

1 AN ACT in relation to health.

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 Medical Information Confidentiality Act.

6 Section 5. Definitions. In this Act:

7 "Authorization" means permission granted in accordance
8 with Section 40 or 70 for the disclosure of medical
9 information.

10 "Authorized recipient" means any person who is authorized
11 to receive medical information pursuant to Sections 10
12 through 30 or Section 65.

13 "Contractor" means any person or entity that is a medical
14 group, independent practice association, pharmaceutical
15 benefits manager, or medical service organization and is not
16 a health care service plan or health care provider.

17 "Enrollee" means a person who is enrolled in a health
18 care service plan and who is a recipient of services from the
19 plan.

20 "Health care provider" means a (i) licensed health care
21 professional, (ii) a person licensed or certified under the
22 Emergency Medical Services (EMS) Systems Act, (iii) a tissue
23 bank as defined in the Hospital Licensing Act, or (iv) a
24 facility or entity licensed under the Alternative Health Care
25 Delivery Act, the Ambulatory Surgical Treatment Center Act,
26 the Assisted Living and Shared Housing Act, the Illinois
27 Clinical Laboratory and Blood Bank Act, the Community Living
28 Facilities Licensing Act, the Life Care Facilities Act, the
29 Nursing Home Care Act, the Home Health Agency Licensing Act,
30 the Hospice Program Licensing Act, the Supportive Residences
31 Licensing Act, the Hospital Licensing Act, the

1 Community-Integrated Living Arrangements Licensure and
2 Certification Act, or the Child Care Act of 1969. "Health
3 care provider" does not include a company authorized to
4 transact business under the Illinois Insurance Code.

5 "Health care service plan" means either of the following:

6 (1) Any person who undertakes to arrange for the
7 provision of health care services to subscribers or
8 enrollees, or to pay for or to reimburse any part of the
9 cost for those services, in return for a prepaid or
10 periodic charge paid by or on behalf of the subscribers
11 or enrollees.

12 (2) Any person, whether located within or outside
13 this State, who solicits or contracts with a subscriber
14 or enrollee in this State to pay for or reimburse any
15 part of the cost of, or who undertakes to arrange or
16 arranges for, the provision of health care services that
17 are to be provided wholly or in part in a foreign country
18 in return for a prepaid or periodic charge paid by or on
19 behalf of the subscriber or enrollee.

20 "Health care service plan" includes any entity regulated
21 under the Dental Service Plan Act, the Health Maintenance
22 Organization Act, the Limited Health Service Organization
23 Act, or the Voluntary Health Services Plans Act.

24 "Licensed health care professional" means any person
25 licensed or certified under the Acupuncture Practice Act, the
26 Clinical Psychologist Licensing Act, the Clinical Social Work
27 and Social Work Practice Act, the Illinois Dental Practice
28 Act, the Dietetic and Nutrition Services Practice Act, the
29 Hearing Instrument Consumer Protection Act, the Marriage and
30 Family Therapy Licensing Act, the Medical Practice Act of
31 1987, the Naprapathic Practice Act, the Nursing and Advanced
32 Practice Nursing Act, the Illinois Occupational Therapy
33 Practice Act, the Illinois Optometric Practice Act of 1987,
34 the Pharmacy Practice Act of 1987, the Illinois Physical

1 Therapy Act, the Physician Assistant Practice Act of 1987,
2 the Podiatric Medical Practice Act of 1987, the Respiratory
3 Care Practice Act, the Professional Counselor and Clinical
4 Professional Counselor Licensing Act, the Illinois
5 Speech-Language Pathology and Audiology Practice Act, the
6 Veterinary Medicine and Surgery Practice Act of 1994, and the
7 Perfusionist Practice Act.

8 "Medical information" means any individually identifiable
9 information, in electronic or physical form, in possession of
10 or derived from a health care provider, health care service
11 plan, or contractor regarding a patient's medical history,
12 mental or physical condition, or treatment. "Individually
13 identifiable" means that the medical information includes or
14 contains any element of personal identifying information
15 sufficient to allow identification of the individual, such as
16 the patient's name, address, electronic mail address,
17 telephone number, or social security number, or other
18 information that, alone or in combination with other publicly
19 available information, reveals the individual's identity.

20 "Patient" means any natural person, whether or not still
21 living, who has received or is receiving medical care,
22 treatment, or services from a health care provider and to
23 whom medical information pertains.

24 "Subscriber" means the person who is responsible for
25 payment to a health care service plan or whose employment or
26 other status, except for family dependency, is the basis for
27 eligibility for membership in the plan.

28 Section 10. No disclosure of information without
29 authorization. A health care provider, health care service
30 plan, or contractor may not disclose medical information
31 regarding a patient of the health care provider or an
32 enrollee or subscriber of a health care service plan without
33 first obtaining an authorization, except as provided in

1 Section 15 or 20.

2 Section 15. Compelled disclosure. A health care
3 provider, health care service plan, or contractor must
4 disclose medical information if the disclosure is compelled
5 under any of the following circumstances:

6 (1) Disclosure is compelled by a court pursuant to
7 an order of that court.

8 (2) Disclosure is compelled by a board, commission,
9 or administrative agency for purposes of adjudication
10 pursuant to its lawful authority.

11 (3) Disclosure is compelled by a party to a
12 proceeding before a court or administrative agency
13 pursuant to a subpoena or subpoena duces tecum or in
14 accordance with any provision authorizing discovery in a
15 proceeding before a court or administrative agency.

16 (4) Disclosure is compelled by an arbitrator or
17 arbitration panel, when arbitration is lawfully requested
18 by either party, pursuant to a subpoena duces tecum or in
19 accordance with any other provision authorizing discovery
20 in a proceeding before an arbitrator or arbitration
21 panel.

22 (5) Disclosure is compelled by a search warrant
23 lawfully issued to a governmental law enforcement agency.

24 (6) Disclosure is compelled by the patient or the
25 patient's representative pursuant to law.

26 (7) When otherwise specifically required by law.

27 Section 20. Permitted disclosure.

28 (a) A health care provider or a health care service plan
29 may disclose medical information as provided in this Section.

30 (b) A health care provider or health care service plan
31 may disclose medical information to health care providers,
32 health care service plans, contractors, or other health care

1 professionals or facilities for purposes of diagnosis or
2 treatment of the patient. This includes, in an emergency
3 situation, the communication of patient information by radio
4 transmission or other means between emergency medical
5 personnel at the scene of an emergency, or in an emergency
6 medical transport vehicle, and emergency medical personnel at
7 a health facility licensed in this State.

8 (c) A health care provider or health care service plan
9 may disclose medical information to an insurer, employer,
10 health care service plan, hospital service plan, employee
11 benefit plan, governmental authority, contractor, or any
12 other person or entity responsible for paying for health care
13 services rendered to the patient, to the extent necessary to
14 allow responsibility for payment to be determined and payment
15 to be made. If (i) the patient is, by reason of a comatose or
16 other disabling medical condition, unable to consent to the
17 disclosure of medical information and (ii) no other
18 arrangements have been made to pay for the health care
19 services being rendered to the patient, the information may
20 be disclosed to a governmental authority to the extent
21 necessary to determine the patient's eligibility for, and to
22 obtain, payment under a governmental program for health care
23 services provided to the patient. The information may also be
24 disclosed to another health care provider or health care
25 service plan as necessary to assist the other provider or
26 plan in obtaining payment for health care services rendered
27 by that health care provider or health care service plan to
28 the patient.

29 (d) A health care provider or health care service plan
30 may disclose medical information to any person or entity that
31 provides billing, claims management, medical data processing,
32 or other administrative services for health care providers or
33 health care service plans or for any of the persons or
34 entities specified in subsection (c). No information so

1 disclosed may be further disclosed by the recipient in any
2 way that would violate this Act.

3 (e) A health care provider or health care service plan
4 may disclose medical information to organized committees and
5 agents of professional societies or of medical staffs of
6 licensed hospitals, licensed health care service plans,
7 professional standards review organizations, independent
8 medical review organizations and their selected reviewers,
9 utilization and quality control peer review organizations as
10 established by Congress in Public Law 97-248, contractors, or
11 persons or organizations insuring, responsible for, or
12 defending professional liability that a provider may incur,
13 if the committees, agents, health care service plans,
14 organizations, reviewers, contractors, or persons are engaged
15 in reviewing the competence or qualifications of health care
16 professionals or in reviewing health care services with
17 respect to medical necessity, level of care, quality of care,
18 or justification of charges.

19 (f) The information in the possession of any health care
20 provider or health care service plan may be reviewed by any
21 private or public body responsible for licensing or
22 accrediting the provider or plan. No patient identifying
23 medical information may be removed from the premises,
24 however, except as expressly permitted or required elsewhere
25 by law, nor shall that information be further disclosed by
26 the recipient in any way that would violate this Act.

27 (g) A health care provider or health care service plan
28 may disclose medical information to the county coroner in the
29 course of an investigation by the coroner's office.

30 (h) A health care provider or health care service plan
31 may disclose medical information to public agencies, clinical
32 investigators, including investigators conducting
33 epidemiologic studies, health care research organizations,
34 and accredited public or private nonprofit educational or

1 health care institutions for bona fide research purposes, but
2 only with the patient's express authorization as provided in
3 Section 40. No information disclosed under this subsection
4 may be further disclosed by the recipient in any way that
5 would disclose the identity of any patient or violate this
6 Act.

7 (i) A health care provider or health care service plan
8 that has created medical information as a result of
9 employment-related health care services to an employee
10 conducted at the specific prior written request and expense
11 of the employer may disclose to the employee's employer that
12 part of the information that:

13 (1) is relevant in a lawsuit, arbitration,
14 grievance, or other claim or challenge to which the
15 employer and the employee are parties and in which the
16 patient has placed in issue his or her medical history,
17 mental or physical condition, or treatment, provided that
18 information may only be used or disclosed in connection
19 with that proceeding; and

20 (2) describes functional limitations of the patient
21 that may entitle the patient to leave from work for
22 medical reasons or limit the patient's fitness to perform
23 his or her present employment, provided that no statement
24 of medical cause is included in the information
25 disclosed.

26 (j) Unless the health care provider or health care
27 service plan is notified in writing of an agreement by the
28 sponsor, insurer, or administrator to the contrary, a health
29 care provider or health care service plan may disclose
30 medical information to a sponsor, insurer, or administrator
31 of a group or individual insured or uninsured plan or policy
32 that the patient seeks coverage by or benefits from, if the
33 information was created by the health care provider or health
34 care service plan as the result of services conducted at the

1 specific prior written request and expense of the sponsor,
2 insurer, or administrator for the purpose of evaluating the
3 application for coverage or benefits.

4 (k) The information may be disclosed to a health care
5 service plan by health care providers that contract with the
6 health care service plan and may be transferred between
7 health care providers that contract with the health care
8 service plan, for the purpose of administering the health
9 care service plan. Medical information may not otherwise be
10 disclosed by a health care service plan except in accordance
11 with this Act.

12 (l) Nothing in this Act prevents the disclosure of
13 medical information by a health care provider or health care
14 service plan to an insurer, agent, or insurance-support
15 organization if the insurer, agent, or insurance-support
16 organization has complied with all requirements for
17 obtaining the information as provided by State and federal
18 law.

19 (m) A health care provider or health care service plan
20 may disclose medical information relevant to the patient's
21 condition and care and treatment to a probate court
22 investigator engaged in determining the need for an initial
23 conservatorship or continuation of an existent
24 conservatorship, if the patient is unable to give informed
25 consent, or to a probate court investigator, probation
26 officer, or domestic relations investigator engaged in
27 determining the need for an initial guardianship or
28 continuation of an existent guardianship.

29 (n) A health care provider or health care service plan
30 may disclose medical information to an organ procurement
31 organization or a tissue bank processing the tissue of a
32 decedent for transplantation into the body of another person,
33 but only with respect to the donating decedent, for the
34 purpose of aiding the transplant. For the purpose of this

1 subsection, the terms "tissue bank" and "tissue" have the
2 same meaning as defined in the Hospital Licensing Act.

3 (o) A health care provider or health care service plan
4 may disclose basic information contained in a patient's
5 medical information, including the patient's name, city of
6 residence, age, sex, and general condition, to a State or
7 federally recognized disaster relief organization for the
8 purpose of responding to disaster welfare inquiries.

9 (p) A health care provider or health care service plan
10 may disclose medical information to a third party for
11 purposes of encoding, encrypting, or otherwise anonymizing
12 data. No information so disclosed may be further disclosed by
13 the recipient in any way that would violate this Act,
14 however, including the unauthorized manipulation of coded or
15 encrypted medical information that reveals individually
16 identifiable medical information.

17 Section 25. No disclosure unless necessary to provide
18 health care services. Except to the extent expressly
19 authorized by the patient or enrollee or subscriber or as
20 provided by Section 15 or 20, a health care provider, health
21 care service plan, contractor, or corporation and its
22 subsidiaries and affiliates may not intentionally share,
23 sell, or otherwise use any medical information for any
24 purpose not necessary to provide health care services to the
25 patient.

26 Section 30. Further disclosure by contractor restricted.
27 Except to the extent expressly authorized by the patient or
28 enrollee or subscriber or as provided by Section 15 or 20, a
29 contractor or corporation and its subsidiaries and affiliates
30 may not further disclose medical information regarding a
31 patient of a health care provider or an enrollee or
32 subscriber of a health care service plan or insurer or

1 self-insured employer received under Section 10, 15, 20, or
2 25 to any person or entity that is not engaged in providing
3 direct health care services to the patient or his or her
4 health care provider or health care service plan or insurer
5 or self-insured employer.

6 Section 35. Disposal of medical records. Every health
7 care provider, health care service plan, or contractor who
8 creates, maintains, preserves, stores, abandons, destroys, or
9 disposes of medical records must do so in a manner that
10 preserves the confidentiality of the information contained in
11 those records. A health care provider, health care service
12 plan, or contractor who negligently creates, maintains,
13 preserves, stores, abandons, destroys, or disposes of medical
14 records is subject to the remedies and penalties provided
15 under Sections 135 and 140.

16 Section 40. Authorization for release of information.

17 (a) A person or entity that wishes to obtain medical
18 information under Section 10, other than a person or entity
19 authorized to receive medical information under Section 15 or
20 20, must obtain a valid authorization for the release of the
21 information.

22 (b) An authorization for the release of medical
23 information by a health care provider, health care service
24 plan, or contractor is valid if it satisfies all of the
25 following criteria:

26 (1) The authorization is handwritten by the person
27 who signs it or is in typeface no smaller than 8-point
28 type.

29 (2) The authorization is clearly separate from any
30 other language present on the same page and is executed
31 by a signature that serves no other purpose than to
32 execute the authorization.

1 (3) The authorization is signed and dated by one of
2 the following:

3 (A) The patient. A patient who is a minor may
4 sign an authorization only for the release of
5 medical information obtained by a health care
6 provider, health care service plan, or contractor in
7 the course of furnishing services to which the minor
8 could lawfully have consented under the law of this
9 State.

10 (B) The legal representative of the patient,
11 if the patient is a minor or an incompetent.
12 Authorization may not be given under this paragraph,
13 however, for the disclosure of medical information
14 obtained by the health care provider, a health care
15 service plan, or a contractor in the course of
16 furnishing services to which a minor patient could
17 lawfully have consented under the law of this State.

18 (C) The spouse of the patient or the person
19 financially responsible for the patient, if (i) the
20 medical information is being sought for the sole
21 purpose of processing an application for health
22 insurance or for enrollment in a nonprofit hospital
23 plan, a health care service plan, or an employee
24 benefit plan and (ii) the patient is to be an
25 enrolled spouse or dependent under the policy or
26 plan.

27 (D) The beneficiary or personal representative
28 of a deceased patient.

29 (4) The authorization states the limitations, if
30 any, on the types of medical information to be disclosed.

31 (5) The authorization states the name or functions
32 of the health care provider, health care service plan, or
33 contractor that may disclose the medical information.

34 (6) The authorization states the name or functions

1 of the persons or entities authorized to receive the
2 medical information.

3 (7) The authorization states the specific uses and
4 limitations on the use of the medical information by the
5 persons or entities authorized to receive the medical
6 information.

7 (8) The authorization states a specific date after
8 which the provider of health care, health care service
9 plan, or contractor is no longer authorized to disclose
10 the medical information.

11 (9) The authorization advises the person signing
12 the authorization of the right to receive a copy of the
13 authorization.

14 Section 45. Furnishing copy of authorization. Upon
15 demand by the patient or the person who signed an
16 authorization, a health care provider, health care service
17 plan, or contractor possessing the authorization must furnish
18 a true copy of the authorization.

19 Section 50. Further disclosure upon new authorization. A
20 recipient of medical information pursuant to an authorization
21 as provided by Section 20 or otherwise according to this Act
22 may not further disclose that medical information except in
23 accordance with a new authorization that meets the
24 requirements of Section 40 or as specifically required or
25 permitted by other provisions of this Act or by law.

26 Section 55. Limitations in authorization to disclose. A
27 health care provider, health care service plan, or contractor
28 that discloses medical information pursuant to an
29 authorization required by this Act must communicate to the
30 person or entity to which it discloses the medical
31 information any limitations in the authorization regarding

1 the use of the medical information. A health care provider,
2 health care service plan, or contractor that has attempted in
3 good faith to comply with this Section is not liable for any
4 unauthorized use of the medical information by the person or
5 entity to which the provider, plan, or contractor disclosed
6 the medical information.

7 Section 60. Canceling or modifying an authorization.
8 Nothing in this Act shall be construed to prevent a person
9 who could sign an authorization under subdivision (b)(3) of
10 Section 40 from canceling or modifying an authorization. The
11 cancellation or modification is effective, however, only
12 after the health care provider, health care service plan, or
13 contractor actually receives written notice of the
14 cancellation or modification.

15 Section 65. Employers.

16 (a) Each employer who receives medical information must
17 establish appropriate procedures to ensure the
18 confidentiality and protection from unauthorized use and
19 disclosure of that information. These procedures may include,
20 but are not limited to, (i) instruction of employees and
21 agents handling files containing medical information
22 regarding confidentiality and (ii) security systems
23 restricting access to files containing medical information.

24 (b) An employee may not be discriminated against in
25 terms or conditions of employment due to that employee's
26 refusal to sign an authorization under this Act. Nothing in
27 this Section, however, prohibits an employer from taking
28 action that is necessary in the absence of medical
29 information due to an employee's refusal to sign an
30 authorization under this Act.

31 (c) An employer may not use or disclose, or knowingly
32 permit its employees or agents to use or disclose, medical

1 information that the employer possesses pertaining to its
2 employees without the patient having first signed an
3 authorization under Section 40 or Section 70 permitting that
4 use or disclosure, except as follows:

5 (1) The information may be disclosed if the
6 disclosure is compelled by judicial or administrative
7 process or by any other specific provision of law.

8 (2) That part of the information that is relevant
9 in a lawsuit, arbitration, grievance, or other claim or
10 challenge to which the employer and employee are parties
11 and in which the patient has placed in issue his or her
12 medical history, mental or physical condition, or
13 treatment may be used or disclosed in connection with
14 that proceeding.

15 (3) The information may be used only for the
16 purpose of administering and maintaining employee benefit
17 plans, including health care plans and plans providing
18 short-term and long-term disability income or workers'
19 compensation and for determining eligibility for paid and
20 unpaid leave from work for medical reasons.

21 (4) The information may be disclosed to a health
22 care provider or other health care professional or
23 facility to aid the diagnosis or treatment of the
24 patient, if the patient or other person specified in
25 paragraph (3) of Section 70 is unable to authorize the
26 disclosure.

27 (d) If an employer agrees in writing with one or more of
28 its employees or maintains a written policy that provides
29 that particular types of medical information may not be used
30 or disclosed by the employer in particular ways, the employer
31 must obtain an authorization for those uses or disclosures
32 even if an authorization would not otherwise be required
33 under subsection (c).

1 Section 70. Authorization for employer to disclose
2 information. An authorization for an employer to disclose
3 medical information is valid if it satisfies all of the
4 following criteria:

5 (1) The authorization is handwritten by the person
6 who signs it or is in typeface no smaller than 8-point
7 type.

8 (2) The authorization is clearly separate from any
9 other language present on the same page and is executed
10 by a signature that serves no purpose other than to
11 execute the authorization.

12 (3) The authorization is signed and dated by one of
13 the following:

14 (A) The patient, except that a patient who is
15 a minor may sign an authorization only for the
16 disclosure of medical information obtained by a
17 health care provider in the course of furnishing
18 services to which the minor could lawfully have
19 consented under the law of this State.

20 (B) The legal representative of the patient,
21 if the patient is a minor or incompetent.
22 Authorization may not be given under this paragraph
23 (B) for the disclosure of medical information that
24 pertains to a competent minor and that was created
25 by a provider of health care in the course of
26 furnishing services to which a minor patient could
27 lawfully have consented under the law of this State.

28 (C) The beneficiary or personal representative
29 of a deceased patient.

30 (4) The authorization states the limitations, if
31 any, on the types of medical information to be disclosed.

32 (5) The authorization states the name or functions
33 of the employer or person authorized to disclose the
34 medical information.

1 (6) The authorization states the names or functions
2 of the persons or entities authorized to receive the
3 medical information.

4 (7) The authorization states the limitations, if
5 any, on the use of the medical information by the persons
6 or entities authorized to receive the medical
7 information.

8 (8) The authorization states a specific date after
9 which the employer is no longer authorized to disclose
10 the medical information.

11 (9) The authorization advises the person signing
12 the authorization of the right to receive a copy of the
13 authorization.

14 Section 75. Employer furnishing copy of authorization.
15 Upon demand by the patient or the person who signed an
16 authorization, an employer possessing the authorization must
17 furnish a true copy of it.

18 Section 80. Employer; limitations in authorization. An
19 employer who discloses medical information pursuant to an
20 authorization required under this Act must communicate to the
21 person or entity to which it discloses the medical
22 information any limitations in the authorization regarding
23 the use of the medical information. An employer who has
24 attempted in good faith to comply with this Section is not
25 liable for any unauthorized use of the medical information by
26 the person or entity to which the employer disclosed the
27 medical information.

28 Section 85. Employer; canceling or modifying an
29 authorization. Nothing in this Act shall be construed to
30 prevent a person who could sign an authorization under
31 paragraph (3) of Section 70 from canceling or modifying an

1 authorization. The cancellation or modification is effective,
2 however, only after the employer actually receives written
3 notice of the cancellation or modification.

4 Section 90. Further disclosure. A recipient of medical
5 information pursuant to an authorization under this Act may
6 not further disclose that medical information unless in
7 accordance with a new authorization that meets the
8 requirements of Section 70, or as specifically required or
9 permitted by other provisions of this Act or by law.

10 Section 95. Employer's actions deemed not a violation.

11 (a) An employer who is a health care provider shall not
12 be deemed to have violated Section 65 by disclosing, in
13 accordance with Sections 10 through 60, medical information
14 possessed in connection with providing health care services
15 to the provider's patients.

16 (b) An employer shall not be deemed to have violated
17 Section 65 because a health care provider that is an employee
18 or agent of the employer uses or discloses, in accordance
19 with Sections 10 through 60, medical information possessed by
20 the provider in connection with providing health care
21 services to the provider's patients.

22 (c) A health care provider that is an employer shall not
23 be deemed to have violated Section 10, 15, 20, 25, or 30 by
24 disclosing, in accordance with Sections 65 through 90,
25 medical information possessed in connection with employing
26 the provider's employees. Information maintained by a health
27 care provider in connection with employing the provider's
28 employees shall not be deemed to be medical information for
29 purposes of Sections 65 through 90, unless it would be deemed
30 medical information if received or maintained by an employer
31 who is not a health care provider.

1 Section 100. Administrative services in connection with
2 payment for health care services.

3 (a) A person or entity engaged in the business of
4 furnishing administrative services to programs that provide
5 payment for health care services may not knowingly use or
6 disclose, or permit its employees or agents to use or
7 disclose, medical information possessed in connection with
8 performing administrative functions for such a program,
9 except as reasonably necessary in connection with the
10 administration or maintenance of the program, or as required
11 by law, or with an authorization.

12 (b) An authorization required by this Section must be in
13 the same form as described in Section 70, except that "third
14 party administrator" shall be substituted for "employer"
15 wherever it appears in Section 70.

16 (c) This Section does not apply to any person or entity
17 that is subject to Article XL of the Illinois Insurance Code
18 or to Sections 10 through 90 of this Act.

19 Section 105. Underwriters or sellers of annuity
20 contracts. A person or entity that underwrites or sells
21 annuity contracts or contracts insuring, guaranteeing, or
22 indemnifying against loss, harm, damage, illness, disability,
23 or death, and any affiliate of that person or entity, may not
24 disclose individually identifiable information concerning the
25 health of, or the medical or genetic history of, a customer
26 to any affiliated or nonaffiliated depository institution or
27 to any other affiliated or nonaffiliated third party for use
28 with regard to the granting of credit.

29 Section 110. Existing laws concerning patients' rights
30 of access. Nothing in this Act shall be deemed to affect
31 existing laws relating to a patient's right of access to his
32 or her own medical information.

1 Section 115. Types of information not subject to Act.

2 (a) The disclosure and use of the following medical
3 information is not subject to the limitations of this Act:

4 (1) Information and records obtained in the course
5 of providing services under the Mental Health and
6 Developmental Disabilities Code, the Mental Treatment for
7 Incarcerated Persons Act, the Community Mental Health
8 Act, the Specialized Living Centers Act, the Community
9 Services Act, the Community Support Systems Act, the
10 Developmental Disability and Mental Disability Services
11 Act, or the Home Environment Living Program Act.

12 (2) Information and records maintained under the
13 Communicable Disease Prevention Act.

14 (3) Information and records maintained under the
15 Vital Records Act or under subdivision (c)(2) of Section
16 4.1 or Section 18.4 or 18.4a of the Adoption Act.

17 (4) Information and records acquired and maintained
18 or disclosed under the Health and Safety Act.

19 (5) Information and records acquired, maintained,
20 or disclosed under the Workers' Compensation Act or the
21 Workers' Occupational Diseases Act.

22 (6) Information and records subject to the federal
23 alcohol and drug abuse regulations (Part 2 (commencing
24 with Section 2.1) of subchapter A of Chapter 1 of Title
25 42 of the Code of Federal Regulations).

26 (7) Medical information and records disclosed to,
27 and their use by, the Department of Insurance or the
28 Industrial Commission.

29 (b) Nothing in this Act shall be construed to limit,
30 expand, or otherwise affect the authority of the Illinois
31 Department of Public Health to collect information from
32 health facilities in order to perform its duties under the
33 Illinois Health Finance Reform Act.

1 Section 120. Workers; HIV information. Notwithstanding
2 any other provision of law, nothing in subdivision (a)(6) of
3 Section 115 permits the disclosure or use of medical
4 information regarding whether a patient is infected with or
5 exposed to the human immunodeficiency virus without the prior
6 authorization from the patient, unless the patient is an
7 injured worker claiming to be infected with or exposed to the
8 human immunodeficiency virus through an exposure incident
9 arising out of and in the course of employment.

10 Section 125. Violation; patient's recovery of damages.
11 In addition to any other remedies available at law, a patient
12 whose medical information has been used or disclosed in
13 violation of Section 10, 15, 20, 25, 30, or 65, or subsection
14 (a) of Section 100, and who has sustained economic loss or
15 personal injury therefrom may recover compensatory damages,
16 punitive damages not to exceed \$3,000, attorney's fees not to
17 exceed \$1,000, and the costs of litigation.

18 Section 130. Violation; criminal penalty. A violation of
19 this Act that results in economic loss or personal injury to
20 a patient is punishable as a Class C misdemeanor.

21 Section 135. Violation; private right of action. In
22 addition to any other remedies provided by law, an individual
23 may bring an action against any person or entity that has
24 negligently released confidential information or records
25 concerning him or her in violation of this Act, for either or
26 both of the following:

27 (1) Nominal damages of \$1,000. In order to recover
28 under this paragraph (1), it is not necessary that the
29 plaintiff suffered or was threatened with actual damages.

30 (2) The amount of actual damages, if any, sustained
31 by the patient.

1 Section 140. Violation; civil penalty.

2 (a) In addition to any other remedies provided by law, a
3 person or entity that negligently discloses medical
4 information in violation of this Act is liable, irrespective
5 of the amount of damages suffered by the patient as a result
6 of that violation, for a civil penalty not to exceed \$2,500
7 per violation.

8 (b) A person or entity, other than a licensed health
9 care professional, who knowingly and willfully obtains,
10 discloses, or uses medical information in violation of this
11 Act is liable for a civil penalty not to exceed \$25,000 per
12 violation.

13 (c) A licensed health care professional who knowingly
14 and willfully obtains, discloses, or uses medical information
15 in violation of this Act is liable, on a first violation, for
16 a civil penalty not to exceed \$2,500; on a second violation
17 for a civil penalty not to exceed \$10,000; and on a third or
18 subsequent violation for a civil penalty not to exceed
19 \$25,000 per violation. Nothing in this Section shall be
20 construed to limit the liability of a health care service
21 plan, a contractor, or a health care provider that is not a
22 licensed health care professional for any violation of this
23 Act.

24 (d) A person or entity, other than a licensed health
25 care professional, who knowingly or willfully obtains or uses
26 medical information in violation of this Act for the purpose
27 of financial gain is liable for a civil penalty not to exceed
28 \$250,000 per violation and is also subject to disgorgement of
29 any proceeds or other consideration obtained as a result of
30 the violation.

31 (e) A licensed health care professional who knowingly
32 and willfully obtains, discloses, or uses medical information
33 in violation of this Act for financial gain is liable, on a
34 first violation, for a civil penalty not to exceed \$5,000; on

1 a second violation for a civil penalty not to exceed \$25,000;
2 and on a third or subsequent violation for a civil penalty
3 not to exceed \$250,000 per violation and is also subject to
4 disgorgement of any proceeds or other consideration obtained
5 as a result of the violation. Nothing in this Section shall
6 be construed to limit the liability of a health care service
7 plan, a contractor, or a health care provider that is not a
8 licensed health care professional for any violation of this
9 Act.

10 (f) Nothing in this Section shall be construed as
11 authorizing a civil penalty under both subsections (b) and
12 (d) or (c) and (e) for the same violation.

13 (g) A person or entity who is not permitted to receive
14 medical information under this Act and who knowingly and
15 willfully obtains, discloses, or uses medical information
16 without written authorization from the patient is liable for
17 a civil penalty not to exceed \$250,000 per violation.

18 (h) For purposes of this Section, "knowingly" and
19 "willfully" have the same meaning as in the Criminal Code of
20 1961.

21 Section 145. Assessment of civil penalty. In assessing
22 the amount of a civil penalty under Section 140, the court
23 shall consider any one or more of the relevant circumstances
24 presented by any of the parties to the case, including, but
25 not limited to, the following:

26 (1) Whether the defendant has made a reasonable,
27 good faith attempt to comply with this Act.

28 (2) The nature and seriousness of the misconduct.

29 (3) The harm to the patient, enrollee, or
30 subscriber.

31 (4) The number of violations.

32 (5) The persistence of the misconduct.

33 (6) The length of time over which the misconduct

1 occurred.

2 (7) The willfulness of the defendant's misconduct.

3 (8) The defendant's assets, liabilities, and net
4 worth.

5 Section 150. Recovery of civil penalty.

6 (a) A civil penalty under Section 140 shall be assessed
7 and recovered in a civil action brought in the name of the
8 people of the State of Illinois in any court of competent
9 jurisdiction by any of the following:

10 (1) The Attorney General.

11 (2) A State's Attorney.

12 (3) The attorney for a municipality.

13 (b) If the action is brought by the Attorney General,
14 50% of the penalty collected shall be paid to the treasurer
15 of the county in which the judgment was entered, and 50%
16 shall be paid to the General Revenue Fund. If the action is
17 brought by a State's Attorney, the penalty collected shall be
18 paid to the treasurer of the county in which the judgment was
19 entered. If the action is brought by the attorney for a
20 municipality, 50% of the penalty collected shall be paid to
21 the treasurer of the municipality in which the judgment was
22 entered and 50% shall be paid to the treasurer of the county
23 in which the judgment was entered.

24 Section 155. Other sanctions or remedies. Imposition of
25 a civil penalty under Section 140 does not preclude the
26 imposition of any other sanction or remedy authorized by law.

27 Section 160. Immunity from penalty. A person who
28 discloses protected medical information in accordance with
29 this Act is not subject to the penalty provisions of this
30 Act.

1 Section 165. Waiver prohibited.

2 (a) A health care provider, health care service plan, or
3 contractor may not require a patient, as a condition of
4 receiving health care services, to sign an authorization,
5 release, consent, or waiver that would permit the disclosure
6 of medical information that otherwise may not be disclosed
7 under Section 10, 15, 20, 25, or 30 or under any other
8 provision of law. A health care service plan or disability
9 insurer may, however, require relevant enrollee or subscriber
10 medical information as a condition of the medical
11 underwriting process.

12 (b) Any waiver by a patient of the provisions of this
13 Act, except as authorized by Section 40 or 70 or subsection
14 (b) of Section 100, is deemed contrary to public policy and
15 is unenforceable.

16 Section 900. The Children and Family Services Act is
17 amended by changing Section 35.1 as follows:

18 (20 ILCS 505/35.1) (from Ch. 23, par. 5035.1)

19 Sec. 35.1. The case and clinical records of patients in
20 Department supervised facilities, wards of the Department,
21 children receiving or applying for child welfare services,
22 persons receiving or applying for other services of the
23 Department, and Department reports of injury or abuse to
24 children shall not be open to the general public. Such case
25 and clinical records and reports or the information contained
26 therein shall be disclosed by the Director of the Department
27 to juvenile authorities when necessary for the discharge of
28 their official duties who request information concerning the
29 minor and who certify in writing that the information will
30 not be disclosed to any other party except as provided under
31 law or order of court. For purposes of this Section,
32 "juvenile authorities" means: (i) a judge of the circuit

1 court and members of the staff of the court designated by the
2 judge; (ii) parties to the proceedings under the Juvenile
3 Court Act of 1987 and their attorneys; (iii) probation
4 officers and court appointed advocates for the juvenile
5 authorized by the judge hearing the case; (iv) any
6 individual, public or private agency having custody of the
7 child pursuant to court order; (v) any individual, public or
8 private agency providing education, medical or mental health
9 service to the child when the requested information is needed
10 to determine the appropriate service or treatment for the
11 minor; (vi) any potential placement provider when such
12 release is authorized by the court for the limited purpose of
13 determining the appropriateness of the potential placement;
14 (vii) law enforcement officers and prosecutors; (viii) adult
15 and juvenile prisoner review boards; (ix) authorized military
16 personnel; (x) individuals authorized by court; (xi) the
17 Illinois General Assembly or any committee or commission
18 thereof. This Section does not apply to the Department's
19 fiscal records, other records of a purely administrative
20 nature, or any forms, documents or other records required of
21 facilities subject to licensure by the Department except as
22 may otherwise be provided under the Child Care Act of 1969.

23 Nothing contained in this Act prevents the sharing or
24 disclosure of information or records relating or pertaining
25 to juveniles subject to the provisions of the Serious
26 Habitual Offender Comprehensive Action Program when that
27 information is used to assist in the early identification and
28 treatment of habitual juvenile offenders.

29 Nothing contained in this Act prevents the sharing or
30 disclosure of information or records relating or pertaining
31 to the death of a minor under the care of or receiving
32 services from the Department and under the jurisdiction of
33 the juvenile court with the juvenile court, the State's
34 Attorney, and the minor's attorney.

1 Nothing contained in this Section prohibits or prevents
2 any individual dealing with or providing services to a minor
3 from sharing information with another individual dealing with
4 or providing services to a minor for the purpose of
5 coordinating efforts on behalf of the minor. The sharing of
6 such information is only for the purpose stated herein and is
7 to be consistent with the intent and purpose of the
8 confidentiality provisions of the Juvenile Court Act of 1987.
9 This provision does not abrogate any recognized privilege.
10 Sharing information does not include copying of records,
11 reports or case files unless authorized herein.

12 Nothing in this Section prohibits or prevents the
13 re-disclosure of records, reports, or other information that
14 reveals malfeasance or nonfeasance on the part of the
15 Department, its employees, or its agents. Nothing in this
16 Section prohibits or prevents the Department or a party in a
17 proceeding under the Juvenile Court Act of 1987 from copying
18 records, reports, or case files for the purpose of sharing
19 those documents with other parties to the litigation.

20 In the case of a conflict between this Section or any
21 other provision of this Act and the Medical Information
22 Confidentiality Act, this Section or the other provision of
23 this Act controls.

24 (Source: P.A. 90-15, eff. 6-13-97; 90-590, eff. 1-1-00;
25 91-812, eff. 6-13-00.)

26 Section 905. The Abused and Neglected Child Reporting
27 Act is amended by changing Sections 11.1a and 11.2 as
28 follows:

29 (325 ILCS 5/11.1a)

30 Sec. 11.1a. Disclosure of information.

31 (a) The Director or a person designated in writing by
32 the Director for this purpose may disclose information

1 regarding the abuse or neglect of a child as set forth in
2 this Section, the investigation thereof, and any services
3 related thereto, if he or she determines that such disclosure
4 is not contrary to the best interests of the child, the
5 child's siblings, or other children in the household, and one
6 of the following factors are present:

7 (1) The subject of the report has been criminally
8 charged with committing a crime related to the child
9 abuse or neglect report; or

10 (2) A law enforcement agency or official, a State's
11 Attorney, or a judge of the State court system has
12 publicly disclosed in a report as part of his or her
13 official duty, information regarding the investigation of
14 a report or the provision of services by the Department;
15 or

16 (3) An adult subject of the report has knowingly
17 and voluntarily made a public disclosure concerning a
18 Child Abuse and Neglect Tracking System report; or

19 (4) The child named in the report has been
20 critically injured or died.

21 (b) Information may be disclosed pursuant to this
22 Section as follows:

23 (1) The name of the alleged abused or neglected
24 child.

25 (2) The current status of the investigation,
26 including whether a determination of credible evidence
27 has been made.

28 (3) Identification of child protective or other
29 services provided or actions taken regarding the child
30 named in the report and his or her family as a result of
31 this report.

32 (4) Whether there have been past reports of child
33 abuse or neglect involving this child or family, or both.
34 Any such reports shall be clearly identified as being

1 "Indicated", "Unfounded", or "Pending".

2 (5) Whether the Department has a current or past
3 open service case with the family, and a history of what
4 types of services have been, or are being, provided.

5 (6) Any extraordinary or pertinent information
6 concerning the circumstances of the report, if the
7 Director determines such disclosure is consistent with
8 the public interest.

9 (c) Any disclosure of information pursuant to this
10 Section shall not identify the name of or provide identifying
11 information regarding the source of the report.

12 (d) In determining pursuant to subsection (a) of this
13 Section, whether disclosure will be contrary to the best
14 interests of the child, the child's siblings, or other
15 children in the household, the Director shall consider the
16 interest in privacy of the child and the child's family and
17 the effects which disclosure may have on efforts to reunite
18 and provide services to the family.

19 (e) Except as it applies directly to the cause of the
20 abuse or neglect of the child, nothing in this Section shall
21 be deemed to authorize the release or disclosure of the
22 substance or content of any psychological, psychiatric,
23 therapeutic, clinical, or medical reports, evaluations, or
24 like materials pertaining to the child or the child's family.
25 Prior to the release or disclosure of any psychological,
26 psychiatric, or therapeutic reports pursuant to this
27 subsection, the Deputy Director of Clinical Services shall
28 review such materials and make recommendations regarding its
29 release. Any disclosure of information pursuant to this
30 Section shall not identify the health care provider, health
31 care facility or other maker of the report or source of any
32 psychological, psychiatric, therapeutic, clinical, or medical
33 reports, evaluations, or like materials.

34 (f) Regarding child abuse or neglect reports which occur

1 at a facility licensed by the Department of Children and
2 Family Services, only the following information may be
3 disclosed or released:

4 (1) The name of the facility.

5 (2) The nature of the allegations of abuse or
6 neglect.

7 (3) The number and ages of child victims involved,
8 and their relationship to the perpetrator.

9 (4) Actions the Department has taken to ensure the
10 safety of the children during and subsequent to the
11 investigation.

12 (5) The final finding status of the investigation.

13 (g) In the case of a conflict between this Section or
14 any other provision of this Act and the Medical Information
15 Confidentiality Act, this Section or the other provision of
16 this Act controls.

17 (Source: P.A. 90-75, eff. 1-1-98.)

18 (325 ILCS 5/11.2) (from Ch. 23, par. 2061.2)

19 Sec. 11.2. Disclosure to mandated reporting source. A
20 mandated reporting source as provided in Section 4 of this
21 Act may receive appropriate information about the findings
22 and actions taken by the Child Protective Service Unit in
23 response to its report. The information shall include the
24 actions taken by the Child Protective Service Unit to ensure
25 a child's safety.

26 In the case of a conflict between this Section or any
27 other provision of this Act and the Medical Information
28 Confidentiality Act, this Section or the other provision of
29 this Act controls.

30 (Source: P.A. 92-319, eff. 1-1-02.)

31 Section 910. The Medical Patient Rights Act is amended
32 by changing Section 3 as follows:

1 (410 ILCS 50/3) (from Ch. 111 1/2, par. 5403)

2 Sec. 3. The following rights are hereby established:

3 (a) The right of each patient to care consistent with
4 sound nursing and medical practices, to be informed of the
5 name of the physician responsible for coordinating his or her
6 care, to receive information concerning his or her condition
7 and proposed treatment, to refuse any treatment to the extent
8 permitted by law, and to privacy and confidentiality of
9 records except as otherwise provided by law.

10 (b) The right of each patient, regardless of source of
11 payment, to examine and receive a reasonable explanation of
12 his total bill for services rendered by his physician or
13 health care provider, including the itemized charges for
14 specific services received. Each physician or health care
15 provider shall be responsible only for a reasonable
16 explanation of those specific services provided by such
17 physician or health care provider.

18 (c) In the event an insurance company or health services
19 corporation cancels or refuses to renew an individual policy
20 or plan, the insured patient shall be entitled to timely,
21 prior notice of the termination of such policy or plan.

22 An insurance company or health services corporation that
23 requires any insured patient or applicant for new or
24 continued insurance or coverage to be tested for infection
25 with human immunodeficiency virus (HIV) or any other
26 identified causative agent of acquired immunodeficiency
27 syndrome (AIDS) shall (1) give the patient or applicant prior
28 written notice of such requirement, (2) proceed with such
29 testing only upon the written authorization of the applicant
30 or patient, and (3) keep the results of such testing
31 confidential. Notice of an adverse underwriting or coverage
32 decision may be given to any appropriately interested party,
33 but the insurer may only disclose the test result itself to a
34 physician designated by the applicant or patient, and any

1 such disclosure shall be in a manner that assures
2 confidentiality.

3 The Department of Insurance shall enforce the provisions
4 of this subsection.

5 (d) The right of each patient to privacy and
6 confidentiality in health care as provided in the Medical
7 Information Confidentiality Act. Each physician, health care
8 provider, health services corporation and insurance company
9 shall refrain from disclosing the nature or details of
10 services provided to patients, except that such information
11 may be disclosed to the patient, the party making treatment
12 decisions if the patient is incapable of making decisions
13 regarding the health services provided, those parties
14 directly involved with providing treatment to the patient or
15 processing the payment for that treatment, those parties
16 responsible for peer review, utilization review and quality
17 assurance, and those parties required to be notified under
18 the Abused and Neglected Child Reporting Act, the Illinois
19 Sexually Transmissible Disease Control Act or where otherwise
20 authorized or required by law. This right may be waived in
21 writing by the patient or the patient's guardian, but a
22 physician or other health care provider may not condition the
23 provision of services on the patient's or guardian's
24 agreement to sign such a waiver.

25 (Source: P.A. 86-895; 86-902; 86-1028; 87-334.)

26 Section 915. The AIDS Confidentiality Act is amended by
27 changing Section 15 as follows:

28 (410 ILCS 305/15) (from Ch. 111 1/2, par. 7315)

29 Sec. 15. Nothing in this Act shall be construed to
30 impose civil liability or criminal sanction for disclosure of
31 a test result in accordance with any reporting requirement of
32 the Department for a diagnosed case of HIV infection, AIDS or

1 a related condition.

2 Nothing in this Act shall be construed to impose civil
3 liability or criminal sanction for performing a test without
4 written informed consent pursuant to the provisions of
5 subsection (b) or (c) of Section 7 of this Act.

6 In the case of a conflict between this Section or any
7 other provision of this Act and the Medical Information
8 Confidentiality Act, this Section or the other provision of
9 this Act controls.

10 (Source: P.A. 86-887.)

11 Section 920. The Mental Health and Developmental
12 Disabilities Confidentiality Act is amended by changing
13 Section 5 as follows:

14 (740 ILCS 110/5) (from Ch. 91 1/2, par. 805)

15 Sec. 5. Disclosure; consent.

16 (a) Except as provided in Sections 6 through 12.2 of
17 this Act, records and communications may be disclosed to
18 someone other than those persons listed in Section 4 of this
19 Act only with the written consent of those persons who are
20 entitled to inspect and copy a recipient's record pursuant to
21 Section 4 of this Act.

22 (b) Every consent form shall be in writing and shall
23 specify the following:

24 (1) the person or agency to whom disclosure is to
25 be made;

26 (2) the purpose for which disclosure is to be made;

27 (3) the nature of the information to be disclosed;

28 (4) the right to inspect and copy the information
29 to be disclosed;

30 (5) the consequences of a refusal to consent, if any;

31 and

32 (6) the calendar date on which the consent expires,

1 provided that if no calendar date is stated, information
2 may be released only on the day the consent form is
3 received by the therapist; and

4 (7) the right to revoke the consent at any time.

5 The consent form shall be signed by the person entitled
6 to give consent and the signature shall be witnessed by a
7 person who can attest to the identity of the person so
8 entitled. A copy of the consent and a notation as to any
9 action taken thereon shall be entered in the recipient's
10 record. Any revocation of consent shall be in writing, signed
11 by the person who gave the consent and the signature shall be
12 witnessed by a person who can attest to the identity of the
13 person so entitled. No written revocation of consent shall
14 be effective to prevent disclosure of records and
15 communications until it is received by the person otherwise
16 authorized to disclose records and communications.

17 (c) Only information relevant to the purpose for which
18 disclosure is sought may be disclosed. Blanket consent to
19 the disclosure of unspecified information shall not be valid.
20 Advance consent may be valid only if the nature of the
21 information to be disclosed is specified in detail and the
22 duration of the consent is indicated. Consent may be revoked
23 in writing at any time; any such revocation shall have no
24 effect on disclosures made prior thereto.

25 (d) No person or agency to whom any information is
26 disclosed under this Section may redisclose such information
27 unless the person who consented to the disclosure
28 specifically consents to such redisclosure.

29 (e) Except as otherwise provided in this Act, records
30 and communications shall remain confidential after the death
31 of a recipient and shall not be disclosed unless the
32 recipient's representative, as defined in the Probate Act of
33 1975 and the therapist consent to such disclosure or unless
34 disclosure is authorized by court order after in camera

1 examination and upon good cause shown.

2 (f) Paragraphs (a) through (e) of this Section shall not
3 apply to and shall not be construed to limit insurance
4 companies writing Life, Accident or Health insurance as
5 defined in Section 4 of the Illinois Insurance Code in
6 obtaining general consents for the release to them or their
7 designated representatives of any and all confidential
8 communications and records kept by agencies, hospitals,
9 therapists or record custodians, and utilizing such
10 information in connection with the underwriting of
11 applications for coverage for such policies or contracts, or
12 in connection with evaluating claims or liability under such
13 policies or contracts, or coordinating benefits pursuant to
14 policy or contract provisions.

15 (g) In the case of a conflict between this Section or
16 any other provision of this Act and the Medical Information
17 Confidentiality Act, this Section or the other provision of
18 this Act controls.

19 (Source: P.A. 90-655, eff. 7-30-98)