



Sen. Denny Jacobs

Filed: 5/12/2004

09300HB4847sam004

LRB093 14813 AMC 50918 a

1 AMENDMENT TO HOUSE BILL 4847

2 AMENDMENT NO. _____. Amend House Bill 4847 by replacing
3 the title with the following:

4 "AN ACT concerning the protection of the public health,
5 safety, and welfare.

6 WHEREAS, Illinois is in the midst of a medical malpractice
7 insurance crisis of unprecedented magnitude; and

8 WHEREAS, Illinois is among the states with the highest
9 medical malpractice insurance premiums in the nation; and

10 WHEREAS, Medical malpractice insurance in Illinois is
11 unavailable or unaffordable for many hospitals and physicians;
12 and

13 WHEREAS, The high and increasing cost of medical
14 malpractice insurance in Illinois is causing health care
15 providers to eliminate or reduce the provision of medical care
16 throughout the State; and

17 WHEREAS, The crisis is discouraging medical students from
18 choosing Illinois as the place they will receive their medical
19 education and practice medicine; and

20 WHEREAS, The increase in medical malpractice liability

1 insurance rates is forcing physicians to practice medicine
2 without professional liability insurance, to leave Illinois,
3 to not perform high-risk procedures, or to retire early from
4 the practice of medicine; and

5 WHEREAS, The high and increasing cost of medical
6 malpractice insurance is due in large part to the inefficiency
7 and unpredictability of adjudicating claims through the civil
8 justice system; and

9 WHEREAS, Much of this inefficiency stems from the time and
10 resources needlessly spent on valuing uncertain and
11 unpredictable claims of medical negligence; and

12 WHEREAS, The public would benefit by making medical
13 liability coverage for hospitals and physicians more
14 affordable, which would make health care more available

15 WHEREAS, This health care crisis, which endangers the
16 public health, safety, and welfare of the citizens of Illinois,
17 requires drastic reforms to the civil justice system currently
18 endangering access to the necessary health care for citizens of
19 Illinois; therefore"; and

20 by replacing everything after the enacting clause with the
21 following:

22 "Section 5. The Department of Professional Regulation Law
23 of the Civil Administrative Code of Illinois is amended by
24 changing Section 2105-15 as follows:

25 (20 ILCS 2105/2105-15) (was 20 ILCS 2105/60)

26 Sec. 2105-15. General powers and duties.

27 (a) The Department has, subject to the provisions of the

1 Civil Administrative Code of Illinois, the following powers and
2 duties:

3 (1) To authorize examinations in English to ascertain
4 the qualifications and fitness of applicants to exercise
5 the profession, trade, or occupation for which the
6 examination is held.

7 (2) To prescribe rules and regulations for a fair and
8 wholly impartial method of examination of candidates to
9 exercise the respective professions, trades, or
10 occupations.

11 (3) To pass upon the qualifications of applicants for
12 licenses, certificates, and authorities, whether by
13 examination, by reciprocity, or by endorsement.

14 (4) To prescribe rules and regulations defining, for
15 the respective professions, trades, and occupations, what
16 shall constitute a school, college, or university, or
17 department of a university, or other institution,
18 reputable and in good standing, and to determine the
19 reputability and good standing of a school, college, or
20 university, or department of a university, or other
21 institution, reputable and in good standing, by reference
22 to a compliance with those rules and regulations; provided,
23 that no school, college, or university, or department of a
24 university, or other institution that refuses admittance
25 to applicants solely on account of race, color, creed, sex,
26 or national origin shall be considered reputable and in
27 good standing.

28 (5) To conduct hearings on proceedings to revoke,
29 suspend, refuse to renew, place on probationary status, or
30 take other disciplinary action as authorized in any
31 licensing Act administered by the Department with regard to
32 licenses, certificates, or authorities of persons
33 exercising the respective professions, trades, or
34 occupations and to revoke, suspend, refuse to renew, place

1 on probationary status, or take other disciplinary action
2 as authorized in any licensing Act administered by the
3 Department with regard to those licenses, certificates, or
4 authorities. The Department shall issue a monthly
5 disciplinary report. The Department shall deny any license
6 or renewal authorized by the Civil Administrative Code of
7 Illinois to any person who has defaulted on an educational
8 loan or scholarship provided by or guaranteed by the
9 Illinois Student Assistance Commission or any governmental
10 agency of this State; however, the Department may issue a
11 license or renewal if the aforementioned persons have
12 established a satisfactory repayment record as determined
13 by the Illinois Student Assistance Commission or other
14 appropriate governmental agency of this State.
15 Additionally, beginning June 1, 1996, any license issued by
16 the Department may be suspended or revoked if the
17 Department, after the opportunity for a hearing under the
18 appropriate licensing Act, finds that the licensee has
19 failed to make satisfactory repayment to the Illinois
20 Student Assistance Commission for a delinquent or
21 defaulted loan. For the purposes of this Section,
22 "satisfactory repayment record" shall be defined by rule.
23 The Department shall refuse to issue or renew a license to,
24 or shall suspend or revoke a license of, any person who,
25 after receiving notice, fails to comply with a subpoena or
26 warrant relating to a paternity or child support
27 proceeding. However, the Department may issue a license or
28 renewal upon compliance with the subpoena or warrant.

29 The Department, without further process or hearings,
30 shall revoke, suspend, or deny any license or renewal
31 authorized by the Civil Administrative Code of Illinois to
32 a person who is certified by the Illinois Department of
33 Public Aid as being more than 30 days delinquent in
34 complying with a child support order or who is certified by

1 a court as being in violation of the Non-Support Punishment
2 Act for more than 60 days. The Department may, however,
3 issue a license or renewal if the person has established a
4 satisfactory repayment record as determined by the
5 Illinois Department of Public Aid or if the person is
6 determined by the court to be in compliance with the
7 Non-Support Punishment Act. The Department may implement
8 this paragraph as added by Public Act 89-6 through the use
9 of emergency rules in accordance with Section 5-45 of the
10 Illinois Administrative Procedure Act. For purposes of the
11 Illinois Administrative Procedure Act, the adoption of
12 rules to implement this paragraph shall be considered an
13 emergency and necessary for the public interest, safety,
14 and welfare.

15 (6) To transfer jurisdiction of any realty under the
16 control of the Department to any other department of the
17 State Government or to acquire or accept federal lands when
18 the transfer, acquisition, or acceptance is advantageous
19 to the State and is approved in writing by the Governor.

20 (7) To formulate rules and regulations necessary for
21 the enforcement of any Act administered by the Department.

22 (8) To exchange with the Illinois Department of Public
23 Aid information that may be necessary for the enforcement
24 of child support orders entered pursuant to the Illinois
25 Public Aid Code, the Illinois Marriage and Dissolution of
26 Marriage Act, the Non-Support of Spouse and Children Act,
27 the Non-Support Punishment Act, the Revised Uniform
28 Reciprocal Enforcement of Support Act, the Uniform
29 Interstate Family Support Act, or the Illinois Parentage
30 Act of 1984. Notwithstanding any provisions in this Code to
31 the contrary, the Department of Professional Regulation
32 shall not be liable under any federal or State law to any
33 person for any disclosure of information to the Illinois
34 Department of Public Aid under this paragraph (8) or for

1 any other action taken in good faith to comply with the
2 requirements of this paragraph (8).

3 (9) To perform other duties prescribed by law.

4 (10) To create a link on the Department's web site to
5 the Medical Liability Insurance Resource Clearinghouse
6 maintained on the Department of Insurance's web site and to
7 include a written notice about the Clearinghouse with any
8 license renewal information for all health care
9 professions regulated by the Department.

10 (b) The Department may, when a fee is payable to the
11 Department for a wall certificate of registration provided by
12 the Department of Central Management Services, require that
13 portion of the payment for printing and distribution costs be
14 made directly or through the Department to the Department of
15 Central Management Services for deposit into the Paper and
16 Printing Revolving Fund. The remainder shall be deposited into
17 the General Revenue Fund.

18 (c) For the purpose of securing and preparing evidence, and
19 for the purchase of controlled substances, professional
20 services, and equipment necessary for enforcement activities,
21 recoupment of investigative costs, and other activities
22 directed at suppressing the misuse and abuse of controlled
23 substances, including those activities set forth in Sections
24 504 and 508 of the Illinois Controlled Substances Act, the
25 Director and agents appointed and authorized by the Director
26 may expend sums from the Professional Regulation Evidence Fund
27 that the Director deems necessary from the amounts appropriated
28 for that purpose. Those sums may be advanced to the agent when
29 the Director deems that procedure to be in the public interest.
30 Sums for the purchase of controlled substances, professional
31 services, and equipment necessary for enforcement activities
32 and other activities as set forth in this Section shall be
33 advanced to the agent who is to make the purchase from the
34 Professional Regulation Evidence Fund on vouchers signed by the

1 Director. The Director and those agents are authorized to
2 maintain one or more commercial checking accounts with any
3 State banking corporation or corporations organized under or
4 subject to the Illinois Banking Act for the deposit and
5 withdrawal of moneys to be used for the purposes set forth in
6 this Section; provided, that no check may be written nor any
7 withdrawal made from any such account except upon the written
8 signatures of 2 persons designated by the Director to write
9 those checks and make those withdrawals. Vouchers for those
10 expenditures must be signed by the Director. All such
11 expenditures shall be audited by the Director, and the audit
12 shall be submitted to the Department of Central Management
13 Services for approval.

14 (d) Whenever the Department is authorized or required by
15 law to consider some aspect of criminal history record
16 information for the purpose of carrying out its statutory
17 powers and responsibilities, then, upon request and payment of
18 fees in conformance with the requirements of Section 2605-400
19 of the Department of State Police Law (20 ILCS 2605/2605-400),
20 the Department of State Police is authorized to furnish,
21 pursuant to positive identification, the information contained
22 in State files that is necessary to fulfill the request.

23 (e) The provisions of this Section do not apply to private
24 business and vocational schools as defined by Section 1 of the
25 Private Business and Vocational Schools Act.

26 (f) Beginning July 1, 1995, this Section does not apply to
27 those professions, trades, and occupations licensed under the
28 Real Estate License Act of 2000, nor does it apply to any
29 permits, certificates, or other authorizations to do business
30 provided for in the Land Sales Registration Act of 1989 or the
31 Illinois Real Estate Time-Share Act.

32 (Source: P.A. 91-239, eff. 1-1-00; 91-245, eff. 12-31-99;
33 91-613, eff. 10-1-99; 92-16, eff. 6-28-01.)

1 Section 10. The Illinois Insurance Code is amended by
2 changing Section 155.19 and by adding Section 155.18a as
3 follows:

4 (215 ILCS 5/155.18a new)

5 Sec. 155.18a. Medical Liability Insurance Resource
6 Clearinghouse.

7 (a) The Director of Insurance shall establish a Medical
8 Liability Insurance Resource Clearinghouse. The Clearinghouse
9 shall be a list containing the names, street addresses,
10 telephone numbers, and company web site addresses of (i) all
11 licensed, certified, or registered companies providing medical
12 liability insurance in this State to any health care
13 professionals or health care providers as defined in the
14 Managed Care Reform and Patients Rights Act, and (ii) all
15 insurance producers, as defined in Article XXXI of the Illinois
16 Insurance Code, that provide access to medical liability
17 insurance in this State to any health care professionals or
18 health care providers as defined in the Managed Care Reform and
19 Patients Rights Act. The Clearinghouse shall be maintained on
20 the Department's web site and made available to the public upon
21 written request.

22 (b) The Department of Insurance shall conduct and publish
23 an annual study of the impact of this amendatory Act of the
24 93rd General Assembly by county on the following:

25 (1) The number of medical malpractice claims filed and
26 amounts recovered per claim.

27 (2) The amounts of economic and non-economic damages
28 awarded per case.

29 (3) The amount of plaintiff and defense attorney fees
30 paid per case.

31 (4) The impact of the provisions of this amendatory Act
32 of the 93rd General Assembly on the cost and availability
33 of healing art malpractice coverage for hospitals and

1 physicians.

2 (5) An estimate of the current hospitals' and health
3 care professionals' healing art malpractice claims that
4 are required to be reported to the Department and are
5 covered by insurance companies regulated by the Department
6 and an estimate of those claims that are not required to be
7 reported to the Department.

8 Every 2 years the Director of Insurance shall make
9 recommendations to the Governor, the Speaker of the House, the
10 Minority Leader of the House, the President of the Senate, and
11 the Minority Leader of the Senate on changes in the law
12 necessary to maintain affordable and accessible professional
13 liability insurance and these recommendations shall be made
14 available to the public.

15 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

16 Sec. 155.19. Report of medical liability claims.

17 (a) All claims filed after December 31, 1976 with any
18 insurer and all suits filed after December 31, 1976 in any
19 court in this State, alleging liability on the part of any
20 physician, hospital or other health care provider for medically
21 related injuries, shall be reported to the Director of
22 Insurance in such form and under such terms and conditions as
23 may be prescribed by the Director. The Director shall maintain
24 complete and accurate records of all such claims and suits
25 including their nature, amount, disposition and other
26 information as he may deem useful or desirable in observing and
27 reporting on health care provider liability trends in this
28 State. The Director shall release to appropriate disciplinary
29 and licensing agencies any such data or information which may
30 assist such agencies in improving the quality of health care or
31 which may be useful to such agencies for the purpose of
32 professional discipline.

33 (b) With due regard for appropriate maintenance of the

1 confidentiality thereof, the Director shall ~~may~~ release ~~from~~
2 ~~time to time~~ to the Governor, the General Assembly and the
3 general public aggregate statistical reports based on such data
4 and information. The identity of any plaintiff, defendant,
5 attorneys, or insurance company shall not be disclosed by the
6 Department.

7 (c) The Director may promulgate such rules and regulations
8 as may be necessary to carry out the provisions of this
9 Section.

10 (Source: P.A. 79-1434.)

11 Section 15. The Medical Practice Act of 1987 is amended by
12 changing Sections 7, 22, and 23 as follows:

13 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

14 (Section scheduled to be repealed on January 1, 2007)

15 Sec. 7. Medical Disciplinary Board.

16 (A) There is hereby created the Illinois State Medical
17 Disciplinary Board (hereinafter referred to as the
18 "Disciplinary Board"). The Disciplinary Board shall consist of
19 9 members, to be appointed by the Governor by and with the
20 advice and consent of the Senate. All shall be residents of the
21 State, not more than 5 of whom shall be members of the same
22 political party. Five members shall be physicians licensed to
23 practice medicine in all of its branches in Illinois possessing
24 the degree of doctor of medicine. Two shall be members of the
25 public, who shall not be engaged in any way, directly or
26 indirectly, as providers of health care. The 2 public members
27 shall act as voting members. One member shall be a physician
28 licensed to practice in Illinois possessing the degree of
29 doctor of osteopathy or osteopathic medicine. One member shall
30 be a physician licensed to practice in Illinois and possessing
31 the degree of doctor of chiropractic.

32 (B) Members of the Disciplinary Board shall be appointed

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

14 In making appointments the Governor shall attempt to insure
15 that the various social and geographic regions of the State of
16 Illinois are properly represented.

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

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

27 (D) (Blank).

28 (E) Four voting members of the Disciplinary Board shall
29 constitute a quorum. A vacancy in the membership of the
30 Disciplinary Board shall not impair the right of a quorum to
31 exercise all the rights and perform all the duties of the
32 Disciplinary Board. Any action taken by the Disciplinary Board
33 under this Act may be authorized by resolution at any regular
34 or special meeting and each such resolution shall take effect

1 immediately. The Disciplinary Board shall meet at least
2 quarterly. The Disciplinary Board is empowered to adopt all
3 rules and regulations necessary and incident to the powers
4 granted to it under this Act.

5 (F) Each member, and member-officer, of the Disciplinary
6 Board shall receive a per diem stipend of \$250 ~~as the Director~~
7 ~~of the Department, hereinafter referred to as the Director,~~
8 ~~shall determine. The Director shall also determine the per diem~~
9 ~~stipend that each ex officio member shall receive.~~ Each member
10 shall be paid their necessary expenses while engaged in the
11 performance of their duties.

12 (G) The Director shall select a Chief Medical Coordinator
13 and not less than 2 ~~a~~ Deputy Medical Coordinators ~~Coordinator~~
14 who shall not be members of the Disciplinary Board. Each
15 medical coordinator shall be a physician licensed to practice
16 medicine in all of its branches, and the Director shall set
17 their rates of compensation. The Director shall assign at least
18 one medical coordinator to a region composed of Cook County and
19 such other counties as the Director may deem appropriate, and
20 such medical coordinators ~~coordinator~~ shall locate their
21 office in Chicago. The Director shall assign at least one ~~the~~
22 ~~remaining~~ medical coordinator to regions to cover ~~a region~~
23 ~~composed of~~ the balance of counties in the State, and such
24 medical coordinators ~~coordinator~~ shall locate their office in
25 Springfield. Each medical coordinator shall be the chief
26 enforcement officer of this Act in their assigned region and
27 shall serve at the will of the Disciplinary Board.

28 The Director shall employ, in conformity with the Personnel
29 Code, not less than one full time investigator for every 2,500
30 ~~5000~~ physicians licensed in the State and such other full time
31 investigators as the Director deems necessary. Each
32 investigator shall be a college graduate with at least 2 years'
33 investigative experience or one year advanced medical
34 education. Upon the written request of the Disciplinary Board,

1 the Director shall employ, in conformity with the Personnel
2 Code, such other professional, technical, investigative, and
3 clerical help, either on a full or part-time basis as the
4 Disciplinary Board deems necessary for the proper performance
5 of its duties.

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

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

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

30 (Source: P.A. 93-138, eff. 7-10-03.)

31 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

32 (Section scheduled to be repealed on January 1, 2007)

33 Sec. 22. Disciplinary action.

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

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

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

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

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

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

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

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

32 (3) The conviction of a felony in this or any other
33 jurisdiction, except as otherwise provided in subsection B
34 of this Section, whether or not related to practice under

1 this Act, or the entry of a guilty or nolo contendere plea
2 to a felony charge.

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

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

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

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

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

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

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

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

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

32 (13) Violation of any provision of this Act or of the
33 Medical Practice Act prior to the repeal of that Act, or
34 violation of the rules, or a final administrative action of

1 the Director, after consideration of the recommendation of
2 the Disciplinary Board.

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

1 services to a patient and divide a fee; provided, the
2 patient has full knowledge of the division, and, provided,
3 that the division is made in proportion to the services
4 performed and responsibility assumed by each.

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

10 (16) Abandonment of a patient.

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

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

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

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

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

33 (22) Wilful omission to file or record, or wilfully
34 impeding the filing or recording, or inducing another

1 person to omit to file or record, medical reports as
2 required by law, or wilfully failing to report an instance
3 of suspected abuse or neglect as required by law.

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

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

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

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

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

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

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

33 (30) Wilfully or negligently violating the
34 confidentiality between physician and patient except as

1 required by law.

2 (31) The use of any false, fraudulent, or deceptive
3 statement in any document connected with practice under
4 this Act.

5 (32) Aiding and abetting an individual not licensed
6 under this Act in the practice of a profession licensed
7 under this Act.

8 (33) Violating state or federal laws or regulations
9 relating to controlled substances, legend drugs, and
10 ephedra, as defined in the Ephedra Prohibition Act.

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

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

31 (36) Failure to report to the Department any adverse
32 judgment, settlement, or award arising from a liability
33 claim related to acts or conduct similar to acts or conduct
34 which would constitute grounds for action as defined in

1 this Section.

2 (37) Failure to transfer copies of medical records as
3 required by law.

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

9 (39) Violating the Health Care Worker Self-Referral
10 Act.

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

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

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

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

22 All proceedings to suspend, revoke, place on probationary
23 status, or take any other disciplinary action as the Department
24 may deem proper, with regard to a license on any of the
25 foregoing grounds, must be commenced within 3 years next after
26 receipt by the Department of a complaint alleging the
27 commission of or notice of the conviction order for any of the
28 acts described herein. Except for the grounds numbered (8), (9)
29 and (29), no action shall be commenced more than 5 years after
30 the date of the incident or act alleged to have violated this
31 Section; however, incidents or acts up to 10 years after the
32 date of the incident or act alleged may be combined to allege a
33 pattern of practice under item (26) of subsection (A) of this
34 Section. In the event of the settlement of any claim or cause

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

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

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

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

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

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

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

13 (d) what constitutes gross negligence in the practice
14 of medicine.

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

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

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

30 An individual licensed under this Act, affected under this
31 Section, shall be afforded an opportunity to demonstrate to the
32 Disciplinary Board that they can resume practice in compliance
33 with acceptable and prevailing standards under the provisions
34 of their license.

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

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

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

31 (D) The Department may share discipline information
32 regarding a person holding a license or permit under this Act
33 with the Federation of State Medical Boards database.

34 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626,

1 eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

2 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

3 (Section scheduled to be repealed on January 1, 2007)

4 Sec. 23. Reports relating to professional conduct and
5 capacity.

6 (A) Entities required to report.

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

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

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

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

33 (4) State's Attorneys. The State's Attorney of each
34 county shall report to the Disciplinary Board all instances

1 in which a person licensed under this Act is convicted or
2 otherwise found guilty of the commission of any felony. The
3 State's Attorney of each county may report to the
4 Disciplinary Board through a verified complaint any
5 instance in which the State's Attorney believes that a
6 physician has willfully violated the notice requirements
7 of the Parental Notice of Abortion Act of 1995.

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

20 (B) Mandatory reporting. All reports required by items
21 (34), (35), and (36) of subsection (A) of Section 22 and by
22 Section 23 shall be submitted to the Disciplinary Board in a
23 timely fashion. The reports shall be filed in writing within 60
24 days after a determination that a report is required under this
25 Act. All reports shall contain the following information:

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

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

30 (3) The name and date of birth ~~or other means of~~
31 ~~identification~~ of any patient or patients whose treatment
32 is a subject of the report and identification of the
33 hospital or other health care facility where the care at
34 issue in the report was rendered ~~, provided, however, no~~

1 ~~medical records may be revealed without the written consent~~
2 ~~of the patient or patients.~~

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

6 (5) If court action is involved, the identity of the
7 court in which the action is filed, along with the docket
8 number and date of filing of the action.

9 (6) Any further pertinent information which the
10 reporting party deems to be an aid in the evaluation of the
11 report.

12 ~~The Department shall have the right to inform patients of~~
13 ~~the right to provide written consent for the Department to~~
14 ~~obtain copies of hospital and medical records.~~ The Disciplinary
15 Board or Department may also exercise the power under Section
16 38 of this Act to subpoena copies of hospital or medical
17 records in mandatory report cases alleging death or permanent
18 bodily injury ~~when consent to obtain records is not provided by~~
19 ~~a patient or legal representative.~~ Appropriate rules shall be
20 adopted by the Department with the approval of the Disciplinary
21 Board.

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

27 Nothing contained in this Section shall act to in any way,
28 waive or modify the confidentiality of medical reports and
29 committee reports to the extent provided by law. Any
30 information reported or disclosed shall be kept for the
31 confidential use of the Disciplinary Board, the Medical
32 Coordinators, the Disciplinary Board's attorneys, the medical
33 investigative staff, and authorized clerical staff, as
34 provided in this Act, and shall be afforded the same status as

1 is provided information concerning medical studies in Part 21
2 of Article VIII of the Code of Civil Procedure. The only
3 exception is that the Department may disclose disciplinary
4 information with a federal, state, or local law enforcement
5 agency pursuant to a subpoena in an ongoing criminal
6 investigation and prosecution of a person for the commission of
7 a crime with no other disclosure or redisclosure.

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

21 (D) Indemnification. Members of the Disciplinary Board,
22 the Medical Coordinators, the Disciplinary Board's attorneys,
23 the medical investigative staff, physicians retained under
24 contract to assist and advise the medical coordinators in the
25 investigation, and authorized clerical staff shall be
26 indemnified by the State for any actions occurring within the
27 scope of services on the Disciplinary Board, done in good faith
28 and not wilful and wanton in nature. The Attorney General shall
29 defend all such actions unless he or she determines either that
30 there would be a conflict of interest in such representation or
31 that the actions complained of were not in good faith or were
32 wilful and wanton.

33 Should the Attorney General decline representation, the
34 member shall have the right to employ counsel of his or her

1 choice, whose fees shall be provided by the State, after
2 approval by the Attorney General, unless there is a
3 determination by a court that the member's actions were not in
4 good faith or were wilful and wanton.

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

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

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

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

1 original report.

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

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

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

30 (F) Summary reports. The Disciplinary Board shall prepare,
31 on a timely basis, but in no event less than one every other
32 month, a summary report of final actions taken upon
33 disciplinary files maintained by the Disciplinary Board. The
34 summary reports shall be sent by the Disciplinary Board to

1 every health care facility licensed by the Illinois Department
2 of Public Health, every professional association and society of
3 persons licensed under this Act functioning on a statewide
4 basis in this State, the American Medical Association, the
5 American Osteopathic Association, the American Chiropractic
6 Association, all insurers providing professional liability
7 insurance to persons licensed under this Act in the State of
8 Illinois, the Federation of State Medical Licensing Boards, and
9 the Illinois Pharmacists Association.

10 (G) Any violation of this Section shall be a Class A
11 misdemeanor.

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

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

27 Section 20. The Circuit Courts Act is amended by adding
28 Section 40 as follows:

29 (705 ILCS 35/40 new)

30 Sec. 40. Medical malpractice circuit court pilot program.

31 (a) As a pilot program beginning January 1, 2005, a medical
32 malpractice circuit court shall be established in the Fifth

1 Appellate District of the State, the jurisdiction of which is
2 limited solely to medical malpractice actions within the
3 counties comprising that appellate district. The medical
4 malpractice circuit court shall be located in the same
5 municipality where the Fifth Appellate District's appellate
6 court is located. The medical malpractice circuit court may
7 convene anywhere within the Fifth Appellate District as the
8 convenience of the court and parties may warrant.

9 (b) Up to 7 circuit judges in the Fifth Appellate District
10 shall be assigned to the medical malpractice circuit court by
11 the Supreme Court.

12 To be eligible to serve as a medical malpractice circuit
13 judge, a person must be a circuit judge within the Fifth
14 Appellate District and must have (i) at least 10 years'
15 experience as a judge in Illinois, at least 5 of those years
16 handling medical malpractice cases, (ii) at least 10 years'
17 experience as an Illinois attorney specializing in medical
18 malpractice law, or (iii) at least 15 years' combined
19 experience as a judge in Illinois and an Illinois attorney
20 specializing in medical malpractice law.

21 The Supreme Court shall assign circuit judges to the
22 medical malpractice circuit court by December 1, 2004. The
23 Supreme Court may assign associate judges to the medical
24 malpractice court as necessary; those associate judges must
25 meet the qualifications required by this subsection for circuit
26 judges.

27 (c) The medical malpractice circuit court shall have a jury
28 administrator who shall work with the circuit court jury
29 commissions of the Fifth Appellate District to assure that each
30 jury pool for the medical malpractice circuit court is drawn
31 from the entire area comprising that district.

32 (d) No later than January 1, 2005 and until December 31,
33 2008, all new medical malpractice cases in the circuits
34 comprising the Fifth Appellate District must be filed with the

1 medical malpractice circuit court. A party may by motion
2 request that a medical malpractice case pending before January
3 1, 2005 be transferred to the medical malpractice circuit
4 court. That motion shall be granted unless it would cause
5 extreme detriment to a party. Cases pending in the medical
6 malpractice circuit court on December 31, 2008 shall remain in
7 that court unless otherwise transferred; the medical
8 malpractice circuit court shall cease to exist upon its
9 disposition of all cases pending in that court on December 31,
10 2008.

11 (e) By July 1, 2007, the Supreme Court shall report to the
12 Governor and the General Assembly on (i) the effectiveness of
13 the medical malpractice circuit court; (ii) the number of cases
14 heard in the court; (iii) the length of time those cases were
15 in the court system; (iv) whether the pilot program should be
16 continued in the Fifth Appellate District; and (v) whether the
17 pilot program should be extended to other appellate districts.

18 (f) The Supreme Court may adopt rules for the
19 implementation of this Section.

20 Section 25. The Health Care Arbitration Act is amended by
21 changing Sections 8 and 9 as follows:

22 (710 ILCS 15/8) (from Ch. 10, par. 208)

23 Sec. 8. Conditions. Every health care arbitration
24 agreement shall be subject to the following conditions:

25 (a) The agreement is not a condition to the rendering of
26 health care services by any party and the agreement has been
27 executed by the recipient of health care services at the
28 inception of or during the term of provision of services for a
29 specific cause by either a health care provider or a hospital;
30 and

31 (b) The agreement is a separate instrument complete in
32 itself and not a part of any other contract or instrument; and

1 (c) The agreement may not limit, impair, or waive any
2 substantive rights or defenses of any party, including the
3 statute of limitations; and

4 (d) The agreement shall not limit, impair, or waive the
5 procedural rights to be heard, to present material evidence, to
6 cross-examine witnesses, and to be represented by an attorney,
7 or other procedural rights of due process of any party.

8 ~~(e) As a part of the discharge planning process the patient~~
9 ~~or, if appropriate, members of his family must be given a copy~~
10 ~~of the health care arbitration agreement previously executed by~~
11 ~~or for the patient and shall re-affirm it. Failure to comply~~
12 ~~with this provision during the discharge planning process shall~~
13 ~~void the health care arbitration agreement.~~

14 (Source: P.A. 80-1012.)

15 (710 ILCS 15/9) (from Ch. 10, par. 209)

16 Sec. 9. Mandatory Provisions.

17 (a) Every health care arbitration agreement shall be
18 clearly captioned "Health Care Arbitration Agreement".

19 (b) Every health care arbitration agreement in relation to
20 health care services rendered during hospitalization shall
21 specify the date of commencement of hospitalization. Every
22 health care arbitration agreement in relation to health care
23 services not rendered during hospitalization shall state the
24 specific cause for which the services are provided.

25 (c) Every health care arbitration agreement may be
26 cancelled by any signatory (1) ~~within 60 days of its execution~~
27 ~~or~~ within 60 days of the date of the patient's discharge from
28 the hospital, or last date of treatment, whichever is later, as
29 to an agreement in relation to health care services rendered
30 during hospitalization, ~~provided, that if executed other than~~
31 ~~at the time of discharge of the patient from the hospital, the~~
32 ~~health care arbitration agreement be reaffirmed at the time of~~
33 ~~the discharge planning process in the same manner as provided~~

1 ~~for in the execution of the original agreement,~~ or (2) within
2 60 days of the date of its execution, or the last date of
3 treatment by the health care provider, whichever is later, as
4 to an agreement in relation to health care services not
5 rendered during hospitalization. Provided, that no health care
6 arbitration agreement shall be valid after 10 ~~2~~ years from the
7 date of its execution. An employee of a hospital or health care
8 provider who is not a signatory to an agreement may cancel such
9 agreement as to himself until 30 days following his
10 notification that he is a party to a dispute or issue on which
11 arbitration has been demanded pursuant to such agreement. If
12 any person executing a health care arbitration agreement dies
13 before the period of cancellation as outlined above, the
14 personal representative of the decedent shall have the right to
15 cancel the health care arbitration agreement within 60 days of
16 the date of his appointment as the legal representative of the
17 decedent's estate. ~~Provided, that if no legal representative is~~
18 ~~appointed within 6 months of the death of said decedent the~~
19 ~~next of kin of such decedent shall have the right to cancel the~~
20 ~~health care arbitration agreement within 8 months from the date~~
21 ~~of death.~~

22 (d) Every health care arbitration agreement shall contain
23 immediately above the signature lines, in upper case type in
24 printed letters of at least 3/16 inch height, a caption and
25 paragraphs as follows:

26 "AGREEMENT TO ARBITRATE HEALTH CARE

27 NEGLIGENCE CLAIMS

28 NOTICE TO PATIENT

29 YOU CANNOT BE REQUIRED TO SIGN THIS AGREEMENT IN ORDER TO
30 RECEIVE TREATMENT. BY SIGNING THIS AGREEMENT, YOUR RIGHT TO
31 TRIAL BY A JURY OR A JUDGE IN A COURT WILL BE BARRED AS TO
32 ANY DISPUTE RELATING TO INJURIES THAT MAY RESULT FROM
33 NEGLIGENCE DURING YOUR TREATMENT OR CARE, AND WILL BE
34 REPLACED BY AN ARBITRATION PROCEDURE.

1 THIS AGREEMENT MAY BE CANCELLED WITHIN 60 DAYS ~~OF SIGNING~~
2 ~~OR 60 DAYS~~ AFTER YOUR HOSPITAL DISCHARGE OR 60 DAYS AFTER
3 YOUR LAST HEALTH CARE SERVICE ~~MEDICAL TREATMENT~~ IN RELATION
4 TO HEALTH CARE SERVICES NOT RENDERED DURING
5 HOSPITALIZATION.

6 THIS AGREEMENT PROVIDES THAT ANY CLAIMS WHICH MAY ARISE OUT
7 OF YOUR HEALTH CARE WILL BE SUBMITTED TO A PANEL OF
8 ARBITRATORS, RATHER THAN TO A COURT FOR DETERMINATION. THIS
9 AGREEMENT REQUIRES ALL PARTIES SIGNING IT TO ABIDE BY THE
10 DECISION OF THE ARBITRATION PANEL."

11 (e) an executed copy of the AGREEMENT TO ARBITRATE HEALTH
12 CARE CLAIMS ~~and any reaffirmation of that agreement as required~~
13 ~~by this Act~~ shall be given to the patient during the time of
14 the discharge planning process or at the time of discharge
15 after last date of treatment.

16 (Source: P.A. 91-156, eff. 1-1-00.)

17 Section 30. The Code of Civil Procedure is amended by
18 changing Sections 2-101, 2-622, 2-1107.1, 2-1109, 2-1702,
19 2-1704, 8-1901, and 8-2501, and by adding Sections 2-1105.01,
20 2-1706.5, 2-1720, 8-2502, 8-2503, and 8-2504 as follows:

21 (735 ILCS 5/2-101) (from Ch. 110, par. 2-101)

22 Sec. 2-101. Generally. Except as otherwise provided in this
23 Act, every action must be commenced (1) in the county of
24 residence of any defendant who is joined in good faith and with
25 probable cause for the purpose of obtaining a judgment against
26 him or her and not solely for the purpose of fixing venue in
27 that county, or (2) in the county in which the transaction or
28 some part thereof occurred out of which the cause of action
29 arose.

30 Except as otherwise provided in this Act, every healing art
31 malpractice action must be commenced in the county where the
32 health care services were provided.

1 If a check, draft, money order, or other instrument for the
2 payment of child support payable to or delivered to the State
3 Disbursement Unit established under Section 10-26 of the
4 Illinois Public Aid Code is returned by the bank or depository
5 for any reason, venue for the enforcement of any criminal
6 proceedings or civil cause of action for recovery and attorney
7 fees shall be in the county where the principal office of the
8 State Disbursement Unit is located.

9 If all defendants are nonresidents of the State, an action
10 may be commenced in any county.

11 If the corporate limits of a city, village or town extend
12 into more than one county, then the venue of an action or
13 proceeding instituted by that municipality to enforce any fine,
14 imprisonment, penalty or forfeiture for violation of any
15 ordinance of that municipality, regardless of the county in
16 which the violation was committed or occurred, may be in the
17 appropriate court (i) in the county wherein the office of the
18 clerk of the municipality is located or (ii) in any county in
19 which at least 35% of the territory within the municipality's
20 corporate limits is located.

21 (Source: P.A. 91-212, eff. 7-20-99.)

22 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

23 (Text of Section WITHOUT the changes made by P.A. 89-7,
24 which has been held unconstitutional)

25 Sec. 2-622. Healing art malpractice.

26 (a) In any action, whether in tort, contract or otherwise,
27 in which the plaintiff seeks damages for injuries or death by
28 reason of medical, hospital, or other healing art malpractice,
29 the plaintiff's attorney or the plaintiff, if the plaintiff is
30 proceeding pro se, shall file an affidavit, attached to the
31 original and all copies of the complaint, declaring one of the
32 following:

33 1. That the affiant has consulted and reviewed the

1 facts of the case with a health professional who the
2 affiant reasonably believes: (i) is knowledgeable in the
3 relevant issues involved in the particular action; (ii)
4 practices or has practiced within the last 6 years or
5 teaches or has taught within the last 6 years in the same
6 area of health care or medicine that is at issue in the
7 particular action; ~~and~~ (iii) meets the minimum
8 requirements set forth in 8-2501; and (iv) is qualified by
9 experience or demonstrated competence in the subject of the
10 case; that the reviewing health professional has
11 determined in a written report, after a review of the
12 medical record and other relevant material involved in the
13 particular action that there is a reasonable and
14 meritorious cause for the filing of such action; and that
15 the affiant has concluded on the basis of the reviewing
16 health professional's review and consultation that there
17 is a reasonable and meritorious cause for filing of such
18 action. If the affidavit is filed as to a defendant who is
19 a physician licensed to treat human ailments without the
20 use of drugs or medicines and without operative surgery, a
21 dentist, a podiatrist, a psychologist, or a naprapath, the
22 written report must be from a health professional licensed
23 in the same profession, with the same class of license, as
24 the defendant. For affidavits filed as to all other
25 defendants, the written report must be from a physician
26 licensed to practice medicine in all its branches. In
27 either event, the affidavit must identify the profession of
28 the reviewing health professional. A copy of the written
29 report, clearly identifying the plaintiff and the reasons
30 for the reviewing health professional's determination that
31 a reasonable and meritorious cause for the filing of the
32 action exists, must be attached to the affidavit, ~~but~~
33 ~~information which would identify the reviewing health~~
34 ~~professional may be deleted from the copy so attached. The~~

1 report shall include the name and address of the reviewing
2 health professional and documentation of compliance with
3 requirements set forth in 8-2501.

4 2. That the affiant was unable to obtain a consultation
5 required by paragraph 1 because a statute of limitations
6 would impair the action and the consultation required could
7 not be obtained before the expiration of the statute of
8 limitations. If an affidavit is executed pursuant to this
9 paragraph, the certificate and written report required by
10 paragraph 1 shall be filed within 90 days after the filing
11 of the complaint. No additional 90 day extensions shall be
12 granted. The defendant shall be excused from answering or
13 otherwise pleading until 30 days after being served with a
14 certificate required by paragraph 1.

15 3. That a request has been made by the plaintiff or his
16 attorney for examination and copying of records pursuant to
17 Part 20 of Article VIII of this Code and the party required
18 to comply under those Sections has failed to produce such
19 records within 60 days of the receipt of the request. If an
20 affidavit is executed pursuant to this paragraph, the
21 certificate and written report required by paragraph 1
22 shall be filed within 90 days following receipt of the
23 requested records. All defendants except those whose
24 failure to comply with Part 20 of Article VIII of this Code
25 is the basis for an affidavit under this paragraph shall be
26 excused from answering or otherwise pleading until 30 days
27 after being served with the certificate required by
28 paragraph 1.

29 (b) Where a certificate and written report are required
30 pursuant to this Section a separate certificate and written
31 report shall be filed as to each defendant who has been named
32 in the complaint and shall be filed as to each defendant named
33 at a later time.

34 (c) Where the plaintiff intends to rely on the doctrine of

1 "res ipsa loquitur", as defined by Section 2-1113 of this Code,
2 the certificate and written report must state that, in the
3 opinion of the reviewing health professional, negligence has
4 occurred in the course of medical treatment. The affiant shall
5 certify upon filing of the complaint that he is relying on the
6 doctrine of "res ipsa loquitur".

7 (d) When the attorney intends to rely on the doctrine of
8 failure to inform of the consequences of the procedure, the
9 attorney shall certify upon the filing of the complaint that
10 the reviewing health professional has, after reviewing the
11 medical record and other relevant materials involved in the
12 particular action, concluded that a reasonable health
13 professional would have informed the patient of the
14 consequences of the procedure.

15 (e) Allegations and denials in the affidavit, made without
16 reasonable cause and found to be untrue, shall subject the
17 party pleading them or his attorney, or both, to the payment of
18 reasonable expenses, actually incurred by the other party by
19 reason of the untrue pleading, together with reasonable
20 attorneys' fees to be summarily taxed by the court upon motion
21 made within 30 days of the judgment or dismissal. In no event
22 shall the award for attorneys' fees and expenses exceed those
23 actually paid by the moving party, including the insurer, if
24 any. In proceedings under this paragraph (e), the moving party
25 shall have the right to depose and examine any and all
26 reviewing health professionals who prepared reports used in
27 conjunction with an affidavit required by this Section.

28 (f) A reviewing health professional who in good faith
29 prepares a report used in conjunction with an affidavit
30 required by this Section shall have civil immunity from
31 liability which otherwise might result from the preparation of
32 such report.

33 (g) The failure to file a certificate required by this
34 Section shall be grounds for dismissal under Section 2-619.

1 (h) This Section does not apply to or affect any actions
2 pending at the time of its effective date, but applies to cases
3 filed on or after its effective date.

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

7 (j) This amendatory Act of 93rd General Assembly does not
8 apply to or affect any actions pending at the time of its
9 effective date, but applies to cases filed on or after its
10 effective date.

11 (Source: P.A. 86-646; 90-579, eff. 5-1-98.)

12 (735 ILCS 5/2-1105.01 new)

13 Sec. 2-1105.01. Personal assets protected in healing art
14 malpractice cases. In all cases, whether tort, contract, or
15 otherwise, in which the plaintiff seeks damages by reason of
16 medical healing art malpractice, the amount of the recovery
17 shall be limited to an amount that is covered by the
18 physician's medical malpractice insurance or liability
19 insurance provided the physician maintains at least a minimum
20 of \$1,000,000 in insurance coverage per occurrence and
21 \$3,000,000 in the aggregate. Corporate assets are subject to
22 attachment for satisfaction of a judgment. In no event shall a
23 physician be liable in an amount that would cause him or her to
24 forfeit any of his or her personal assets.

25 (735 ILCS 5/2-1107.1) (from Ch. 110, par. 2-1107.1)

26 (Text of Section WITHOUT the changes made by P.A. 89-7,
27 which has been held unconstitutional)

28 Sec. 2-1107.1. Jury instruction in tort actions.

29 (a) In all actions on account of bodily injury or death or
30 physical damage to property based on negligence, or product
31 liability based on strict tort liability, the court shall
32 instruct the jury in writing that the defendant shall be found

1 not liable if the jury finds that the contributory fault of the
2 plaintiff is more than 50% of the proximate cause of the injury
3 or damage for which recovery is sought.

4 (b) In all healing art malpractice actions, the court shall
5 instruct the jury in writing, to the extent that it is true,
6 that any award of compensatory damages will not be taxable
7 under federal or State income tax law.

8 The changes to this Section made by this amendatory Act of
9 the 93rd General Assembly apply to causes of action filed on or
10 after its effective date.

11 (Source: P.A. 84-1431.)

12 (735 ILCS 5/2-1109) (from Ch. 110, par. 2-1109)

13 (Text of Section WITHOUT the changes made by P.A. 89-7,
14 which has been held unconstitutional)

15 Sec. 2-1109. Itemized verdicts.

16 (a) In every case where damages for bodily injury or death
17 ~~to the person~~ are assessed by the jury the verdict shall be
18 itemized so as to reflect the monetary distribution, if any,
19 among economic loss and non-economic loss, ~~if any,~~ and, in
20 healing art ~~medical~~ malpractice cases, further itemized so as
21 to reflect the distribution of economic loss by category, such
22 itemization of economic loss by category to include: (a)
23 amounts intended to compensate for reasonable expenses which
24 have been incurred, or which will be incurred, for necessary
25 medical, surgical, x-ray, dental, or other health or
26 rehabilitative services, drugs, and therapy; (b) amounts
27 intended to compensate for lost wages or loss of earning
28 capacity; and (c) all other economic losses claimed by the
29 plaintiff or granted by the jury. Each category of economic
30 loss shall be further itemized into amounts intended to
31 compensate for losses which have been incurred prior to the
32 verdict and amounts intended to compensate for future losses
33 ~~which will be incurred in the future.~~

1 (b) In all actions on account of bodily injury or death
2 based on negligence, including healing art malpractice
3 actions, the following terms have the following meanings:

4 (i) "Economic loss" or "economic damages" means all
5 damages that are tangible, such as damages for past and
6 future medical expenses, loss of income or earnings and
7 other property loss.

8 (ii) "Non-economic loss" or "non-economic damages"
9 means damages that are intangible, including but not
10 limited to damages for pain and suffering, disability,
11 disfigurement, loss of consortium, and loss of society.

12 (iii) "Compensatory damages" or "actual damages" are
13 the sum of economic and non-economic damages.

14 (c) Nothing in this Section shall be construed to create a
15 cause of action.

16 (d) This amendatory Act of the 93rd General Assembly
17 applies to causes of action filed on or after its effective
18 date.

19 (Source: P.A. 84-7.)

20 (735 ILCS 5/2-1702) (from Ch. 110, par. 2-1702)

21 (Text of Section WITHOUT the changes made by P.A. 89-7,
22 which has been held unconstitutional)

23 Sec. 2-1702. Economic/Non-Economic Loss. As used in this
24 Part, "economic loss" and "non-economic loss" have the same
25 meanings as in Section 2-1109(b).†

26 ~~(a) "Economic loss" means all pecuniary harm for which~~
27 ~~damages are recoverable.~~

28 ~~(b) "Non-economic loss" means loss of consortium and all~~
29 ~~nonpecuniary harm for which damages are recoverable,~~
30 ~~including, without limitation, damages for pain and suffering,~~
31 ~~inconvenience, disfigurement, and physical impairment.~~

32 (Source: P.A. 84-7.)

1 (735 ILCS 5/2-1704) (from Ch. 110, par. 2-1704)

2 Sec. 2-1704. Healing art malpractice ~~Medical Malpractice~~
3 ~~Action~~. As used in this Code Part, "healing art ~~medical~~
4 malpractice action" means any action, whether in tort, contract
5 or otherwise, in which the plaintiff seeks damages for injuries
6 or death by reason of medical, hospital, or other healing art
7 malpractice including but not limited to medical, hospital,
8 nursing home, nursing, dental, or podiatric malpractice. The
9 term "healing art" shall not include care and treatment by
10 spiritual means through prayer in accord with the tenets and
11 practices of a recognized church or religious denomination.

12 (Source: P.A. 84-7.)

13 (735 ILCS 5/2-1706.5 new)

14 Sec. 2-1706.5. Standards for economic and non-economic
15 damages.

16 (a) In any medical malpractice action in which economic and
17 non-economic damages may be awarded, the following standards
18 shall apply:

19 (1) In a case of an award against a hospital and its
20 personnel, the total amount of non-economic damages shall
21 not exceed \$750,000 awarded to all plaintiffs in any civil
22 action arising out of the care.

23 (2) In a case of an award against a physician and the
24 physician's business or corporation entity, the total
25 amount of non-economic damages shall not exceed \$500,000
26 awarded to all plaintiffs in any civil action arising out
27 of the care.

28 (3) In awarding damages in a medical malpractice case,
29 the finder of fact shall render verdicts with a specific
30 award of damages for economic loss, if any, and a specific
31 award of damages for non-economic loss, if any.

32 (b) In any medical malpractice action where an individual
33 plaintiff earns less than the annual average weekly wage, as

1 determined by the Industrial Commission, at the time the action
2 is filed, any award may include an amount equal to the wage the
3 individual plaintiff earns or the annual average weekly wage.

4 (c) Any party in a medical malpractice case may introduce
5 annuity evidence to inform the fact finder about the time value
6 of an award and its ability to cover the plaintiff's damages
7 over time.

8 (d) If any provision of this Section or its application to
9 any person or circumstance is held invalid, the invalidity of
10 that provision or application does not affect other provisions
11 or applications of this Section.

12 (735 ILCS 5/2-1720 new)

13 Sec. 2-1720. The Blue Ribbon Commission.

14 (a) The General Assembly finds as follows:

15 (1) The existing system for resolving medical
16 malpractice disputes has adversely affected the access to
17 and provision of health care in Illinois. Large jury
18 verdicts have resulted in high malpractice insurance
19 premiums and, in some cases, a complete denial of coverage.
20 As a result, some physicians have either relocated their
21 practices or retired from the practice of medicine. This
22 adversely affects the ability of the citizens of this State
23 to obtain high-quality health care, which, in turn,
24 adversely affects the economic and social viability of our
25 communities.

26 (2) Adoption of alternative dispute resolution
27 systems, including but not limited to no fault, mandatory
28 mediation, or some elements of the workers' compensation
29 system, including but not limited to the administrative
30 adjudication of disputes by qualified arbitrators, may
31 result in more equitable resolution of medical malpractice
32 disputes than the current system.

33 (b) There is created the Blue Ribbon Commission on Medical

1 Malpractice Reform consisting of the following:

2 (1) The President of the Senate, the Minority Leader of
3 the Senate, the Speaker of the House of Representatives,
4 and the Minority Leader of the House of Representatives
5 shall each appoint 1 member.

6 (2) The President of the Senate and the Speaker of the
7 House of Representatives shall jointly select a certified
8 actuary to serve as a member.

9 (3) The Minority Leader of the Senate and the Minority
10 Leader of the House of Representatives shall jointly select
11 a certified actuary to serve as a member.

12 (4) One additional member as designated by each of the
13 following groups:

14 (A) The Illinois Trial Lawyers Association.

15 (B) The Illinois State Medical Society.

16 (C) The Illinois State Bar Association.

17 (D) The Illinois Hospital Association.

18 (E) The Illinois Long Term Care Association.

19 (F) The ISMIE Mutual Insurance Company.

20 (G) The American Insurance Association.

21 (H) The Illinois Insurance Association.

22 (I) The Chicago Bar Association.

23 (c) The Commission shall elect one of its legislative
24 members to serve as chairperson. The Commission shall meet at
25 the call of the chairperson. Members of the Commission shall
26 not be compensated for their service, but shall be reimbursed
27 for the actual expenses incurred in the performance of their
28 duties. The General Assembly shall provide technical and other
29 support services to the Commission as needed.

30 (d) The Commission shall study the advisability of
31 implementing an alternative system for the resolution of
32 healing art malpractice disputes including but not limited to
33 no fault, mandatory mediation and some elements of the current
34 workers' compensation system, including but not limited to the

1 administrative adjudication of disputes by qualified
2 arbitrators. The Commission shall consider funding mechanisms,
3 constitutional and other legal issues, economic issues, and any
4 other matters deemed advisable by the Commission.

5 The Commission shall report its findings and specific
6 recommendations to the Governor and the General Assembly no
7 later than March 1, 2005.

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

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

10 (a) The providing of, or payment for, medical, surgical,
11 hospital, or rehabilitation services, facilities, or equipment
12 by or on behalf of any person, or the offer to provide, or pay
13 for, any one or more of the foregoing, shall not be construed
14 as an admission of any liability by such person or persons.
15 Testimony, writings, records, reports or information with
16 respect to the foregoing shall not be admissible in evidence as
17 an admission of any liability in any action of any kind in any
18 court or before any commission, administrative agency, or other
19 tribunal in this State, except at the instance of the person or
20 persons so making any such provision, payment or offer.

21 (b) Any expression of grief, apology, remedial action, or
22 explanation provided by a health care provider, including, but
23 not limited to, a statement that the health care provider is
24 "sorry" for the outcome to a patient, the patient's family, or
25 the patient's legal representative about an inadequate or
26 unanticipated treatment or care outcome that is provided within
27 72 hours of when the provider knew or should have known of the
28 potential cause of such outcome shall not be admissible as
29 evidence, nor discoverable in any action of any kind in any
30 court or before any tribunal, board, agency, or person. The
31 disclosure of any such information, whether proper, or
32 improper, shall not waive or have any effect upon its
33 confidentiality, nondiscoverability, or inadmissibility. As

1 used in this Section, a "health care provider" is any hospital,
2 nursing home or other facility, or employee or agent thereof, a
3 physician, or other licensed health care professional. Nothing
4 in this Section precludes the discovery or admissibility of any
5 other facts regarding the patient's treatment or outcome as
6 otherwise permitted by law.

7 (Source: P.A. 82-280.)

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

9 (Text of Section WITHOUT the changes made by P.A. 89-7,
10 which has been held unconstitutional)

11 Sec. 8-2501. Expert Witness Standards. In any case in which
12 the standard of care applicable to ~~given by~~ a medical
13 professional ~~profession~~ is at issue, the court shall apply the
14 following standards to determine if a witness qualifies as an
15 expert witness and can testify on the issue of the appropriate
16 standard of care.

17 (a) Whether the witness is board certified or board
18 eligible in the same medical specialties as the defendant and
19 is familiar with the same ~~Relationship of the medical~~
20 ~~specialties of the witness to the~~ medical problem or problems,
21 or ~~and~~ the type of treatment administered in the case;

22 (b) Whether the witness has devoted 75% ~~a substantial~~
23 ~~portion~~ of his or her working hours ~~time~~ to the practice of
24 medicine, teaching or University based research in relation to
25 the medical care and type of treatment at issue which gave rise
26 to the medical problem of which the plaintiff complains;

27 (c) whether the witness is licensed by a state or the
28 District of Columbia in the same profession as the defendant;
29 and

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

33 An expert shall provide proof of active practice, teaching,

1 or engaging in university-based research. If retired, an expert
2 must provide proof of attendance and completion of continuing
3 education courses for 3 years previous to giving testimony. An
4 expert who has not actively practiced, taught, or been engaged
5 in university-based research for 10 years may not be qualified
6 as an expert witness.

7 This amendatory Act of the 93rd General Assembly applies to
8 causes of action filed on or after its effective date.

9 (Source: P.A. 84-7.)

10 (735 ILCS 5/8-2502 new)

11 Sec. 8-2502. Annuity evidence. Any party in a medical
12 malpractice action may introduce structured annuity evidence
13 to pay for any future damages that may be awarded to the
14 plaintiff provided that the following conditions are
15 satisfied:

16 (1) the witness providing the evidence has specialized
17 in purchasing structured annuities for at least 5 years and
18 has the ability to obtain price quotes from at least 3
19 companies offering structured annuities; and

20 (2) the structured annuity price quotes are from
21 companies that have at least a "A+" rating from A.M. Best
22 and "AA" rating from another rating agency. The companies
23 making these structured annuity price quotes must agree to
24 keep the price quotes in place until entry of a judgment in
25 the action.

26 Any evidence satisfying the conditions specified in this
27 Section shall not be subject to any evidentiary objections
28 based upon hearsay, speculation, or other grounds asserting the
29 unreliability or inadmissability of such evidence. Any
30 defendant who introduces structured annuity testimony must
31 cooperate with the plaintiff in purchasing a structured annuity
32 to cover any awarded future damages.

1 (735 ILCS 5/8-2503 new)

2 Sec. 8-2503. Guaranteed future medical expenses.

3 (a) If liability for future medical and life care is found
4 in an action under this Act, the trier of fact, in addition to
5 other appropriate findings, shall make a finding as to the
6 future annual medical and other costs of health and life care
7 of the plaintiff. The future medical and life care damages
8 outlined in this Section shall not be subject to further
9 itemization or specification by the trier of fact.

10 (b) In any medical malpractice action for injury or damages
11 against a health care provider under this Act, the circuit
12 court shall enter a judgment ordering that money damages or its
13 equivalent for future medical and life care costs of the
14 plaintiff be paid by guaranteed payments rather than by a
15 lump-sum payment. In entering a judgment ordering a payment of
16 such payments, the court shall make a specific finding as to
17 the dollar amount of guaranteed payments, which shall
18 compensate the plaintiff for such future damages. As used in
19 this Section, "guaranteed payment" means the payment of money
20 or delivery of other forms of security such as structured
21 settlements, annuities, or other insurance products to the
22 plaintiff at regular intervals.

23 The judgment ordering the payment of future damages by
24 guaranteed payments shall specify the recipient of the
25 payments, the dollar amount of the payments, the interval
26 between payments, and the number of payments or the period of
27 time over which payments shall be made. Such payments shall
28 only be subject to modification in the event of the death of
29 the plaintiff.

30 (c) All future damages for medical and life care expenses
31 paid by guaranteed payments as under this Section shall accrue
32 for as long as such expenses are incurred for the injured
33 plaintiff.

34 (d) An assignment of or an agreement to assign any right to

1 receive guaranteed payment for future medical and life care
2 expenses contained in a judgment is enforceable only as to
3 amounts:

4 (1) for the costs of products, services, or
5 accommodations provided or to be provided by the assignee
6 for medical or other health or life care of the plaintiff;
7 or

8 (2) for attorney's fees and other expenses of
9 litigation incurred in securing the judgment.

10 (735 ILCS 5/8-2504 new)

11 Sec. 8-2504. Hospital liability; agency. Any hospital or
12 hospital affiliate that can show any of the following shall not
13 be liable for the medical care provided by a member of the
14 hospital's medical staff under any claim based upon apparent,
15 implied, or ostensible agency as a matter of law:

16 (1) The patient or the patient's representative signed
17 a document acknowledging an awareness that the physicians
18 treating the patient are not the agents of the hospital.

19 (2) The patient's physician referred the patient to the
20 hospital for the care that led to the claim.

21 (3) The patient's treating physician informed the
22 patient that the physician was not an agent of the hospital
23 before rendering treatment.

24 (4) The patient admits that the treating physician's
25 agency status with the hospital was not a factor in
26 selecting the hospital.

27 (5) The patient was unaware of his or her surroundings
28 when brought to the hospital.

29 Section 35. The Good Samaritan Act is amended by changing
30 Sections 25 and 30 as follows:

31 (745 ILCS 49/25)

1 Sec. 25. Physicians; exemption from civil liability for
2 emergency care. Any person licensed under the Medical Practice
3 Act of 1987 or any person licensed to practice the treatment of
4 human ailments in any other state or territory of the United
5 States who, in good faith, provides emergency care without fee
6 to a person, shall not, as a result of his or her acts or
7 omissions, except willful or wanton misconduct on the part of
8 the person, in providing the care, be liable for civil damages.
9 This good faith immunity applies to physicians licensed to
10 practice medicine in all its branches, including retired
11 physicians providing care pursuant to an emergency department
12 on call list without fee to a person.

13 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

14 (745 ILCS 49/30)

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

17 (a) A person licensed under the Medical Practice Act of
18 1987, including but not limited to retired physicians, a person
19 licensed to practice the treatment of human ailments in any
20 other state or territory of the United States, or a health care
21 professional, including but not limited to an advanced practice
22 nurse, physician assistant, nurse, pharmacist, physical
23 therapist, podiatrist, or social worker licensed in this State
24 or any other state or territory of the United States, who, in
25 good faith, provides medical treatment, diagnosis, or advice as
26 a part of the services of an established free medical clinic
27 providing care, including but not limited to home visits,
28 without charge to ~~medically indigent~~ patients which is limited
29 to care that does not require the services of a licensed
30 hospital or ambulatory surgical treatment center and who
31 receives no fee or compensation from that source shall not be
32 liable for civil damages as a result of his or her acts or
33 omissions in providing that medical treatment, except for

1 willful or wanton misconduct.

2 (b) For purposes of this Section, a "free medical clinic"
3 is an organized community based program providing medical care
4 without charge to individuals ~~unable to pay for it~~, at which
5 the care provided does not include ~~the use of general~~
6 ~~anesthesia or require~~ an overnight stay in a health-care
7 facility.

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

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

19 (d-5) A free medical clinic may receive reimbursement from
20 the Illinois Department of Public Aid or may receive partial
21 reimbursement from a patient based upon his or her ability to
22 pay, provided any reimbursements shall be used only to pay
23 overhead expenses of operating the free medical clinic and may
24 not be used, in whole or in part, to provide a fee or other
25 compensation to any person licensed under the Medical Practice
26 Act of 1987 or any other health care professional who is
27 receiving an exemption under this Section. Medical care shall
28 not include an overnight stay in a health care facility.

29 (e) Nothing in this Section prohibits a free medical clinic
30 from accepting voluntary contributions for medical services
31 provided to a patient who has acknowledged his or her ability
32 and willingness to pay a portion of the value of the medical
33 services provided.

34 (f) Any voluntary contribution collected for providing

1 care at a free medical clinic shall be used only to pay
2 overhead expenses of operating the clinic. No portion of any
3 moneys collected shall be used to provide a fee or other
4 compensation to any person licensed under Medical Practice Act
5 of 1987.

6 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

7 Section 900. Severability. If any provision of this Act or
8 its application to any person or circumstance is held invalid,
9 the invalidity of that provision or application does not affect
10 other provisions or applications of this Act that can be given
11 effect without the invalid provision or application.

12 Section 999. Effective date. This Act takes effect upon
13 becoming law, except that the changes made to Section 40 of the
14 Circuit Courts Act take effect on July 1, 2004.".