

1 AN ACT in relation to insurance fraud.

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

4 Section 5. The Medical Practice Act of 1987 is amended
5 by changing Section 22 as follows:

6 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)
7 (Section scheduled to be repealed on January 1, 2007)

8 Sec. 22. Disciplinary action.

9 (A) The Department may revoke, suspend, place on
10 probationary status, or take any other disciplinary action as
11 the Department may deem proper with regard to the license or
12 visiting professor permit of any person issued under this Act
13 to practice medicine, or to treat human ailments without the
14 use of drugs and without operative surgery upon any of the
15 following grounds:

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

18 (a) a facility licensed pursuant to the
19 Ambulatory Surgical Treatment Center Act;

20 (b) an institution licensed under the Hospital
21 Licensing Act; or

22 (c) an ambulatory surgical treatment center or
23 hospitalization or care facility maintained by the
24 State or any agency thereof, where such department
25 or agency has authority under law to establish and
26 enforce standards for the ambulatory surgical
27 treatment centers, hospitalization, or care
28 facilities under its management and control; or

29 (d) ambulatory surgical treatment centers,
30 hospitalization or care facilities maintained by the
31 Federal Government; or

1 (e) ambulatory surgical treatment centers,
2 hospitalization or care facilities maintained by any
3 university or college established under the laws of
4 this State and supported principally by public funds
5 raised by taxation.

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

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

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

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

18 (6) Obtaining any fee by fraud, deceit, or
19 misrepresentation.

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

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

26 (9) Fraud or misrepresentation in applying for, or
27 procuring, a license under this Act or in connection with
28 applying for renewal of a license under this Act.

29 (10) Making a false or misleading statement
30 regarding their skill or the efficacy or value of the
31 medicine, treatment, or remedy prescribed by them at
32 their direction in the treatment of any disease or other
33 condition of the body or mind.

34 (11) Allowing another person or organization to use

1 their license, procured under this Act, to practice.

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

9 (13) Violation of any provision of this Act or of
10 the Medical Practice Act prior to the repeal of that Act,
11 or violation of the rules, or a final administrative
12 action of the Director, after consideration of the
13 recommendation of the Disciplinary Board.

14 (14) Dividing with anyone other than physicians
15 with whom the licensee practices in a partnership,
16 Professional Association, limited liability company, or
17 Medical or Professional Corporation any fee, commission,
18 rebate or other form of compensation for any professional
19 services not actually and personally rendered. Nothing
20 contained in this subsection prohibits persons holding
21 valid and current licenses under this Act from practicing
22 medicine in partnership under a partnership agreement,
23 including a limited liability partnership, in a limited
24 liability company under the Limited Liability Company
25 Act, in a corporation authorized by the Medical
26 Corporation Act, as an association authorized by the
27 Professional Association Act, or in a corporation under
28 the Professional Corporation Act or from pooling,
29 sharing, dividing or apportioning the fees and monies
30 received by them or by the partnership, corporation or
31 association in accordance with the partnership agreement
32 or the policies of the Board of Directors of the
33 corporation or association. Nothing contained in this
34 subsection prohibits 2 or more corporations authorized by

1 the Medical Corporation Act, from forming a partnership
2 or joint venture of such corporations, and providing
3 medical, surgical and scientific research and knowledge
4 by employees of these corporations if such employees are
5 licensed under this Act, or from pooling, sharing,
6 dividing, or apportioning the fees and monies received by
7 the partnership or joint venture in accordance with the
8 partnership or joint venture agreement. Nothing
9 contained in this subsection shall abrogate the right of
10 2 or more persons, holding valid and current licenses
11 under this Act, to each receive adequate compensation for
12 concurrently rendering professional services to a patient
13 and divide a fee; provided, the patient has full
14 knowledge of the division, and, provided, that the
15 division is made in proportion to the services performed
16 and responsibility assumed by each.

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

22 (16) Abandonment of a patient.

23 (17) Prescribing, selling, administering,
24 distributing, giving or self-administering any drug
25 classified as a controlled substance (designated product)
26 or narcotic for other than medically accepted therapeutic
27 purposes.

28 (18) Promotion of the sale of drugs, devices,
29 appliances or goods provided for a patient in such manner
30 as to exploit the patient for financial gain of the
31 physician.

32 (19) Offering, undertaking or agreeing to cure or
33 treat disease by a secret method, procedure, treatment or
34 medicine, or the treating, operating or prescribing for

1 any human condition by a method, means or procedure which
2 the licensee refuses to divulge upon demand of the
3 Department.

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

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

12 (22) Wilful omission to file or record, or wilfully
13 impeding the filing or recording, or inducing another
14 person to omit to file or record, medical reports as
15 required by law, or wilfully failing to report an
16 instance of suspected abuse or neglect as required by
17 law.

18 (23) Being named as a perpetrator in an indicated
19 report by the Department of Children and Family Services
20 under the Abused and Neglected Child Reporting Act, and
21 upon proof by clear and convincing evidence that the
22 licensee has caused a child to be an abused child or
23 neglected child as defined in the Abused and Neglected
24 Child Reporting Act.

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

28 (25) Gross and wilful and continued overcharging
29 for professional services, including filing false
30 statements for collection of fees for which services are
31 not rendered, including, but not limited to, filing such
32 false statements for collection of monies for services
33 not rendered from the medical assistance program of the
34 Department of Public Aid under the Illinois Public Aid

1 Code.

2 (26) A pattern of practice or other behavior which
3 demonstrates incapacity or incompetence to practice under
4 this Act.

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

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

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

15 (30) Wilfully or negligently violating the
16 confidentiality between physician and patient except as
17 required by law.

18 (31) The use of any false, fraudulent, or deceptive
19 statement in any document connected with practice under
20 this Act.

21 (32) Aiding and abetting an individual not licensed
22 under this Act in the practice of a profession licensed
23 under this Act.

24 (33) Violating state or federal laws or regulations
25 relating to controlled substances.

26 (34) Failure to report to the Department any
27 adverse final action taken against them by another
28 licensing jurisdiction (any other state or any territory
29 of the United States or any foreign state or country), by
30 any peer review body, by any health care institution, by
31 any professional society or association related to
32 practice under this Act, by any governmental agency, by
33 any law enforcement agency, or by any court for acts or
34 conduct similar to acts or conduct which would constitute

1 grounds for action as defined in this Section.

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

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

17 (37) Failure to transfer copies of medical records
18 as required by law.

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

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

26 (40) Willful failure to provide notice when notice
27 is required under the Parental Notice of Abortion Act of
28 1995.

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

31 (42) Entering into an excessive number of written
32 collaborative agreements with licensed advanced practice
33 nurses resulting in an inability to adequately
34 collaborate and provide medical direction.

1 (43) Repeated failure to adequately collaborate
2 with or provide medical direction to a licensed advanced
3 practice nurse.

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

28 The entry of an order or judgment by any circuit court
29 establishing that any person holding a license under this Act
30 is a person in need of mental treatment operates as a
31 suspension of that license. That person may resume their
32 practice only upon the entry of a Departmental order based
33 upon a finding by the Medical Disciplinary Board that they
34 have been determined to be recovered from mental illness by

1 the court and upon the Disciplinary Board's recommendation
2 that they be permitted to resume their practice.

3 The Department may refuse to issue or take disciplinary
4 action concerning the license of any person who fails to file
5 a return, or to pay the tax, penalty or interest shown in a
6 filed return, or to pay any final assessment of tax, penalty
7 or interest, as required by any tax Act administered by the
8 Illinois Department of Revenue, until such time as the
9 requirements of any such tax Act are satisfied as determined
10 by the Illinois Department of Revenue.

11 The Department, upon the recommendation of the
12 Disciplinary Board, shall adopt rules which set forth
13 standards to be used in determining:

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

16 (b) what constitutes dishonorable, unethical or
17 unprofessional conduct of a character likely to deceive,
18 defraud, or harm the public;

19 (c) what constitutes immoral conduct in the
20 commission of any act, including, but not limited to,
21 commission of an act of sexual misconduct related to the
22 licensee's practice; and

23 (d) what constitutes gross negligence in the
24 practice of medicine.

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

28 In enforcing this Section, the Medical Disciplinary
29 Board, upon a showing of a possible violation, may compel any
30 individual licensed to practice under this Act, or who has
31 applied for licensure or a permit pursuant to this Act, to
32 submit to a mental or physical examination, or both, as
33 required by and at the expense of the Department. The
34 examining physician or physicians shall be those specifically

1 designated by the Disciplinary Board. The Medical
2 Disciplinary Board or the Department may order the examining
3 physician to present testimony concerning this mental or
4 physical examination of the licensee or applicant. No
5 information shall be excluded by reason of any common law or
6 statutory privilege relating to communication between the
7 licensee or applicant and the examining physician. The
8 individual to be examined may have, at his or her own
9 expense, another physician of his or her choice present
10 during all aspects of the examination. Failure of any
11 individual to submit to mental or physical examination, when
12 directed, shall be grounds for suspension of his or her
13 license until such time as the individual submits to the
14 examination if the Disciplinary Board finds, after notice and
15 hearing, that the refusal to submit to the examination was
16 without reasonable cause. If the Disciplinary Board finds a
17 physician unable to practice because of the reasons set forth
18 in this Section, the Disciplinary Board shall require such
19 physician to submit to care, counseling, or treatment by
20 physicians approved or designated by the Disciplinary Board,
21 as a condition for continued, reinstated, or renewed
22 licensure to practice. Any physician, whose license was
23 granted pursuant to Sections 9, 17, or 19 of this Act, or,
24 continued, reinstated, renewed, disciplined or supervised,
25 subject to such terms, conditions or restrictions who shall
26 fail to comply with such terms, conditions or restrictions,
27 or to complete a required program of care, counseling, or
28 treatment, as determined by the Chief Medical Coordinator or
29 Deputy Medical Coordinators, shall be referred to the
30 Director for a determination as to whether the licensee shall
31 have their license suspended immediately, pending a hearing
32 by the Disciplinary Board. In instances in which the
33 Director immediately suspends a license under this Section, a
34 hearing upon such person's license must be convened by the

1 Disciplinary Board within 15 days after such suspension and
2 completed without appreciable delay. The Disciplinary Board
3 shall have the authority to review the subject physician's
4 record of treatment and counseling regarding the impairment,
5 to the extent permitted by applicable federal statutes and
6 regulations safeguarding the confidentiality of medical
7 records.

8 An individual licensed under this Act, affected under
9 this Section, shall be afforded an opportunity to demonstrate
10 to the Disciplinary Board that they can resume practice in
11 compliance with acceptable and prevailing standards under the
12 provisions of their license.

13 The Department may promulgate rules for the imposition of
14 fines in disciplinary cases, not to exceed \$5,000 for each
15 violation of this Act. Fines may be imposed in conjunction
16 with other forms of disciplinary action, but shall not be the
17 exclusive disposition of any disciplinary action arising out
18 of conduct resulting in death or injury to a patient. Any
19 funds collected from such fines shall be deposited in the
20 Medical Disciplinary Fund.

21 (B) The Department shall revoke the license or visiting
22 permit of any person issued under this Act to practice
23 medicine or to treat human ailments without the use of drugs
24 and without operative surgery, who has been convicted a
25 second time of committing any felony under the Illinois
26 Controlled Substances Act, or who has been convicted a second
27 time of committing a Class 1 felony under Sections 8A-3 and
28 8A-6 of the Illinois Public Aid Code. A person whose license
29 or visiting permit is revoked under this subsection B of
30 Section 22 of this Act shall be prohibited from practicing
31 medicine or treating human ailments without the use of drugs
32 and without operative surgery.

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

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

10 (D) The Department shall temporarily suspend the license
 11 or visiting permit of any person issued under this Act to
 12 practice medicine or to treat human ailments without the use
 13 of drugs and without operative surgery, who has not paid
 14 restitution to a person under Section 46-1 of the Criminal
 15 Code of 1961. A person whose license or visiting permit is
 16 revoked under this subsection D is prohibited from practicing
 17 medicine or treating human ailments until the restitution is
 18 made in full.

19 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96;
 20 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff.
 21 8-13-98.)

22 Section 10. The Criminal Code of 1961 is amended by
 23 changing Section 46-1 and adding Section 46-6 as follows:

24 (720 ILCS 5/46-1)

25 Sec. 46-1. Insurance fraud.

26 (a) A person commits the offense of insurance fraud when
 27 he or she knowingly obtains, attempts to obtain, or causes to
 28 be obtained, by deception, control over the property of an
 29 insurance company or self-insured entity by the making of a
 30 false claim or by causing a false claim to be made on any
 31 policy of insurance issued by an insurance company or by the
 32 making of a false claim to a self-insured entity, intending

1 to deprive an insurance company or self-insured entity
2 permanently of the use and benefit of that property.

3 (b) Sentence.

4 (1) A violation of this Section in which the value
5 of the property obtained or attempted to be obtained is
6 \$300 or less is a Class A misdemeanor.

7 (2) A violation of the Section in which the value
8 of the property obtained or attempted to be obtained is
9 more than \$300 but not more than \$10,000 is a Class 3
10 felony.

11 (3) A violation of this Section in which the value
12 of the property obtained or attempted to be obtained is
13 more than \$10,000 but not more than \$100,000 is a Class 2
14 felony.

15 (4) A violation of this Section in which the value
16 of the property obtained or attempted to be obtained is
17 more than \$100,000 is a Class 1 felony.

18 (5) A person convicted of insurance fraud shall be
19 ordered to pay monetary restitution to the insurer or
20 self-insured entity, or any other person for any
21 financial loss sustained as a result of a violation of
22 this Section, including any court costs and attorney
23 fees. An order of restitution also includes expenses
24 incurred and paid by an insurer in connection with any
25 medical evaluation or treatment services.

26 (c) For the purposes of this Article, where the exact
27 value of property obtained or attempted to be obtained is
28 either not alleged by the accused or not specifically set by
29 the terms of a policy of insurance, the value of the property
30 shall be the fair market replacement value of the property
31 claimed to be lost, the reasonable costs of reimbursing a
32 vendor or other claimant for services to be rendered, or
33 both.

34 (d) Definitions. For the purposes of this Article:

1 (1) "Insurance company" means "company" as defined
2 under Section 2 of the Illinois Insurance Code.

3 (2) "Self-insured entity" means any person,
4 business, partnership, corporation, or organization that
5 sets aside funds to meet his, her, or its losses or to
6 absorb fluctuations in the amount of loss, the losses
7 being charged against the funds set aside or accumulated.

8 (3) "Obtain", "obtains control", "deception",
9 "property" and "permanent deprivation" have the meanings
10 ascribed to those terms in Article 15 of this Code.

11 (4) "Governmental entity" means each officer,
12 board, commission, and agency created by the
13 constitution, whether in the executive, legislative, or
14 judicial branch of State government; each officer,
15 department, board, commission, agency, institution,
16 authority, university, and body politic and corporate of
17 the State; each administrative unit or corporate
18 outgrowth of State government that is created by or
19 pursuant to statute, including units of local government
20 and their officers, school districts, and boards of
21 election commissioners; and each administrative unit or
22 corporate outgrowth of the above and as may be created by
23 executive order of the Governor.

24 (5) "False claim" means any statement made to any
25 insurer, purported insurer, servicing corporation,
26 insurance broker, or insurance agent, or any agent or
27 employee of the entities, and made as part of, or in
28 support of, a claim for payment or other benefit under a
29 policy of insurance, or as part of, or in support of, an
30 application for the issuance of, or the rating of, any
31 insurance policy, when the statement contains any false,
32 incomplete, or misleading information concerning any fact
33 or thing material to the claim, or conceals the
34 occurrence of an event that is material to any person's

1 initial or continued right or entitlement to any
2 insurance benefit or payment, or the amount of any
3 benefit or payment to which the person is entitled.

4 (6) "Statement" means any assertion, oral, written,
5 or otherwise, and includes, but is not limited to, any
6 notice, letter, or memorandum; proof of loss; bill of
7 lading; receipt for payment; invoice, account, or other
8 financial statement; estimate of property damage; bill
9 for services; diagnosis or prognosis; prescription;
10 hospital, medical or dental chart or other record, x-ray,
11 photograph, videotape, or movie film; test result; other
12 evidence of loss, injury, or expense; computer-generated
13 document; and data in any form.

14 (Source: P.A. 90-333, eff. 1-1-98; 91-232, eff. 1-1-00.)

15 (720 ILCS 5/46-6 new)

16 Sec. 46-6. Actions by state licensing agencies.

17 (a) All State licensing agencies, the Office of the
18 Attorney General, and the Department of Insurance shall
19 coordinate enforcement efforts relating to acts of insurance
20 fraud.

21 (b) If a person who is licensed or registered under the
22 laws of the State of Illinois to engage in a business or
23 profession is convicted of or pleads guilty to engaging in an
24 act of insurance fraud, the Office of the Attorney General
25 must forward to each State agency under which the person is
26 licensed or registered a copy of the conviction or plea and
27 all supporting evidence.

28 (c) Any agency that receives information under this
29 Section shall, not later than 6 months after the date in
30 which it receives the information, report the action taken
31 against the convicted person, including but not limited to,
32 the revocation or suspension of the license or any other
33 disciplinary action taken. The report must be submitted to

1 the Director of Insurance and the Attorney General for
2 publication under the Open Meetings Act.