

1 AMENDMENT TO HOUSE BILL 1900

2 AMENDMENT NO. _____. Amend House Bill 1900 by replacing
3 everything after the enacting clause with the following:

4 "AN ACT concerning abortions."; and

5 by replacing everything after the enacting clause with the
6 following:

7 "Section 1. Short title. This Act may be cited as the
8 Parental Notice of Abortion Act of 2001.

9 Section 5. Legislative findings and purpose. The General
10 Assembly finds that notification of an adult family member as
11 defined in this Act is in the best interest of an
12 unemancipated minor, and the General Assembly's purpose in
13 enacting this parental notice law is to further the important
14 and compelling State interests of protecting the best
15 interests of an unemancipated minor, fostering the family
16 unit and preserving it as a viable social unit, protecting
17 the constitutional rights of parents to rear children who are
18 members of their household, and preventing the influx of
19 minors entering the State of Illinois to evade the laws of
20 their home state that require parental notification or
21 parental consent.

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

5 Parental consultation is usually in the best interest of
6 the minor and is desirable since the capacity to become
7 pregnant and the capacity for mature judgment concerning the
8 wisdom of an abortion are not necessarily related. Parents
9 ordinarily possess information essential to a physician's
10 exercise of his or her best medical judgment concerning the
11 minor, and parents who are aware their daughter has had an
12 abortion may better ensure her appropriate medical attention
13 after her abortion.

14 Section 10. Definitions. In this Act:

15 "Abortion" means the use of any instrument, medicine, or
16 drug, or any other substance or device, to terminate the
17 pregnancy of a woman known to be pregnant with an intention
18 other than to increase the probability of a live birth, to
19 preserve the life or health of a child after live birth, or
20 to remove a dead fetus.

21 "Actual notice" means the giving of notice directly, in
22 person or by telephone, and not by facsimile, voice mail, or
23 answering machine message.

24 "Adult family member" means a person over 18 years of age
25 who is:

- 26 (1) the parent of the minor or incompetent person;
27 (2) a step-parent married to and residing with the
28 custodial parent of the minor or incompetent person; or
29 (3) a legal guardian of the minor or incompetent
30 person.

31 "Constructive notice" means notice sent by certified mail
32 to the last known address of the person entitled to notice,
33 with delivery deemed to have occurred 48 hours after the

1 notice is mailed.

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

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

14 "Minor" means any person under 18 years of age who is not
15 or has not been married or who has not been emancipated under
16 the Emancipation of Mature Minors Act.

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

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

25 "Physician" means a person licensed to practice medicine
26 in all its branches under the Medical Practice Act of 1987.

27 "Sexual abuse" means any sexual conduct or sexual
28 penetration as defined in Section 12-12 of the Criminal Code
29 of 1961 that is prohibited by the criminal laws of the State
30 of Illinois and committed against a minor by an adult family
31 member as defined in this Act.

32 Section 15. Notice to adult family member. No person
33 shall knowingly perform an abortion upon a minor or upon an

1 incompetent person unless the person or his or her agent has
2 given at least 48 hours actual notice to an adult family
3 member of the pregnant minor or incompetent person of his or
4 her intention to perform the abortion, unless that person or
5 his or her agent has received a written statement by a
6 referring physician certifying that the referring physician
7 or his or her agent has given at least 48 hours notice to an
8 adult family member of the pregnant minor or incompetent
9 person. If actual notice is not possible after a reasonable
10 effort, the person or his or her agent must give 48 hours
11 constructive notice.

12 Section 20. Exceptions. Notice is not required under
13 this Act if:

14 (1) at the time the abortion is performed, the minor
15 or incompetent person is accompanied by a person entitled
16 to notice under this Act; or

17 (2) notice under this Act is waived in writing by a
18 person who is entitled to that notice; or

19 (3) the attending physician certifies in the
20 patient's medical record that a medical emergency exists
21 and there is insufficient time to provide the required
22 notice; or

23 (4) the minor declares in writing that she is a
24 victim of sexual abuse, neglect, or physical abuse by an
25 adult family member as defined in this Act, in which case
26 (i) the attending physician must certify in the patient's
27 medical record that he or she has received the written
28 declaration of abuse or neglect and (ii) any notification
29 of public authorities of abuse that may be required under
30 other laws of this State need not be made by the person
31 performing the abortion until after the minor receives an
32 abortion that otherwise complies with the requirements of
33 this Act; or

1 (5) notice under this Act is waived under Section
2 25.

3 Section 25. Procedure for judicial waiver of notice.

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

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

17 (c) Court proceedings under this Section shall be
18 confidential and must ensure the anonymity of the minor or
19 incompetent person. All court proceedings under this Section
20 shall be sealed. The minor or incompetent person has the
21 right to file her petition in the circuit court using a
22 pseudonym or using solely her initials. All documents
23 related to the petition shall be confidential and shall not
24 be made available to the public. These proceedings shall be
25 given precedence over other pending matters to the extent
26 necessary to ensure that the court reaches a decision
27 promptly. The court shall rule and issue written findings of
28 fact and conclusions of law within 48 hours after the
29 petition is filed, except that the 48-hour limitation may be
30 extended at the request of the minor or incompetent person.
31 If the court fails to rule within the 48-hour period and an
32 extension is not requested, then the petition shall be deemed
33 to have been granted, and the notice requirement shall be

1 waived.

2 (d) Notice under this Act shall be waived if the court
3 finds by clear and convincing evidence either:

4 (1) that the minor or incompetent person is
5 sufficiently mature and well-enough informed to decide
6 intelligently whether to have an abortion; or

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

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

15 (f) An expedited confidential appeal shall be available
16 to any minor or incompetent person to whom the circuit court
17 denies a waiver of notice under this Act. An order
18 authorizing an abortion without notice is not subject to
19 appeal.

20 (g) The following rules apply to the appeal of a denial
21 of a petition for waiver of parental notice of abortion under
22 this Section. These rules shall remain in effect only until
23 the Illinois Supreme Court issues its own rules providing for
24 an expedited confidential appeal of a denial of a petition
25 for waiver of parental notice. If the rules adopted by the
26 Illinois Supreme Court are declared unconstitutional, the
27 following rules are thereafter once again in effect.

28 (1) Review of the denial of a waiver of parental
29 notice under this Act shall be by petition filed in the
30 Appellate Court. An appropriate supporting record must
31 accompany the petition. The record must include the
32 notice of interlocutory appeal; the pleadings filed in
33 the circuit court, if any; the decision of the circuit
34 court, including the specific findings of fact and legal

1 conclusions supporting the decision; and any supporting
2 documents of record the petition may offer. The record
3 may be authenticated by the certificate of the clerk of
4 the trial court or by the affidavit of an attorney or
5 party filing it.

6 (2) The minor or incompetent petitioner may file a
7 brief statement of facts and a short memorandum of law
8 supporting her petition. These may be filed instead of a
9 brief and abstract and must be filed within 2 days after
10 the denial of the petition for waiver of parental notice.

11 (3) Except by order of the court upon request of the
12 minor or incompetent petitioner or her guardian ad litem
13 or counsel, no extension of time may be granted.

14 (4) After the petitioner has filed the petition,
15 supporting record, and any memorandum, the Appellate
16 Court shall consider and decide the petition within 2
17 days. No oral argument on the petition may be heard.

18 (5) The minor or incompetent petitioner may appear
19 and file her notice of appeal and her petition using only
20 her initials or a pseudonym. If she does not use her own
21 name, however, she must provide the Clerk of the
22 Appellate Court with a name, telephone number, and
23 address where she can be reached to be informed of the
24 time and place of any hearing and the decision of the
25 court.

26 (6) The Appellate Court shall appoint counsel to
27 assist the minor or incompetent petitioner if she so
28 requests.

29 (7) All Appellate Court records concerning an appeal
30 under this Section shall be sealed as confidential.
31 Inspection and copying of any court records relating to
32 the proceeding and the minor or incompetent person who is
33 the subject of the proceeding shall not be available to
34 the minor or incompetent person who is the subject of the

1 proceeding or to her guardian ad litem or counsel.

2 (8) Any further appeal to the Illinois Supreme Court
3 may be taken in a manner similar to that provided in
4 other civil cases.

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

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

11 Section 35. Reports. The Department of Public Health
12 must comply with the reporting requirements set forth in the
13 consent decree in Herbst v. O'Malley, case no. 84-C-5602 in
14 the U.S. District Court for the Northern District of
15 Illinois, Eastern Division. These reports must also include
16 a statement of whether the required notice under Section 15
17 of this Act was given and, if an exception to the notice
18 requirement applies, which exception was used. No patient's
19 name or any other information that could lead to the
20 identification of the patient may be used in any report
21 submitted under this Section.

22 Section 40. Penalties.

23 (a) A physician who willfully fails to provide notice as
24 required under this Act before performing an abortion on a
25 minor or an incompetent person shall be referred to the
26 Illinois State Medical Disciplinary Board for action in
27 accordance with Section 22 of the Medical Practice Act of
28 1987.

29 (b) A person, not authorized under this Act, who signs
30 any waiver of notice under this Act for a minor or
31 incompetent person seeking an abortion is guilty of a Class C

1 misdemeanor.

2 (c) A person who discloses confidential information in
3 violation of Section 25 is guilty of a Class C misdemeanor.

4 Section 45. Immunity. A physician who, in good faith,
5 provides notice in accordance with Section 15 or relies on an
6 exception under Section 20 is not subject to any type of
7 civil or criminal liability or discipline for unprofessional
8 conduct for failure to give notice required under this Act.

9 Section 50. Severability. If any provision, word,
10 phrase, or clause of this Act, or its application to any
11 person or circumstance, is held invalid, the invalidity of
12 that provision or application does not affect the provisions,
13 words, phrases, clauses, or applications of the Act that can
14 be given effect without the invalid provision, word, phrase,
15 clause, or application, and to this end the provisions,
16 words, phrases, and clauses of this Act are declared to be
17 severable.

18 Section 90. The Medical Practice Act of 1987 is amended
19 by changing Sections 22 and 23 as follows:

20 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

21 Sec. 22. Disciplinary action.

22 (A) The Department may revoke, suspend, place on
23 probationary status, or take any other disciplinary action as
24 the Department may deem proper with regard to the license or
25 visiting professor permit of any person issued under this Act
26 to practice medicine, or to treat human ailments without the
27 use of drugs and without operative surgery upon any of the
28 following grounds:

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

1 (a) a facility licensed pursuant to the
2 Ambulatory Surgical Treatment Center Act;

3 (b) an institution licensed under the Hospital
4 Licensing Act; or

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

12 (d) ambulatory surgical treatment centers,
13 hospitalization or care facilities maintained by the
14 Federal Government; or

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

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

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

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

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

32 (6) Obtaining any fee by fraud, deceit, or
33 misrepresentation.

34 (7) Habitual or excessive use or abuse of drugs

1 defined in law as controlled substances, of alcohol, or
2 of any other substances which results in the inability to
3 practice with reasonable judgment, skill or safety.

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

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

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

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

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

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

28 (14) Dividing with anyone other than physicians
29 with whom the licensee practices in a partnership,
30 Professional Association, limited liability company, or
31 Medical or Professional Corporation any fee, commission,
32 rebate or other form of compensation for any professional
33 services not actually and personally rendered. Nothing
34 contained in this subsection prohibits persons holding

1 valid and current licenses under this Act from practicing
2 medicine in partnership under a partnership agreement,
3 including a limited liability partnership, in a limited
4 liability company under the Limited Liability Company
5 Act, in a corporation authorized by the Medical
6 Corporation Act, as an association authorized by the
7 Professional Association Act, or in a corporation under
8 the Professional Corporation Act or from pooling,
9 sharing, dividing or apportioning the fees and monies
10 received by them or by the partnership, corporation or
11 association in accordance with the partnership agreement
12 or the policies of the Board of Directors of the
13 corporation or association. Nothing contained in this
14 subsection prohibits 2 or more corporations authorized by
15 the Medical Corporation Act, from forming a partnership
16 or joint venture of such corporations, and providing
17 medical, surgical and scientific research and knowledge
18 by employees of these corporations if such employees are
19 licensed under this Act, or from pooling, sharing,
20 dividing, or apportioning the fees and monies received by
21 the partnership or joint venture in accordance with the
22 partnership or joint venture agreement. Nothing
23 contained in this subsection shall abrogate the right of
24 2 or more persons, holding valid and current licenses
25 under this Act, to each receive adequate compensation for
26 concurrently rendering professional services to a patient
27 and divide a fee; provided, the patient has full
28 knowledge of the division, and, provided, that the
29 division is made in proportion to the services performed
30 and responsibility assumed by each.

31 (15) A finding by the Medical Disciplinary Board
32 that the registrant after having his or her license
33 placed on probationary status or subjected to conditions
34 or restrictions violated the terms of the probation or

1 failed to comply with such terms or conditions.

2 (16) Abandonment of a patient.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (32) Aiding and abetting an individual not licensed
2 under this Act in the practice of a profession licensed
3 under this Act.

4 (33) Violating state or federal laws or regulations
5 relating to controlled substances.

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

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

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

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

33 (38) Failure to furnish the Department, its
34 investigators or representatives, relevant information,

1 legally requested by the Department after consultation
2 with the Chief Medical Coordinator or the Deputy Medical
3 Coordinator.

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

6 (40) Willful failure to provide notice when notice
7 is required under the Parental Notice of Abortion Act of
8 2001. ~~Willful--failure--to--provide--notice--when--notice--is~~
9 ~~required--under--the--Parental--Notice--of--Abortion--Act--of~~
10 ~~1995.~~

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

13 (42) Entering into an excessive number of written
14 collaborative agreements with licensed advanced practice
15 nurses resulting in an inability to adequately
16 collaborate and provide medical direction.

17 (43) Repeated failure to adequately collaborate
18 with or provide medical direction to a licensed advanced
19 practice nurse.

20 All proceedings to suspend, revoke, place on probationary
21 status, or take any other disciplinary action as the
22 Department may deem proper, with regard to a license on any
23 of the foregoing grounds, must be commenced within 3 years
24 next after receipt by the Department of a complaint alleging
25 the commission of or notice of the conviction order for any
26 of the acts described herein. Except for the grounds
27 numbered (8), (9) and (29), no action shall be commenced more
28 than 5 years after the date of the incident or act alleged to
29 have violated this Section. In the event of the settlement
30 of any claim or cause of action in favor of the claimant or
31 the reduction to final judgment of any civil action in favor
32 of the plaintiff, such claim, cause of action or civil action
33 being grounded on the allegation that a person licensed under
34 this Act was negligent in providing care, the Department

1 shall have an additional period of one year from the date of
2 notification to the Department under Section 23 of this Act
3 of such settlement or final judgment in which to investigate
4 and commence formal disciplinary proceedings under Section 36
5 of this Act, except as otherwise provided by law. The time
6 during which the holder of the license was outside the State
7 of Illinois shall not be included within any period of time
8 limiting the commencement of disciplinary action by the
9 Department.

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

19 The Department may refuse to issue or take disciplinary
20 action concerning the license of any person who fails to file
21 a return, or to pay the tax, penalty or interest shown in a
22 filed return, or to pay any final assessment of tax, penalty
23 or interest, as required by any tax Act administered by the
24 Illinois Department of Revenue, until such time as the
25 requirements of any such tax Act are satisfied as determined
26 by the Illinois Department of Revenue.

27 The Department, upon the recommendation of the
28 Disciplinary Board, shall adopt rules which set forth
29 standards to be used in determining:

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

32 (b) what constitutes dishonorable, unethical or
33 unprofessional conduct of a character likely to deceive,
34 defraud, or harm the public;

1 (c) what constitutes immoral conduct in the
2 commission of any act, including, but not limited to,
3 commission of an act of sexual misconduct related to the
4 licensee's practice; and

5 (d) what constitutes gross negligence in the
6 practice of medicine.

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

10 In enforcing this Section, the Medical Disciplinary
11 Board, upon a showing of a possible violation, may compel any
12 individual licensed to practice under this Act, or who has
13 applied for licensure or a permit pursuant to this Act, to
14 submit to a mental or physical examination, or both, as
15 required by and at the expense of the Department. The
16 examining physician or physicians shall be those specifically
17 designated by the Disciplinary Board. The Medical
18 Disciplinary Board or the Department may order the examining
19 physician to present testimony concerning this mental or
20 physical examination of the licensee or applicant. No
21 information shall be excluded by reason of any common law or
22 statutory privilege relating to communication between the
23 licensee or applicant and the examining physician. The
24 individual to be examined may have, at his or her own
25 expense, another physician of his or her choice present
26 during all aspects of the examination. Failure of any
27 individual to submit to mental or physical examination, when
28 directed, shall be grounds for suspension of his or her
29 license until such time as the individual submits to the
30 examination if the Disciplinary Board finds, after notice and
31 hearing, that the refusal to submit to the examination was
32 without reasonable cause. If the Disciplinary Board finds a
33 physician unable to practice because of the reasons set forth
34 in this Section, the Disciplinary Board shall require such

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

24 An individual licensed under this Act, affected under
25 this Section, shall be afforded an opportunity to demonstrate
26 to the Disciplinary Board that they can resume practice in
27 compliance with acceptable and prevailing standards under the
28 provisions of their license.

29 The Department may promulgate rules for the imposition of
30 fines in disciplinary cases, not to exceed \$5,000 for each
31 violation of this Act. Fines may be imposed in conjunction
32 with other forms of disciplinary action, but shall not be the
33 exclusive disposition of any disciplinary action arising out
34 of conduct resulting in death or injury to a patient. Any

1 funds collected from such fines shall be deposited in the
2 Medical Disciplinary Fund.

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

15 (C) The Medical Disciplinary Board shall recommend to
16 the Department civil penalties and any other appropriate
17 discipline in disciplinary cases when the Board finds that a
18 physician willfully performed an abortion with actual
19 knowledge that the person upon whom the abortion has been
20 performed is a minor or an incompetent person without notice
21 as required under the Parental Notice of Abortion Act of
22 2001. Upon the Board's recommendation, the Department shall
23 impose, for the first violation, a civil penalty of \$1,000
24 and for a second or subsequent violation, a civil penalty of
25 \$5,000. ~~The Medical Disciplinary Board shall recommend to the~~
26 ~~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 ~~1995. 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-

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

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

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

8 (A) Entities required to report.

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

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

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

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

1 licensed person when such settlement or final judgment is
2 in favor of the plaintiff.

3 (4) State's Attorneys. The State's Attorney of
4 each county shall report to the Disciplinary Board all
5 instances in which a person licensed under this Act is
6 convicted or otherwise found guilty of the commission of
7 any felony. The State's Attorney of each county may
8 report to the Disciplinary Board through a verified
9 complaint any instance in which the State's Attorney
10 believes that a physician has willfully violated the
11 notice requirements of the Parental Notice of Abortion
12 Act of 2001. ~~The--State's--Attorney--of--each--county--may~~
13 ~~report--to--the--Disciplinary--Board--through--a--verified~~
14 ~~complaint--any--instance--in--which--the--State's--Attorney~~
15 ~~believes--that--a--physician--has--willfully--violated--the~~
16 ~~notice--requirements--of--the--Parental--Notice--of--Abortion~~
17 ~~Act--of--1995.~~

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

31 (B) Mandatory reporting. All reports required by items
32 (34), (35), and (36) of subsection (A) of Section 22 and by
33 Section 23 shall be submitted to the Disciplinary Board in a
34 timely fashion. The reports shall be filed in writing within

1 60 days after a determination that a report is required under
2 this Act. All reports shall contain the following
3 information:

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

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

8 (3) The name or other means of identification of
9 any patient or patients whose treatment is a subject of
10 the report, provided, however, no medical records may be
11 revealed without the written consent of the patient or
12 patients.

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

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

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

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

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

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

5 Nothing contained in this Section shall act to in any
6 way, waive or modify the confidentiality of medical reports
7 and committee reports to the extent provided by law. Any
8 information reported or disclosed shall be kept for the
9 confidential use of the Disciplinary Board, the Medical
10 Coordinators, the Disciplinary Board's attorneys, the medical
11 investigative staff, and authorized clerical staff, as
12 provided in this Act, and shall be afforded the same status
13 as is provided information concerning medical studies in Part
14 21 of Article VIII of the Code of Civil Procedure.

15 (C) Immunity from prosecution. Any individual or
16 organization acting in good faith, and not in a wilful and
17 wanton manner, in complying with this Act by providing any
18 report or other information to the Disciplinary Board, or
19 assisting in the investigation or preparation of such
20 information, or by participating in proceedings of the
21 Disciplinary Board, or by serving as a member of the
22 Disciplinary Board, shall not, as a result of such actions,
23 be subject to criminal 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
27 contract to assist and advise the medical coordinators in the
28 investigation, and authorized clerical staff shall be
29 indemnified by the State for any actions occurring within the
30 scope of services on the Disciplinary Board, done in good
31 faith and not wilful and wanton in nature. The Attorney
32 General shall defend all such actions unless he or she
33 determines either that there would be a conflict of interest
34 in such representation or that the actions complained of were

1 not in good faith or were wilful and wanton.

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

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

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

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

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

1 Disciplinary Board of the existence of the original report.

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

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

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

32 (F) Summary reports. The Disciplinary Board shall
33 prepare, on a timely basis, but in no event less than one
34 every other month, a summary report of final actions taken

1 upon disciplinary files maintained by the Disciplinary Board.
2 The summary reports shall be sent by the Disciplinary Board
3 to every health care facility licensed by the Illinois
4 Department of Public Health, every professional association
5 and society of persons licensed under this Act functioning on
6 a statewide basis in this State, the American Medical
7 Association, the American Osteopathic Association, the
8 American Chiropractic Association, all insurers providing
9 professional liability insurance to persons licensed under
10 this Act in the State of Illinois, the Federation of State
11 Medical Licensing Boards, and the Illinois Pharmacists
12 Association.

13 (G) Any violation of this Section shall be a Class A
14 misdemeanor.

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

28 (Source: P.A. 89-18, eff. 6-1-95; 89-702, eff. 7-1-97;
29 90-699, eff. 1-1-99.)

30 (720 ILCS 515/Act rep.)

31 Section 95. The Illinois Abortion Parental Consent Act
32 of 1977, which was repealed by Public Act 89-18, is again
33 repealed.

1 (720 ILCS 520/Act rep.)

2 Section 96. The Parental Notice of Abortion Act of 1983,
3 which was repealed by Public Act 89-18, is again repealed.

4 (750 ILCS 70/Act rep.)

5 Section 97. The Parental Notice of Abortion Act of 1995
6 is repealed.

7 Section 99. Effective Date. This Act takes effect upon
8 becoming law."