



Sen. John J. Cullerton

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1 AMENDMENT TO SENATE BILL 276

2 AMENDMENT NO. _____. Amend Senate Bill 276 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 1. FINDINGS

5 Section 101. Findings. The General Assembly finds as
6 follows:

7 (1) The increasing cost of medical malpractice insurance
8 results in increased financial burdens on physicians and
9 hospitals.

10 (2) The increasing cost of medical malpractice insurance in
11 Illinois is believed to have contributed to the reduction of
12 the availability of medical care in portions of the State and
13 is believed to have discouraged some medical students from
14 choosing Illinois as the place they will receive their medical
15 education and practice medicine.

16 (3) The public would benefit from making the services of
17 hospitals and physicians more available.

18 (4) In order to preserve the public health, safety, and
19 welfare of the people of Illinois, the current medical
20 malpractice situation requires reforms that enhance the
21 State's oversight of physicians and ability to discipline
22 physicians, that increase the State's oversight of medical
23 liability insurance carriers, that reduce the number of
24 nonmeritorious healing art malpractice actions, that encourage

1 physicians to provide voluntary services at free medical
2 clinics, and that encourage physicians and hospitals to
3 continue providing health care services in Illinois.

4 ARTICLE 2. RISK RETENTION ARRANGEMENTS

5 Section 205. The Open Meetings Act is amended by changing
6 Section 2 as follows:

7 (5 ILCS 120/2) (from Ch. 102, par. 42)

8 Sec. 2. Open meetings.

9 (a) Openness required. All meetings of public bodies shall
10 be open to the public unless excepted in subsection (c) and
11 closed in accordance with Section 2a.

12 (b) Construction of exceptions. The exceptions contained
13 in subsection (c) are in derogation of the requirement that
14 public bodies meet in the open, and therefore, the exceptions
15 are to be strictly construed, extending only to subjects
16 clearly within their scope. The exceptions authorize but do not
17 require the holding of a closed meeting to discuss a subject
18 included within an enumerated exception.

19 (c) Exceptions. A public body may hold closed meetings to
20 consider the following subjects:

21 (1) The appointment, employment, compensation,
22 discipline, performance, or dismissal of specific
23 employees of the public body or legal counsel for the
24 public body, including hearing testimony on a complaint
25 lodged against an employee of the public body or against
26 legal counsel for the public body to determine its
27 validity.

28 (2) Collective negotiating matters between the public
29 body and its employees or their representatives, or
30 deliberations concerning salary schedules for one or more
31 classes of employees.

1 (3) The selection of a person to fill a public office,
2 as defined in this Act, including a vacancy in a public
3 office, when the public body is given power to appoint
4 under law or ordinance, or the discipline, performance or
5 removal of the occupant of a public office, when the public
6 body is given power to remove the occupant under law or
7 ordinance.

8 (4) Evidence or testimony presented in open hearing, or
9 in closed hearing where specifically authorized by law, to
10 a quasi-adjudicative body, as defined in this Act, provided
11 that the body prepares and makes available for public
12 inspection a written decision setting forth its
13 determinative reasoning.

14 (5) The purchase or lease of real property for the use
15 of the public body, including meetings held for the purpose
16 of discussing whether a particular parcel should be
17 acquired.

18 (6) The setting of a price for sale or lease of
19 property owned by the public body.

20 (7) The sale or purchase of securities, investments, or
21 investment contracts.

22 (8) Security procedures and the use of personnel and
23 equipment to respond to an actual, a threatened, or a
24 reasonably potential danger to the safety of employees,
25 students, staff, the public, or public property.

26 (9) Student disciplinary cases.

27 (10) The placement of individual students in special
28 education programs and other matters relating to
29 individual students.

30 (11) Litigation, when an action against, affecting or
31 on behalf of the particular public body has been filed and
32 is pending before a court or administrative tribunal, or
33 when the public body finds that an action is probable or
34 imminent, in which case the basis for the finding shall be

1 recorded and entered into the minutes of the closed
2 meeting.

3 (12) The establishment of reserves or settlement of
4 claims as provided in the Local Governmental and
5 Governmental Employees Tort Immunity Act, if otherwise the
6 disposition of a claim or potential claim might be
7 prejudiced, or the review or discussion of claims, loss or
8 risk management information, records, data, advice or
9 communications from or with respect to any insurer of the
10 public body or any intergovernmental risk management
11 association or self insurance pool of which the public body
12 is a member.

13 (13) Conciliation of complaints of discrimination in
14 the sale or rental of housing, when closed meetings are
15 authorized by the law or ordinance prescribing fair housing
16 practices and creating a commission or administrative
17 agency for their enforcement.

18 (14) Informant sources, the hiring or assignment of
19 undercover personnel or equipment, or ongoing, prior or
20 future criminal investigations, when discussed by a public
21 body with criminal investigatory responsibilities.

22 (15) Professional ethics or performance when
23 considered by an advisory body appointed to advise a
24 licensing or regulatory agency on matters germane to the
25 advisory body's field of competence.

26 (16) Self evaluation, practices and procedures or
27 professional ethics, when meeting with a representative of
28 a statewide association of which the public body is a
29 member.

30 (17) The recruitment, credentialing, discipline or
31 formal peer review of physicians or other health care
32 professionals for a hospital, or other institution
33 providing medical care, that is operated by the public
34 body.

1 (18) Deliberations for decisions of the Prisoner
2 Review Board.

3 (19) Review or discussion of applications received
4 under the Experimental Organ Transplantation Procedures
5 Act.

6 (20) The classification and discussion of matters
7 classified as confidential or continued confidential by
8 the State Employees Suggestion Award Board.

9 (21) Discussion of minutes of meetings lawfully closed
10 under this Act, whether for purposes of approval by the
11 body of the minutes or semi-annual review of the minutes as
12 mandated by Section 2.06.

13 (22) Deliberations for decisions of the State
14 Emergency Medical Services Disciplinary Review Board.

15 (23) The operation by a municipality of a municipal
16 utility or the operation of a municipal power agency or
17 municipal natural gas agency when the discussion involves
18 (i) contracts relating to the purchase, sale, or delivery
19 of electricity or natural gas or (ii) the results or
20 conclusions of load forecast studies.

21 (24) Meetings of a residential health care facility
22 resident sexual assault and death review team or the
23 Residential Health Care Facility Resident Sexual Assault
24 and Death Review Teams Executive Council under the
25 Residential Health Care Facility Resident Sexual Assault
26 and Death Review Team Act.

27 (25) The establishment of reserves administration,
28 adjudication, or settlement of claims as provided in
29 Article XLV of the Illinois Insurance Code if otherwise the
30 disposition of a claim or potential claim might be
31 prejudiced, or the review or discussion of claims, loss or
32 risk management information, records, data, advice or
33 communications from or with respect to any self-insurance
34 trust administration or adjudication of any claim, or

1 insurer created by the public body.

2 (d) Definitions. For purposes of this Section:

3 "Employee" means a person employed by a public body whose
4 relationship with the public body constitutes an
5 employer-employee relationship under the usual common law
6 rules, and who is not an independent contractor.

7 "Public office" means a position created by or under the
8 Constitution or laws of this State, the occupant of which is
9 charged with the exercise of some portion of the sovereign
10 power of this State. The term "public office" shall include
11 members of the public body, but it shall not include
12 organizational positions filled by members thereof, whether
13 established by law or by a public body itself, that exist to
14 assist the body in the conduct of its business.

15 "Quasi-adjudicative body" means an administrative body
16 charged by law or ordinance with the responsibility to conduct
17 hearings, receive evidence or testimony and make
18 determinations based thereon, but does not include local
19 electoral boards when such bodies are considering petition
20 challenges.

21 (e) Final action. No final action may be taken at a closed
22 meeting. Final action shall be preceded by a public recital of
23 the nature of the matter being considered and other information
24 that will inform the public of the business being conducted.

25 (Source: P.A. 93-57, eff. 7-1-03; 93-79, eff. 7-2-03; 93-422,
26 eff. 8-5-03; 93-577, eff. 8-21-03; revised 9-8-03.)

27 Section 210. The Counties Code is amended by changing
28 Section 5-1005 and by adding Division 6-34 as follows:

29 (55 ILCS 5/5-1005) (from Ch. 34, par. 5-1005)

30 Sec. 5-1005. Powers. Each county shall have power:

31 1. To purchase and hold the real and personal estate
32 necessary for the uses of the county, and to purchase and hold,

1 for the benefit of the county, real estate sold by virtue of
2 judicial proceedings in which the county is plaintiff.

3 2. To sell and convey or lease any real or personal estate
4 owned by the county.

5 3. To make all contracts and do all other acts in relation
6 to the property and concerns of the county necessary to the
7 exercise of its corporate powers.

8 4. To take all necessary measures and institute proceedings
9 to enforce all laws for the prevention of cruelty to animals.

10 5. To purchase and hold or lease real estate upon which may
11 be erected and maintained buildings to be utilized for purposes
12 of agricultural experiments and to purchase, hold and use
13 personal property for the care and maintenance of such real
14 estate in connection with such experimental purposes.

15 6. To cause to be erected, or otherwise provided, suitable
16 buildings for, and maintain a county hospital and necessary
17 branch hospitals and/or a county sheltered care home or county
18 nursing home for the care of such sick, chronically ill or
19 infirm persons as may by law be proper charges upon the county,
20 or upon other governmental units, and to provide for the
21 management of the same. The county board may establish rates to
22 be paid by persons seeking care and treatment in such hospital
23 or home in accordance with their financial ability to meet such
24 charges, either personally or through a hospital plan or
25 hospital insurance, and the rates to be paid by governmental
26 units, including the State, for the care of sick, chronically
27 ill or infirm persons admitted therein upon the request of such
28 governmental units. Any hospital maintained by a county under
29 this Section is authorized to provide any service and enter
30 into any contract or other arrangement not prohibited for a
31 hospital that is licensed under the Hospital Licensing Act,
32 incorporated under the General Not-For-Profit Corporation Act,
33 and exempt from taxation under paragraph (3) of subsection (c)
34 of Section 501 of the Internal Revenue Code.

1 7. To contribute such sums of money toward erecting,
2 building, maintaining, and supporting any non-sectarian public
3 hospital located within its limits as the county board of the
4 county shall deem proper.

5 8. To purchase and hold real estate for the preservation of
6 forests, prairies and other natural areas and to maintain and
7 regulate the use thereof.

8 9. To purchase and hold real estate for the purpose of
9 preserving historical spots in the county, to restore, maintain
10 and regulate the use thereof and to donate any historical spot
11 to the State.

12 10. To appropriate funds from the county treasury to be
13 used in any manner to be determined by the board for the
14 suppression, eradication and control of tuberculosis among
15 domestic cattle in such county.

16 11. To take all necessary measures to prevent forest fires
17 and encourage the maintenance and planting of trees and the
18 preservation of forests.

19 12. To authorize the closing on Saturday mornings of all
20 offices of all county officers at the county seat of each
21 county, and to otherwise regulate and fix the days and the
22 hours of opening and closing of such offices, except when the
23 days and the hours of opening and closing of the office of any
24 county officer are otherwise fixed by law; but the power herein
25 conferred shall not apply to the office of State's Attorney and
26 the offices of judges and clerks of courts and, in counties of
27 500,000 or more population, the offices of county clerk.

28 13. To provide for the conservation, preservation and
29 propagation of insectivorous birds through the expenditure of
30 funds provided for such purpose.

31 14. To appropriate funds from the county treasury and
32 expend the same for care and treatment of tuberculosis
33 residents.

34 15. In counties having less than 1,000,000 inhabitants, to

1 take all necessary or proper steps for the extermination of
2 mosquitoes, flies or other insects within the county.

3 16. To install an adequate system of accounts and financial
4 records in the offices and divisions of the county, suitable to
5 the needs of the office and in accordance with generally
6 accepted principles of accounting for governmental bodies,
7 which system may include such reports as the county board may
8 determine.

9 17. To purchase and hold real estate for the construction
10 and maintenance of motor vehicle parking facilities for persons
11 using county buildings, but the purchase and use of such real
12 estate shall not be for revenue producing purposes.

13 18. To acquire and hold title to real property located
14 within the county, or partly within and partly outside the
15 county by dedication, purchase, gift, legacy or lease, for park
16 and recreational purposes and to charge reasonable fees for the
17 use of or admission to any such park or recreational area and
18 to provide police protection for such park or recreational
19 area. Personnel employed to provide such police protection
20 shall be conservators of the peace within such park or
21 recreational area and shall have power to make arrests on view
22 of the offense or upon warrants for violation of any of the
23 ordinances governing such park or recreational area or for any
24 breach of the peace in the same manner as the police in
25 municipalities organized and existing under the general laws of
26 the State. All such real property outside the county shall be
27 contiguous to the county and within the boundaries of the State
28 of Illinois.

29 19. To appropriate funds from the county treasury to be
30 used to provide supportive social services designed to prevent
31 the unnecessary institutionalization of elderly residents, or,
32 for operation of, and equipment for, senior citizen centers
33 providing social services to elderly residents.

34 20. To appropriate funds from the county treasury and loan

1 such funds to a county water commission created under the
2 "Water Commission Act", approved June 30, 1984, as now or
3 hereafter amended, in such amounts and upon such terms as the
4 county may determine or the county and the commission may
5 agree. The county shall not under any circumstances be
6 obligated to make such loans. The county shall not be required
7 to charge interest on any such loans.

8 21. To establish an independent entity to administer a
9 medical care risk retention trust program, to contribute such
10 sums of money to the risk retention trust program as the county
11 board of the county shall deem proper to operate the medical
12 care risk retention trust program, to establish uniform
13 eligibility requirements for participation in the risk
14 retention trust program, to appoint an administrator of the
15 risk retention trust program, to charge premiums, to establish
16 a billing procedure to collect premiums, and to ensure timely
17 administration and adjudication of claims under the program. A
18 single medical care risk retention trust program may be
19 established jointly by more than one county, in accordance with
20 an agreement between the participating counties, if at least
21 one of the participating counties has a population of 200,000
22 or more according to the most recent federal decennial census.

23 All contracts for the purchase of coal under this Section
24 shall be subject to the provisions of "An Act concerning the
25 use of Illinois mined coal in certain plants and institutions",
26 filed July 13, 1937, as amended.

27 (Source: P.A. 86-962; 86-1028.)

28 (55 ILCS 5/Div. 6-34 heading new)

29 Division 6-34. Funding for health care financing programs

30 (55 ILCS 5/6-34001 new)

31 Sec. 6-34001. Authorization. The county board of any county
32 with a population of 200,000 or more according to the most

1 recent federal decennial census (and a county with a population
2 of less than 200,000 according to the most recent federal
3 decennial census if that county is participating in a single
4 trust program with one or more other counties in accordance
5 with the requirements of paragraph (21) of Section 5-1005 of
6 this Code) may, upon finding such action necessary for
7 protection of the public health, safety, and welfare, incur an
8 indebtedness by the establishment of lines or letters of credit
9 or issue general obligation or revenue bonds for the purpose of
10 ensuring the availability of and improving hospital, medical,
11 and health services as authorized under paragraph (21) of
12 Section 5-1005 of this Code.

13 (55 ILCS 5/6-34002 new)

14 Sec. 6-34002. Bonds. The bonds authorized in Section
15 6-34001 shall be issued in such denominations, be for such term
16 or terms, and bear interest at such rate as may be specified in
17 the resolution of the county board authorizing the issuance of
18 those bonds.

19 Section 215. The Illinois Insurance Code is amended by
20 adding Article XLV as follows:

21 (215 ILCS 5/Art. XLV heading new)

22 Article XLV. COUNTY RISK RETENTION ARRANGEMENTS
23 FOR THE PROVISION OF MEDICAL MALPRACTICE INSURANCE

24 (215 ILCS 5/1501 new)

25 Sec. 1501. Scope of Article. This Article applies only to
26 trusts sponsored by counties and organized under this Article
27 to provide medical malpractice insurance authorized under
28 paragraph (21) of Section 5-1005 of the Counties Code for
29 physicians and health care professionals providing medical
30 care and health care within the county's limits. In the case of

1 a single trust sponsored and organized by more than one county
2 in accordance with the requirements of paragraph (21) of
3 Section 5-1005 of the Counties Code, the powers and duties of a
4 county under this Article shall be exercised jointly by the
5 counties participating in the trust program in accordance with
6 the agreement between the counties.

7 (215 ILCS 5/1502 new)

8 Sec. 1502. Definitions. As used in this Article:

9 "Risk retention trust" or "trust" means a risk retention
10 trust created under this Article.

11 "Trust sponsor" means a county that has created a risk
12 retention trust.

13 "Pool retention fund" means a separate fund maintained for
14 payment of first dollar claims, up to a specified amount per
15 claim ("specific retention") and up to an aggregate amount for
16 a 12-month period ("aggregate retention").

17 "Contingency reserve fund" means a separate fund
18 maintained for payment of claims in excess of the pool
19 retention fund amount.

20 "Coverage grant" means the document describing specific
21 coverages and terms of coverage that are provided by a risk
22 retention trust created under this Article.

23 "Licensed service company" means an entity licensed by the
24 Department to perform claims adjusting, loss control, and data
25 processing.

26 (215 ILCS 5/1503 new)

27 Sec. 1503. Name. The corporate name of any risk retention
28 trust shall not be the same as or deceptively similar to the
29 name of any domestic insurance company or of any foreign or
30 alien insurance company authorized to transact business in this
31 State.

1 (215 ILCS 5/1504 new)

2 Sec. 1504. Principal office place of business. The
3 principal office of any risk retention trust shall be located
4 in this State.

5 (215 ILCS 5/1505 new)

6 Sec. 1505. Creation.

7 (1) Any county with a population of 200,000 or more
8 according to the most recent federal decennial census may
9 create a risk retention trust for the pooling of risks to
10 provide professional liability coverage authorized under
11 paragraph (21) of Section 5-1005 of the Counties Code for its
12 physicians and health care professionals providing medical
13 care and related health care within the county's limits. A
14 single risk retention trust may also be created jointly by more
15 than one county in accordance with the requirements of
16 paragraph (21) of Section 5-1005 of the Counties Code. A trust
17 shall be administered by at least 3 trustees who may be
18 individuals or corporate trustees and are appointed by the
19 trust sponsor and who represent physicians who have agreed in
20 writing to participate in the trust.

21 (2) The trustees shall appoint a qualified licensed
22 administrator who shall administer the affairs of the risk
23 retention trust.

24 (3) The trustees shall retain a licensed service company to
25 perform claims adjusting, loss control, and data processing and
26 any other delegated administrative duties.

27 (4) The trust sponsor, the trustees, and the trust
28 administrator shall be fiduciaries of the trust.

29 (5) A trust shall be consummated by a written trust
30 agreement and shall be subject to the laws of this State
31 governing the creation and operation of trusts, to the extent
32 not inconsistent with this Article.

1 (215 ILCS 5/1506 new)

2 Sec. 1506. Participation.

3 (1) A physician or health care professional providing
4 medical care and related health care within the county's limits
5 may participate in a risk retention trust if the physician or
6 health care professional:

7 (a) meets the underwriting standards for acceptance
8 into the trust;

9 (b) files a written application for coverage, agreeing
10 to meet all of the membership conditions of the trust;

11 (c) provides medical care and related health care in
12 the county sponsoring the trust;

13 (d) agrees to meet the ongoing loss control provisions
14 and risk pooling arrangements set forth by the trust;

15 (e) pays premium contributions on a timely basis as
16 required; and

17 (f) pays predetermined annual required contributions
18 into the contingency reserve fund.

19 (2) A physician or health care professional accepted for
20 trust membership and participating in the trust is liable for
21 payment to the trust of the amount of his or her annual premium
22 contribution and his or her annual predetermined contingency
23 reserve fund contribution.

24 (215 ILCS 5/1507 new)

25 Sec. 1507. Coverage grants; payment of claims.

26 (1) A risk retention trust may not issue coverage grants
27 until it has established a contingency reserve fund in an
28 amount deemed appropriate by the trust and filed with the
29 Department of Financial and Professional Regulation. A risk
30 retention trust must have and at all times maintain a pool
31 retention fund or a line or letter of credit at least equal to
32 its unpaid liabilities as determined by an independent actuary.

33 (2) Every coverage grant issued or delivered in this State

1 by a risk retention trust shall provide for the extent of the
2 liability of trust members to the extent that funds are needed
3 to pay a member's share of the depleted contingency reserve
4 fund needed to maintain the reserves required by this Section.

5 (3) All claims shall be paid first from the pool retention
6 fund. If that fund becomes depleted, any additional claims
7 shall be paid from the contingency reserve fund.

8 (215 ILCS 5/1508 new)

9 Sec. 1508. Applicable Illinois Insurance Code provisions.
10 Other than this Article, only Sections 155.19, 155.20, and
11 155.25 and subsections (a) through (c) of Section 155.18 of
12 this Code shall apply to county risk retention trusts. The
13 Secretary shall advise the county board of any determinations
14 made pursuant to subsection (b) of Section 155.18 of this Code.

15 (215 ILCS 5/1509 new)

16 Sec. 1509. Authorized investments. In addition to other
17 investments authorized by law, a risk retention trust with
18 assets of at least \$5,000,000 may invest in any combination of
19 the following:

20 (1) the common stocks listed on a recognized exchange
21 or market;

22 (2) stock and convertible debt investments, or
23 investment grade corporate bonds, in or issued by any
24 corporation, the book value of which may not exceed 5% of
25 the total intergovernmental risk management entity's
26 investment account at book value in which those securities
27 are held, determined as of the date of the investment,
28 provided that investments in the stock of any one
29 corporation may not exceed 5% of the total outstanding
30 stock of the corporation and that the investments in the
31 convertible debt of any one corporation may not exceed 5%
32 of the total amount of such debt that may be outstanding;

1 (3) the straight preferred stocks or convertible
2 preferred stocks and convertible debt securities issued or
3 guaranteed by a corporation whose common stock is listed on
4 a recognized exchange or market;

5 (4) mutual funds or commingled funds that meet the
6 following requirements:

7 (A) the mutual fund or commingled fund is managed
8 by an investment company as defined in and registered
9 under the federal Investment Company Act of 1940 and
10 registered under the Illinois Securities Law of 1953 or
11 an investment adviser as defined under the federal
12 Investment Advisers Act of 1940;

13 (B) the mutual fund has been in operation for at
14 least 5 years; and

15 (C) the mutual fund has total net assets of
16 \$150,000,000 or more;

17 (5) commercial grade real estate located in the State
18 of Illinois.

19 Any investment adviser retained by a trust must be a
20 fiduciary who has the power to manage, acquire, or dispose of
21 any asset of the trust and has acknowledged in writing that he
22 or she is a fiduciary with respect to the trust and that he or
23 she will adhere to all of the guidelines of the trust and is
24 one or more of the following:

25 (i) registered as an investment adviser under the
26 federal Investment Advisers Act of 1940;

27 (ii) registered as an investment adviser under the
28 Illinois Securities Law of 1953;

29 (iii) a bank as defined in the federal Investment
30 Advisers Act of 1940;

31 (iv) an insurance company authorized to transact
32 business in this State.

33 Nothing in this Section shall be construed to authorize a
34 risk retention trust to accept the deposit of public funds

1 except for trust risk retention purposes.

2 ARTICLE 3. AMENDATORY PROVISIONS

3 Section 310. The Illinois Insurance Code is amended by
4 changing Sections 155.18, 155.19, 402, and 1204 and by adding
5 Section 155.18a as follows:

6 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

7 Sec. 155.18. (a) This Section shall apply to insurance on
8 risks based upon negligence by a physician, hospital or other
9 health care provider, referred to herein as medical liability
10 insurance. This Section shall not apply to contracts of
11 reinsurance, nor to any farm, county, district or township
12 mutual insurance company transacting business under an Act
13 entitled "An Act relating to local mutual district, county and
14 township insurance companies", approved March 13, 1936, as now
15 or hereafter amended, nor to any such company operating under a
16 special charter.

17 (b) The following standards shall apply to the making and
18 use of rates pertaining to all classes of medical liability
19 insurance:

20 (1) Rates shall not be excessive or inadequate, as
21 herein defined, nor shall they be unfairly discriminatory.
22 No rate shall be held to be excessive unless such rate is
23 unreasonably high for the insurance provided, ~~and a~~
24 ~~reasonable degree of competition does not exist in the area~~
25 ~~with respect to the classification to which such rate is~~
26 ~~applicable.~~

27 No rate shall be held inadequate unless it is
28 unreasonably low for the insurance provided ~~and continued~~
29 ~~use of it would endanger solvency of the company.~~

30 (2) Consideration shall be given, to the extent
31 applicable, to past and prospective loss experience within

1 and outside this State, to a reasonable margin for
2 underwriting profit and contingencies, to past and
3 prospective expenses both countrywide and those especially
4 applicable to this State, and to all other factors,
5 including judgment factors, deemed relevant within and
6 outside this State.

7 Consideration may also be given in the making and use
8 of rates to dividends, savings or unabsorbed premium
9 deposits allowed or returned by companies to their
10 policyholders, members or subscribers.

11 (3) The systems of expense provisions included in the
12 rates for use by any company or group of companies may
13 differ from those of other companies or groups of companies
14 to reflect the operating methods of any such company or
15 group with respect to any kind of insurance, or with
16 respect to any subdivision or combination thereof.

17 (4) Risks may be grouped by classifications for the
18 establishment of rates and minimum premiums.
19 Classification rates may be modified to produce rates for
20 individual risks in accordance with rating plans which
21 establish standards for measuring variations in hazards or
22 expense provisions, or both. Such standards may measure any
23 difference among risks that have a probable effect upon
24 losses or expenses. Such classifications or modifications
25 of classifications of risks may be established based upon
26 size, expense, management, individual experience, location
27 or dispersion of hazard, or any other reasonable
28 considerations and shall apply to all risks under the same
29 or substantially the same circumstances or conditions. The
30 rate for an established classification should be related
31 generally to the anticipated loss and expense factors of
32 the class.

33 (c) Every company writing medical liability insurance
34 shall file with the Secretary of Financial and Professional

1 ~~Regulation Director of Insurance~~ the rates and rating schedules
2 it uses for medical liability insurance.

3 (1) This filing shall occur upon a company's
4 commencement of medical liability insurance business in
5 this State ~~at least annually~~ and thereafter as often as the
6 rates are changed or amended.

7 (2) For the purposes of this Section, any change in
8 premium to the company's insureds as a result of a change
9 in the company's base rates or a change in its increased
10 limits factors shall constitute a change in rates and shall
11 require a filing with the Secretary ~~Director~~.

12 (3) It shall be certified in such filing by an officer
13 of the company and a qualified actuary that the company's
14 rates are based on sound actuarial principles and are not
15 inconsistent with the company's experience.

16 (d) If, after an administrative a hearing pursuant to
17 subsection (c) of Section 401 of this Code, the Secretary
18 ~~Director~~ finds:

19 (1) that any rate, rating plan or rating system
20 violates the provisions of this Section applicable to it,
21 he shall ~~may~~ issue an order to the company which has been
22 the subject of the hearing specifying in what respects such
23 violation exists and may prohibit ~~stating when, within a~~
24 ~~reasonable period of time,~~ the further use of such rate or
25 rating system by such company in contracts of insurance
26 ~~made thereafter shall be prohibited;~~

27 (2) that the violation of any of the provisions of this
28 Section ~~applicable to it~~ by any company which has been the
29 subject of the hearing was wilful or that any company has
30 repeatedly violated any provision of this Section, he may
31 take either or both of the following actions:

32 (A) Suspend ~~suspend~~ or revoke, in whole or in part,
33 the certificate of authority of such company with
34 respect to the class of insurance which has been the

1 subject of the hearing.

2 (B) Impose a penalty of up to \$1,000 against the
3 company for each violation. Each day during which a
4 violation occurs constitutes a separate violation.

5 (e) Every company writing medical liability insurance in
6 this State shall offer to each of its medical liability
7 insureds the option to make premium payments in at least
8 quarterly installments as prescribed by and filed with the
9 Secretary. This offer shall be included in the initial offer or
10 in the first policy renewal occurring after the effective date
11 of this amendatory Act of the 94th General Assembly, but no
12 earlier than January 1, 2006.

13 (f) Every company writing medical liability insurance is
14 encouraged, but not required, to offer the opportunity for
15 participation in a plan offering deductibles to its medical
16 liability insureds. Any plan to offer deductibles shall be
17 filed with the Department of Financial and Professional
18 Regulation.

19 (g) Medical liability insurers are encouraged, but not
20 required, to offer the opportunity for participation in a plan
21 providing premium discounts for participation in risk
22 management activities to its medical liability insureds. Any
23 such plan shall be filed with the Department.

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

25 (215 ILCS 5/155.18a new)

26 Sec. 155.18a. Professional Liability Insurance Resource
27 Center. The Secretary of Financial and Professional Regulation
28 shall establish a Professional Liability Insurance Resource
29 Center on the World Wide Web containing the names and telephone
30 numbers of all licensed companies providing medical liability
31 insurance and producers who sell medical liability insurance.
32 Each company and producer shall submit the information to the
33 Department on or before September 30 of each year in order to

1 be listed on the website. The Department is under no obligation
2 to list a company or producer on the website. Hyperlinks to
3 company websites shall be included, if available. The
4 publication of the information on the Department's website
5 shall commence on January 1, 2006. The Department shall update
6 the information on the Professional Liability Insurance
7 Resource Center at least annually.

8 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

9 Sec. 155.19. All claims filed after December 31, 1976 with
10 any insurer and all suits filed after December 31, 1976 in any
11 court in this State, alleging liability on the part of any
12 physician, hospital or other health care provider for medically
13 related injuries, shall be reported to the Secretary of
14 Financial and Professional Regulation ~~Director of Insurance~~ in
15 such form and under such terms and conditions as may be
16 prescribed by the Secretary ~~Director~~. Notwithstanding any
17 other provision of law to the contrary, any insurer, stop loss
18 insurer, captive insurer, risk retention group, county risk
19 retention trust, religious or charitable risk pooling trust,
20 surplus line insurer, or other entity authorized or permitted
21 by law to provide medical liability insurance in this State
22 shall report to the Secretary, in such form and under such
23 terms and conditions as may be prescribed by the Secretary, all
24 claims filed after December 31, 2005 and all suits filed after
25 December 31, 2005 in any court in this State alleging liability
26 on the part of any physician, hospital, or health care provider
27 for medically-related injuries. Each clerk of the circuit court
28 shall provide to the Secretary specially colored sheets
29 containing such information as the Secretary may deem necessary
30 to verify the accuracy and completeness of reports made to the
31 Secretary under this Section. The Secretary ~~Director~~ shall
32 maintain complete and accurate records of all such claims and
33 suits including their nature, amount, disposition (categorized

1 by verdict, settlement, dismissal, or otherwise and including
2 disposition of any post-trial motions and types of damages
3 awarded, if any, including but not limited to economic damages
4 and non-economic damages) and other information as he may deem
5 useful or desirable in observing and reporting on health care
6 provider liability trends in this State. The Secretary ~~Director~~
7 shall release to appropriate disciplinary and licensing
8 agencies any such data or information which may assist such
9 agencies in improving the quality of health care or which may
10 be useful to such agencies for the purpose of professional
11 discipline.

12 With due regard for appropriate maintenance of the
13 confidentiality thereof, the Secretary ~~Director~~ shall ~~may~~
14 release, on an annual basis, from time to time to the Governor,
15 the General Assembly and the general public statistical reports
16 based on such data and information.

17 If the Secretary finds that any entity required to report
18 information in its possession under this Section has violated
19 any provision of this Section by filing late, incomplete, or
20 inaccurate reports, the Secretary may fine the entity up to
21 \$1,000 for each offense. Each day during which a violation
22 occurs constitutes a separate offense.

23 The Secretary ~~Director~~ may promulgate such rules and
24 regulations as may be necessary to carry out the provisions of
25 this Section.

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

27 (215 ILCS 5/402) (from Ch. 73, par. 1014)

28 Sec. 402. Examinations, investigations and hearings. (1)
29 All examinations, investigations and hearings provided for by
30 this Code may be conducted either by the Secretary ~~Director~~
31 personally, or by one or more of the actuaries, technical
32 advisors, deputies, supervisors or examiners employed or
33 retained by the Department and designated by the Secretary

1 ~~Director~~ for such purpose. When necessary to supplement its
2 examination procedures, the Department may retain independent
3 actuaries deemed competent by the Secretary ~~Director~~,
4 independent certified public accountants, or qualified
5 examiners of insurance companies deemed competent by the
6 Secretary ~~Director~~, or any combination of the foregoing, the
7 cost of which shall be borne by the company or person being
8 examined. The Secretary ~~Director~~ may compensate independent
9 actuaries, certified public accountants and qualified
10 examiners retained for supplementing examination procedures in
11 amounts not to exceed the reasonable and customary charges for
12 such services. The Secretary ~~Director~~ may also accept as a part
13 of the Department's examination of any company or person (a) a
14 report by an independent actuary deemed competent by the
15 Secretary ~~Director~~ or (b) a report of an audit made by an
16 independent certified public accountant. Neither those persons
17 so designated nor any members of their immediate families shall
18 be officers of, connected with, or financially interested in
19 any company other than as policyholders, nor shall they be
20 financially interested in any other corporation or person
21 affected by the examination, investigation or hearing.

22 (2) All hearings provided for in this Code shall, unless
23 otherwise specially provided, be held at such time and place as
24 shall be designated in a notice which shall be given by the
25 Secretary ~~Director~~ in writing to the person or company whose
26 interests are affected, at least 10 days before the date
27 designated therein. The notice shall state the subject of
28 inquiry and the specific charges, if any. The hearings shall be
29 held in the City of Springfield, the City of Chicago, or in the
30 county where the principal business address of the person or
31 company affected is located. For a rate increase filing in
32 medical liability insurance under subsection (c) of Section
33 155.18 of this Code, the Secretary may hold a hearing with the
34 company and policyholders present for the purpose of receiving

1 testimony from the company and policyholders regarding the rate
2 increase. The hearing must occur under written and express
3 terms and conditions that are sufficient to protect from
4 disclosure information that the subject medical liability
5 insurance company deems proprietary, confidential, or a trade
6 secret. The insurance company must give notice of the hearing
7 time, date, and location to medical liability insurance
8 policyholders whose rates have increased. Notice to
9 policyholders may be given through regular publications issued
10 to policyholders or by electronic means. Other than the cost of
11 this notice, the Department shall be responsible for the costs
12 of this hearing.

13 (Source: P.A. 87-757.)

14 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

15 Sec. 1204. (A) The Secretary ~~Director~~ shall promulgate
16 rules and regulations which shall require each insurer licensed
17 to write property or casualty insurance in the State and each
18 syndicate doing business on the Illinois Insurance Exchange to
19 record and report its loss and expense experience and other
20 data as may be necessary to assess the relationship of
21 insurance premiums and related income as compared to insurance
22 costs and expenses. The Secretary ~~Director~~ may designate one or
23 more rate service organizations or advisory organizations to
24 gather and compile such experience and data. The Secretary
25 ~~Director~~ shall require each insurer licensed to write property
26 or casualty insurance in this State and each syndicate doing
27 business on the Illinois Insurance Exchange to submit a report,
28 on a form furnished by the Secretary ~~Director~~, showing its
29 direct writings in this State and companywide.

30 (B) Such report required by subsection (A) of this Section
31 may include, but not be limited to, the following specific
32 types of insurance written by such insurer:

33 (1) Political subdivision liability insurance reported

1 separately in the following categories:

2 (a) municipalities;

3 (b) school districts;

4 (c) other political subdivisions;

5 (2) Public official liability insurance;

6 (3) Dram shop liability insurance;

7 (4) Day care center liability insurance;

8 (5) Labor, fraternal or religious organizations
9 liability insurance;

10 (6) Errors and omissions liability insurance;

11 (7) Officers and directors liability insurance
12 reported separately as follows:

13 (a) non-profit entities;

14 (b) for-profit entities;

15 (8) Products liability insurance;

16 (9) Medical malpractice insurance;

17 (10) Attorney malpractice insurance;

18 (11) Architects and engineers malpractice insurance;

19 and

20 (12) Motor vehicle insurance reported separately for
21 commercial and private passenger vehicles as follows:

22 (a) motor vehicle physical damage insurance;

23 (b) motor vehicle liability insurance.

24 (C) Such report may include, but need not be limited to the
25 following data, both specific to this State and companywide, in
26 the aggregate or by type of insurance for the previous year on
27 a calendar year basis:

28 (1) Direct premiums written;

29 (2) Direct premiums earned;

30 (3) Number of policies;

31 (4) Net investment income, using appropriate estimates
32 where necessary;

33 (5) Losses paid;

34 (6) Losses incurred;

- 1 (7) Loss reserves:
- 2 (a) Losses unpaid on reported claims;
- 3 (b) Losses unpaid on incurred but not reported
- 4 claims;
- 5 (8) Number of claims:
- 6 (a) Paid claims;
- 7 (b) Arising claims;
- 8 (9) Loss adjustment expenses:
- 9 (a) Allocated loss adjustment expenses;
- 10 (b) Unallocated loss adjustment expenses;
- 11 (10) Net underwriting gain or loss;
- 12 (11) Net operation gain or loss, including net
- 13 investment income;
- 14 (12) Any other information requested by the Secretary
- 15 Director.

16 (C-5) Additional information required from medical

17 malpractice insurers.

18 (1) In addition to the other requirements of this

19 Section, all medical malpractice insurers shall include

20 the following information in the report required by

21 subsection (A) of this Section in such form and under such

22 terms and conditions as may be prescribed by the Secretary:

23 (a) paid and incurred losses by county for each of

24 the past 10 policy years; and

25 (b) earned exposures by ISO code, policy type, and

26 policy year by county for each of the past 10 years.

27 (2) All information collected by the Secretary under

28 paragraph (1) of this subsection (C-5) shall be made

29 available, on an aggregate basis, to the General Assembly

30 and the general public. This provision shall supersede any

31 other provision of law that may otherwise protect such

32 information from public disclosure as confidential. The

33 identity of the plaintiff, the defendant, the attorneys,

34 and the company shall not be disclosed.

1 (D) In addition to the information which may be requested
2 under subsection (C), the Secretary ~~Director~~ may also request
3 on a companywide, aggregate basis, Federal Income Tax
4 recoverable, net realized capital gain or loss, net unrealized
5 capital gain or loss, and all other expenses not requested in
6 subsection (C) above.

7 (E) Violations - Suspensions - Revocations.

8 (1) Any company or person subject to this Article, who
9 willfully or repeatedly fails to observe or who otherwise
10 violates any of the provisions of this Article or any rule
11 or regulation promulgated by the Secretary ~~Director~~ under
12 authority of this Article or any final order of the
13 Secretary ~~Director~~ entered under the authority of this
14 Article shall by civil penalty forfeit to the State of
15 Illinois a sum not to exceed \$2,000. Each day during which
16 a violation occurs constitutes a separate offense.

17 (2) No forfeiture liability under paragraph (1) of this
18 subsection may attach unless a written notice of apparent
19 liability has been issued by the Secretary ~~Director~~ and
20 received by the respondent, or the Secretary ~~Director~~ sends
21 written notice of apparent liability by registered or
22 certified mail, return receipt requested, to the last known
23 address of the respondent. Any respondent so notified must
24 be granted an opportunity to request a hearing within 10
25 days from receipt of notice, or to show in writing, why he
26 should not be held liable. A notice issued under this
27 Section must set forth the date, facts and nature of the
28 act or omission with which the respondent is charged and
29 must specifically identify the particular provision of
30 this Article, rule, regulation or order of which a
31 violation is charged.

32 (3) No forfeiture liability under paragraph (1) of this
33 subsection may attach for any violation occurring more than
34 2 years prior to the date of issuance of the notice of

1 apparent liability and in no event may the total civil
2 penalty forfeiture imposed for the acts or omissions set
3 forth in any one notice of apparent liability exceed
4 \$100,000.

5 (4) All administrative hearings conducted pursuant to
6 this Article are subject to 50 Ill. Adm. Code 2402 and all
7 administrative hearings are subject to the Administrative
8 Review Law.

9 (5) The civil penalty forfeitures provided for in this
10 Section are payable to the General Revenue Fund of the
11 State of Illinois, and may be recovered in a civil suit in
12 the name of the State of Illinois brought in the Circuit
13 Court in Sangamon County or in the Circuit Court of the
14 county where the respondent is domiciled or has its
15 principal operating office.

16 (6) In any case where the Secretary ~~Director~~ issues a
17 notice of apparent liability looking toward the imposition
18 of a civil penalty forfeiture under this Section that fact
19 may not be used in any other proceeding before the
20 Secretary ~~Director~~ to the prejudice of the respondent to
21 whom the notice was issued, unless (a) the civil penalty
22 forfeiture has been paid, or (b) a court has ordered
23 payment of the civil penalty forfeiture and that order has
24 become final.

25 (7) When any person or company has a license or
26 certificate of authority under this Code and knowingly
27 fails or refuses to comply with a lawful order of the
28 Secretary ~~Director~~ requiring compliance with this Article,
29 entered after notice and hearing, within the period of time
30 specified in the order, the Secretary ~~Director~~ may, in
31 addition to any other penalty or authority provided, revoke
32 or refuse to renew the license or certificate of authority
33 of such person or company, or may suspend the license or
34 certificate of authority of such person or company until

1 compliance with such order has been obtained.

2 (8) When any person or company has a license or
3 certificate of authority under this Code and knowingly
4 fails or refuses to comply with any provisions of this
5 Article, the Secretary ~~Director~~ may, after notice and
6 hearing, in addition to any other penalty provided, revoke
7 or refuse to renew the license or certificate of authority
8 of such person or company, or may suspend the license or
9 certificate of authority of such person or company, until
10 compliance with such provision of this Article has been
11 obtained.

12 (9) No suspension or revocation under this Section may
13 become effective until 5 days from the date that the notice
14 of suspension or revocation has been personally delivered
15 or delivered by registered or certified mail to the company
16 or person. A suspension or revocation under this Section is
17 stayed upon the filing, by the company or person, of a
18 petition for judicial review under the Administrative
19 Review Law.

20 (Source: P.A. 93-32, eff. 7-1-03.)

21 Section 315. The Medical Practice Act of 1987 is amended by
22 changing Sections 7, 22, 23, 24, and 36 as follows:

23 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

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

25 Sec. 7. Medical Disciplinary Board.

26 (A) There is hereby created the Illinois State Medical
27 Disciplinary Board (hereinafter referred to as the
28 "Disciplinary Board"). The Disciplinary Board shall consist of
29 9 members, to be appointed by the Governor by and with the
30 advice and consent of the Senate. All shall be residents of the
31 State, not more than 5 of whom shall be members of the same
32 political party. Five members shall be physicians licensed to

1 practice medicine in all of its branches in Illinois possessing
2 the degree of doctor of medicine. Two shall be members of the
3 public, who shall not be engaged in any way, directly or
4 indirectly, as providers of health care. The 2 public members
5 shall act as voting members. One member shall be a physician
6 licensed to practice in Illinois possessing the degree of
7 doctor of osteopathy or osteopathic medicine. One member shall
8 be a physician licensed to practice in Illinois and possessing
9 the degree of doctor of chiropractic.

10 (B) Members of the Disciplinary Board shall be appointed
11 for terms of 4 years. Upon the expiration of the term of any
12 member, their successor shall be appointed for a term of 4
13 years by the Governor by and with the advice and consent of the
14 Senate. The Governor shall fill any vacancy for the remainder
15 of the unexpired term by and with the advice and consent of the
16 Senate. Upon recommendation of the Board, any member of the
17 Disciplinary Board may be removed by the Governor for
18 misfeasance, malfeasance, or wilful neglect of duty, after
19 notice, and a public hearing, unless such notice and hearing
20 shall be expressly waived in writing. Each member shall serve
21 on the Disciplinary Board until their successor is appointed
22 and qualified. No member of the Disciplinary Board shall serve
23 more than 2 consecutive 4 year terms.

24 In making appointments the Governor shall attempt to insure
25 that the various social and geographic regions of the State of
26 Illinois are properly represented.

27 In making the designation of persons to act for the several
28 professions represented on the Disciplinary Board, the
29 Governor shall give due consideration to recommendations by
30 members of the respective professions and by organizations
31 therein.

32 (C) The Disciplinary Board shall annually elect one of its
33 voting members as chairperson and one as vice chairperson. No
34 officer shall be elected more than twice in succession to the

1 same office. Each officer shall serve until their successor has
2 been elected and qualified.

3 (D) (Blank).

4 (E) Four voting members of the Disciplinary Board shall
5 constitute a quorum. A vacancy in the membership of the
6 Disciplinary Board shall not impair the right of a quorum to
7 exercise all the rights and perform all the duties of the
8 Disciplinary Board. Any action taken by the Disciplinary Board
9 under this Act may be authorized by resolution at any regular
10 or special meeting and each such resolution shall take effect
11 immediately. The Disciplinary Board shall meet at least
12 quarterly. The Disciplinary Board is empowered to adopt all
13 rules and regulations necessary and incident to the powers
14 granted to it under this Act.

15 (F) Each member, and member-officer, of the Disciplinary
16 Board shall receive a per diem stipend as the Secretary
17 ~~Director~~ of the Department, hereinafter referred to as the
18 Secretary Director, shall determine. The Secretary Director
19 shall also determine the per diem stipend that each ex-officio
20 member shall receive. Each member shall be paid their necessary
21 expenses while engaged in the performance of their duties.

22 (G) The Secretary Director shall select a Chief Medical
23 Coordinator and not less than 2 ~~a~~ Deputy Medical Coordinators
24 ~~Coordinator~~ who shall not be members of the Disciplinary Board.
25 Each medical coordinator shall be a physician licensed to
26 practice medicine in all of its branches, and the Secretary
27 ~~Director~~ shall set their rates of compensation. The Secretary
28 ~~Director~~ shall assign at least one medical coordinator to a
29 region composed of Cook County and such other counties as the
30 Secretary Director may deem appropriate, and such medical
31 coordinator or coordinators shall locate their office in
32 Chicago. The Secretary Director shall assign at least one ~~the~~
33 ~~remaining~~ medical coordinator to a region composed of the
34 balance of counties in the State, and such medical coordinator

1 or coordinators shall locate their office in Springfield. Each
2 medical coordinator shall be the chief enforcement officer of
3 this Act in his or her ~~their~~ assigned region and shall serve at
4 the will of the Disciplinary Board.

5 The Secretary ~~Director~~ shall employ, in conformity with the
6 Personnel Code, not less than one full time investigator for
7 every 2,500 ~~5000~~ physicians licensed in the State. Each
8 investigator shall be a college graduate with at least 2 years'
9 investigative experience or one year advanced medical
10 education. Upon the written request of the Disciplinary Board,
11 the Secretary ~~Director~~ shall employ, in conformity with the
12 Personnel Code, such other professional, technical,
13 investigative, and clerical help, either on a full or part-time
14 basis as the Disciplinary Board deems necessary for the proper
15 performance of its duties.

16 (H) Upon the specific request of the Disciplinary Board,
17 signed by either the chairman, vice chairman, or a medical
18 coordinator of the Disciplinary Board, the Department of Human
19 Services or the Department of State Police shall make available
20 any and all information that they have in their possession
21 regarding a particular case then under investigation by the
22 Disciplinary Board.

23 (I) Members of the Disciplinary Board shall be immune from
24 suit in any action based upon any disciplinary proceedings or
25 other acts performed in good faith as members of the
26 Disciplinary Board.

27 (J) The Disciplinary Board may compile and establish a
28 statewide roster of physicians and other medical
29 professionals, including the several medical specialties, of
30 such physicians and medical professionals, who have agreed to
31 serve from time to time as advisors to the medical
32 coordinators. Such advisors shall assist the medical
33 coordinators or the Disciplinary Board in their investigations
34 and participation in complaints against physicians. Such

1 advisors shall serve under contract and shall be reimbursed at
2 a reasonable rate for the services provided, plus reasonable
3 expenses incurred. While serving in this capacity, the advisor,
4 for any act undertaken in good faith and in the conduct of
5 their duties under this Section, shall be immune from civil
6 suit.

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

8 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

10 Sec. 22. Disciplinary action.

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

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

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

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

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

31 (d) ambulatory surgical treatment centers,
32 hospitalization or care facilities maintained by the
33 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

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, doctor
5 of osteopathic medicine or doctor of chiropractic, a
6 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 the
10 Medical Practice Act prior to the repeal of that Act, or
11 violation of the rules, or a final administrative action of
12 the Secretary ~~Director~~, after consideration of the
13 recommendation of the Disciplinary Board.

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

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

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

21 (16) Abandonment of a patient.

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

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

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

1 licensee refuses to divulge upon demand of the Department.

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

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

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

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

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

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

32 (26) A pattern of practice or other behavior which
33 demonstrates incapacity or incompetence to practice under
34 this Act.

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

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

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

10 (30) Wilfully or negligently violating the
11 confidentiality between physician and patient except as
12 required by law.

13 (31) The use of any false, fraudulent, or deceptive
14 statement in any document connected with practice under
15 this Act.

16 (32) Aiding and abetting an individual not licensed
17 under this Act in the practice of a profession licensed
18 under this Act.

19 (33) Violating state or federal laws or regulations
20 relating to controlled substances, legend drugs, or
21 ephedra, as defined in the Ephedra Prohibition Act.

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

32 (35) Failure to report to the Department surrender of a
33 license or authorization to practice as a medical doctor, a
34 doctor of osteopathy, a doctor of osteopathic medicine, or

1 doctor of chiropractic in another state or jurisdiction, or
2 surrender of membership on any medical staff or in any
3 medical or professional association or society, while
4 under disciplinary investigation by any of those
5 authorities or bodies, for acts or conduct similar to acts
6 or conduct which would constitute grounds for action as
7 defined in this Section.

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

13 (37) Failure to transfer copies of medical records as
14 required by law.

15 (38) Failure to furnish the Department, its
16 investigators or representatives, relevant information,
17 legally requested by the Department after consultation
18 with the Chief Medical Coordinator or the Deputy Medical
19 Coordinator.

20 (39) Violating the Health Care Worker Self-Referral
21 Act.

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

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

26 (42) Entering into an excessive number of written
27 collaborative agreements with licensed advanced practice
28 nurses resulting in an inability to adequately collaborate
29 and provide medical direction.

30 (43) Repeated failure to adequately collaborate with
31 or provide medical direction to a licensed advanced
32 practice nurse.

33 Except for actions involving the ground numbered (26), all

34 ~~All~~ proceedings to suspend, revoke, place on probationary

1 status, or take any other disciplinary action as the Department
2 may deem proper, with regard to a license on any of the
3 foregoing grounds, must be commenced within 5 ~~3~~ years next
4 after receipt by the Department of a complaint alleging the
5 commission of or notice of the conviction order for any of the
6 acts described herein. Except for the grounds numbered (8),
7 (9), (26), and (29), no action shall be commenced more than 10
8 ~~5~~ years after the date of the incident or act alleged to have
9 violated this Section. For actions involving the ground
10 numbered (26), a pattern of practice or other behavior includes
11 all incidents alleged to be part of the pattern of practice or
12 other behavior that occurred or a report pursuant to Section 23
13 of this Act received within the 10-year period preceding the
14 filing of the complaint. In the event of the settlement of any
15 claim or cause of action in favor of the claimant or the
16 reduction to final judgment of any civil action in favor of the
17 plaintiff, such claim, cause of action or civil action being
18 grounded on the allegation that a person licensed under this
19 Act was negligent in providing care, the Department shall have
20 an additional period of 2 years ~~one year~~ from the date of
21 notification to the Department under Section 23 of this Act of
22 such settlement or final judgment in which to investigate and
23 commence formal disciplinary proceedings under Section 36 of
24 this Act, except as otherwise provided by law. The Department
25 shall expunge the records of discipline solely for
26 administrative matters 3 years after final disposition or after
27 the statute of limitations has expired, whichever is later. The
28 time during which the holder of the license was outside the
29 State of Illinois shall not be included within any period of
30 time limiting the commencement of disciplinary action by the
31 Department.

32 The entry of an order or judgment by any circuit court
33 establishing that any person holding a license under this Act
34 is a person in need of mental treatment operates as a

1 suspension of that license. That person may resume their
2 practice only upon the entry of a Departmental order based upon
3 a finding by the Medical Disciplinary Board that they have been
4 determined to be recovered from mental illness by the court and
5 upon the Disciplinary Board's recommendation that they be
6 permitted to resume their practice.

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

15 The Department, upon the recommendation of the
16 Disciplinary Board, shall adopt rules which set forth standards
17 to be used in determining:

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

20 (b) what constitutes dishonorable, unethical or
21 unprofessional conduct of a character likely to deceive,
22 defraud, or harm the public;

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

27 (d) what constitutes gross negligence in the practice
28 of medicine.

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

32 In enforcing this Section, the Medical Disciplinary Board,
33 upon a showing of a possible violation, may compel any
34 individual licensed to practice under this Act, or who has

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

1 instances in which the Secretary ~~Director~~ immediately suspends
2 a license under this Section, a hearing upon such person's
3 license must be convened by the Disciplinary Board within 15
4 days after such suspension and completed without appreciable
5 delay. The Disciplinary Board shall have the authority to
6 review the subject physician's record of treatment and
7 counseling regarding the impairment, to the extent permitted by
8 applicable federal statutes and regulations safeguarding the
9 confidentiality of medical records.

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

15 The Department may promulgate rules for the imposition of
16 fines in disciplinary cases, not to exceed \$10,000 ~~\$5,000~~ for
17 each violation of this Act. Fines may be imposed in conjunction
18 with other forms of disciplinary action, but shall not be the
19 exclusive disposition of any disciplinary action arising out of
20 conduct resulting in death or injury to a patient. Any funds
21 collected from such fines shall be deposited in the Medical
22 Disciplinary Fund.

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

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

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

13 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

15 Sec. 23. Reports relating to professional conduct and
16 capacity.

17 (A) Entities required to report.

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

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

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

34 (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

1 days after a determination that a report is required under this
2 Act. All reports shall contain the following information:

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

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

7 (3) The name and date of birth ~~or other means of~~
8 ~~identification~~ of any patient or patients whose treatment
9 is a subject of the report, if available, or other means of
10 identification if such information is not available,
11 identification of the hospital or other healthcare
12 facility where the care at issue in the report was
13 rendered, provided, however, no medical records may be
14 revealed ~~without the written consent of the patient or~~
15 ~~patients.~~

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

19 (5) If court action is involved, the identity of the
20 court in which the action is filed, along with the docket
21 number and date of filing of the action.

22 (6) Any further pertinent information which the
23 reporting party deems to be an aid in the evaluation of the
24 report.

25 ~~The Department shall have the right to inform patients of~~
26 ~~the right to provide written consent for the Department to~~
27 ~~obtain copies of hospital and medical records.~~ The Disciplinary
28 Board or Department may also exercise the power under Section
29 38 of this Act to subpoena copies of hospital or medical
30 records in mandatory report cases alleging death or permanent
31 bodily injury ~~when consent to obtain records is not provided by~~
32 ~~a patient or legal representative.~~ Appropriate rules shall be
33 adopted by the Department with the approval of the Disciplinary
34 Board.

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

6 Nothing contained in this Section shall act to in any way,
7 waive or modify the confidentiality of medical reports and
8 committee reports to the extent provided by law. Any
9 information reported or disclosed shall be kept for the
10 confidential use of the Disciplinary Board, the Medical
11 Coordinators, the Disciplinary Board's attorneys, the medical
12 investigative staff, and authorized clerical staff, as
13 provided in this Act, and shall be afforded the same status as
14 is provided information concerning medical studies in Part 21
15 of Article VIII of the Code of Civil Procedure, except that the
16 Department may disclose information and documents to a federal,
17 State, or local law enforcement agency pursuant to a subpoena
18 in an ongoing criminal investigation. Furthermore, information
19 and documents disclosed to a federal, State, or local law
20 enforcement agency may be used by that agency only for the
21 investigation and prosecution of a criminal offense.

22 (C) Immunity from prosecution. Any individual or
23 organization acting in good faith, and not in a wilful and
24 wanton manner, in complying with this Act by providing any
25 report or other information to the Disciplinary Board or a peer
26 review committee, or assisting in the investigation or
27 preparation of such information, or by voluntarily reporting to
28 the Disciplinary Board or a peer review committee information
29 regarding alleged errors or negligence by a person licensed
30 under this Act, or by participating in proceedings of the
31 Disciplinary Board or a peer review committee, or by serving as
32 a member of the Disciplinary Board or a peer review committee,
33 shall not, as a result of such actions, be subject to criminal
34 prosecution or civil damages.

1 (D) Indemnification. Members of the Disciplinary Board,
2 the Medical Coordinators, the Disciplinary Board's attorneys,
3 the medical investigative staff, physicians retained under
4 contract to assist and advise the medical coordinators in the
5 investigation, and authorized clerical staff shall be
6 indemnified by the State for any actions occurring within the
7 scope of services on the Disciplinary Board, done in good faith
8 and not wilful and wanton in nature. The Attorney General shall
9 defend all such actions unless he or she determines either that
10 there would be a conflict of interest in such representation or
11 that the actions complained of were not in good faith or were
12 wilful and wanton.

13 Should the Attorney General decline representation, the
14 member shall have the right to employ counsel of his or her
15 choice, whose fees shall be provided by the State, after
16 approval by the Attorney General, unless there is a
17 determination by a court that the member's actions were not in
18 good faith or were wilful and wanton.

19 The member must notify the Attorney General within 7 days
20 of receipt of notice of the initiation of any action involving
21 services of the Disciplinary Board. Failure to so notify the
22 Attorney General shall constitute an absolute waiver of the
23 right to a defense and indemnification.

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

27 (E) Deliberations of Disciplinary Board. Upon the receipt
28 of any report called for by this Act, other than those reports
29 of impaired persons licensed under this Act required pursuant
30 to the rules of the Disciplinary Board, the Disciplinary Board
31 shall notify in writing, by certified mail, the person who is
32 the subject of the report. Such notification shall be made
33 within 30 days of receipt by the Disciplinary Board of the
34 report.

1 The notification shall include a written notice setting
2 forth the person's right to examine the report. Included in
3 such notification shall be the address at which the file is
4 maintained, the name of the custodian of the reports, and the
5 telephone number at which the custodian may be reached. The
6 person who is the subject of the report shall submit a written
7 statement responding, clarifying, adding to, or proposing the
8 amending of the report previously filed. The person who is the
9 subject of the report shall also submit with the written
10 statement any medical records related to the report. The
11 statement and accompanying medical records shall become a
12 permanent part of the file and must be received by the
13 Disciplinary Board no more than 30 ~~60~~ days after the date on
14 which the person was notified by the Disciplinary Board of the
15 existence of the original report.

16 The Disciplinary Board shall review all reports received by
17 it, together with any supporting information and responding
18 statements submitted by persons who are the subject of reports.
19 The review by the Disciplinary Board shall be in a timely
20 manner but in no event, shall the Disciplinary Board's initial
21 review of the material contained in each disciplinary file be
22 less than 61 days nor more than 180 days after the receipt of
23 the initial report by the Disciplinary Board.

24 When the Disciplinary Board makes its initial review of the
25 materials contained within its disciplinary files, the
26 Disciplinary Board shall, in writing, make a determination as
27 to whether there are sufficient facts to warrant further
28 investigation or action. Failure to make such determination
29 within the time provided shall be deemed to be a determination
30 that there are not sufficient facts to warrant further
31 investigation or action.

32 Should the Disciplinary Board find that there are not
33 sufficient facts to warrant further investigation, or action,
34 the report shall be accepted for filing and the matter shall be

1 deemed closed and so reported to the Secretary ~~Director~~. The
2 Secretary ~~Director~~ shall then have 30 days to accept the
3 Medical Disciplinary Board's decision or request further
4 investigation. The Secretary ~~Director~~ shall inform the Board in
5 writing of the decision to request further investigation,
6 including the specific reasons for the decision. The individual
7 or entity filing the original report or complaint and the
8 person who is the subject of the report or complaint shall be
9 notified in writing by the Secretary ~~Director~~ of any final
10 action on their report or complaint.

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

25 (G) Any violation of this Section shall be a Class A
26 misdemeanor.

27 (H) If any such person violates the provisions of this
28 Section an action may be brought in the name of the People of
29 the State of Illinois, through the Attorney General of the
30 State of Illinois, for an order enjoining such violation or for
31 an order enforcing compliance with this Section. Upon filing of
32 a verified petition in such court, the court may issue a
33 temporary restraining order without notice or bond and may
34 preliminarily or permanently enjoin such violation, and if it

1 is established that such person has violated or is violating
2 the injunction, the court may punish the offender for contempt
3 of court. Proceedings under this paragraph shall be in addition
4 to, and not in lieu of, all other remedies and penalties
5 provided for by this Section.

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

8 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

10 Sec. 24. Report of violations; medical associations. Any
11 physician licensed under this Act, the Illinois State Medical
12 Society, the Illinois Association of Osteopathic Physicians
13 and Surgeons, the Illinois Chiropractic Society, the Illinois
14 Prairie State Chiropractic Association, or any component
15 societies of any of these 4 groups, and any other person, may
16 report to the Disciplinary Board any information the physician,
17 association, society, or person may have that appears to show
18 that a physician is or may be in violation of any of the
19 provisions of Section 22 of this Act.

20 The Department may enter into agreements with the Illinois
21 State Medical Society, the Illinois Association of Osteopathic
22 Physicians and Surgeons, the Illinois Prairie State
23 Chiropractic Association, or the Illinois Chiropractic Society
24 to allow these organizations to assist the Disciplinary Board
25 in the review of alleged violations of this Act. Subject to the
26 approval of the Department, any organization party to such an
27 agreement may subcontract with other individuals or
28 organizations to assist in review.

29 Any physician, association, society, or person
30 participating in good faith in the making of a report, under
31 this Act or participating in or assisting with an investigation
32 or review under this Act ~~Section~~ shall have immunity from any
33 civil, criminal, or other liability that might result by reason

1 of those actions.

2 The medical information in the custody of an entity under
3 contract with the Department participating in an investigation
4 or review shall be privileged and confidential to the same
5 extent as are information and reports under the provisions of
6 Part 21 of Article VIII of the Code of Civil Procedure.

7 Upon request by the Department after a mandatory report has
8 been filed with the Department, an attorney for any party
9 seeking to recover damages for injuries or death by reason of
10 medical, hospital, or other healing art malpractice shall
11 provide patient records related to the physician involved in
12 the disciplinary proceeding to the Department within 30 days of
13 the Department's request for use by the Department in any
14 disciplinary matter under this Act. An attorney who provides
15 patient records to the Department in accordance with this
16 requirement shall not be deemed to have violated any
17 attorney-client privilege. Notwithstanding any other provision
18 of law, consent by a patient shall not be required for the
19 provision of patient records in accordance with this
20 requirement.

21 For the purpose of any civil or criminal proceedings, the
22 good faith of any physician, association, society or person
23 shall be presumed. The Disciplinary Board may request the
24 Illinois State Medical Society, the Illinois Association of
25 Osteopathic Physicians and Surgeons, the Illinois Prairie
26 State Chiropractic Association, or the Illinois Chiropractic
27 Society to assist the Disciplinary Board in preparing for or
28 conducting any medical competency examination as the Board may
29 deem appropriate.

30 (Source: P.A. 88-324.)

31 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

33 Sec. 36. Upon the motion of either the Department or the

1 Disciplinary Board or upon the verified complaint in writing of
2 any person setting forth facts which, if proven, would
3 constitute grounds for suspension or revocation under Section
4 22 of this Act, the Department shall investigate the actions of
5 any person, so accused, who holds or represents that they hold
6 a license. Such person is hereinafter called the accused.

7 The Department shall, before suspending, revoking, placing
8 on probationary status, or taking any other disciplinary action
9 as the Department may deem proper with regard to any license at
10 least 30 days prior to the date set for the hearing, notify the
11 accused in writing of any charges made and the time and place
12 for a hearing of the charges before the Disciplinary Board,
13 direct them to file their written answer thereto to the
14 Disciplinary Board under oath within 20 days after the service
15 on them of such notice and inform them that if they fail to
16 file such answer default will be taken against them and their
17 license may be suspended, revoked, placed on probationary
18 status, or have other disciplinary action, including limiting
19 the scope, nature or extent of their practice, as the
20 Department may deem proper taken with regard thereto.

21 Where a physician has been found, upon complaint and
22 investigation of the Department, and after hearing, to have
23 performed an abortion procedure in a wilful and wanton manner
24 upon a woman who was not pregnant at the time such abortion
25 procedure was performed, the Department shall automatically
26 revoke the license of such physician to practice medicine in
27 Illinois.

28 Such written notice and any notice in such proceedings
29 thereafter may be served by delivery of the same, personally,
30 to the accused person, or by mailing the same by registered or
31 certified mail to the address last theretofore specified by the
32 accused in their last notification to the Department.

33 All information gathered by the Department during its
34 investigation including information subpoenaed under Section

1 23 or 38 of this Act and the investigative file shall be kept
2 for the confidential use of the Secretary ~~Director~~,
3 Disciplinary Board, the Medical Coordinators, persons employed
4 by contract to advise the Medical Coordinator or the
5 Department, the Disciplinary Board's attorneys, the medical
6 investigative staff, and authorized clerical staff, as
7 provided in this Act and shall be afforded the same status as
8 is provided information concerning medical studies in Part 21
9 of Article VIII of the Code of Civil Procedure, except that the
10 Department may disclose information and documents to a federal,
11 State, or local law enforcement agency pursuant to a subpoena
12 in an ongoing criminal investigation. Furthermore, information
13 and documents disclosed to a federal, State, or local law
14 enforcement agency may be used by that agency only for the
15 investigation and prosecution of a criminal offense.

16 (Source: P.A. 90-699, eff. 1-1-99.)

17 Section 320. The Clerks of Courts Act is amended by adding
18 Section 27.10 as follows:

19 (705 ILCS 105/27.10 new)

20 Sec. 27.10. Secretary of Financial and Professional
21 Regulation. Each clerk of the circuit court shall provide to
22 the Secretary of Financial and Professional Regulation such
23 information as the Secretary of Financial and Professional
24 Regulation requests under Section 155.19 of the Illinois
25 Insurance Code.

26 Section 325. The Health Care Arbitration Act is amended by
27 changing Sections 8 and 9 as follows:

28 (710 ILCS 15/8) (from Ch. 10, par. 208)

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

1 (a) The agreement is not a condition to the rendering of
2 health care services by any party and the agreement has been
3 executed by the recipient of health care services at the
4 inception of or during the term of provision of services for a
5 specific cause by either a health care provider or a hospital;
6 and

7 (b) The agreement is a separate instrument complete in
8 itself and not a part of any other contract or instrument and
9 an executed copy of the agreement shall be provided to the
10 patient or the patient's legal representative upon signing; and

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

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

18 (e) (Blank). ~~As a part of the discharge planning process~~
19 ~~the patient or, if appropriate, members of his family must be~~
20 ~~given a copy of the health care arbitration agreement~~
21 ~~previously executed by or for the patient and shall re-affirm~~
22 ~~it. Failure to comply with this provision during the discharge~~
23 ~~planning process shall void the health care arbitration~~
24 ~~agreement.~~

25 (f) The changes to this Section made by this amendatory Act
26 of the 94th General Assembly apply to health care arbitration
27 agreements executed on or after its effective date.

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

29 (710 ILCS 15/9) (from Ch. 10, par. 209)

30 Sec. 9. Mandatory Provisions.

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

33 (b) Every health care arbitration agreement in relation to

1 health care services rendered during hospitalization shall
2 specify the date of commencement of hospitalization. Every
3 health care arbitration agreement in relation to health care
4 services not rendered during hospitalization shall state the
5 specific cause for which the services are provided.

6 (c) Every health care arbitration agreement may be
7 cancelled by any signatory (1) within 120 ~~60~~ days of its
8 execution or within 120 ~~60~~ days of the date of the patient's
9 discharge from the hospital, whichever is later, as to an
10 agreement in relation to health care services rendered during
11 hospitalization, ~~provided, that if executed other than at the~~
12 ~~time of discharge of the patient from the hospital, the health~~
13 ~~care arbitration agreement be reaffirmed at the time of the~~
14 ~~discharge planning process in the same manner as provided for~~
15 ~~in the execution of the original agreement;~~ or (2) within 120
16 ~~60~~ days of the date of its execution, or the last date of
17 treatment by the health care provider, whichever is later, as
18 to an agreement in relation to health care services not
19 rendered during hospitalization. Provided, that no health care
20 arbitration agreement shall be valid after 4 ~~2~~ years from the
21 date of its execution. An employee of a hospital or health care
22 provider who is not a signatory to an agreement may cancel such
23 agreement as to himself until 30 days following his
24 notification that he is a party to a dispute or issue on which
25 arbitration has been demanded pursuant to such agreement. If
26 any person executing a health care arbitration agreement dies
27 before the period of cancellation as outlined above, the
28 personal representative of the decedent shall have the right to
29 cancel the health care arbitration agreement within 60 days of
30 the date of his appointment as the legal representative of the
31 decedent's estate. ~~Provided, that if no legal representative is~~
32 ~~appointed within 6 months of the death of said decedent the~~
33 ~~next of kin of such decedent shall have the right to cancel the~~
34 ~~health care arbitration agreement within 8 months from the date~~

1 ~~of death.~~

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

6 "AGREEMENT TO ARBITRATE HEALTH CARE

7 NEGLIGENCE CLAIMS

8 NOTICE TO PATIENT

9 YOU CANNOT BE REQUIRED TO SIGN THIS AGREEMENT IN ORDER TO
10 RECEIVE TREATMENT. BY SIGNING THIS AGREEMENT, YOUR RIGHT TO
11 TRIAL BY A JURY OR A JUDGE IN A COURT WILL BE BARRED AS TO
12 ANY DISPUTE RELATING TO INJURIES THAT MAY RESULT FROM
13 NEGLIGENCE DURING YOUR TREATMENT OR CARE, AND WILL BE
14 REPLACED BY AN ARBITRATION PROCEDURE.

15 THIS AGREEMENT MAY BE CANCELLED WITHIN 120 ~~60~~ DAYS OF
16 SIGNING OR 120 ~~60~~ DAYS AFTER YOUR HOSPITAL DISCHARGE,
17 WHICHEVER IS LATER, OR 120 ~~60~~ DAYS AFTER YOUR LAST MEDICAL
18 TREATMENT IN RELATION TO HEALTH CARE SERVICES NOT RENDERED
19 DURING HOSPITALIZATION.

20 THIS AGREEMENT PROVIDES THAT ANY CLAIMS WHICH MAY ARISE OUT
21 OF YOUR HEALTH CARE WILL BE SUBMITTED TO A PANEL OF
22 ARBITRATORS, RATHER THAN TO A COURT FOR DETERMINATION. THIS
23 AGREEMENT REQUIRES ALL PARTIES SIGNING IT TO ABIDE BY THE
24 DECISION OF THE ARBITRATION PANEL."

25 (e) An ~~an~~ executed copy of the AGREEMENT TO ARBITRATE
26 HEALTH CARE CLAIMS ~~and any reaffirmation of that agreement as~~
27 ~~required by this Act~~ shall be given to the patient or the
28 patient's legally authorized representative upon signing
29 ~~during the time of the discharge planning process or at the~~
30 ~~time of discharge.~~

31 (f) The changes to this Section made by this amendatory Act
32 of the 94th General Assembly apply to health care arbitration
33 agreements executed on or after its effective date.

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

1 Section 330. The Code of Civil Procedure is amended by
2 reenacting and changing Sections 2-402, 2-622, and 8-2501 and
3 by changing Sections 2-1704 and 8-1901 as follows:

4 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

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

7 Sec. 2-402. Respondents in discovery. The plaintiff in any
8 civil action may designate as respondents in discovery in his
9 or her pleading those individuals or other entities, other than
10 the named defendants, believed by the plaintiff to have
11 information essential to the determination of who should
12 properly be named as additional defendants in the action.

13 Persons or entities so named as respondents in discovery
14 shall be required to respond to discovery by the plaintiff in
15 the same manner as are defendants and may, on motion of the
16 plaintiff, be added as defendants if the evidence discloses the
17 existence of probable cause for such action.

18 A person or entity named a respondent in discovery may upon
19 his or her own motion be made a defendant in the action, in
20 which case the provisions of this Section are no longer
21 applicable to that person.

22 A copy of the complaint shall be served on each person or
23 entity named as a respondent in discovery.

24 Each respondent in discovery shall be paid expenses and
25 fees as provided for witnesses.

26 A person or entity named as a respondent in discovery in
27 any civil action may be made a defendant in the same action at
28 any time within 6 months after being named as a respondent in
29 discovery, even though the time during which an action may
30 otherwise be initiated against him or her may have expired
31 during such 6 month period. An extension from the original
32 6-month period for good cause may be granted only once for up

1 to 90 days for (i) withdrawal of plaintiff's counsel or (ii)
2 good cause. Notwithstanding the limitations in this Section,
3 the court may grant additional reasonable extensions from this
4 6-month period for a failure or refusal on the part of the
5 respondent to comply with timely filed discovery.

6 The changes to this Section made by this amendatory Act of
7 the 94th General Assembly apply to causes of action pending on
8 or after its effective date.

9 (Source: P.A. 86-483.)

10 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

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

13 Sec. 2-622. Healing art malpractice.

14 (a) In any action, whether in tort, contract or otherwise,
15 in which the plaintiff seeks damages for injuries or death by
16 reason of medical, hospital, or other healing art malpractice,
17 the plaintiff's attorney or the plaintiff, if the plaintiff is
18 proceeding pro se, shall file an affidavit, attached to the
19 original and all copies of the complaint, declaring one of the
20 following:

21 1. That the affiant has consulted and reviewed the
22 facts of the case with a health professional who the
23 affiant reasonably believes: (i) is knowledgeable in the
24 relevant issues involved in the particular action; (ii)
25 practices or has practiced within the last 5 ~~6~~ years or
26 teaches or has taught within the last 5 ~~6~~ years in the same
27 area of health care or medicine that is at issue in the
28 particular action; and (iii) meets the expert witness
29 standards set forth in paragraphs (a) through (d) of
30 Section 8-2501; ~~is qualified by experience or demonstrated~~
31 ~~competence in the subject of the case;~~ that the reviewing
32 health professional has determined in a written report,
33 after a review of the medical record and other relevant

1 material involved in the particular action that there is a
2 reasonable and meritorious cause for the filing of such
3 action; and that the affiant has concluded on the basis of
4 the reviewing health professional's review and
5 consultation that there is a reasonable and meritorious
6 cause for filing of such action. A single written report
7 must be filed to cover each defendant in the action. As to
8 defendants who are individuals, the ~~If the affidavit is~~
9 ~~filed as to a defendant who is a physician licensed to~~
10 ~~treat human ailments without the use of drugs or medicines~~
11 ~~and without operative surgery, a dentist, a podiatrist, a~~
12 ~~psychologist, or a naprapath,~~ The written report must be
13 from a health professional licensed in the same profession,
14 with the same class of license, as the defendant. For
15 written reports ~~affidavits~~ filed as to all other
16 defendants, who are not individuals, the written report
17 must be from a physician licensed to practice medicine in
18 all its branches who is qualified by experience with the
19 standard of care, methods, procedures and treatments
20 relevant to the allegations at issue in the case. In either
21 event, the written report ~~affidavit~~ must identify the
22 profession of the reviewing health professional. A copy of
23 the written report, clearly identifying the plaintiff and
24 the reasons for the reviewing health professional's
25 determination that a reasonable and meritorious cause for
26 the filing of the action exists, must be attached to the
27 affidavit, but information which would identify the
28 reviewing health professional may be deleted from the copy
29 so attached. The report must contain the affirmations set
30 forth in items (i) through (iii) of this paragraph 1. At
31 the first Supreme Court Rule 218 case management
32 conference, the plaintiff shall present to the court the
33 original signed health professional's report, along with
34 the health professional's current license number and state

1 of licensure and curriculum vitae, for an in camera
2 inspection. The court shall verify whether the report and
3 affidavit comply with the requirements of this paragraph 1.
4 The court, in verifying whether the report and affidavit
5 comply with the requirements of this paragraph 1, shall
6 determine whether the health professional preparing the
7 report is qualified and the determination shall be either
8 in writing or transcribed. If the court finds that the
9 report, the health professional's current license
10 information or curriculum vitae, or the affidavit is
11 deficient, the court may request from the plaintiff all
12 documents it deems necessary to make its decision and shall
13 allow for a reasonable opportunity to provide any requested
14 documents and to amend that report or affidavit; provided,
15 if the statute of limitations has tolled, the judge may
16 grant only one extension not exceeding 120 days. The
17 court's verification as to whether the health professional
18 preparing the report is qualified shall be issued to all
19 parties and be made a part of the official record. The
20 original report, the health professional's current license
21 number and state of licensure and curriculum vitae, and any
22 documents requested by the court shall remain under seal
23 and part of the court record. Notwithstanding the other
24 provisions of this Section, the judge may disclose the name
25 and address of the reviewing health professional upon a
26 showing of good cause by the defendant who in good faith
27 challenges the qualifications of the health professional
28 based on information available to the defendant. If the
29 information is disclosed at the trial level, then it shall
30 be confidential and it shall not be disclosed by the
31 defendant to a third party.

32 2. That the affiant was unable to obtain a consultation
33 required by paragraph 1 because a statute of limitations
34 would impair the action and the consultation required could

1 not be obtained before the expiration of the statute of
2 limitations. If an affidavit is executed pursuant to this
3 paragraph, the affidavit ~~certificate~~ and written report
4 required by paragraph 1 shall be filed within 90 days after
5 the filing of the complaint. No additional 90-day
6 extensions pursuant to this paragraph shall be granted,
7 except where there has been a withdrawal of the plaintiff's
8 counsel. The defendant shall be excused from answering or
9 otherwise pleading until 30 days after being served with an
10 affidavit and a report ~~a certificate~~ required by paragraph
11 1.

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

26 (b) Where an affidavit ~~a certificate~~ and written report are
27 required pursuant to this Section a separate affidavit
28 ~~certificate~~ and written report shall be filed as to each
29 defendant who has been named in the complaint and shall be
30 filed as to each defendant named at a later time.

31 (c) Where the plaintiff intends to rely on the doctrine of
32 "res ipsa loquitur", as defined by Section 2-1113 of this Code,
33 the affidavit ~~certificate~~ and written report must state that,
34 in the opinion of the reviewing health professional, negligence

1 has occurred in the course of medical treatment. The affiant
2 shall certify upon filing of the complaint that he is relying
3 on the doctrine of "res ipsa loquitur".

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

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

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

30 (g) The failure of the plaintiff to file an affidavit and
31 report in compliance with ~~to file a certificate required by~~
32 this Section shall be grounds for dismissal under Section
33 2-619.

34 (h) This Section does not apply to or affect any actions

1 pending at the time of its effective date, but applies to cases
2 filed on or after its effective date.

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

6 (j) The changes to this Section made by this amendatory Act
7 of the 94th General Assembly apply to causes of action accruing
8 on or after its effective date.

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

10 (735 ILCS 5/2-1704) (from Ch. 110, par. 2-1704)

11 Sec. 2-1704. Healing art malpractice ~~Medical Malpractice~~
12 ~~Action~~. As used in this Code Part, "healing art medical
13 malpractice action" means any action, whether in tort, contract
14 or otherwise, in which the plaintiff seeks damages for injuries
15 or death by reason of medical, hospital, or other healing art
16 malpractice including but not limited to medical, hospital,
17 nursing, dental, or podiatric malpractice. The term "healing
18 art" shall not include care and treatment by spiritual means
19 through prayer in accord with the tenets and practices of a
20 recognized church or religious denomination.

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

22 (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

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

24 (a) The providing of, or payment for, medical, surgical,
25 hospital, or rehabilitation services, facilities, or equipment
26 by or on behalf of any person, or the offer to provide, or pay
27 for, any one or more of the foregoing, shall not be construed
28 as an admission of any liability by such person or persons.
29 Testimony, writings, records, reports or information with
30 respect to the foregoing shall not be admissible in evidence as
31 an admission of any liability in any action of any kind in any
32 court or before any commission, administrative agency, or other

1 tribunal in this State, except at the instance of the person or
2 persons so making any such provision, payment or offer.

3 (b) Any expression of grief, apology, or explanation
4 provided by a health care provider, including, but not limited
5 to, a statement that the health care provider is "sorry" for
6 the outcome to a patient, the patient's family, or the
7 patient's legal representative about an inadequate or
8 unanticipated treatment or care outcome that is provided within
9 72 hours of when the provider knew or should have known of the
10 potential cause of such outcome shall not be admissible as
11 evidence in any action of any kind in any court or before any
12 tribunal, board, agency, or person. The disclosure of any such
13 information, whether proper, or improper, shall not waive or
14 have any effect upon its confidentiality or inadmissibility. As
15 used in this Section, a "health care provider" is any hospital,
16 nursing home or other facility, or employee or agent thereof, a
17 physician, or other licensed health care professional. Nothing
18 in this Section precludes the discovery or admissibility of any
19 other facts regarding the patient's treatment or outcome as
20 otherwise permitted by law.

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

22 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

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

25 Sec. 8-2501. Expert Witness Standards. In any case in which
26 the standard of care applicable to ~~given by~~ a medical
27 professional ~~profession~~ is at issue, the court shall apply the
28 following standards to determine if a witness qualifies as an
29 expert witness and can testify on the issue of the appropriate
30 standard of care.

31 (a) Whether the witness is board certified or board
32 eligible, or has completed a residency, in the same or
33 substantially similar medical specialties as the defendant and

1 is otherwise qualified by significant experience with the
2 standard of care, methods, procedures, and treatments relevant
3 to the allegations against the defendant ~~Relationship of the~~
4 ~~medical specialties of the witness to the medical problem or~~
5 ~~problems and the type of treatment administered in the case;~~

6 (b) Whether the witness has devoted a majority ~~substantial~~
7 ~~portion~~ of his or her work time to the practice of medicine,
8 teaching or University based research in relation to the
9 medical care and type of treatment at issue which gave rise to
10 the medical problem of which the plaintiff complains;

11 (c) whether the witness is licensed in the same profession
12 with the same class of license as the defendant if the
13 defendant is an individual; and

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

17 An expert shall provide evidence of active practice,
18 teaching, or engaging in university-based research. If
19 retired, an expert must provide evidence of attendance and
20 completion of continuing education courses for 3 years previous
21 to giving testimony. An expert who has not actively practiced,
22 taught, or been engaged in university-based research, or any
23 combination thereof, during the preceding 5 years may not be
24 qualified as an expert witness.

25 The changes to this Section made by this amendatory Act of
26 the 94th General Assembly apply to causes of action filed on or
27 after its effective date.

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

29 Section 340. The Good Samaritan Act is amended by changing
30 Section 30 as follows:

31 (745 ILCS 49/30)

32 Sec. 30. Free medical clinic; exemption from civil

1 liability for services performed without compensation.

2 (a) A person licensed under the Medical Practice Act of
3 1987, a person licensed to practice the treatment of human
4 ailments in any other state or territory of the United States,
5 or a health care professional, including but not limited to an
6 advanced practice nurse, retired physician, physician
7 assistant, nurse, pharmacist, physical therapist, podiatrist,
8 or social worker licensed in this State or any other state or
9 territory of the United States, who, in good faith, provides
10 medical treatment, diagnosis, or advice as a part of the
11 services of an established free medical clinic providing care,
12 including but not limited to home visits, without charge to
13 ~~medically indigent~~ patients which is limited to care that does
14 not require the services of a licensed hospital or ambulatory
15 surgical treatment center and who receives no fee or
16 compensation from that source shall not be liable for civil
17 damages as a result of his or her acts or omissions in
18 providing that medical treatment, except for willful or wanton
19 misconduct.

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

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

30 (d) The immunity from civil damages provided under
31 subsection (a) also applies to physicians, retired physicians,
32 hospitals, and other health care providers that provide further
33 medical treatment, diagnosis, or advice, including but not
34 limited to hospitalization, office visits, and home visits, to

1 a patient upon referral from an established free medical clinic
2 without fee or compensation.

3 (d-5) A free medical clinic may receive reimbursement from
4 the Illinois Department of Public Aid, provided any
5 reimbursements shall be used only to pay overhead expenses of
6 operating the free medical clinic and may not be used, in whole
7 or in part, to provide a fee or other compensation to any
8 person licensed under the Medical Practice Act of 1987 or any
9 other health care professional who is receiving an exemption
10 under this Section. Any health care professional receiving an
11 exemption under this Section may not receive any fee or other
12 compensation in connection with any services provided to, or
13 any ownership interest in, the clinic. Medical care shall not
14 include an overnight stay in a health care facility.

15 (e) Nothing in this Section prohibits a free medical clinic
16 from accepting voluntary contributions for medical services
17 provided to a patient who has acknowledged his or her ability
18 and willingness to pay a portion of the value of the medical
19 services provided.

20 (f) Any voluntary contribution collected for providing
21 care at a free medical clinic shall be used only to pay
22 overhead expenses of operating the clinic. No portion of any
23 moneys collected shall be used to provide a fee or other
24 compensation to any person licensed under Medical Practice Act
25 of 1987.

26 (g) The changes to this Section made by this amendatory Act
27 of the 94th General Assembly apply to causes of action accruing
28 on or after its effective date.

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

30 ARTICLE 4. SORRY WORKS! PILOT PROGRAM ACT

31 Section 401. Short title. This Article 4 may be cited as
32 the Sorry Works! Pilot Program Act, and references in this

1 Article to "this Act" mean this Article.

2 Section 405. Sorry Works! pilot program. The Sorry Works!
3 pilot program is established. During the first year of the
4 program's operation, participation in the program shall be open
5 to one hospital. Hospitals may participate only with the
6 approval of the hospital administration and the hospital's
7 organized medical staff. During the second year of the
8 program's operation, participation in the program shall be open
9 to one additional hospital.

10 The first participating hospital selected by the committee
11 established under Section 410 shall be located in a county with
12 a population greater than 200,000 that is contiguous with the
13 Mississippi River.

14 Under the program, participating hospitals and physicians
15 shall promptly acknowledge and apologize for mistakes in
16 patient care and promptly offer fair settlements.
17 Participating hospitals shall encourage patients and families
18 to retain their own legal counsel to ensure that their rights
19 are protected and to help facilitate negotiations for fair
20 settlements. Participating hospitals shall report to the
21 committee their total costs for healing art malpractice
22 verdicts, settlements, and defense litigation for the
23 preceding 5 years to enable the committee to determine average
24 costs for that hospital during that period. The committee shall
25 develop standards and protocols to compare costs for cases
26 handled by traditional means and cases handled under the Sorry
27 Works! protocol.

28 If the committee determines that the total costs of cases
29 handled under the Sorry Works! protocol by a hospital
30 participating in the program exceed the total costs that would
31 have been incurred if the cases had been handled by traditional
32 means, the hospital may apply for a grant from the Sorry Works!
33 Fund, a special fund that is created in the State Treasury, for

1 an amount, as determined by the committee, by which the total
2 costs exceed the total costs that would have been incurred if
3 the cases had been handled by traditional means; however, the
4 total of all grants from the Fund for cases in any single
5 participating hospital in any year may not exceed the amount in
6 the Fund or \$2,000,000, whichever is less. All grants shall be
7 subject to appropriation. Moneys in the Fund shall consist of
8 funds transferred into the Fund or otherwise made available
9 from any source.

10 Section 410. Establishment of committee.

11 (a) A committee is established to develop, oversee, and
12 implement the Sorry Works! pilot program. The committee shall
13 have 9 members, each of whom shall be a voting member. Six
14 members of the committee shall constitute a quorum. The
15 committee shall be comprised as follows:

16 (1) The President of the Senate, the Minority Leader of
17 the Senate, the Speaker of the House of Representatives,
18 and the Minority Leader of the House of Representatives
19 shall each appoint 2 members.

20 (2) The Secretary of Financial and Professional
21 Regulation or his or her designee.

22 (b) The committee shall establish criteria for the program,
23 including but not limited to: selection of hospitals,
24 physicians, and insurers to participate in the program; and
25 creation of a subcommittee to review cases from hospitals and
26 determine whether hospitals, physicians, and insurers are
27 entitled to compensation under the program.

28 (c) The committee shall communicate with hospitals,
29 physicians, and insurers that are interested in participating
30 in the program. The committee shall make final decisions as to
31 which applicants are accepted for the program.

32 (d) The committee shall report to the Governor and the
33 General Assembly annually.

1 (e) The committee shall publish data regarding the program.

2 (f) Committee members shall receive no compensation for the
3 performance of their duties as members, but each member shall
4 be paid necessary expenses while engaged in the performance of
5 those duties.

6 Section 415. Termination of program.

7 (a) The program may be terminated at any time if the
8 committee, by a vote of two-thirds of its members, votes to
9 terminate the program.

10 (b) If the program is not terminated under subsection (a),
11 the program shall terminate after its second year of operation.

12 Section 495. The State Finance Act is amended by adding
13 Section 5.640 as follows:

14 (30 ILCS 105/5.640 new)

15 Sec. 5.640. The Sorry Works! Fund.

16 ARTICLE 5. WORKING STUDY COMMITTEE

17 Section 501. Short title. This Article 5 may be cited as
18 the Medical Malpractice Working Study Committee Act, and
19 references in this Article to "this Act" mean this Article.

20 Section 505. Working Study Committee. The Governor,
21 President of the Senate, Senate Minority Leader, Speaker of the
22 House of Representatives, and House Minority Leader shall each
23 appoint 2 persons to serve on a Working Study Committee to
24 research, assess, and report to the General Assembly on the
25 results and impacts of other states' efforts in addressing caps
26 on non-economic damages and annuities to pay judgments or
27 settlements in medical malpractice lawsuits. The Working Study
28 Committee shall submit its report within 12 months of the

1 effective date of this Act.

2 ARTICLE 9. MISCELLANEOUS

3 Section 995. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 999. Effective date. This Act takes effect upon
6 becoming law.".