

1 AN ACT concerning parental notice of abortion.

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

4 Section 1. Short title. This Act may be cited as the  
5 Parental Notice of Abortion Act of 2001.

6 Section 5. Legislative findings and purpose. The  
7 General Assembly finds that notification of a family member  
8 as defined in this Act is in the best interest of an  
9 unemancipated minor, and the General Assembly's purpose in  
10 enacting this parental notice law is to further and protect  
11 the best interests of an unemancipated minor.

12 The medical, emotional, and psychological consequences of  
13 abortion are sometimes serious and long-lasting, and immature  
14 minors often lack the ability to make fully informed choices  
15 that consider both the immediate and long-range consequences.

16 Parental consultation is usually in the best interest of  
17 the minor and is desirable since the capacity to become  
18 pregnant and the capacity for mature judgment concerning the  
19 wisdom of an abortion are not necessarily related.

20 Section 10. Definitions. As used in this Act:

21 "Abortion" means the use of any instrument, medicine,  
22 drug, or any other substance or device to terminate the  
23 pregnancy of a woman known to be pregnant with an intention  
24 other than to increase the probability of a live birth, to  
25 preserve the life or health of a child after live birth, or  
26 to remove a dead fetus.

27 "Actual notice" means the giving of notice directly, in  
28 person, or by telephone.

29 "Adult family member" means a person over 21 years of age  
30 who is (1) a parent, (2) a grandparent or step-parent living

1 in the household, or (3) a legal guardian.

2 "Constructive notice" means notice by certified mail to  
3 the last known address of the person entitled to notice with  
4 delivery deemed to have occurred 48 hours after the certified  
5 notice is mailed.

6 "Incompetent" means any person who has been adjudged as  
7 mentally ill or developmentally disabled and who, because of  
8 her mental illness or developmental disability, is not fully  
9 able to manage her person and for whom a guardian of the  
10 person has been appointed under Section 11a-3(a)(1) of the  
11 Probate Act of 1975.

12 "Medical emergency" means a condition that, on the basis  
13 of the physician's good faith clinical judgment, so  
14 complicates the medical condition of a pregnant woman as to  
15 necessitate the immediate abortion of her pregnancy to avert  
16 her death or for which a delay will create serious risk of  
17 substantial and irreversible impairment of major bodily  
18 function.

19 "Minor" means any person 16 years of age or younger who  
20 is not or has not been married or who has not been  
21 emancipated under the Emancipation of Mature Minors Act.

22 "Neglect" means the failure of an adult family member to  
23 supply a child with necessary food, clothing, shelter, or  
24 medical care when reasonably able to do so or the failure to  
25 protect a child from conditions or actions that imminently  
26 and seriously endanger the child's physical or mental health  
27 when reasonably able to do so.

28 "Physical abuse" means any physical injury intentionally  
29 inflicted by an adult family member on a child.

30 "Physician" means any person licensed to practice  
31 medicine in all its branches under the Medical Practice Act  
32 of 1987.

33 "Sexual abuse" means any sexual conduct or sexual  
34 penetration as defined in Section 12-12 of the Criminal Code

1 of 1961 that is prohibited by the criminal laws of the State  
2 of Illinois and committed against a minor by an adult family  
3 member as defined in this Act.

4 Section 15. Notice to adult family member. No person  
5 shall knowingly perform an abortion upon a minor or upon an  
6 incompetent person unless the physician or his or her agent  
7 has given at least 48 hours actual notice to an adult family  
8 member of the pregnant minor or incompetent person of his or  
9 her intention to perform the abortion, unless that person or  
10 his or her agent has received a written statement by a  
11 referring physician certifying that the referring physician  
12 or his or her agent has given at least 48 hours notice to an  
13 adult family member of the pregnant minor or incompetent  
14 person. If actual notice is not possible after a reasonable  
15 effort, the physician or his or her agent must give 48 hours  
16 constructive notice.

17 Section 20. Exceptions. Notice shall not be required  
18 under this Act if:

19 (1) the minor or incompetent person is accompanied  
20 by a person entitled to notice; or

21 (2) notice is waived in writing by a person who is  
22 entitled to notice; or

23 (3) the attending physician certifies in the  
24 patient's medical record that a medical emergency exists  
25 and there is insufficient time to provide the required  
26 notice; or

27 (4) the minor declares in writing that she is a  
28 victim of sexual abuse, neglect, or physical abuse by an  
29 adult family member as defined in this Act. The  
30 attending physician must certify in the patient's medical  
31 record that he or she has received the written  
32 declaration of abuse or neglect. Any notification of

1 public authorities of abuse that may be required under  
2 other laws of this State need not be made by the person  
3 performing the abortion until after the minor receives an  
4 abortion that otherwise complies with the requirements of  
5 this Act; or

6 (5) notice is waived under Section 25.

7 Section 25. Procedure for judicial waiver of notice.

8 (a) The requirements and procedures under this Section  
9 are available to minors and incompetent persons whether or  
10 not they are residents of this State.

11 (b) The minor or incompetent person may petition any  
12 circuit court for a waiver of the notice requirement and may  
13 participate in proceedings on her own behalf. The court  
14 shall appoint a guardian ad litem for her. Any guardian ad  
15 litem appointed under this Act shall act to maintain the  
16 confidentiality of the proceedings. The circuit court shall  
17 advise her that she has a right to court-appointed counsel  
18 and shall provide her with counsel upon her request.

19 (c) Court proceedings under this Section shall be  
20 confidential and shall ensure the anonymity of the minor or  
21 incompetent person. All court proceedings under this Section  
22 shall be sealed. The minor or incompetent person shall have  
23 the right to file her petition in the circuit court using a  
24 pseudonym or using solely her initials. All documents  
25 related to this petition shall be confidential and shall not  
26 be made available to the public.

27 These proceedings shall be given precedence over other  
28 pending matters to the extent necessary to ensure that the  
29 court reaches a decision promptly. The court shall rule and  
30 issue written findings of fact and conclusions of law within  
31 48 hours of the time that the petition is filed, except that  
32 the 48-hour limitation may be extended at the request of the  
33 minor or incompetent person. If the court fails to rule

1 within the 48-hour period and an extension is not requested,  
2 then the petition shall be deemed to have been granted, and  
3 the notice requirement shall be waived.

4 (d) Notice shall be waived if the court finds by a  
5 preponderance of the evidence either:

6 (1) that the minor or incompetent person is  
7 sufficiently mature and well enough informed to decide  
8 intelligently whether to have an abortion, or

9 (2) that notification under Section 15 of this Act  
10 would not be in the best interests of the minor or  
11 incompetent person.

12 (e) A court that conducts proceedings under this Section  
13 shall issue written and specific factual findings and legal  
14 conclusions supporting its decision and shall order that a  
15 confidential record of the evidence and the judge's findings  
16 and conditions be maintained.

17 (f) An expedited confidential appeal shall be available,  
18 as the Supreme Court provides by rule, to any minor or  
19 incompetent person to whom the circuit court denies a waiver  
20 of notice. An order authorizing an abortion without notice  
21 shall not be subject to appeal.

22 (g) The Supreme Court is respectfully requested to  
23 promulgate any rules and regulations necessary to ensure that  
24 proceedings under this Act are handled in an expeditious and  
25 confidential manner.

26 (h) No fees shall be required of any minor or  
27 incompetent person who avails herself of the procedures  
28 provided by this Section.

29 Section 30. Minor's consent to abortion. A person may  
30 not perform an abortion on a minor without the minor's  
31 consent, except in a medical emergency.

32 Section 35. Reports. The Department of Public Health

1 shall comply with the reporting requirements set forth in the  
2 consent decree in Herbst v. O'Malley, case no. 84-C-5602 in  
3 the U.S. District Court for the Northern District of  
4 Illinois, Eastern Division. These reports shall also include  
5 whether the required notice under Section 15 of this Act was  
6 given and, if an exception to the notice requirement applied,  
7 what exception was used. No patient's name may be used in  
8 any report submitted under this Section.

9 Section 40. Penalties.

10 (a) Any physician who willfully fails to provide notice  
11 as required under this Act before performing an abortion on a  
12 minor or an incompetent person shall be referred to the  
13 Illinois State Medical Disciplinary Board for action in  
14 accordance with Section 22 of the Medical Practice Act of  
15 1987.

16 (b) Any person, not authorized under this Act, who signs  
17 any waiver of notice for a minor or incompetent person  
18 seeking an abortion, is guilty of a Class C misdemeanor.

19 Section 45. Immunity. Any physician who, in good faith,  
20 provides notice in accordance with Section 15 or relies on an  
21 exception under Section 20 shall not be subject to any type  
22 of civil or criminal liability or discipline for  
23 unprofessional conduct for failure to give required notice.

24 Section 50. Severability and inseverability. If any  
25 provision of this Act or its application to any person or  
26 circumstance is held invalid, the invalidity of that  
27 provision or application does not affect other provisions or  
28 applications of the Act that can be given effect without the  
29 invalid provision or application, except that Section 25 is  
30 inseverable to the extent that if all or any substantial and  
31 material part of Section 25 is held invalid, then the entire

1 Act is invalid.

2 Section 80. The Counties Code is amended by changing  
3 Section 3-4006 as follows:

4 (55 ILCS 5/3-4006) (from Ch. 34, par. 3-4006)

5 Sec. 3-4006. Duties of public defender. The Public  
6 Defender, as directed by the court, shall act as attorney,  
7 without fee, before any court within any county for all  
8 persons who are held in custody or who are charged with the  
9 commission of any criminal offense, and who the court finds  
10 are unable to employ counsel.

11 The Public Defender shall be the attorney, without fee,  
12 when so appointed by the court under Section 1-20 of the  
13 Juvenile Court Act or Section 1-5 of the Juvenile Court Act  
14 of 1987 or by any court under subsection (b) of Section 25  
15 ~~Section--5(b)~~ of the Parental Notice of Abortion Act of 2001  
16 ~~1983~~ for any party who the court finds is financially unable  
17 to employ counsel.

18 Every court shall, with the consent of the defendant and  
19 where the court finds that the rights of the defendant would  
20 be prejudiced by the appointment of the public defender,  
21 appoint counsel other than the public defender, except as  
22 otherwise provided in Section 113-3 of the "Code of Criminal  
23 Procedure of 1963". That counsel shall be compensated as is  
24 provided by law. He shall also, in the case of the conviction  
25 of any such person, prosecute any proceeding in review which  
26 in his judgment the interests of justice require.

27 (Source: P.A. 86-962.)

28 Section 85. The Medical Practice Act of 1987 is amended  
29 by changing Sections 22 and 23 as follows:

30 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

1           Sec. 22. Disciplinary action.

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

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

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

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

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

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

25           (e) ambulatory surgical treatment centers,  
26 hospitalization or care facilities maintained by any  
27 university or college established under the laws of  
28 this State and supported principally by public funds  
29 raised by taxation.

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

33           (3) The conviction of a felony in this or any other  
34 jurisdiction, except as otherwise provided in subsection



1 B of this Section, whether or not related to practice  
2 under this Act, or the entry of a guilty or nolo  
3 contendere plea to a felony charge.

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

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

8 (6) Obtaining any fee by fraud, deceit, or  
9 misrepresentation.

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

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

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

19 (10) Making a false or misleading statement  
20 regarding their skill or the efficacy or value of the  
21 medicine, treatment, or remedy prescribed by them at  
22 their direction in the treatment of any disease or other  
23 condition of the body or mind.

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

26 (12) Disciplinary action of another state or  
27 jurisdiction against a license or other authorization to  
28 practice as a medical doctor, doctor of osteopathy,  
29 doctor of osteopathic medicine or doctor of chiropractic,  
30 a certified copy of the record of the action taken by the  
31 other state or jurisdiction being prima facie evidence  
32 thereof.

33 (13) Violation of any provision of this Act or of  
34 the Medical Practice Act prior to the repeal of that Act,

1 or violation of the rules, or a final administrative  
2 action of the Director, after consideration of the  
3 recommendation of the Disciplinary Board.

4 (14) Dividing with anyone other than physicians  
5 with whom the licensee practices in a partnership,  
6 Professional Association, limited liability company, or  
7 Medical or Professional Corporation any fee, commission,  
8 rebate or other form of compensation for any professional  
9 services not actually and personally rendered. Nothing  
10 contained in this subsection prohibits persons holding  
11 valid and current licenses under this Act from practicing  
12 medicine in partnership under a partnership agreement,  
13 including a limited liability partnership, in a limited  
14 liability company under the Limited Liability Company  
15 Act, in a corporation authorized by the Medical  
16 Corporation Act, as an association authorized by the  
17 Professional Association Act, or in a corporation under  
18 the Professional Corporation Act or from pooling,  
19 sharing, dividing or apportioning the fees and monies  
20 received by them or by the partnership, corporation or  
21 association in accordance with the partnership agreement  
22 or the policies of the Board of Directors of the  
23 corporation or association. Nothing contained in this  
24 subsection prohibits 2 or more corporations authorized by  
25 the Medical Corporation Act, from forming a partnership  
26 or joint venture of such corporations, and providing  
27 medical, surgical and scientific research and knowledge  
28 by employees of these corporations if such employees are  
29 licensed under this Act, or from pooling, sharing,  
30 dividing, or apportioning the fees and monies received by  
31 the partnership or joint venture in accordance with the  
32 partnership or joint venture agreement. Nothing  
33 contained in this subsection shall abrogate the right of  
34 2 or more persons, holding valid and current licenses

1 under this Act, to each receive adequate compensation for  
2 concurrently rendering professional services to a patient  
3 and divide a fee; provided, the patient has full  
4 knowledge of the division, and, provided, that the  
5 division is made in proportion to the services performed  
6 and responsibility assumed by each.

7 (15) A finding by the Medical Disciplinary Board  
8 that the registrant after having his or her license  
9 placed on probationary status or subjected to conditions  
10 or restrictions violated the terms of the probation or  
11 failed 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  
23 treat disease by a secret method, procedure, treatment or  
24 medicine, or the treating, operating or prescribing for  
25 any human condition by a method, means or procedure which  
26 the licensee refuses to divulge upon demand of the  
27 Department.

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

31 (21) Wilfully making or filing false records or  
32 reports in his or her practice as a physician, including,  
33 but not limited to, false records to support claims  
34 against the medical assistance program of the Department

1 of Public Aid under the Illinois Public Aid Code.

2 (22) Wilful omission to file or record, or wilfully  
3 impeding the filing or recording, or inducing another  
4 person to omit to file or record, medical reports as  
5 required by law, or wilfully failing to report an  
6 instance of suspected abuse or neglect as required by  
7 law.

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

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

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

26 (26) A pattern of practice or other behavior which  
27 demonstrates incapacity or incompetence to practice under  
28 this Act.

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

32 (28) Physical illness, including, but not limited  
33 to, deterioration through the aging process, or loss of  
34 motor skill which results in a physician's inability to

1 practice under this Act with reasonable judgment, skill  
2 or safety.

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

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

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

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

14 (33) Violating state or federal laws or regulations  
15 relating to controlled substances.

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

26 (35) Failure to report to the Department surrender  
27 of a license or authorization to practice as a medical  
28 doctor, a doctor of osteopathy, a doctor of osteopathic  
29 medicine, or doctor of chiropractic in another state or  
30 jurisdiction, or surrender of membership on any medical  
31 staff or in any medical or professional association or  
32 society, while under disciplinary investigation by any of  
33 those authorities or bodies, for acts or conduct similar  
34 to acts or conduct which would constitute grounds for

1 action as defined in this Section.

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

7 (37) Failure to transfer copies of medical records  
8 as required by law.

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

14 (39) Violating the Health Care Worker Self-Referral  
15 Act.

16 (40) Willful failure to provide notice when notice  
17 is required under the Parental Notice of Abortion Act of  
18 2001. ~~Willful--failure--to--provide--notice--when--notice--is~~  
19 ~~required--under--the--Parental--Notice--of--Abortion--Act--of~~  
20 ~~1995.~~

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

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

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

30 All proceedings to suspend, revoke, place on probationary  
31 status, or take any other disciplinary action as the  
32 Department may deem proper, with regard to a license on any  
33 of the foregoing grounds, must be commenced within 3 years  
34 next after receipt by the Department of a complaint alleging

1 the commission of or notice of the conviction order for any  
2 of the acts described herein. Except for the grounds  
3 numbered (8), (9) and (29), no action shall be commenced more  
4 than 5 years after the date of the incident or act alleged to  
5 have violated this Section. In the event of the settlement  
6 of any claim or cause of action in favor of the claimant or  
7 the reduction to final judgment of any civil action in favor  
8 of the plaintiff, such claim, cause of action or civil action  
9 being grounded on the allegation that a person licensed under  
10 this Act was negligent in providing care, the Department  
11 shall have an additional period of one year from the date of  
12 notification to the Department under Section 23 of this Act  
13 of such settlement or final judgment in which to investigate  
14 and commence formal disciplinary proceedings under Section 36  
15 of this Act, except as otherwise provided by law. The time  
16 during which the holder of the license was outside the State  
17 of Illinois shall not be included within any period of time  
18 limiting the commencement of disciplinary action by the  
19 Department.

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

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

1 requirements of any such tax Act are satisfied as determined  
2 by the Illinois Department of Revenue.

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

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

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

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

15 (d) what constitutes gross negligence in the  
16 practice of medicine.

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

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



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

34 An individual licensed under this Act, affected under

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

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

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

25 (C) The Medical Disciplinary Board shall recommend to  
26 the Department civil penalties and any other appropriate  
27 discipline in disciplinary cases when the Board finds that a  
28 physician willfully performed an abortion with actual  
29 knowledge that the person upon whom the abortion has been  
30 performed is a minor or an incompetent person without notice  
31 as required under the Parental Notice of Abortion Act of  
32 2001. Upon the Board's recommendation, the Department shall  
33 impose, for the first violation, a civil penalty of \$1,000  
34 and for a second or subsequent violation, a civil penalty of

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

12     (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96;  
 13     89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff.  
 14     8-13-98.)

15             (225 ILCS 60/23) (from Ch. 111, par. 4400-23)  
 16             Sec. 23.     Reports relating to professional conduct and  
 17     capacity.

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

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

27 (2) Professional associations. The President or  
28 chief executive officer of any association or society, of  
29 persons licensed under this Act, operating within this  
30 State shall report to the Disciplinary Board when the  
31 association or society renders a final determination that  
32 a person has committed unprofessional conduct related  
33 directly to patient care or that a person may be mentally  
34 or physically disabled in such a manner as to endanger

1 patients under that person's care.

2 (3) Professional liability insurers. Every  
3 insurance company which offers policies of professional  
4 liability insurance to persons licensed under this Act,  
5 or any other entity which seeks to indemnify the  
6 professional liability of a person licensed under this  
7 Act, shall report to the Disciplinary Board the  
8 settlement of any claim or cause of action, or final  
9 judgment rendered in any cause of action, which alleged  
10 negligence in the furnishing of medical care by such  
11 licensed person when such settlement or final judgment is  
12 in favor of the plaintiff.

13 (4) State's Attorneys. The State's Attorney of  
14 each county shall report to the Disciplinary Board all  
15 instances in which a person licensed under this Act is  
16 convicted or otherwise found guilty of the commission of  
17 any felony. The State's Attorney of each county may  
18 report to the Disciplinary Board through a verified  
19 complaint any instance in which the State's Attorney  
20 believes that a physician has willfully violated the  
21 notice requirements of the Parental Notice of Abortion  
22 Act of 2001. ~~The--State's--Attorney--of--each--county--may~~  
23 ~~report--to--the--Disciplinary--Board--through--a--verified~~  
24 ~~complaint--any--instance--in--which--the--State's--Attorney~~  
25 ~~believes--that--a--physician--has--willfully--violated--the~~  
26 ~~notice--requirements--of--the--Parental--Notice--of--Abortion~~  
27 ~~Act--of--1995.~~

28 (5) State agencies. All agencies, boards,  
29 commissions, departments, or other instrumentalities of  
30 the government of the State of Illinois shall report to  
31 the Disciplinary Board any instance arising in connection  
32 with the operations of such agency, including the  
33 administration of any law by such agency, in which a  
34 person licensed under this Act has either committed an

1 act or acts which may be a violation of this Act or which  
2 may constitute unprofessional conduct related directly to  
3 patient care or which indicates that a person licensed  
4 under this Act may be mentally or physically disabled in  
5 such a manner as to endanger patients under that person's  
6 care.

7 (B) Mandatory reporting. All reports required by items  
8 (34), (35), and (36) of subsection (A) of Section 22 and by  
9 Section 23 shall be submitted to the Disciplinary Board in a  
10 timely fashion. The reports shall be filed in writing within  
11 60 days after a determination that a report is required under  
12 this Act. All reports shall contain the following  
13 information:

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

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

18 (3) The name or other means of identification of  
19 any patient or patients whose treatment is a subject of  
20 the report, provided, however, no medical records may be  
21 revealed without the written consent of the patient or  
22 patients.

23 (4) A brief description of the facts which gave  
24 rise to the issuance of the report, including the dates  
25 of any occurrences deemed to necessitate the filing of  
26 the report.

27 (5) If court action is involved, the identity of  
28 the court in which the action is filed, along with the  
29 docket number and date of filing of the action.

30 (6) Any further pertinent information which the  
31 reporting party deems to be an aid in the evaluation of  
32 the report.

33 The Department shall have the right to inform patients of  
34 the right to provide written consent for the Department to

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

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

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

25 (C) Immunity from prosecution. Any individual or  
26 organization acting in good faith, and not in a wilful and  
27 wanton manner, in complying with this Act by providing any  
28 report or other information to the Disciplinary Board, or  
29 assisting in the investigation or preparation of such  
30 information, or by participating in proceedings of the  
31 Disciplinary Board, or by serving as a member of the  
32 Disciplinary Board, shall not, as a result of such actions,  
33 be subject to criminal prosecution or civil damages.

34 (D) Indemnification. Members of the Disciplinary Board,

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

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

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

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

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

34 The notification shall include a written notice setting



1     forth the person's right to examine the report. Included in  
2     such notification shall be the address at which the file is  
3     maintained, the name of the custodian of the reports, and the  
4     telephone number at which the custodian may be reached. The  
5     person who is the subject of the report shall submit a  
6     written statement responding, clarifying, adding to, or  
7     proposing the amending of the report previously filed. The  
8     statement shall become a permanent part of the file and must  
9     be received by the Disciplinary Board no more than 60 days  
10    after the date on which the person was notified by the  
11    Disciplinary Board of the existence of the original report.

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

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

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

1 investigation. The Director shall inform the Board in  
2 writing of the decision to request further investigation,  
3 including the specific reasons for the decision. The  
4 individual or entity filing the original report or complaint  
5 and the person who is the subject of the report or complaint  
6 shall be notified in writing by the Director of any final  
7 action on their report or complaint.

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

23 (G) Any violation of this Section shall be a Class A  
24 misdemeanor.

25 (H) If any such person violates the provisions of this  
26 Section an action may be brought in the name of the People of  
27 the State of Illinois, through the Attorney General of the  
28 State of Illinois, for an order enjoining such violation or  
29 for an order enforcing compliance with this Section. Upon  
30 filing of a verified petition in such court, the court may  
31 issue a temporary restraining order without notice or bond  
32 and may preliminarily or permanently enjoin such violation,  
33 and if it is established that such person has violated or is  
34 violating the injunction, the court may punish the offender

1 for contempt of court. Proceedings under this paragraph  
2 shall be in addition to, and not in lieu of, all other  
3 remedies and penalties provided for by this Section.

4 (Source: P.A. 89-18, eff. 6-1-95; 89-702, eff. 7-1-97;  
5 90-699, eff. 1-1-99.)

6 (720 ILCS 515/Act rep.)

7 Section 90. The Illinois Abortion Parental Consent Act of  
8 1977, which was repealed by Public Act 89-18, is again  
9 repealed.

10 (720 ILCS 520/Act rep.)

11 Section 95. The Parental Notice of Abortion Act of 1983,  
12 which was repealed by Public Act 89-18, is again repealed.

13 (750 ILCS 70/Act rep.)

14 Section 100. The Parental Notice of Abortion Act of 1995  
15 is repealed.

16 Section 999. Effective date. This Act takes effect upon  
17 becoming law.

1  
2  
3  
4  
5  
6  
7  
8

INDEX

Statutes amended in order of appearance

- 55 ILCS 5/3-4006 from Ch. 34, par. 3-4006
- 225 ILCS 60/22 from Ch. 111, par. 4400-22
- 225 ILCS 60/23 from Ch. 111, par. 4400-23
- 720 ILCS 515/Act rep.
- 720 ILCS 520/Act rep.
- 750 ILCS 70/Act rep.