



Adopted in House Comm. on Feb 23, 2005

09400HB0252ham001

LRB094 04119 RAS 41820 a

1 AMENDMENT TO HOUSE BILL 252

2 AMENDMENT NO. _____. Amend House Bill 252 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Medical Practice Act of 1987 is amended by
5 changing Sections 22 and 23 and by adding Section 23.1 as
6 follows:

7 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

8 (Section scheduled to be repealed on January 1, 2007)

9 Sec. 22. Disciplinary action.

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

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

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

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

23 (c) an ambulatory surgical treatment center or
24 hospitalization or care facility maintained by the

1 State or any agency thereof, where such department or
2 agency has authority under law to establish and enforce
3 standards for the ambulatory surgical treatment
4 centers, hospitalization, or care facilities under its
5 management and control; or

6 (d) ambulatory surgical treatment centers,
7 hospitalization or care facilities maintained by the
8 Federal Government; or

9 (e) ambulatory surgical treatment centers,
10 hospitalization or care facilities maintained by any
11 university or college established under the laws of
12 this State and supported principally by public funds
13 raised by taxation.

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

17 (3) The conviction of a felony in this or any other
18 jurisdiction, except as otherwise provided in subsection B
19 of this Section, whether or not related to practice under
20 this Act, or the entry of a guilty or nolo contendere plea
21 to a felony charge.

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

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

26 (6) Obtaining any fee by fraud, deceit, or
27 misrepresentation.

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

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

34 (9) Fraud or misrepresentation in applying for, or

1 procuring, a license under this Act or in connection with
2 applying for renewal of a license under this Act.

3 (10) Making a false or misleading statement regarding
4 their skill or the efficacy or value of the medicine,
5 treatment, or remedy prescribed by them at their direction
6 in the treatment of any disease or other condition of the
7 body or mind.

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

10 (12) Disciplinary action of another state or
11 jurisdiction against a license or other authorization to
12 practice as a medical doctor, doctor of osteopathy, doctor
13 of osteopathic medicine or doctor of chiropractic, a
14 certified copy of the record of the action taken by the
15 other state or jurisdiction being prima facie evidence
16 thereof.

17 (13) Violation of any provision of this Act or of the
18 Medical Practice Act prior to the repeal of that Act, or
19 violation of the rules, or a final administrative action of
20 the Director, after consideration of the recommendation of
21 the Disciplinary Board.

22 (14) Dividing with anyone other than physicians with
23 whom the licensee practices in a partnership, Professional
24 Association, limited liability company, or Medical or
25 Professional Corporation any fee, commission, rebate or
26 other form of compensation for any professional services
27 not actually and personally rendered. Nothing contained in
28 this subsection prohibits persons holding valid and
29 current licenses under this Act from practicing medicine in
30 partnership under a partnership agreement, including a
31 limited liability partnership, in a limited liability
32 company under the Limited Liability Company Act, in a
33 corporation authorized by the Medical Corporation Act, as
34 an association authorized by the Professional Association

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

24 (15) A finding by the Medical Disciplinary Board that
25 the registrant after having his or her license placed on
26 probationary status or subjected to conditions or
27 restrictions violated the terms of the probation or failed
28 to comply with such terms or conditions.

29 (16) Abandonment of a patient.

30 (17) Prescribing, selling, administering,
31 distributing, giving or self-administering any drug
32 classified as a controlled substance (designated product)
33 or narcotic for other than medically accepted therapeutic
34 purposes.

1 (18) Promotion of the sale of drugs, devices,
2 appliances or goods provided for a patient in such manner
3 as to exploit the patient for financial gain of the
4 physician.

5 (19) Offering, undertaking or agreeing to cure or treat
6 disease by a secret method, procedure, treatment or
7 medicine, or the treating, operating or prescribing for any
8 human condition by a method, means or procedure which the
9 licensee refuses to divulge upon demand of the Department.

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

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

18 (22) Wilful omission to file or record, or wilfully
19 impeding the filing or recording, or inducing another
20 person to omit to file or record, medical reports as
21 required by law, or wilfully failing to report an instance
22 of suspected abuse or neglect as required by law.

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

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

33 (25) Gross and wilful and continued overcharging for
34 professional services, including filing false statements

1 for collection of fees for which services are not rendered,
2 including, but not limited to, filing such false statements
3 for collection of monies for services not rendered from the
4 medical assistance program of the Department of Public Aid
5 under the Illinois Public Aid Code.

6 (26) A pattern of practice or other behavior which
7 demonstrates incapacity or incompetence to practice under
8 this Act.

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

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

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

18 (30) Wilfully or negligently violating the
19 confidentiality between physician and patient except as
20 required by law.

21 (31) The use of any false, fraudulent, or deceptive
22 statement in any document connected with practice under
23 this Act.

24 (32) Aiding and abetting an individual not licensed
25 under this Act in the practice of a profession licensed
26 under this Act.

27 (33) Violating state or federal laws or regulations
28 relating to controlled substances.

29 (34) Failure to report to the Department any adverse
30 final action taken against them by another licensing
31 jurisdiction (any other state or any territory of the
32 United States or any foreign state or country), by any peer
33 review body, by any health care institution, by any
34 professional society or association related to practice

1 under this Act, by any governmental agency, by any law
2 enforcement agency, or by any court for acts or conduct
3 similar to acts or conduct which would constitute grounds
4 for action as defined in this Section.

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

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

20 (37) Failure to transfer copies of medical records as
21 required by law.

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

27 (39) Violating the Health Care Worker Self-Referral
28 Act.

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

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

33 (42) Entering into an excessive number of written
34 collaborative agreements with licensed advanced practice

1 nurses resulting in an inability to adequately collaborate
2 and provide medical direction.

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

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

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

1 determined to be recovered from mental illness by the court and
2 upon the Disciplinary Board's recommendation that they be
3 permitted to resume their practice.

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (C) The Medical Disciplinary Board shall recommend to the
33 Department civil penalties and any other appropriate
34 discipline in disciplinary cases when the Board finds that a

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

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

10 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

11 Sec. 23. Reports relating to professional conduct and
12 capacity.

13 (A) Entities required to report.

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

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

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

30 (3) Professional liability insurers. Every insurance
31 company which offers policies of professional liability
32 insurance to persons licensed under this Act, or any other
33 entity which seeks to indemnify the professional liability
34 of a person licensed under this Act, shall report to the

1 Disciplinary Board the settlement of any claim or cause of
2 action, or final judgment rendered in any cause of action,
3 which alleged negligence in the furnishing of medical care
4 by such licensed person when such settlement or final
5 judgment is in favor of the plaintiff.

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

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

27 (B) Mandatory reporting. All reports required by items
28 (34), (35), and (36) of subsection (A) of Section 22 and by
29 Section 23 shall be submitted to the Disciplinary Board in a
30 timely fashion. The reports shall be filed in writing within 60
31 days after a determination that a report is required under this
32 Act. All reports shall contain the following information:

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

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

3 (3) The name or other means of identification of any
4 patient or patients whose treatment is a subject of the
5 report, provided, however, no medical records may be
6 revealed without the written consent of the patient or
7 patients.

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

11 (5) If court action is involved, the identity of the
12 court in which the action is filed, along with the docket
13 number and date of filing of the action.

14 (6) Any further pertinent information which the
15 reporting party deems to be an aid in the evaluation of the
16 report.

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

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

32 Nothing contained in this Section shall act to in any way,
33 waive or modify the confidentiality of medical reports and
34 committee reports to the extent provided by law. Except for

1 information required for physician profiles under Section 23.1
2 of this Act, any information reported or disclosed shall be
3 kept for the confidential use of the Disciplinary Board, the
4 Medical Coordinators, the Disciplinary Board's attorneys, the
5 medical investigative staff, and authorized clerical staff, as
6 provided in this Act, and shall be afforded the same status as
7 is provided information concerning medical studies in Part 21
8 of Article VIII of the Code of Civil Procedure.

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

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

30 Should the Attorney General decline representation, the
31 member shall have the right to employ counsel of his or her
32 choice, whose fees shall be provided by the State, after
33 approval by the Attorney General, unless there is a
34 determination by a court that the member's actions were not in

1 good faith or were wilful and wanton.

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

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

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

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

30 The Disciplinary Board shall review all reports received by
31 it, together with any supporting information and responding
32 statements submitted by persons who are the subject of reports.
33 The review by the Disciplinary Board shall be in a timely
34 manner but in no event, shall the Disciplinary Board's initial

1 review of the material contained in each disciplinary file be
2 less than 61 days nor more than 180 days after the receipt of
3 the initial report by the Disciplinary Board.

4 When the Disciplinary Board makes its initial review of the
5 materials contained within its disciplinary files, the
6 Disciplinary Board shall, in writing, make a determination as
7 to whether there are sufficient facts to warrant further
8 investigation or action. Failure to make such determination
9 within the time provided shall be deemed to be a determination
10 that there are not sufficient facts to warrant further
11 investigation or action.

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

24 (F) Summary reports. The Disciplinary Board shall prepare,
25 on a timely basis, but in no event less than one every other
26 month, a summary report of final actions taken upon
27 disciplinary files maintained by the Disciplinary Board. The
28 summary reports shall be sent by the Disciplinary Board to
29 every health care facility licensed by the Illinois Department
30 of Public Health, every professional association and society of
31 persons licensed under this Act functioning on a statewide
32 basis in this State, the American Medical Association, the
33 American Osteopathic Association, the American Chiropractic
34 Association, all insurers providing professional liability

1 insurance to persons licensed under this Act in the State of
2 Illinois, the Federation of State Medical Licensing Boards, and
3 the Illinois Pharmacists Association.

4 (G) Any violation of this Section shall be a Class A
5 misdemeanor.

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

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

21 (225 ILCS 60/23.1 new)

22 Sec. 23.1. Public disclosure of disciplinary records.

23 (a) The Disciplinary Board shall collect from the reports
24 required in subsection (A) of Section 23 all of the following
25 information to create individual profiles on licensees, in a
26 format created by the Disciplinary Board that shall be
27 available for dissemination to the public:

28 (1) A description of any criminal convictions for
29 felonies within the most recent 10 years. For the purposes
30 of this item, a person shall be deemed to be convicted of a
31 crime if he or she pled guilty or if he or she was found or
32 adjudged guilty by a court of competent jurisdiction.

33 (2) A description of any final disciplinary actions

1 taken by the Disciplinary Board within the most recent 10
2 years. All final disciplinary actions shall remain a matter
3 of public record.

4 (3) A description of any final disciplinary actions
5 taken by licensing boards in other states within the most
6 recent 10 years, but in no event earlier than the year
7 1995. This information shall come from the Federation of
8 State Medical Boards or other national reporting agencies.
9 Information that is confidential in the reporting state
10 shall not be included in the profile.

11 (4) A description of revocation or involuntary
12 restriction of hospital privileges as required in
13 subsection (A)(1) of Section 23. Only cases that have
14 occurred within the most recent 10 years shall be disclosed
15 by the Disciplinary Board to the public.

16 (5) All medical malpractice court judgments, and
17 medical malpractice arbitration awards in which a payment
18 is made to a complaining party, within the most recent 10
19 years, but in no event earlier than the year 1995.
20 Dispositions of paid claims shall be reported in a minimum
21 of 3 graduated categories indicating the level of
22 significance of the award. Information concerning paid
23 medical malpractice claims shall be put in context by
24 comparing an individual licensee's medical malpractice
25 judgment and arbitration awards to the experience of other
26 licensees within the same specialty. Nothing in this
27 Section shall be construed to limit or prevent the
28 Disciplinary Board from providing further explanatory
29 information regarding the significance of categories in
30 which payments are reported.

31 Pending malpractice claims shall not be disclosed by
32 the Disciplinary Board to the public. Nothing in this
33 Section shall be construed to prevent the Disciplinary
34 Board from investigating and disciplining a licensee on the

1 basis of medical malpractice claims that are pending.

2 (6) Names of medical schools and dates of graduation.

3 The Disciplinary Board shall provide each licensee with a
4 copy of his or her profile prior to release to the public. A
5 licensee shall be provided a reasonable time to correct factual
6 inaccuracies that appear in his or her profile.

7 (a-5) A licensee may elect to include in his or her profile
8 the following information that shall be available for
9 dissemination to the public:

10 (1) specialty board certification;

11 (2) number of years in practice;

12 (3) names of the hospitals where the licensee has
13 privileges;

14 (4) appointments to medical school faculties and
15 indication as to whether a licensee has had a
16 responsibility for graduate medical education within the
17 most recent 10 years;

18 (5) publications in peer-reviewed medical literature
19 within the most recent 10 years;

20 (6) professional or community service activities and
21 awards;

22 (7) the location of the licensee's primary practice
23 setting;

24 (8) the identification of any translating services
25 that may be available at the licensee's primary practice
26 location; and

27 (9) an indication of whether the licensee participates
28 in the Medicaid program.

29 (b) The Department shall maintain a toll free telephone
30 line for responding to requests for information about the
31 disciplinary records of physicians in Illinois.

32 (c) When collecting information or compiling reports
33 intended to compare physicians, the Disciplinary Board shall
34 require that:

1 (1) physicians shall be meaningfully involved in the
2 development of all aspects of the profile methodology,
3 including collection methods, formatting, and methods and
4 means for release and dissemination;

5 (2) the entire methodology for collecting and
6 analyzing the data shall be disclosed to all relevant
7 physician organizations and to all physicians under
8 review;

9 (3) data collection and analytical methodologies shall
10 be used that meet accepted standards of validity and
11 reliability;

12 (4) the limitations of the data sources and analytic
13 methodologies used to develop physician profiles shall be
14 clearly identified and acknowledged, including but not
15 limited to the appropriate and inappropriate uses of the
16 data;

17 (5) provider profiles and other information that have
18 been compiled regarding physician performance shall be
19 shared with physicians under review prior to dissemination
20 provided that an opportunity for corrections and additions
21 of helpful explanatory comments shall be afforded before
22 publication, and provided further that the profiles shall
23 include only data that reflect care under the control of
24 the physician for whom the profile is prepared;

25 (6) comparisons among physician profiles shall adjust
26 for patient case mix and other relevant risk factors and
27 control for provider peer groups, when appropriate;

28 (7) effective safeguards to protect against the
29 unauthorized use or disclosure of physician profiles shall
30 be developed and implemented;

31 (8) effective safeguards to protect against the
32 dissemination of inconsistent, incomplete, invalid,
33 inaccurate, or subjective profile data shall be developed
34 and implemented;

1 (9) the quality and accuracy of physician profiles,
2 data sources, and methodologies shall be evaluated
3 regularly; and

4 (10) only the most basic identifying information from
5 mandatory reports may be used, and details about a patient
6 or personal details about a physician not already a matter
7 of public record through another source must not be
8 released.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.".