

1 AN ACT concerning health care.

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 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8 (Section scheduled to be repealed on January 1, 2007)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  
25 State or any agency thereof, where such department or  
26 agency has authority under law to establish and enforce  
27 standards for the ambulatory surgical treatment  
28 centers, hospitalization, or care facilities under its  
29 management and control; or

30 (d) ambulatory surgical treatment centers,  
31 hospitalization or care facilities maintained by the  
32 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 wilful  
7 and wanton manner on a woman who was not pregnant at the  
8 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 B  
11 of this Section, whether or not related to practice under  
12 this Act, or the entry of a guilty or nolo contendere plea  
13 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 defined  
21 in law as controlled substances, of alcohol, or of any  
22 other substances which results in the inability to practice  
23 with reasonable judgment, skill or safety.

24 (8) Practicing under a false or, except as provided by  
25 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 regarding  
30 their skill or the efficacy or value of the medicine,  
31 treatment, or remedy prescribed by them at their direction  
32 in the treatment of any disease or other condition of the  
33 body or mind.

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

36 (12) Disciplinary action of another state or

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

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

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

1 or from pooling, sharing, dividing, or apportioning the  
2 fees and monies received by the partnership or joint  
3 venture in accordance with the partnership or joint venture  
4 agreement. Nothing contained in this subsection shall  
5 abrogate the right of 2 or more persons, holding valid and  
6 current licenses under this Act, to each receive adequate  
7 compensation for concurrently rendering professional  
8 services to a patient and divide a fee; provided, the  
9 patient has full knowledge of the division, and, provided,  
10 that the division is made in proportion to the services  
11 performed and responsibility assumed by each.

12 (15) A finding by the Medical Disciplinary Board that  
13 the registrant after having his or her license placed on  
14 probationary status or subjected to conditions or  
15 restrictions violated the terms of the probation or failed  
16 to comply with such terms or conditions.

17 (16) Abandonment of a patient.

18 (17) Prescribing, selling, administering,  
19 distributing, giving or self-administering any drug  
20 classified as a controlled substance (designated product)  
21 or narcotic for other than medically accepted therapeutic  
22 purposes.

23 (18) Promotion of the sale of drugs, devices,  
24 appliances or goods provided for a patient in such manner  
25 as to exploit the patient for financial gain of the  
26 physician.

27 (19) Offering, undertaking or agreeing to cure or treat  
28 disease by a secret method, procedure, treatment or  
29 medicine, or the treating, operating or prescribing for any  
30 human condition by a method, means or procedure which the  
31 licensee refuses to divulge upon demand of the Department.

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

35 (21) Wilfully making or filing false records or reports  
36 in his or her practice as a physician, including, but not

1 limited to, false records to support claims against the  
2 medical assistance program of the Department of Public Aid  
3 under the Illinois Public Aid Code.

4 (22) Wilful omission to file or record, or wilfully  
5 impeding the filing or recording, or inducing another  
6 person to omit to file or record, medical reports as  
7 required by law, or wilfully failing to report an instance  
8 of suspected abuse or neglect as required by law.

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

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

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

26 (26) A pattern of practice or other behavior which  
27 demonstrates incapacity or incompetence to practice under  
28 this Act.

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

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

36 (29) Cheating on or attempt to subvert the licensing

1 examinations administered under this Act.

2 (30) Wilfully or negligently violating the  
3 confidentiality between physician and patient except as  
4 required by law.

5 (31) The use of any false, fraudulent, or deceptive  
6 statement in any document connected with practice under  
7 this Act.

8 (32) Aiding and abetting an individual not licensed  
9 under this Act in the practice of a profession licensed  
10 under this Act.

11 (33) Violating state or federal laws or regulations  
12 relating to controlled substances.

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

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

33 (36) Failure to report to the Department any adverse  
34 judgment, settlement, or award arising from a liability  
35 claim related to acts or conduct similar to acts or conduct  
36 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 5 ~~3~~ years next  
26 after 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 8 ~~5~~ years  
30 after the date of the incident or act alleged to have violated  
31 this Section. In the event of the settlement of any claim or  
32 cause of action in favor of the claimant or the reduction to  
33 final judgment of any civil action in favor of the plaintiff,  
34 such claim, cause of action or civil action being grounded on  
35 the allegation that a person licensed under this Act was  
36 negligent in providing care, the Department shall have an

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

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

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

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

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

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

34 (c) what constitutes immoral conduct in the commission  
35 of any act, including, but not limited to, commission of an  
36 act of sexual misconduct related to the licensee's



1 practice; and

2 (d) what constitutes gross negligence in the practice  
3 of medicine.

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

7 In enforcing this Section, the Medical Disciplinary Board,  
8 upon a showing of a possible violation, may compel any  
9 individual licensed to practice under this Act, or who has  
10 applied for licensure or a permit pursuant to this Act, to  
11 submit to a mental or physical examination, or both, as  
12 required by and at the expense of the Department. The examining  
13 physician or physicians shall be those specifically designated  
14 by the Disciplinary Board. The Medical Disciplinary Board or  
15 the Department may order the examining physician to present  
16 testimony concerning this mental or physical examination of the  
17 licensee or applicant. No information shall be excluded by  
18 reason of any common law or statutory privilege relating to  
19 communication between the licensee or applicant and the  
20 examining physician. The individual to be examined may have, at  
21 his or her own expense, another physician of his or her choice  
22 present during all aspects of the examination. Failure of any  
23 individual to submit to mental or physical examination, when  
24 directed, shall be grounds for suspension of his or her license  
25 until such time as the individual submits to the examination if  
26 the Disciplinary Board finds, after notice and hearing, that  
27 the refusal to submit to the examination was without reasonable  
28 cause. If the Disciplinary Board finds a physician unable to  
29 practice because of the reasons set forth in this Section, the  
30 Disciplinary Board shall require such physician to submit to  
31 care, counseling, or treatment by physicians approved or  
32 designated by the Disciplinary Board, as a condition for  
33 continued, reinstated, or renewed licensure to practice. Any  
34 physician, whose license was granted pursuant to Sections 9,  
35 17, or 19 of this Act, or, continued, reinstated, renewed,  
36 disciplined or supervised, subject to such terms, conditions or

1 restrictions who shall fail to comply with such terms,  
2 conditions or restrictions, or to complete a required program  
3 of care, counseling, or treatment, as determined by the Chief  
4 Medical Coordinator or Deputy Medical Coordinators, shall be  
5 referred to the Director for a determination as to whether the  
6 licensee shall have their license suspended immediately,  
7 pending a hearing by the Disciplinary Board. In instances in  
8 which the Director immediately suspends a license under this  
9 Section, a hearing upon such person's license must be convened  
10 by the Disciplinary Board within 15 days after such suspension  
11 and completed without appreciable delay. The Disciplinary  
12 Board shall have the authority to review the subject  
13 physician's record of treatment and counseling regarding the  
14 impairment, to the extent permitted by applicable federal  
15 statutes and regulations safeguarding the confidentiality of  
16 medical records.

17 An individual licensed under this Act, affected under this  
18 Section, shall be afforded an opportunity to demonstrate to the  
19 Disciplinary Board that they can resume practice in compliance  
20 with acceptable and prevailing standards under the provisions  
21 of their license.

22 The Department may promulgate rules for the imposition of  
23 fines in disciplinary cases, not to exceed \$5,000 for each  
24 violation of this Act. Fines may be imposed in conjunction with  
25 other forms of disciplinary action, but shall not be the  
26 exclusive disposition of any disciplinary action arising out of  
27 conduct resulting in death or injury to a patient. Any funds  
28 collected from such fines shall be deposited in the Medical  
29 Disciplinary Fund.

30 (B) The Department shall revoke the license or visiting  
31 permit of any person issued under this Act to practice medicine  
32 or to treat human ailments without the use of drugs and without  
33 operative surgery, who has been convicted a second time of  
34 committing any felony under the Illinois Controlled Substances  
35 Act, or who has been convicted a second time of committing a  
36 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois

1 Public Aid Code. A person whose license or visiting permit is  
2 revoked under this subsection B of Section 22 of this Act shall  
3 be prohibited from practicing medicine or treating human  
4 ailments without the use of drugs and without operative  
5 surgery.

6 (C) The Medical Disciplinary Board shall recommend to the  
7 Department civil penalties and any other appropriate  
8 discipline in disciplinary cases when the Board finds that a  
9 physician willfully performed an abortion with actual  
10 knowledge that the person upon whom the abortion has been  
11 performed is a minor or an incompetent person without notice as  
12 required under the Parental Notice of Abortion Act of 1995.  
13 Upon the Board's recommendation, the Department shall impose,  
14 for the first violation, a civil penalty of \$1,000 and for a  
15 second or subsequent violation, a civil penalty of \$5,000.

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

18 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

19 Sec. 23. Reports relating to professional conduct and  
20 capacity.

21 (A) Entities required to report.

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

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

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

36 (3) Professional liability insurers. Every insurance

1 company which offers policies of professional liability  
2 insurance to persons licensed under this Act, or any other  
3 entity which seeks to indemnify the professional liability  
4 of a person licensed under this Act, shall report to the  
5 Disciplinary Board the settlement of any claim or cause of  
6 action, or final judgment rendered in any cause of action,  
7 which alleged negligence in the furnishing of medical care  
8 by such licensed person when such settlement or final  
9 judgment is in favor of the plaintiff.

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

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

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

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

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

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

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

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

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

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

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

34          Nothing contained in this Section shall act to in any way,  
35 waive or modify the confidentiality of medical reports and  
36 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  
35 good faith or were wilful and wanton.

36 The member must notify the Attorney General within 7 days

1 of receipt of notice of the initiation of any action involving  
2 services of the Disciplinary Board. Failure to so notify the  
3 Attorney General shall constitute an absolute waiver of the  
4 right to a defense and indemnification.

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

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

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

28 The Disciplinary Board shall review all reports received by  
29 it, together with any supporting information and responding  
30 statements submitted by persons who are the subject of reports.  
31 The review by the Disciplinary Board shall be in a timely  
32 manner but in no event, shall the Disciplinary Board's initial  
33 review of the material contained in each disciplinary file be  
34 less than 61 days nor more than 180 days after the receipt of  
35 the initial report by the Disciplinary Board.

36 When the Disciplinary Board makes its initial review of the



1 materials contained within its disciplinary files, the  
2 Disciplinary Board shall, in writing, make a determination as  
3 to whether there are sufficient facts to warrant further  
4 investigation or action. Failure to make such determination  
5 within the time provided shall be deemed to be a determination  
6 that there are not sufficient facts to warrant further  
7 investigation or action.

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

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

34 (G) Any violation of this Section shall be a Class A  
35 misdemeanor.

36 (H) If any such person violates the provisions of this

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

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

15 (225 ILCS 60/23.1 new)

16 Sec. 23.1. Public disclosure of disciplinary records.

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

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

27 (2) A description of any final disciplinary actions  
28 taken by the Disciplinary Board within the most recent 10  
29 years. All final disciplinary actions shall remain a matter  
30 of public record.

31 (3) A description of any final disciplinary actions  
32 taken by licensing boards in other states within the most  
33 recent 10 years, but in no event earlier than the year  
34 1995. This information shall come from the Federation of  
35 State Medical Boards or other national reporting agencies.

1 Information that is confidential in the reporting state  
2 shall not be included in the profile.

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

8 (5) Names of medical schools and dates of graduation.

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

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

16 (1) specialty board certification;

17 (2) number of years in practice;

18 (3) names of the hospitals where the licensee has  
19 privileges;

20 (4) appointments to medical school faculties and  
21 indication as to whether a licensee has had a  
22 responsibility for graduate medical education within the  
23 most recent 10 years;

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

26 (6) professional or community service activities and  
27 awards;

28 (7) the location of the licensee's primary practice  
29 setting;

30 (8) the identification of any translating services  
31 that may be available at the licensee's primary practice  
32 location; and

33 (9) an indication of whether the licensee participates  
34 in the Medicaid program.

35 (b) The Department shall maintain a toll free telephone  
36 line for responding to requests for information about the

1 disciplinary records of physicians in Illinois.

2 (c) When collecting information or compiling reports  
3 intended to compare physicians, the Disciplinary Board shall  
4 require that:

5 (1) physicians shall be meaningfully involved in the  
6 development of all aspects of the profile methodology,  
7 including collection methods, formatting, and methods and  
8 means for release and dissemination;

9 (2) the entire methodology for collecting and  
10 analyzing the data shall be disclosed to all relevant  
11 physician organizations and to all physicians under  
12 review;

13 (3) data collection and analytical methodologies shall  
14 be used that meet accepted standards of validity and  
15 reliability;

16 (4) the limitations of the data sources and analytic  
17 methodologies used to develop physician profiles shall be  
18 clearly identified and acknowledged, including but not  
19 limited to the appropriate and inappropriate uses of the  
20 data;

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

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

32 (7) effective safeguards to protect against the  
33 unauthorized use or disclosure of physician profiles shall  
34 be developed and implemented;

35 (8) effective safeguards to protect against the  
36 dissemination of inconsistent, incomplete, invalid,

1 inaccurate, or subjective profile data shall be developed  
2 and implemented;

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

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

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.