetery Oversight Act.

16 The Illinois Health Information Exchange and Technology
17 Act.

18 The Medical Practice Act of 1987.

19 The Radiation Protection Act of 1990.

20 (Source: P.A. 96-1041, eff. 7-14-10; 96-1331, eff. 7-27-10;
21 incorporates P.A. 96-863, eff. 3-1-10; revised 9-9-10.)

22 Section 10. The Medical Practice Act of 1987 is amended by
23 changing Sections 7.5, 9, 18, 19, and 26, by reenacting

1 Sections 7, 24, 24.1, and 36, and by changing and reenacting
2 Sections 22 and 23 as follows:

3 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

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

5 (Text of Section WITH the changes made by P.A. 94-677,
6 which has been held unconstitutional)

7 Sec. 7. Medical Disciplinary Board.

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

1 members of the public, who shall not be engaged in any way,
2 directly or indirectly, as providers of health care.

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

17 In making appointments the Governor shall attempt to insure
18 that the various social and geographic regions of the State of
19 Illinois are properly represented.

20 In making the designation of persons to act for the several
21 professions represented on the Disciplinary Board, the
22 Governor shall give due consideration to recommendations by
23 members of the respective professions and by organizations
24 therein.

25 (C) The Disciplinary Board shall annually elect one of its
26 voting members as chairperson and one as vice chairperson. No

1 officer shall be elected more than twice in succession to the
2 same office. Each officer shall serve until their successor has
3 been elected and qualified.

4 (D) (Blank).

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

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

23 (G) The Secretary shall select a Chief Medical Coordinator
24 and not less than 2 Deputy Medical Coordinators who shall not
25 be members of the Disciplinary Board. Each medical coordinator
26 shall be a physician licensed to practice medicine in all of

1 its branches, and the Secretary shall set their rates of
2 compensation. The Secretary shall assign at least one medical
3 coordinator to a region composed of Cook County and such other
4 counties as the Secretary may deem appropriate, and such
5 medical coordinator or coordinators shall locate their office
6 in Chicago. The Secretary shall assign at least one medical
7 coordinator to a region composed of the balance of counties in
8 the State, and such medical coordinator or coordinators shall
9 locate their office in Springfield. Each medical coordinator
10 shall be the chief enforcement officer of this Act in his or
11 her assigned region and shall serve at the will of the
12 Disciplinary Board.

13 The Secretary shall employ, in conformity with the
14 Personnel Code, not less than one full time investigator for
15 every 2,500 physicians licensed in the State. Each investigator
16 shall be a college graduate with at least 2 years'
17 investigative experience or one year advanced medical
18 education. Upon the written request of the Disciplinary Board,
19 the Secretary shall employ, in conformity with the Personnel
20 Code, such other professional, technical, investigative, and
21 clerical help, either on a full or part-time basis as the
22 Disciplinary Board deems necessary for the proper performance
23 of its duties.

24 (H) Upon the specific request of the Disciplinary Board,
25 signed by either the chairman, vice chairman, or a medical
26 coordinator of the Disciplinary Board, the Department of Human

1 Services or the Department of State Police shall make available
2 any and all information that they have in their possession
3 regarding a particular case then under investigation by the
4 Disciplinary Board.

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

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

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

24 (225 ILCS 60/7.5)

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

1 Sec. 7.5. Complaint Committee.

2 (a) There shall be a Complaint Committee of the
3 Disciplinary Board composed of at least one of the medical
4 coordinators established by subsection (g) of Section 7 of this
5 Act, the Chief of Medical Investigations (person employed by
6 the Department who is in charge of investigating complaints
7 against physicians and physician assistants), and at least 3
8 voting members of the Disciplinary Board (at least 2 of whom
9 shall be physicians) designated by the Chairman of the Medical
10 Disciplinary Board with the approval of the Disciplinary Board.
11 The Disciplinary Board members so appointed shall serve
12 one-year terms and may be eligible for reappointment for
13 subsequent terms.

14 (b) The Complaint Committee shall meet at least twice a
15 month to exercise its functions and duties set forth in
16 subsection (c) below. At least 2 members of the Disciplinary
17 Board shall be in attendance in order for any business to be
18 transacted by the Complaint Committee. The Complaint Committee
19 shall make every effort to consider expeditiously and take
20 prompt action on each item on its agenda.

21 (c) The Complaint Committee shall have the following duties
22 and functions:

23 (1) To recommend to the Disciplinary Board that a
24 complaint file be closed.

25 (2) To refer a complaint file to the office of the
26 Chief of Medical Prosecutions (person employed by the

1 Department who is in charge of prosecuting formal
2 complaints against licensees) for review.

3 (3) To make a decision in conjunction with the Chief of
4 Medical Prosecutions regarding action to be taken on a
5 complaint file.

6 (d) In determining what action to take or whether to
7 proceed with prosecution of a complaint, the Complaint
8 Committee shall consider, but not be limited to, the following
9 factors: sufficiency of the evidence presented, prosecutorial
10 merit under Section 22 of this Act, any recommendation made by
11 the Department, and insufficient cooperation from complaining
12 parties.

13 (Source: P.A. 93-214, eff. 1-1-04.)

14 (225 ILCS 60/9) (from Ch. 111, par. 4400-9)

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

16 Sec. 9. Application for license. Each applicant for a
17 license shall:

18 (A) Make application on blank forms prepared and
19 furnished by the Department of Professional Regulation
20 hereinafter referred to as the Department.

21 (B) Submit evidence satisfactory to the Department
22 that the applicant:

23 (1) is of good moral character. In determining
24 moral character under this Section, the Department may
25 take into consideration whether the applicant has

1 engaged in conduct or activities which would
2 constitute grounds for discipline under this Act. The
3 Department may also request the applicant to submit,
4 and may consider as evidence of moral character,
5 endorsements from 2 or 3 individuals licensed under
6 this Act;

7 (2) has the preliminary and professional education
8 required by this Act;

9 (3) (blank); and

10 (4) is physically, mentally, and professionally
11 capable of practicing medicine with reasonable
12 judgment, skill, and safety. In determining physical,
13 mental and professional capacity under this Section,
14 the ~~Medical~~ Licensing Board may, upon a showing of a
15 possible incapacity or conduct or activities which
16 would constitute grounds for discipline under this
17 Act, compel any applicant to submit to a mental or
18 physical examination, or both as provided for in
19 Section 22 of this Act. The Licensing Board may
20 condition or restrict any license, subject to the same
21 terms and conditions as are provided for the ~~Medical~~
22 Disciplinary Board under Section 22 of this Act. Any
23 such condition of a restricted license shall provide
24 that the Chief Medical Coordinator or Deputy Medical
25 Coordinator shall have the authority to review the
26 subject physician's compliance with such conditions or

1 restrictions, including, where appropriate, the
2 physician's record of treatment and counseling
3 regarding the impairment, to the extent permitted by
4 applicable federal statutes and regulations
5 safeguarding the confidentiality of medical records of
6 patients.

7 In determining professional capacity under this
8 Section, ~~an any individual who has not been actively~~
9 ~~engaged in the practice of medicine or as a medical,~~
10 ~~osteopathic, or chiropractic student or who has not been~~
11 ~~engaged in a formal program of medical education during the~~
12 ~~2 years immediately preceding their application~~ may be
13 required to complete such additional testing, training, or
14 remedial education as the Licensing Board may deem
15 necessary in order to establish the applicant's present
16 capacity to practice medicine with reasonable judgment,
17 skill, and safety. The Medical Licensing Board may consider
18 all of the following criteria as they relate to an
19 applicant, as part of its determination of professional
20 capacity:

21 (1) Medical research in an established research
22 facility, hospital, college or university, or private
23 corporation.

24 (2) Specialized training or education.

25 (3) Publication of original work in learned,
26 medical or scientific journals.

1 (4) Participation in federal, State, local, or
2 international public health programs or organizations.

3 (5) Professional service in a federal veterans or
4 military institution.

5 (6) Any other professional activities deemed to
6 maintain and enhance the clinical capabilities of the
7 applicant.

8 Any applicant applying for a license to practice
9 medicine in all of its branches or for a license as a
10 chiropractic physician who has not been engaged in the
11 active practice of medicine or has not been enrolled in a
12 medical program for 2 years prior to application must
13 submit proof of professional capacity to the Medical
14 Licensing Board.

15 Any applicant applying for a temporary license that has
16 not been engaged in the active practice of medicine or has
17 not been enrolled in a medical program for longer than 5
18 years prior to application must submit proof of
19 professional capacity to the Medical Licensing Board.

20 (C) Designate specifically the name, location, and
21 kind of professional school, college, or institution of
22 which the applicant is a graduate and the category under
23 which the applicant seeks, and will undertake, to practice.

24 (D) Pay to the Department at the time of application
25 the required fees.

26 (E) Pursuant to Department rules, as required, pass an

1 examination authorized by the Department to determine the
2 applicant's fitness to receive a license.

3 (F) Complete the application process within 3 years
4 from the date of application. If the process has not been
5 completed within 3 years, the application shall be denied,
6 application fees shall be forfeited, and the applicant must
7 reapply and meet the requirements in effect at the time of
8 reapplication.

9 (Source: P.A. 89-387, eff. 8-20-95; 89-702, eff. 7-1-97.)

10 (225 ILCS 60/18) (from Ch. 111, par. 4400-18)

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

12 Sec. 18. Visiting professor, physician, or resident
13 permits.

14 (A) Visiting professor permit.

15 (1) A visiting professor permit shall entitle a person
16 to practice medicine in all of its branches or to practice
17 the treatment of human ailments without the use of drugs
18 and without operative surgery provided:

19 (a) the person maintains an equivalent
20 authorization to practice medicine in all of its
21 branches or to practice the treatment of human ailments
22 without the use of drugs and without operative surgery
23 in good standing in their native licensing
24 jurisdiction during the period of the visiting
25 professor permit;

1 (b) the person has received a faculty appointment
2 to teach in a medical, osteopathic or chiropractic
3 school in Illinois; and

4 (c) the Department may prescribe the information
5 necessary to establish an applicant's eligibility for
6 a permit. This information shall include without
7 limitation (i) a statement from the dean of the medical
8 school at which the applicant will be employed
9 describing the applicant's qualifications and (ii) a
10 statement from the dean of the medical school listing
11 every affiliated institution in which the applicant
12 will be providing instruction as part of the medical
13 school's education program and justifying any clinical
14 activities at each of the institutions listed by the
15 dean.

16 (2) Application for visiting professor permits shall
17 be made to the Department, in writing, on forms prescribed
18 by the Department and shall be accompanied by the required
19 fee established by rule, which shall not be refundable. Any
20 application shall require the information as, in the
21 judgment of the Department, will enable the Department to
22 pass on the qualifications of the applicant.

23 (3) A visiting professor permit shall be valid for no
24 longer than 2 years from the date of issuance or until the
25 time the faculty appointment is terminated, whichever
26 occurs first, and may be renewed only in accordance with

1 subdivision (A) (6) of this Section.

2 (4) The applicant may be required to appear before the
3 Medical Licensing Board for an interview prior to, and as a
4 requirement for, the issuance of the original permit and
5 the renewal.

6 (5) Persons holding a permit under this Section shall
7 only practice medicine in all of its branches or practice
8 the treatment of human ailments without the use of drugs
9 and without operative surgery in the State of Illinois in
10 their official capacity under their contract within the
11 medical school itself and any affiliated institution in
12 which the permit holder is providing instruction as part of
13 the medical school's educational program and for which the
14 medical school has assumed direct responsibility.

15 (6) After the initial renewal of a visiting professor
16 permit, a ~~A~~ visiting professor permit shall be valid until
17 the last day of the next physician license renewal period,
18 as set by rule, and may only be renewed for applicants who
19 meet the following requirements:

20 (i) have obtained the required continuing
21 education hours as set by rule; and

22 (ii) have paid the fee prescribed for a license
23 under Section 21 of this Act.

24 For initial renewal, the visiting professor must
25 successfully pass a general competency examination authorized
26 by the Department by rule, unless he or she was issued an

1 initial visiting professor permit on or after January 1, 2007,
2 but prior to July 1, 2007.

3 (B) Visiting physician permit.

4 (1) The Department may, in its discretion, issue a
5 temporary visiting physician permit, without examination,
6 provided:

7 (a) (blank);

8 (b) that the person maintains an equivalent
9 authorization to practice medicine in all of its
10 branches or to practice the treatment of human ailments
11 without the use of drugs and without operative surgery
12 in good standing in his or her native licensing
13 jurisdiction during the period of the temporary
14 visiting physician permit;

15 (c) that the person has received an invitation or
16 appointment to study, demonstrate, or perform a
17 specific medical, osteopathic, chiropractic or
18 clinical subject or technique in a medical,
19 osteopathic, or chiropractic school, a state or
20 national medical, osteopathic, or chiropractic
21 professional association or society conference or
22 meeting, a hospital licensed under the Hospital
23 Licensing Act, a hospital organized under the
24 University of Illinois Hospital Act, or a facility
25 operated pursuant to the Ambulatory Surgical Treatment

1 Center Act; and

2 (d) that the temporary visiting physician permit
3 shall only permit the holder to practice medicine in
4 all of its branches or practice the treatment of human
5 ailments without the use of drugs and without operative
6 surgery within the scope of the medical, osteopathic,
7 chiropractic, or clinical studies, or in conjunction
8 with the state or national medical, osteopathic, or
9 chiropractic professional association or society
10 conference or meeting, for which the holder was invited
11 or appointed.

12 (2) The application for the temporary visiting
13 physician permit shall be made to the Department, in
14 writing, on forms prescribed by the Department, and shall
15 be accompanied by the required fee established by rule,
16 which shall not be refundable. The application shall
17 require information that, in the judgment of the
18 Department, will enable the Department to pass on the
19 qualification of the applicant, and the necessity for the
20 granting of a temporary visiting physician permit.

21 (3) A temporary visiting physician permit shall be
22 valid for no longer than (i) 180 days from the date of
23 issuance or (ii) until the time the medical, osteopathic,
24 chiropractic, or clinical studies are completed, or the
25 state or national medical, osteopathic, or chiropractic
26 professional association or society conference or meeting

1 has concluded, whichever occurs first.

2 (4) The applicant for a temporary visiting physician
3 permit may be required to appear before the Medical
4 Licensing Board for an interview prior to, and as a
5 requirement for, the issuance of a temporary visiting
6 physician permit.

7 (5) A limited temporary visiting physician permit
8 shall be issued to a physician licensed in another state
9 who has been requested to perform emergency procedures in
10 Illinois if he or she meets the requirements as established
11 by rule.

12 (C) Visiting resident permit.

13 (1) The Department may, in its discretion, issue a
14 temporary visiting resident permit, without examination,
15 provided:

16 (a) (blank);

17 (b) that the person maintains an equivalent
18 authorization to practice medicine in all of its
19 branches or to practice the treatment of human ailments
20 without the use of drugs and without operative surgery
21 in good standing in his or her native licensing
22 jurisdiction during the period of the temporary
23 visiting resident permit;

24 (c) that the applicant is enrolled in a
25 postgraduate clinical training program outside the

1 State of Illinois that is approved by the Department;

2 (d) that the individual has been invited or
3 appointed for a specific period of time to perform a
4 portion of that post graduate clinical training
5 program under the supervision of an Illinois licensed
6 physician in an Illinois patient care clinic or
7 facility that is affiliated with the out-of-State post
8 graduate training program; and

9 (e) that the temporary visiting resident permit
10 shall only permit the holder to practice medicine in
11 all of its branches or practice the treatment of human
12 ailments without the use of drugs and without operative
13 surgery within the scope of the medical, osteopathic,
14 chiropractic or clinical studies for which the holder
15 was invited or appointed.

16 (2) The application for the temporary visiting
17 resident permit shall be made to the Department, in
18 writing, on forms prescribed by the Department, and shall
19 be accompanied by the required fee established by rule. The
20 application shall require information that, in the
21 judgment of the Department, will enable the Department to
22 pass on the qualifications of the applicant.

23 (3) A temporary visiting resident permit shall be valid
24 for 180 days from the date of issuance or until the time
25 the medical, osteopathic, chiropractic, or clinical
26 studies are completed, whichever occurs first.

1 (4) The applicant for a temporary visiting resident
2 permit may be required to appear before the Medical
3 Licensing Board for an interview prior to, and as a
4 requirement for, the issuance of a temporary visiting
5 resident permit.

6 (Source: P.A. 95-915, eff. 8-26-08; 96-398, eff. 8-13-09.)

7 (225 ILCS 60/19) (from Ch. 111, par. 4400-19)

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

9 Sec. 19. Licensure by endorsement ~~without examination~~. The
10 Department may, in its discretion, issue a license by
11 endorsement ~~without examination~~ to any person who is currently
12 licensed to practice medicine in all of its branches, or to
13 practice the treatment of human ailments without the use of
14 drugs or operative surgery, in any other state, territory,
15 country or province, upon the following conditions:

16 (A) (Blank);

17 (B) That the applicant is of good moral character. In
18 determining moral character under this Section, the
19 Department may take into consideration whether the
20 applicant has engaged in conduct or activities which would
21 constitute grounds for discipline under this Act. The
22 Department may also request the applicant to submit, and
23 may consider as evidence of moral character, endorsements
24 from 2 or 3 individuals licensed under this Act;

25 (C) That the applicant is physically, mentally and

1 professionally capable of practicing medicine with
2 reasonable judgment, skill and safety. In determining
3 physical, mental and professional capacity under this
4 Section the Medical Licensing Board may, upon a showing of
5 a possible incapacity, compel an applicant to submit to a
6 mental or physical examination, or both, and may condition
7 or restrict any license, subject to the same terms and
8 conditions as are provided for the Medical Disciplinary
9 Board under Section 22 of this Act. The Medical Licensing
10 Board or the Department may order the examining physician
11 to present testimony concerning this mental or physical
12 examination of the applicant. No information shall be
13 excluded by reason of any common law or statutory privilege
14 relating to communications between the applicant and the
15 examining physician. Any condition of restricted license
16 shall provide that the Chief Medical Coordinator or Deputy
17 Medical Coordinator shall have the authority to review the
18 subject physician's compliance with such conditions or
19 restrictions, including, where appropriate, the
20 physician's record of treatment and counseling regarding
21 the impairment, to the extent permitted by applicable
22 federal statutes and regulations safeguarding the
23 confidentiality of medical records of patients.

24 (D) That if the applicant seeks to practice medicine in
25 all of its branches:

26 (1) if the applicant was licensed in another

1 jurisdiction prior to January 1, 1988, that the
2 applicant has satisfied the educational requirements
3 of paragraph (1) of subsection (A) or paragraph (2) of
4 subsection (A) of Section 11 of this Act; or

5 (2) if the applicant was licensed in another
6 jurisdiction after December 31, 1987, that the
7 applicant has satisfied the educational requirements
8 of paragraph (A) (2) of Section 11 of this Act; and

9 (3) the requirements for a license to practice
10 medicine in all of its branches in the particular
11 state, territory, country or province in which the
12 applicant is licensed are deemed by the Department to
13 have been substantially equivalent to the requirements
14 for a license to practice medicine in all of its
15 branches in force in this State at the date of the
16 applicant's license;

17 (E) That if the applicant seeks to treat human ailments
18 without the use of drugs and without operative surgery:

19 (1) the applicant is a graduate of a chiropractic
20 school or college approved by the Department at the
21 time of their graduation;

22 (2) the requirements for the applicant's license
23 to practice the treatment of human ailments without the
24 use of drugs are deemed by the Department to have been
25 substantially equivalent to the requirements for a
26 license to practice in this State at the date of the

1 applicant's license;

2 (F) That the Department may, in its discretion, issue a
3 license by endorsement ~~, without examination,~~ to any
4 graduate of a medical or osteopathic college, reputable and
5 in good standing in the judgment of the Department, who has
6 passed an examination for admission to the United States
7 Public Health Service, or who has passed any other
8 examination deemed by the Department to have been at least
9 equal in all substantial respects to the examination
10 required for admission to any such medical corps;

11 (G) That applications for licenses by endorsement
12 ~~without examination~~ shall be filed with the Department,
13 under oath, on forms prepared and furnished by the
14 Department, and shall set forth, and applicants therefor
15 shall supply such information respecting the life,
16 education, professional practice, and moral character of
17 applicants as the Department may require to be filed for
18 its use;

19 (H) That the applicant undergo the criminal background
20 check established under Section 9.7 of this Act.

21 In the exercise of its discretion under this Section, the
22 Department is empowered to consider and evaluate each applicant
23 on an individual basis. It may take into account, among other
24 things, the extent to which there is or is not available to the
25 Department, authentic and definitive information concerning
26 the quality of medical education and clinical training which

1 the applicant has had. Under no circumstances shall a license
2 be issued under the provisions of this Section to any person
3 who has previously taken and failed the written examination
4 conducted by the Department for such license. In the exercise
5 of its discretion under this Section, the Department may, upon
6 the recommendation of the Medical Licensing Board, require an
7 applicant to successfully complete an examination as
8 recommended by the Medical Licensing Board. In determining
9 moral character, the Department may take into consideration
10 whether the applicant has engaged in conduct or activities
11 which would constitute grounds for discipline under this Act.
12 The Department may also request the applicant to submit, and
13 may consider as evidence of moral character, evidence from 2 or
14 3 individuals licensed under this Act. Applicants have 3 years
15 from the date of application to complete the application
16 process. If the process has not been completed within 3 years,
17 the application shall be denied, the fees shall be forfeited,
18 and the applicant must reapply and meet the requirements in
19 effect at the time of reapplication.

20 (Source: P.A. 89-702, eff. 7-1-97; 90-722, eff. 1-1-99.)

21 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

23 (Text of Section WITH the changes made by P.A. 94-677,
24 which has been held unconstitutional)

25 Sec. 22. Disciplinary action.

1 (A) The Department may revoke, suspend, place on
2 probationary status, refuse to renew, or take any other
3 disciplinary action as the Department may deem proper with
4 regard to the license or visiting professor permit of any
5 person issued under this Act to practice medicine, or to treat
6 human ailments without the use of drugs and without operative
7 surgery upon any of the following grounds:

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

10 (a) a facility licensed pursuant to the Ambulatory
11 Surgical Treatment Center Act;

12 (b) an institution licensed under the Hospital
13 Licensing Act;

14 (c) an ambulatory surgical treatment center or
15 hospitalization or care facility maintained by the
16 State or any agency thereof, where such department or
17 agency has authority under law to establish and enforce
18 standards for the ambulatory surgical treatment
19 centers, hospitalization, or care facilities under its
20 management and control;

21 (d) ambulatory surgical treatment centers,
22 hospitalization or care facilities maintained by the
23 Federal Government; or

24 (e) ambulatory surgical treatment centers,
25 hospitalization or care facilities maintained by any
26 university or college established under the laws of

1 this State and supported principally by public funds
2 raised by taxation.

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

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

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

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

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

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

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

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

26 (10) Making a false or misleading statement regarding

1 their skill or the efficacy or value of the medicine,
2 treatment, or remedy prescribed by them at their direction
3 in the treatment of any disease or other condition of the
4 body or mind.

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

7 (12) Disciplinary action of another state or
8 jurisdiction against a license or other authorization to
9 practice as a medical doctor, doctor of osteopathy, doctor
10 of osteopathic medicine or doctor of chiropractic, a
11 certified copy of the record of the action taken by the
12 other state or jurisdiction being prima facie evidence
13 thereof.

14 (13) Violation of any provision of this Act or of the
15 Medical Practice Act prior to the repeal of that Act, or
16 violation of the rules, or a final administrative action of
17 the Secretary, after consideration of the recommendation
18 of the Disciplinary Board.

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

21 (15) A finding by the Medical Disciplinary Board that
22 the registrant after having his or her license placed on
23 probationary status or subjected to conditions or
24 restrictions violated the terms of the probation or failed
25 to comply with such terms or conditions.

26 (16) Abandonment of a patient.

1 (17) Prescribing, selling, administering,
2 distributing, giving or self-administering any drug
3 classified as a controlled substance (designated product)
4 or narcotic for other than medically accepted therapeutic
5 purposes.

6 (18) Promotion of the sale of drugs, devices,
7 appliances or goods provided for a patient in such manner
8 as to exploit the patient for financial gain of the
9 physician.

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

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

18 (21) Wilfully making or filing false records or reports
19 in his or her practice as a physician, including, but not
20 limited to, false records to support claims against the
21 medical assistance program of the Department of Healthcare
22 and Family Services (formerly Department of Public Aid)
23 under the Illinois Public Aid Code.

24 (22) Wilful omission to file or record, or wilfully
25 impeding the filing or recording, or inducing another
26 person to omit to file or record, medical reports as

1 required by law, or wilfully failing to report an instance
2 of suspected abuse or neglect as required by law.

3 (23) Being named as a perpetrator in an indicated
4 report by the Department of Children and Family Services
5 under the Abused and Neglected Child Reporting Act, and
6 upon proof by clear and convincing evidence that the
7 licensee has caused a child to be an abused child or
8 neglected child as defined in the Abused and Neglected
9 Child Reporting Act.

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

13 (25) Gross and wilful and continued overcharging for
14 professional services, including filing false statements
15 for collection of fees for which services are not rendered,
16 including, but not limited to, filing such false statements
17 for collection of monies for services not rendered from the
18 medical assistance program of the Department of Healthcare
19 and Family Services (formerly Department of Public Aid)
20 under the Illinois Public Aid Code.

21 (26) A pattern of practice or other behavior which
22 demonstrates incapacity or incompetence to practice under
23 this Act.

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

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

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

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

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

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

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

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

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

3 (35) Failure to report to the Department surrender of a
4 license or authorization to practice as a medical doctor, a
5 doctor of osteopathy, a doctor of osteopathic medicine, or
6 doctor of chiropractic in another state or jurisdiction, or
7 surrender of membership on any medical staff or in any
8 medical or professional association or society, while
9 under disciplinary investigation by any of those
10 authorities or bodies, for acts or conduct similar to acts
11 or conduct which would constitute grounds for action as
12 defined in this Section.

13 (36) Failure to report to the Department any adverse
14 judgment, settlement, or award arising from a liability
15 claim related to acts or conduct similar to acts or conduct
16 which would constitute grounds for action as defined in
17 this Section.

18 (37) Failure to provide copies of medical records as
19 required by law.

20 (38) Failure to furnish the Department, its
21 investigators or representatives, relevant information,
22 legally requested by the Department after consultation
23 with the Chief Medical Coordinator or the Deputy Medical
24 Coordinator.

25 (39) Violating the Health Care Worker Self-Referral
26 Act.

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

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

5 (42) Entering into an excessive number of written
6 collaborative agreements with licensed advanced practice
7 nurses resulting in an inability to adequately
8 collaborate.

9 (43) Repeated failure to adequately collaborate with a
10 licensed advanced practice nurse.

11 Except for actions involving the ground numbered (26), all
12 proceedings to suspend, revoke, place on probationary status,
13 or take any other disciplinary action as the Department may
14 deem proper, with regard to a license on any of the foregoing
15 grounds, must be commenced within 5 years next after receipt by
16 the Department of a complaint alleging the commission of or
17 notice of the conviction order for any of the acts described
18 herein. Except for the grounds numbered (8), (9), (26), and
19 (29), no action shall be commenced more than 10 years after the
20 date of the incident or act alleged to have violated this
21 Section. For actions involving the ground numbered (26), a
22 pattern of practice or other behavior includes all incidents
23 alleged to be part of the pattern of practice or other behavior
24 that occurred or a report pursuant to Section 23 of this Act
25 received within the 10-year period preceding the filing of the
26 complaint. In the event of the settlement of any claim or cause

1 of action in favor of the claimant or the reduction to final
2 judgment of any civil action in favor of the plaintiff, such
3 claim, cause of action or civil action being grounded on the
4 allegation that a person licensed under this Act was negligent
5 in providing care, the Department shall have an additional
6 period of 2 years from the date of notification to the
7 Department under Section 23 of this Act of such settlement or
8 final judgment in which to investigate and commence formal
9 disciplinary proceedings under Section 36 of this Act, except
10 as otherwise provided by law. The time during which the holder
11 of the license was outside the State of Illinois shall not be
12 included within any period of time limiting the commencement of
13 disciplinary action by the Department.

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

23 The Department may refuse to issue or take disciplinary
24 action concerning the license of any person who fails to file a
25 return, or to pay the tax, penalty or interest shown in a filed
26 return, or to pay any final assessment of tax, penalty or

1 interest, as required by any tax Act administered by the
2 Illinois Department of Revenue, until such time as the
3 requirements of any such tax Act are satisfied as determined by
4 the Illinois Department of Revenue.

5 The Department, upon the recommendation of the
6 Disciplinary Board, shall adopt rules which set forth standards
7 to be used in determining:

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

10 (b) what constitutes dishonorable, unethical or
11 unprofessional conduct of a character likely to deceive,
12 defraud, or harm the public;

13 (c) what constitutes immoral conduct in the commission
14 of any act, including, but not limited to, commission of an
15 act of sexual misconduct related to the licensee's
16 practice; and

17 (d) what constitutes gross negligence in the practice
18 of medicine.

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

22 In enforcing this Section, the ~~Medical~~ Disciplinary Board
23 or the Licensing Board, upon a showing of a possible violation,
24 may compel, in the case of the Disciplinary Board, any
25 individual who is licensed to practice under this Act or holds
26 a permit to practice under this Act, or may compel, in the case

1 of the Licensing Board, any individual who has applied for
2 licensure or a permit pursuant to this Act, to submit to a
3 mental examination and evaluation or physical examination, or
4 both, which may include a substance abuse or sexual offender
5 evaluation, as required by the Licensing Board or Disciplinary
6 Board and at the expense of the Department.

7 The Disciplinary Board or Licensing Board shall
8 specifically designate the examining physician licensed to
9 practice medicine in all of its branches or, if applicable, the
10 members of a multidisciplinary team involved in providing the
11 physical examination or mental examination and evaluation. The
12 multidisciplinary team shall be led by a physician licensed to
13 practice medicine in all of its branches and may consist of one
14 or a combination of physicians licensed to practice medicine in
15 all of its branches, licensed clinical psychologists, licensed
16 clinical social workers, licensed clinical professional
17 counselors, and other professional and administrative staff.
18 Any examining physician or member of the multidisciplinary team
19 may require any person ordered to submit to an examination or
20 evaluation pursuant to this Section to submit to any additional
21 supplemental testing deemed necessary to complete any
22 examination or evaluation process including, but not limited
23 to, blood testing, urinalysis, psychological testing, or
24 neuropsychological testing. ~~The examining physician or~~
25 ~~physicians shall be those specifically designated by the~~
26 Disciplinary Board.

1 The ~~Medical~~ Disciplinary Board, the Licensing Board, or the
2 Department may order the examining physician or any member of
3 the multidisciplinary team to provide to the Department any and
4 all records, including business records, that relate to the
5 examination or evaluation, including any supplemental testing
6 performed. The Disciplinary Board, Licensing Board, or
7 Department may order the examining physician or any member of
8 the multidisciplinary team to present testimony concerning
9 this mental or physical examination or evaluation of the
10 licensee, permit holder, or applicant, including testimony
11 concerning any supplemental testing or documents relating to
12 the examination or evaluation. No information, report, record,
13 or other documents in any way related to the examination or
14 supplemental testing shall be excluded by reason of any common
15 law or statutory privilege relating to communication between
16 the licensee or applicant and the examining physician or any
17 member of the multidisciplinary team. The individual to be
18 examined may have, at his or her own expense, another physician
19 of his or her choice present during all aspects of the
20 examination.

21 Failure of any individual to submit to mental or physical
22 examination, when directed, shall be grounds for suspension of
23 his or her license until such time as the individual submits to
24 the examination if the Disciplinary Board finds, after notice
25 and hearing, that the refusal to submit to the examination was
26 without reasonable cause. If the Disciplinary Board finds a

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

25 An individual licensed under this Act, affected under this
26 Section, shall be afforded an opportunity to demonstrate to the

1 Disciplinary Board that they can resume practice in compliance
2 with acceptable and prevailing standards under the provisions
3 of their license.

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

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

25 (C) The Medical Disciplinary Board shall recommend to the
26 Department civil penalties and any other appropriate

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

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

12 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

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

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, made in accordance with that

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

1 initial and periodic reports of impaired physicians shall
2 not be considered records within the meaning of The State
3 Records Act and shall be disposed of, following a
4 determination by the Disciplinary Board that such reports
5 are no longer required, in a manner and at such time as the
6 Disciplinary Board shall determine by rule. The filing of
7 such reports shall be construed as the filing of a report
8 for purposes 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, within 5
4 days, any instance ~~all instances~~ in which a person licensed
5 under this Act is convicted ~~or otherwise found guilty of~~
6 ~~the commission~~ of any felony or a class A misdemeanor for
7 an act or conduct similar to an act or conduct that would
8 constitute grounds for disciplinary action under Section
9 22 of this Act. The State's Attorney of each county may
10 report to the Disciplinary Board through a verified
11 complaint any instance in which the State's Attorney
12 believes that a physician has willfully violated the notice
13 requirements of the Parental Notice of Abortion Act of
14 1995.

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

1 (B) Mandatory reporting. All reports required by items
2 (34), (35), and (36) of subsection (A) of Section 22 and by
3 Section 23 shall be submitted to the Disciplinary Board in a
4 timely fashion. The reports shall be filed in writing within 60
5 days after a determination that a report is required under this
6 Act. All reports shall contain the following information:

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

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

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

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

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

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

1 The Disciplinary Board or Department may also exercise the
2 power under Section 38 of this Act to subpoena copies of
3 hospital or medical records in mandatory report cases alleging
4 death or permanent bodily injury. Appropriate rules shall be
5 adopted by the Department with the approval of the Disciplinary
6 Board.

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

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

1 Furthermore, information and documents disclosed to a federal,
2 State, or local law enforcement agency may be used by that
3 agency only for the investigation and prosecution of a criminal
4 offense, or, in the case of disclosure to a health care
5 licensing body, only for investigations and disciplinary
6 action proceedings with regard to a license. Information and
7 documents disclosed to the Department of Public Health may be
8 used by that Department only for investigation and disciplinary
9 action regarding the license of a health care institution
10 licensed by the Department of Public Health.

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

24 (D) Indemnification. Members of the Disciplinary Board,
25 the Medical Coordinators, the Disciplinary Board's attorneys,
26 the medical investigative staff, physicians retained under

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

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

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

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

24 (E) Deliberations of Disciplinary Board. Upon the receipt
25 of any report called for by this Act, other than those reports
26 of impaired persons licensed under this Act required pursuant

1 to the rules of the Disciplinary Board, the Disciplinary Board
2 shall notify in writing, by certified mail, the person who is
3 the subject of the report. Such notification shall be made
4 within 30 days of receipt by the Disciplinary Board of the
5 report.

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

21 The Disciplinary Board shall review all reports received by
22 it, together with any supporting information and responding
23 statements submitted by persons who are the subject of reports.
24 The review by the Disciplinary Board shall be in a timely
25 manner but in no event, shall the Disciplinary Board's initial
26 review of the material contained in each disciplinary file be

1 less than 61 days nor more than 180 days after the receipt of
2 the initial report by the Disciplinary Board.

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

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

23 (F) Summary reports. The Disciplinary Board shall prepare,
24 on a timely basis, but in no event less than once every other
25 month, a summary report of final actions taken upon
26 disciplinary files maintained by the Disciplinary Board. The

1 summary reports shall be made available to the public upon
2 request and payment of the fees set by the Department. This
3 publication may be made available to the public on the
4 Department's Internet website.

5 (G) Any violation of this Section shall be a Class A
6 misdemeanor.

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

20 (Source: P.A. 94-677, eff. 8-25-05; 95-639, eff. 10-5-07;
21 96-1372, eff. 7-29-10.)

22 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

24 (Text of Section WITH the changes made by P.A. 94-677,
25 which has been held unconstitutional)

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

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

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

26 The medical information in the custody of an entity under

1 contract with the Department participating in an investigation
2 or review shall be privileged and confidential to the same
3 extent as are information and reports under the provisions of
4 Part 21 of Article VIII of the Code of Civil Procedure.

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

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

1 deem appropriate.

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

3 (225 ILCS 60/24.1)

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

5 (This Section was added by P.A. 94-677, which has been held
6 unconstitutional)

7 Sec. 24.1. Physician profile.

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

10 (b) The Department shall make available to the public a
11 profile of each physician. The Department shall make this
12 information available through an Internet web site and, if
13 requested, in writing. The physician profile shall contain the
14 following information:

15 (1) the full name of the physician;

16 (2) a description of any criminal convictions for
17 felonies and Class A misdemeanors, as determined by the
18 Department, within the most recent 5 years. For the
19 purposes of this Section, a person shall be deemed to be
20 convicted of a crime if he or she pleaded guilty or if he
21 was found or adjudged guilty by a court of competent
22 jurisdiction;

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

25 (4) a description of any final disciplinary actions by

1 licensing boards in other states within the most recent 5
2 years;

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

14 (6) all medical malpractice court judgments and all
15 medical malpractice arbitration awards in which a payment
16 was awarded to a complaining party during the most recent 5
17 years and all settlements of medical malpractice claims in
18 which a payment was made to a complaining party within the
19 most recent 5 years. A medical malpractice judgment or
20 award that has been appealed shall be identified
21 prominently as "Under Appeal" on the profile within 20 days
22 of formal written notice to the Department. Information
23 concerning all settlements shall be accompanied by the
24 following statement: "Settlement of a claim may occur for a
25 variety of reasons which do not necessarily reflect
26 negatively on the professional competence or conduct of the

1 physician. A payment in settlement of a medical malpractice
2 action or claim should not be construed as creating a
3 presumption that medical malpractice has occurred."

4 Nothing in this subdivision (6) shall be construed to limit
5 or prevent the Disciplinary Board from providing further
6 explanatory information regarding the significance of
7 categories in which settlements are reported. Pending
8 malpractice claims shall not be disclosed by the Department
9 to the public. Nothing in this subdivision (6) shall be
10 construed to prevent the Disciplinary Board from
11 investigating and the Department from disciplining a
12 physician on the basis of medical malpractice claims that
13 are pending;

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

16 (8) graduate medical education;

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

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

21 (11) names of the hospitals where the physician has
22 privileges;

23 (12) appointments to medical school faculties and
24 indication as to whether a physician has a responsibility
25 for graduate medical education within the most recent 5
26 years;

1 (13) information regarding publications in
2 peer-reviewed medical literature within the most recent 5
3 years;

4 (14) information regarding professional or community
5 service activities and awards;

6 (15) the location of the physician's primary practice
7 setting;

8 (16) identification of any translating services that
9 may be available at the physician's primary practice
10 location;

11 (17) an indication of whether the physician
12 participates in the Medicaid program.

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

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

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

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

4 (225 ILCS 60/26) (from Ch. 111, par. 4400-26)

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

6 Sec. 26. Advertising.

7 (1) Any person licensed under this Act may advertise the
8 availability of professional services in the public media or on
9 the premises where such professional services are rendered.
10 Such advertising shall be limited to the following information:

11 (a) Publication of the person's name, title, office
12 hours, address and telephone number;

13 (b) Information pertaining to the person's areas of
14 specialization, including appropriate board certification
15 or limitation of professional practice;

16 (c) Information on usual and customary fees for routine
17 professional services offered, which information shall
18 include, notification that fees may be adjusted due to
19 complications or unforeseen circumstances;

20 (d) Announcement of the opening of, change of, absence
21 from, or return to business;

22 (e) Announcement of additions to or deletions from
23 professional licensed staff;

24 (f) The issuance of business or appointment cards.

25 (2) It is unlawful for any person licensed under this Act

1 to use ~~testimonials or~~ claims of superior quality of care to
2 entice the public. It shall be unlawful to advertise fee
3 comparisons of available services with those of other persons
4 licensed under this Act.

5 (3) This Act does not authorize the advertising of
6 professional services which the offeror of such services is not
7 licensed to render. Nor shall the advertiser use statements
8 which contain false, fraudulent, deceptive or misleading
9 material or guarantees of success, statements which play upon
10 the vanity or fears of the public, or statements which promote
11 or produce unfair competition.

12 (4) A licensee shall include in every advertisement for
13 services regulated under this Act his or her title as it
14 appears on the license or the initials authorized under this
15 Act.

16 (Source: P.A. 91-310, eff. 1-1-00.)

17 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

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

22 Sec. 36. Upon the motion of either the Department or the
23 Disciplinary Board or upon the verified complaint in writing of
24 any person setting forth facts which, if proven, would
25 constitute grounds for suspension or revocation under Section

1 22 of this Act, the Department shall investigate the actions of
2 any person, so accused, who holds or represents that they hold
3 a license. Such person is hereinafter called the accused.

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

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

25 Such written notice and any notice in such proceedings
26 thereafter may be served by delivery of the same, personally,

1 to the accused person, or by mailing the same by registered or
2 certified mail to the address last theretofore specified by the
3 accused in their last notification to the Department.

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

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

1 (225 ILCS 60/32 rep.)

2 Section 90. The Medical Practice Act of 1987 is amended by
3 repealing Section 32.

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

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7	225 ILCS 60/9	from Ch. 111, par. 4400-9
8	225 ILCS 60/18	from Ch. 111, par. 4400-18
9	225 ILCS 60/19	from Ch. 111, par. 4400-19
10	225 ILCS 60/22	from Ch. 111, par. 4400-22
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