



Sen. George P. Shadid

Filed: 5/4/2005

09400SB0276sam003

LRB094 09385 WGH 45960 a

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 liability insurance
8 results in increased financial burdens on physicians and
9 hospitals.

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

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

19 (4) This health care crisis, which endangers the public
20 health, safety, and welfare of the citizens of Illinois,
21 requires significant reforms to the civil justice system
22 currently endangering health care for citizens of
23 Illinois. Limiting non-economic damages is one of these
24 significant reforms designed to benefit the people of the

1 State of Illinois. An increasing number of citizens or
2 municipalities are enacting ordinances that limit damages
3 and help maintain the health care delivery system in
4 Illinois and protect the health, safety, and welfare of the
5 people of Illinois.

6 (5) In order to preserve the public health, safety, and
7 welfare of the people of Illinois, the current medical
8 malpractice situation requires reforms that enhance the
9 State's oversight of physicians and ability to discipline
10 physicians, that increase the State's oversight of medical
11 liability insurance carriers, that reduce the number of
12 nonmeritorious healing art malpractice actions, that limit
13 non-economic damages in healing art malpractice actions,
14 that encourage physicians to provide voluntary services at
15 free medical clinics, that encourage physicians and
16 hospitals to continue providing health care services in
17 Illinois, and that encourage physicians to practice in
18 medical care shortage areas.

19 ARTICLE 2. RISK RETENTION ARRANGEMENTS

20 Section 205. The Open Meetings Act is amended by changing
21 Section 2 as follows:

22 (5 ILCS 120/2) (from Ch. 102, par. 42)

23 Sec. 2. Open meetings.

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

27 (b) Construction of exceptions. The exceptions contained
28 in subsection (c) are in derogation of the requirement that
29 public bodies meet in the open, and therefore, the exceptions
30 are to be strictly construed, extending only to subjects
31 clearly within their scope. The exceptions authorize but do not

1 require the holding of a closed meeting to discuss a subject
2 included within an enumerated exception.

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

5 (1) The appointment, employment, compensation,
6 discipline, performance, or dismissal of specific
7 employees of the public body or legal counsel for the
8 public body, including hearing testimony on a complaint
9 lodged against an employee of the public body or against
10 legal counsel for the public body to determine its
11 validity.

12 (2) Collective negotiating matters between the public
13 body and its employees or their representatives, or
14 deliberations concerning salary schedules for one or more
15 classes of employees.

16 (3) The selection of a person to fill a public office,
17 as defined in this Act, including a vacancy in a public
18 office, when the public body is given power to appoint
19 under law or ordinance, or the discipline, performance or
20 removal of the occupant of a public office, when the public
21 body is given power to remove the occupant under law or
22 ordinance.

23 (4) Evidence or testimony presented in open hearing, or
24 in closed hearing where specifically authorized by law, to
25 a quasi-adjudicative body, as defined in this Act, provided
26 that the body prepares and makes available for public
27 inspection a written decision setting forth its
28 determinative reasoning.

29 (5) The purchase or lease of real property for the use
30 of the public body, including meetings held for the purpose
31 of discussing whether a particular parcel should be
32 acquired.

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

1 (7) The sale or purchase of securities, investments, or
2 investment contracts.

3 (8) Security procedures and the use of personnel and
4 equipment to respond to an actual, a threatened, or a
5 reasonably potential danger to the safety of employees,
6 students, staff, the public, or public property.

7 (9) Student disciplinary cases.

8 (10) The placement of individual students in special
9 education programs and other matters relating to
10 individual students.

11 (11) Litigation, when an action against, affecting or
12 on behalf of the particular public body has been filed and
13 is pending before a court or administrative tribunal, or
14 when the public body finds that an action is probable or
15 imminent, in which case the basis for the finding shall be
16 recorded and entered into the minutes of the closed
17 meeting.

18 (12) The establishment of reserves or settlement of
19 claims as provided in the Local Governmental and
20 Governmental Employees Tort Immunity Act, if otherwise the
21 disposition of a claim or potential claim might be
22 prejudiced, or the review or discussion of claims, loss or
23 risk management information, records, data, advice or
24 communications from or with respect to any insurer of the
25 public body or any intergovernmental risk management
26 association or self insurance pool of which the public body
27 is a member.

28 (13) Conciliation of complaints of discrimination in
29 the sale or rental of housing, when closed meetings are
30 authorized by the law or ordinance prescribing fair housing
31 practices and creating a commission or administrative
32 agency for their enforcement.

33 (14) Informant sources, the hiring or assignment of
34 undercover personnel or equipment, or ongoing, prior or

1 future criminal investigations, when discussed by a public
2 body with criminal investigatory responsibilities.

3 (15) Professional ethics or performance when
4 considered by an advisory body appointed to advise a
5 licensing or regulatory agency on matters germane to the
6 advisory body's field of competence.

7 (16) Self evaluation, practices and procedures or
8 professional ethics, when meeting with a representative of
9 a statewide association of which the public body is a
10 member.

11 (17) The recruitment, credentialing, discipline or
12 formal peer review of physicians or other health care
13 professionals for a hospital, or other institution
14 providing medical care, that is operated by the public
15 body.

16 (18) Deliberations for decisions of the Prisoner
17 Review Board.

18 (19) Review or discussion of applications received
19 under the Experimental Organ Transplantation Procedures
20 Act.

21 (20) The classification and discussion of matters
22 classified as confidential or continued confidential by
23 the State Employees Suggestion Award Board.

24 (21) Discussion of minutes of meetings lawfully closed
25 under this Act, whether for purposes of approval by the
26 body of the minutes or semi-annual review of the minutes as
27 mandated by Section 2.06.

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

30 (23) The operation by a municipality of a municipal
31 utility or the operation of a municipal power agency or
32 municipal natural gas agency when the discussion involves
33 (i) contracts relating to the purchase, sale, or delivery
34 of electricity or natural gas or (ii) the results or

1 conclusions of load forecast studies.

2 (24) Meetings of a residential health care facility
3 resident sexual assault and death review team or the
4 Residential Health Care Facility Resident Sexual Assault
5 and Death Review Teams Executive Council under the
6 Residential Health Care Facility Resident Sexual Assault
7 and Death Review Team Act.

8 (25) The establishment of reserves administration,
9 adjudication, or settlement of claims as provided in
10 Article XLV of the Illinois Insurance Code if otherwise the
11 disposition of a claim or potential claim might be
12 prejudiced, or the review or discussion of claims, loss or
13 risk management information, records, data, advice or
14 communications from or with respect to any self-insurance
15 trust administration or adjudication of any claim, or
16 insurer created by the public body.

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

18 "Employee" means a person employed by a public body whose
19 relationship with the public body constitutes an
20 employer-employee relationship under the usual common law
21 rules, and who is not an independent contractor.

22 "Public office" means a position created by or under the
23 Constitution or laws of this State, the occupant of which is
24 charged with the exercise of some portion of the sovereign
25 power of this State. The term "public office" shall include
26 members of the public body, but it shall not include
27 organizational positions filled by members thereof, whether
28 established by law or by a public body itself, that exist to
29 assist the body in the conduct of its business.

30 "Quasi-adjudicative body" means an administrative body
31 charged by law or ordinance with the responsibility to conduct
32 hearings, receive evidence or testimony and make
33 determinations based thereon, but does not include local
34 electoral boards when such bodies are considering petition

1 challenges.

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

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

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

10 (55 ILCS 5/5-1005) (from Ch. 34, par. 5-1005)

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

12 1. To purchase and hold the real and personal estate
13 necessary for the uses of the county, and to purchase and hold,
14 for the benefit of the county, real estate sold by virtue of
15 judicial proceedings in which the county is plaintiff.

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

18 3. To make all contracts and do all other acts in relation
19 to the property and concerns of the county necessary to the
20 exercise of its corporate powers.

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

23 5. To purchase and hold or lease real estate upon which may
24 be erected and maintained buildings to be utilized for purposes
25 of agricultural experiments and to purchase, hold and use
26 personal property for the care and maintenance of such real
27 estate in connection with such experimental purposes.

28 6. To cause to be erected, or otherwise provided, suitable
29 buildings for, and maintain a county hospital and necessary
30 branch hospitals and/or a county sheltered care home or county
31 nursing home for the care of such sick, chronically ill or
32 infirm persons as may by law be proper charges upon the county,

1 or upon other governmental units, and to provide for the
2 management of the same. The county board may establish rates to
3 be paid by persons seeking care and treatment in such hospital
4 or home in accordance with their financial ability to meet such
5 charges, either personally or through a hospital plan or
6 hospital insurance, and the rates to be paid by governmental
7 units, including the State, for the care of sick, chronically
8 ill or infirm persons admitted therein upon the request of such
9 governmental units. Any hospital maintained by a county under
10 this Section is authorized to provide any service and enter
11 into any contract or other arrangement not prohibited for a
12 hospital that is licensed under the Hospital Licensing Act,
13 incorporated under the General Not-For-Profit Corporation Act,
14 and exempt from taxation under paragraph (3) of subsection (c)
15 of Section 501 of the Internal Revenue Code.

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

20 8. To purchase and hold real estate for the preservation of
21 forests, prairies and other natural areas and to maintain and
22 regulate the use thereof.

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

27 10. To appropriate funds from the county treasury to be
28 used in any manner to be determined by the board for the
29 suppression, eradication and control of tuberculosis among
30 domestic cattle in such county.

31 11. To take all necessary measures to prevent forest fires
32 and encourage the maintenance and planting of trees and the
33 preservation of forests.

34 12. To authorize the closing on Saturday mornings of all

1 offices of all county officers at the county seat of each
2 county, and to otherwise regulate and fix the days and the
3 hours of opening and closing of such offices, except when the
4 days and the hours of opening and closing of the office of any
5 county officer are otherwise fixed by law; but the power herein
6 conferred shall not apply to the office of State's Attorney and
7 the offices of judges and clerks of courts and, in counties of
8 500,000 or more population, the offices of county clerk.

9 13. To provide for the conservation, preservation and
10 propagation of insectivorous birds through the expenditure of
11 funds provided for such purpose.

12 14. To appropriate funds from the county treasury and
13 expend the same for care and treatment of tuberculosis
14 residents.

15 15. In counties having less than 1,000,000 inhabitants, to
16 take all necessary or proper steps for the extermination of
17 mosquitoes, flies or other insects within the county.

18 16. To install an adequate system of accounts and financial
19 records in the offices and divisions of the county, suitable to
20 the needs of the office and in accordance with generally
21 accepted principles of accounting for governmental bodies,
22 which system may include such reports as the county board may
23 determine.

24 17. To purchase and hold real estate for the construction
25 and maintenance of motor vehicle parking facilities for persons
26 using county buildings, but the purchase and use of such real
27 estate shall not be for revenue producing purposes.

28 18. To acquire and hold title to real property located
29 within the county, or partly within and partly outside the
30 county by dedication, purchase, gift, legacy or lease, for park
31 and recreational purposes and to charge reasonable fees for the
32 use of or admission to any such park or recreational area and
33 to provide police protection for such park or recreational
34 area. Personnel employed to provide such police protection

1 shall be conservators of the peace within such park or
2 recreational area and shall have power to make arrests on view
3 of the offense or upon warrants for violation of any of the
4 ordinances governing such park or recreational area or for any
5 breach of the peace in the same manner as the police in
6 municipalities organized and existing under the general laws of
7 the State. All such real property outside the county shall be
8 contiguous to the county and within the boundaries of the State
9 of Illinois.

10 19. To appropriate funds from the county treasury to be
11 used to provide supportive social services designed to prevent
12 the unnecessary institutionalization of elderly residents, or,
13 for operation of, and equipment for, senior citizen centers
14 providing social services to elderly residents.

15 20. To appropriate funds from the county treasury and loan
16 such funds to a county water commission created under the
17 "Water Commission Act", approved June 30, 1984, as now or
18 hereafter amended, in such amounts and upon such terms as the
19 county may determine or the county and the commission may
20 agree. The county shall not under any circumstances be
21 obligated to make such loans. The county shall not be required
22 to charge interest on any such loans.

23 21. To establish an independent entity to administer a
24 medical care risk retention trust program, to contribute such
25 sums of money to the risk retention trust program as the county
26 board of the county shall deem proper to operate the medical
27 care risk retention trust program, to establish uniform
28 eligibility requirements for participation in the risk
29 retention trust program, to appoint an administrator of the
30 risk retention trust program, to charge premiums, to establish
31 a billing procedure to collect premiums, and to ensure timely
32 administration and adjudication of claims under the program. A
33 single medical care risk retention trust program may be
34 established jointly by more than one county, in accordance with

1 an agreement between the participating counties, if at least
2 one of the participating counties has a population of 200,000
3 or more according to the most recent federal decennial census.

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

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

9 (55 ILCS 5/Div. 6-34 heading new)

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

11 (55 ILCS 5/6-34001 new)

12 Sec. 6-34001. Authorization. The county board of any county
13 with a population of 200,000 or more according to the most
14 recent federal decennial census (and a county with a population
15 of less than 200,000 according to the most recent federal
16 decennial census if that county is participating in a single
17 trust program with one or more other counties in accordance
18 with the requirements of paragraph (21) of Section 5-1005 of
19 this Code) may, upon finding such action necessary for
20 protection of the public health, safety, and welfare, incur an
21 indebtedness by the establishment of lines or letters of credit
22 or issue general obligation or revenue bonds for the purpose of
23 ensuring the availability of and improving hospital, medical,
24 and health services as authorized under paragraph (21) of
25 Section 5-1005 of this Code.

26 (55 ILCS 5/6-34002 new)

27 Sec. 6-34002. Bonds. The bonds authorized in Section
28 6-34001 shall be issued in such denominations, be for such term
29 or terms, and bear interest at such rate as may be specified in
30 the resolution of the county board authorizing the issuance of
31 those bonds.

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

3 (215 ILCS 5/Art. XLV heading new)

4 Article XLV. COUNTY RISK RETENTION ARRANGEMENTS
5 FOR THE PROVISION OF MEDICAL MALPRACTICE INSURANCE

6 (215 ILCS 5/1501 new)

7 Sec. 1501. Scope of Article. This Article applies only to
8 trusts sponsored by counties and organized under this Article
9 to provide medical malpractice insurance authorized under
10 paragraph (21) of Section 5-1005 of the Counties Code for
11 physicians and health care professionals providing medical
12 care and health care within the county's limits. In the case of
13 a single trust sponsored and organized by more than one county
14 in accordance with the requirements of paragraph (21) of
15 Section 5-1005 of the Counties Code, the powers and duties of a
16 county under this Article shall be exercised jointly by the
17 counties participating in the trust program in accordance with
18 the agreement between the counties.

19 (215 ILCS 5/1502 new)

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

21 "Risk retention trust" or "trust" means a risk retention
22 trust created under this Article.

23 "Trust sponsor" means a county that has created a risk
24 retention trust.

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

29 "Contingency reserve fund" means a separate fund
30 maintained for payment of claims in excess of the pool

1 retention fund amount.

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

5 "Licensed service company" means an entity licensed by the
6 Department to perform claims adjusting, loss control, and data
7 processing.

8 (215 ILCS 5/1503 new)

9 Sec. 1503. Name. The corporate name of any risk retention
10 trust shall not be the same as or deceptively similar to the
11 name of any domestic insurance company or of any foreign or
12 alien insurance company authorized to transact business in this
13 State.

14 (215 ILCS 5/1504 new)

15 Sec. 1504. Principal office place of business. The
16 principal office of any risk retention trust shall be located
17 in this State.

18 (215 ILCS 5/1505 new)

19 Sec. 1505. Creation.

20 (1) Any county with a population of 200,000 or more
21 according to the most recent federal decennial census may
22 create a risk retention trust for the pooling of risks to
23 provide professional liability coverage authorized under
24 paragraph (21) of Section 5-1005 of the Counties Code for its
25 physicians and health care professionals providing medical
26 care and related health care within the county's limits. A
27 single risk retention trust may also be created jointly by more
28 than one county in accordance with the requirements of
29 paragraph (21) of Section 5-1005 of the Counties Code. A trust
30 shall be administered by at least 3 trustees who may be
31 individuals or corporate trustees and are appointed by the

1 trust sponsor and who represent physicians who have agreed in
2 writing to participate in the trust.

3 (2) The trustees shall appoint a qualified licensed
4 administrator who shall administer the affairs of the risk
5 retention trust.

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

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

11 (5) A trust shall be consummated by a written trust
12 agreement and shall be subject to the laws of this State
13 governing the creation and operation of trusts, to the extent
14 not inconsistent with this Article.

15 (215 ILCS 5/1506 new)

16 Sec. 1506. Participation.

17 (1) A physician or health care professional providing
18 medical care and related health care within the county's limits
19 may participate in a risk retention trust if the physician or
20 health care professional:

21 (a) meets the underwriting standards for acceptance
22 into the trust;

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

25 (c) provides medical care and related health care in
26 the county sponsoring the trust;

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

29 (e) pays premium contributions on a timely basis as
30 required; and

31 (f) pays predetermined annual required contributions
32 into the contingency reserve fund.

33 (2) A physician or health care professional accepted for

1 trust membership and participating in the trust is liable for
2 payment to the trust of the amount of his or her annual premium
3 contribution and his or her annual predetermined contingency
4 reserve fund contribution.

5 (215 ILCS 5/1507 new)

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

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

14 (2) Every coverage grant issued or delivered in this State
15 by a risk retention trust shall provide for the extent of the
16 liability of trust members to the extent that funds are needed
17 to pay a member's share of the depleted contingency reserve
18 fund needed to maintain the reserves required by this Section.

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

22 (215 ILCS 5/1508 new)

23 Sec. 1508. Applicable Illinois Insurance Code provisions.
24 Other than this Article, only Sections 155.19, 155.20, and
25 155.25 and subsections (a) through (c) of Section 155.18 of
26 this Code shall apply to county risk retention trusts. The
27 Secretary shall advise the county board of any determinations
28 made pursuant to subsection (b) of Section 155.18 of this Code.

29 (215 ILCS 5/1509 new)

30 Sec. 1509. Authorized investments. In addition to other
31 investments authorized by law, a risk retention trust with

1 assets of at least \$5,000,000 may invest in any combination of
2 the following:

3 (1) the common stocks listed on a recognized exchange
4 or market;

5 (2) stock and convertible debt investments, or
6 investment grade corporate bonds, in or issued by any
7 corporation, the book value of which may not exceed 5% of
8 the total intergovernmental risk management entity's
9 investment account at book value in which those securities
10 are held, determined as of the date of the investment,
11 provided that investments in the stock of any one
12 corporation may not exceed 5% of the total outstanding
13 stock of the corporation and that the investments in the
14 convertible debt of any one corporation may not exceed 5%
15 of the total amount of such debt that may be outstanding;

16 (3) the straight preferred stocks or convertible
17 preferred stocks and convertible debt securities issued or
18 guaranteed by a corporation whose common stock is listed on
19 a recognized exchange or market;

20 (4) mutual funds or commingled funds that meet the
21 following requirements:

22 (A) the mutual fund or commingled fund is managed
23 by an investment company as defined in and registered
24 under the federal Investment Company Act of 1940 and
25 registered under the Illinois Securities Law of 1953 or
26 an investment adviser as defined under the federal
27 Investment Advisers Act of 1940;

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

30 (C) the mutual fund has total net assets of
31 \$150,000,000 or more;

32 (5) commercial grade real estate located in the State
33 of Illinois.

34 Any investment adviser retained by a trust must be a

1 fiduciary who has the power to manage, acquire, or dispose of
2 any asset of the trust and has acknowledged in writing that he
3 or she is a fiduciary with respect to the trust and that he or
4 she will adhere to all of the guidelines of the trust and is
5 one or more of the following:

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

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

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

12 (iv) an insurance company authorized to transact
13 business in this State.

14 Nothing in this Section shall be construed to authorize a
15 risk retention trust to accept the deposit of public funds
16 except for trust risk retention purposes.

17 ARTICLE 3. AMENDATORY PROVISIONS

18 Section 310. The Illinois Insurance Code is amended by
19 changing Sections 155.18, 155.19, 402, and 1204 and by adding
20 Section 155.18a as follows:

21 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

22 Sec. 155.18. (a) This Section shall apply to insurance on
23 risks based upon negligence by a physician, hospital or other
24 health care provider, referred to herein as medical liability
25 insurance. This Section shall not apply to contracts of
26 reinsurance, nor to any farm, county, district or township
27 mutual insurance company transacting business under an Act
28 entitled "An Act relating to local mutual district, county and
29 township insurance companies", approved March 13, 1936, as now
30 or hereafter amended, nor to any such company operating under a
31 special charter.

1 (b) The following standards shall apply to the making and
2 use of rates pertaining to all classes of medical liability
3 insurance:

4 (1) Rates shall not be excessive or inadequate, as
5 herein defined, nor shall they be unfairly discriminatory.
6 No rate shall be held to be excessive unless such rate is
7 unreasonably high for the insurance provided, ~~and a~~
8 ~~reasonable degree of competition does not exist in the area~~
9 ~~with respect to the classification to which such rate is~~
10 ~~applicable.~~

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

14 (2) Consideration shall be given, to the extent
15 applicable, to past and prospective loss experience within
16 and outside this State, to a reasonable margin for
17 underwriting profit and contingencies, to past and
18 prospective expenses both countrywide and those especially
19 applicable to this State, and to all other factors,
20 including judgment factors, deemed relevant within and
21 outside this State.

22 Consideration may also be given in the making and use
23 of rates to dividends, savings or unabsorbed premium
24 deposits allowed or returned by companies to their
25 policyholders, members or subscribers.

26 (3) The systems of expense provisions included in the
27 rates for use by any company or group of companies may
28 differ from those of other companies or groups of companies
29 to reflect the operating methods of any such company or
30 group with respect to any kind of insurance, or with
31 respect to any subdivision or combination thereof.

32 (4) Risks may be grouped by classifications for the
33 establishment of rates and minimum premiums.
34 Classification rates may be modified to produce rates for

1 individual risks in accordance with rating plans which
2 establish standards for measuring variations in hazards or
3 expense provisions, or both. Such standards may measure any
4 difference among risks that have a probable effect upon
5 losses or expenses. Such classifications or modifications
6 of classifications of risks may be established based upon
7 size, expense, management, individual experience, location
8 or dispersion of hazard, or any other reasonable
9 considerations and shall apply to all risks under the same
10 or substantially the same circumstances or conditions. The
11 rate for an established classification should be related
12 generally to the anticipated loss and expense factors of
13 the class.

14 (c) Every company writing medical liability insurance
15 shall file with the Secretary of Financial and Professional
16 Regulation ~~Director of Insurance~~ the rates and rating schedules
17 it uses for medical liability insurance.

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

22 (2) For the purposes of this Section, any change in
23 premium to the company's insureds as a result of a change
24 in the company's base rates or a change in its increased
25 limits factors shall constitute a change in rates and shall
26 require a filing with the Secretary ~~Director~~. On any filing
27 made pursuant to this Section wherein the company's annual
28 cumulative overall rate increase exceeds 10%, the
29 Secretary shall convene a public hearing for the purpose of
30 receiving testimony from the company and from any
31 interested persons regarding the company's proposed
32 increase.

33 (3) It shall be certified in such filing by an officer
34 of the company and a qualified actuary that the company's

1 rates are based on sound actuarial principles and are not
2 inconsistent with the company's experience. The Secretary
3 may request any additional statistical data and other
4 pertinent information necessary to determine the manner
5 the company used to set the filed rates and the
6 reasonableness of those rates.

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

10 (1) that any rate, rating plan or rating system
11 violates the provisions of this Section applicable to it,
12 he shall ~~may~~ issue an order to the company which has been
13 the subject of the hearing specifying in what respects such
14 violation exists and may prohibit ~~stating when, within a~~
15 ~~reasonable period of time,~~ the further use of such rate or
16 rating system by such company in contracts of insurance
17 ~~made thereafter shall be prohibited;~~

18 (2) that the violation of any of the provisions of this
19 Section ~~applicable to it~~ by any company which has been the
20 subject of the hearing was wilful or that any company has
21 repeatedly violated any provision of this Section, he may
22 take either or both of the following actions:

23 (A) Suspend ~~suspend~~ or revoke, in whole or in part,
24 the certificate of authority of such company with
25 respect to the class of insurance which has been the
26 subject of the hearing.

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

30 (e) Every company writing medical liability insurance in
31 this State shall offer to each of its medical liability
32 insureds the option to make premium payments in at least
33 quarterly installments as prescribed by and filed with the
34 Secretary. This offer shall be included in the initial offer or

1 in the first policy renewal occurring after the effective date
2 of this amendatory Act of the 94th General Assembly, but no
3 earlier than January 1, 2006.

4 (f) Every company writing medical liability insurance is
5 encouraged, but not required, to offer the opportunity for
6 participation in a plan offering deductibles to its medical
7 liability insureds. Any plan to offer deductibles shall be
8 filed with the Department of Financial and Professional
9 Regulation.

10 (g) Medical liability insurers are encouraged, but not
11 required, to offer the opportunity for participation in a plan
12 providing premium discounts for participation in risk
13 management activities to its medical liability insureds. Any
14 such plan shall be filed with the Department.

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

16 (215 ILCS 5/155.18a new)

17 Sec. 155.18a. Professional Liability Insurance Resource
18 Center. The Secretary of Financial and Professional Regulation
19 shall establish a Professional Liability Insurance Resource
20 Center on the World Wide Web containing the names and telephone
21 numbers of all licensed companies providing medical liability
22 insurance and producers who sell medical liability insurance.
23 Each company and producer shall submit the information to the
24 Department on or before September 30 of each year in order to
25 be listed on the website. The Department is under no obligation
26 to list a company or producer on the website. Hyperlinks to
27 company websites shall be included, if available. The
28 publication of the information on the Department's website
29 shall commence on January 1, 2006. The Department shall update
30 the information on the Professional Liability Insurance
31 Resource Center at least annually.

32 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

1 Sec. 155.19. All claims filed after December 31, 1976 with
2 any insurer and all suits filed after December 31, 1976 in any
3 court in this State, alleging liability on the part of any
4 physician, hospital or other health care provider for medically
5 related injuries, shall be reported electronically to the
6 Secretary of Financial and Professional Regulation ~~Director of~~
7 ~~Insurance~~ in such form and under such terms and conditions as
8 may be prescribed by the Secretary ~~Director~~. Notwithstanding
9 any other provision of law to the contrary, any insurer, stop
10 loss insurer, captive insurer, risk retention group, county
11 risk retention trust, religious or charitable risk pooling
12 trust, surplus line insurer, or other entity authorized or
13 permitted by law to provide medical liability insurance in this
14 State shall report to the Secretary, in such form and under
15 such terms and conditions as may be prescribed by the
16 Secretary, all claims filed after December 31, 2005 and all
17 suits filed after December 31, 2005 in any court in this State
18 alleging liability on the part of any physician, hospital, or
19 health care provider for medically-related injuries. Each
20 clerk of the circuit court shall provide to the Secretary
21 specially colored sheets containing such information as the
22 Secretary may deem necessary to verify the accuracy and
23 completeness of reports made to the Secretary under this
24 Section. The Secretary ~~Director~~ shall maintain complete and
25 accurate records of all such claims and suits including their
26 nature, amount, disposition (categorized by verdict,
27 settlement, dismissal, or otherwise and including disposition
28 of any post-trial motions and types of damages awarded, if any,
29 including but not limited to economic damages and non-economic
30 damages) and other information as he may deem useful or
31 desirable in observing and reporting on health care provider
32 liability trends in this State. The Secretary ~~Director~~ shall
33 release to appropriate disciplinary and licensing agencies any
34 such data or information which may assist such agencies in

1 improving the quality of health care or which may be useful to
2 such agencies for the purpose of professional discipline.

3 With due regard for appropriate maintenance of the
4 confidentiality thereof, the Secretary Director ~~shall~~ may
5 release, on an annual basis, ~~from time to time~~ to the Governor,
6 the General Assembly and the general public statistical reports
7 based on such data and information.

8 If the Secretary finds that any entity required to report
9 information in its possession under this Section has violated
10 any provision of this Section by filing late, incomplete, or
11 inaccurate reports, the Secretary may fine the entity up to
12 \$1,000 for each offense. Each day during which a violation
13 occurs constitutes a separate offense.

14 The Secretary Director may promulgate such rules and
15 regulations as may be necessary to carry out the provisions of
16 this Section.

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

18 (215 ILCS 5/402) (from Ch. 73, par. 1014)

19 Sec. 402. Examinations, investigations and hearings. (1)
20 All examinations, investigations and hearings provided for by
21 this Code may be conducted either by the Secretary Director
22 personally, or by one or more of the actuaries, technical
23 advisors, deputies, supervisors or examiners employed or
24 retained by the Department and designated by the Secretary
25 ~~Director~~ for such purpose. When necessary to supplement its
26 examination procedures, the Department may retain independent
27 actuaries deemed competent by the Secretary Director,
28 independent certified public accountants, or qualified
29 examiners of insurance companies deemed competent by the
30 Secretary Director, or any combination of the foregoing, the
31 cost of which shall be borne by the company or person being
32 examined. The Secretary Director may compensate independent
33 actuaries, certified public accountants and qualified

1 examiners retained for supplementing examination procedures in
2 amounts not to exceed the reasonable and customary charges for
3 such services. The Secretary ~~Director~~ may also accept as a part
4 of the Department's examination of any company or person (a) a
5 report by an independent actuary deemed competent by the
6 Secretary ~~Director~~ or (b) a report of an audit made by an
7 independent certified public accountant. Neither those persons
8 so designated nor any members of their immediate families shall
9 be officers of, connected with, or financially interested in
10 any company other than as policyholders, nor shall they be
11 financially interested in any other corporation or person
12 affected by the examination, investigation or hearing.

13 (2) All hearings provided for in this Code shall, unless
14 otherwise specially provided, be held at such time and place as
15 shall be designated in a notice which shall be given by the
16 Secretary ~~Director~~ in writing to the person or company whose
17 interests are affected, at least 10 days before the date
18 designated therein. The notice shall state the subject of
19 inquiry and the specific charges, if any. The hearings shall be
20 held in the City of Springfield, the City of Chicago, or in the
21 county where the principal business address of the person or
22 company affected is located. For a rate increase filing in
23 medical liability insurance under subsection (c) of Section
24 155.18 of this Code, the Secretary may hold a hearing with the
25 company and policyholders present for the purpose of receiving
26 testimony from the company and policyholders regarding the rate
27 increase. The hearing must occur under written and express
28 terms and conditions that are sufficient to protect from
29 disclosure information that the subject medical liability
30 insurance company deems proprietary, confidential, or a trade
31 secret. The insurance company must give notice of the hearing
32 time, date, and location to medical liability insurance
33 policyholders whose rates have increased. Notice to
34 policyholders may be given through regular publications issued

1 to policyholders or by electronic means.

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

3 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

4 Sec. 1204. (A) The Secretary ~~Director~~ shall promulgate
5 rules and regulations which shall require each insurer licensed
6 to write property or casualty insurance in the State and each
7 syndicate doing business on the Illinois Insurance Exchange to
8 record and report its loss and expense experience and other
9 data as may be necessary to assess the relationship of
10 insurance premiums and related income as compared to insurance
11 costs and expenses. The Secretary ~~Director~~ may designate one or
12 more rate service organizations or advisory organizations to
13 gather and compile such experience and data. The Secretary
14 ~~Director~~ shall require each insurer licensed to write property
15 or casualty insurance in this State and each syndicate doing
16 business on the Illinois Insurance Exchange to submit a report,
17 on a form furnished by the Secretary ~~Director~~, showing its
18 direct writings in this State and companywide.

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

22 (1) Political subdivision liability insurance reported
23 separately in the following categories:

24 (a) municipalities;

25 (b) school districts;

26 (c) other political subdivisions;

27 (2) Public official liability insurance;

28 (3) Dram shop liability insurance;

29 (4) Day care center liability insurance;

30 (5) Labor, fraternal or religious organizations
31 liability insurance;

32 (6) Errors and omissions liability insurance;

33 (7) Officers and directors liability insurance

1 reported separately as follows:

2 (a) non-profit entities;

3 (b) for-profit entities;

4 (8) Products liability insurance;

5 (9) Medical malpractice insurance;

6 (10) Attorney malpractice insurance;

7 (11) Architects and engineers malpractice insurance;

8 and

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

11 (a) motor vehicle physical damage insurance;

12 (b) motor vehicle liability insurance.

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

17 (1) Direct premiums written;

18 (2) Direct premiums earned;

19 (3) Number of policies;

20 (4) Net investment income, using appropriate estimates
21 where necessary;

22 (5) Losses paid;

23 (6) Losses incurred;

24 (7) Loss reserves:

25 (a) Losses unpaid on reported claims;

26 (b) Losses unpaid on incurred but not reported
27 claims;

28 (8) Number of claims:

29 (a) Paid claims;

30 (b) Arising claims;

31 (9) Loss adjustment expenses:

32 (a) Allocated loss adjustment expenses;

33 (b) Unallocated loss adjustment expenses;

34 (10) Net underwriting gain or loss;

1 (11) Net operation gain or loss, including net
2 investment income;

3 (12) Any other information requested by the Secretary
4 Director.

5 (C-5) Additional information required from medical
6 malpractice insurers.

7 (1) In addition to the other requirements of this
8 Section, all medical malpractice insurers shall include
9 the following information in the report required by
10 subsection (A) of this Section in such form and under such
11 terms and conditions as may be prescribed by the Secretary:

12 (a) paid and incurred losses by county for each of
13 the past 10 policy years; and

14 (b) earned exposures by ISO code, policy type, and
15 policy year by county for each of the past 10 years.

16 (2) All information collected by the Secretary under
17 paragraph (1) of this subsection (C-5) shall be made
18 available, on an aggregate basis, to the General Assembly
19 and the general public. This provision shall supersede any
20 other provision of State law that may otherwise protect
21 such information from public disclosure as confidential.

22 (C-10) Additional information required from medical
23 malpractice insurers. All medical malpractice insurers shall
24 annually provide the Department with a copy of the following:

25 (1) the company's reserve and surplus studies; and

26 (2) consulting actuarial report and data supporting
27 the company's rate filing.

28 The information provided under this subsection (C-10)
29 shall be made available to the General Assembly and the public.

30 (D) In addition to the information which may be requested
31 under subsection (C), the Secretary ~~Director~~ may also request
32 on a companywide, aggregate basis, Federal Income Tax
33 recoverable, net realized capital gain or loss, net unrealized
34 capital gain or loss, and all other expenses not requested in

1 subsection (C) above.

2 (E) Violations - Suspensions - Revocations.

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

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

27 (3) No forfeiture liability under paragraph (1) of this
28 subsection may attach for any violation occurring more than
29 2 years prior to the date of issuance of the notice of
30 apparent liability and in no event may the total civil
31 penalty forfeiture imposed for the acts or omissions set
32 forth in any one notice of apparent liability exceed
33 \$100,000.

34 (4) All administrative hearings conducted pursuant to

1 this Article are subject to 50 Ill. Adm. Code 2402 and all
2 administrative hearings are subject to the Administrative
3 Review Law.

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

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

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

31 (8) When any person or company has a license or
32 certificate of authority under this Code and knowingly
33 fails or refuses to comply with any provisions of this
34 Article, the Secretary ~~Director~~ may, after notice and

1 hearing, in addition to any other penalty provided, revoke
2 or refuse to renew the license or certificate of authority
3 of such person or company, or may suspend the license or
4 certificate of authority of such person or company, until
5 compliance with such provision of this Article has been
6 obtained.

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

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

16 Section 315. The Medical Practice Act of 1987 is amended by
17 changing Sections 7, 22, 23, 24, and 36 and adding Section 24.1
18 as follows:

19 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

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

21 Sec. 7. Medical Disciplinary Board.

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

1 shall act as voting members. One member shall be a physician
2 licensed to practice in Illinois possessing the degree of
3 doctor of osteopathy or osteopathic medicine. One member shall
4 be a physician licensed to practice in Illinois and possessing
5 the degree of doctor of chiropractic.

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

20 In making appointments the Governor shall attempt to insure
21 that the various social and geographic regions of the State of
22 Illinois are properly represented.

23 In making the designation of persons to act for the several
24 professions represented on the Disciplinary Board, the
25 Governor shall give due consideration to recommendations by
26 members of the respective professions and by organizations
27 therein.

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

33 (D) (Blank).

34 (E) Four voting members of the Disciplinary Board shall

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

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

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

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

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

19 (I) Members of the Disciplinary Board shall be immune from
20 suit in any action based upon any disciplinary proceedings or
21 other acts performed in good faith as members of the
22 Disciplinary Board.

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

1 their duties under this Section, shall be immune from civil
2 suit.

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

4 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

6 Sec. 22. Disciplinary action.

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

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

16 (a) a facility licensed pursuant to the Ambulatory
17 Surgical Treatment Center Act;

18 (b) an institution licensed under the Hospital
19 Licensing Act; or

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

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

30 (e) ambulatory surgical treatment centers,
31 hospitalization or care facilities maintained by any
32 university or college established under the laws of
33 this State and supported principally by public funds

1 raised by taxation.

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

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

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

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

14 (6) Obtaining any fee by fraud, deceit, or
15 misrepresentation.

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

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

22 (9) Fraud or misrepresentation in applying for, or
23 procuring, a license under this Act or in connection with
24 applying for renewal of a license under this Act.

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

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

32 (12) Disciplinary action of another state or
33 jurisdiction against a license or other authorization to
34 practice as a medical doctor, doctor of osteopathy, doctor

1 of osteopathic medicine or doctor of chiropractic, a
2 certified copy of the record of the action taken by the
3 other state or jurisdiction being prima facie evidence
4 thereof.

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

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

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

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

17 (16) Abandonment of a patient.

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

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

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

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

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

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

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

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

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

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

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

34 (28) Physical illness, including, but not limited to,

1 deterioration through the aging process, or loss of motor
2 skill which results in a physician's inability to practice
3 under this Act with reasonable judgment, skill or safety.

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

6 (30) Wilfully or negligently violating the
7 confidentiality between physician and patient except as
8 required by law.

9 (31) The use of any false, fraudulent, or deceptive
10 statement in any document connected with practice under
11 this Act.

12 (32) Aiding and abetting an individual not licensed
13 under this Act in the practice of a profession licensed
14 under this Act.

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

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

28 (35) Failure to report to the Department surrender of a
29 license or authorization to practice as a medical doctor, a
30 doctor of osteopathy, a doctor of osteopathic medicine, or
31 doctor of chiropractic in another state or jurisdiction, or
32 surrender of membership on any medical staff or in any
33 medical or professional association or society, while
34 under disciplinary investigation by any of those

1 authorities or bodies, for acts or conduct similar to acts
2 or conduct which would constitute grounds for action as
3 defined in this Section.

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

9 (37) Failure to transfer copies of medical records as
10 required by law.

11 (38) Failure to furnish the Department, its
12 investigators or representatives, relevant information,
13 legally requested by the Department after consultation
14 with the Chief Medical Coordinator or the Deputy Medical
15 Coordinator.

16 (39) Violating the Health Care Worker Self-Referral
17 Act.

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

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

22 (42) Entering into an excessive number of written
23 collaborative agreements with licensed advanced practice
24 nurses resulting in an inability to adequately collaborate
25 and provide medical direction.

26 (43) Repeated failure to adequately collaborate with
27 or provide medical direction to a licensed advanced
28 practice nurse.

29 Except for actions involving the ground numbered (26), all
30 ~~All~~ proceedings to suspend, revoke, place on probationary
31 status, or take any other disciplinary action as the Department
32 may deem proper, with regard to a license on any of the
33 foregoing grounds, must be commenced within 5 ~~3~~ years next
34 after receipt by the Department of a complaint alleging the

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

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

34 The Department may refuse to issue or take disciplinary

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

8 The Department, upon the recommendation of the
9 Disciplinary Board, shall adopt rules which set forth standards
10 to be used in determining:

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

13 (b) what constitutes dishonorable, unethical or
14 unprofessional conduct of a character likely to deceive,
15 defraud, or harm the public;

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

20 (d) what constitutes gross negligence in the practice
21 of medicine.

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

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

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

1 applicable federal statutes and regulations safeguarding the
2 confidentiality of medical records.

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

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

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

28 (C) The Medical Disciplinary Board shall recommend to the
29 Department civil penalties and any other appropriate
30 discipline in disciplinary cases when the Board finds that a
31 physician willfully performed an abortion with actual
32 knowledge that the person upon whom the abortion has been
33 performed is a minor or an incompetent person without notice as
34 required under the Parental Notice of Abortion Act of 1995.

1 Upon the Board's recommendation, the Department shall impose,
2 for the first violation, a civil penalty of \$1,000 and for a
3 second or subsequent violation, a civil penalty of \$5,000.

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

6 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

8 Sec. 23. Reports relating to professional conduct and
9 capacity.

10 (A) Entities required to report.

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

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

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

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

1 by such licensed person when such settlement or final
2 judgment is in favor of the plaintiff.

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

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

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

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

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

34 (3) The name and date of birth ~~or other means of~~

1 ~~identification~~ of any patient or patients whose treatment
2 is a subject of the report, if available, or other means of
3 identification if such information is not available,
4 identification of the hospital or other healthcare
5 facility where the care at issue in the report was
6 rendered, provided, however, no medical records may be
7 revealed ~~without the written consent of the patient or~~
8 ~~patients.~~

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

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

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

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

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

33 Nothing contained in this Section shall act to in any way,
34 waive or modify the confidentiality of medical reports and

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

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

28 (D) Indemnification. Members of the Disciplinary Board,
29 the Medical Coordinators, the Disciplinary Board's attorneys,
30 the medical investigative staff, physicians retained under
31 contract to assist and advise the medical coordinators in the
32 investigation, and authorized clerical staff shall be
33 indemnified by the State for any actions occurring within the
34 scope of services on the Disciplinary Board, done in good faith

1 and not wilful and wanton in nature. The Attorney General shall
2 defend all such actions unless he or she determines either that
3 there would be a conflict of interest in such representation or
4 that the actions complained of were not in good faith or were
5 wilful and wanton.

6 Should the Attorney General decline representation, the
7 member shall have the right to employ counsel of his or her
8 choice, whose fees shall be provided by the State, after
9 approval by the Attorney General, unless there is a
10 determination by a court that the member's actions were not in
11 good faith or were wilful and wanton.

12 The member must notify the Attorney General within 7 days
13 of receipt of notice of the initiation of any action involving
14 services of the Disciplinary Board. Failure to so notify the
15 Attorney General shall constitute an absolute waiver of the
16 right to a defense and indemnification.

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

20 (E) Deliberations of Disciplinary Board. Upon the receipt
21 of any report called for by this Act, other than those reports
22 of impaired persons licensed under this Act required pursuant
23 to the rules of the Disciplinary Board, the Disciplinary Board
24 shall notify in writing, by certified mail, the person who is
25 the subject of the report. Such notification shall be made
26 within 30 days of receipt by the Disciplinary Board of the
27 report.

28 The notification shall include a written notice setting
29 forth the person's right to examine the report. Included in
30 such notification shall be the address at which the file is
31 maintained, the name of the custodian of the reports, and the
32 telephone number at which the custodian may be reached. The
33 person who is the subject of the report shall submit a written
34 statement responding, clarifying, adding to, or proposing the

1 amending of the report previously filed. The person who is the
2 subject of the report shall also submit with the written
3 statement any medical records related to the report. The
4 statement and accompanying medical records shall become a
5 permanent part of the file and must be received by the
6 Disciplinary Board no more than 30 ~~60~~ days after the date on
7 which the person was notified by the Disciplinary Board of the
8 existence of the original report.

9 The Disciplinary Board shall review all reports received by
10 it, together with any supporting information and responding
11 statements submitted by persons who are the subject of reports.
12 The review by the Disciplinary Board shall be in a timely
13 manner but in no event, shall the Disciplinary Board's initial
14 review of the material contained in each disciplinary file be
15 less than 61 days nor more than 180 days after the receipt of
16 the initial report by the Disciplinary Board.

17 When the Disciplinary Board makes its initial review of the
18 materials contained within its disciplinary files, the
19 Disciplinary Board shall, in writing, make a determination as
20 to whether there are sufficient facts to warrant further
21 investigation or action. Failure to make such determination
22 within the time provided shall be deemed to be a determination
23 that there are not sufficient facts to warrant further
24 investigation or action.

25 Should the Disciplinary Board find that there are not
26 sufficient facts to warrant further investigation, or action,
27 the report shall be accepted for filing and the matter shall be
28 deemed closed and so reported to the Secretary ~~Director~~. The
29 Secretary ~~Director~~ shall then have 30 days to accept the
30 Medical Disciplinary Board's decision or request further
31 investigation. The Secretary ~~Director~~ shall inform the Board in
32 writing of the decision to request further investigation,
33 including the specific reasons for the decision. The individual
34 or entity filing the original report or complaint and the

1 person who is the subject of the report or complaint shall be
2 notified in writing by the Secretary ~~Director~~ of any final
3 action on their report or complaint.

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

18 (G) Any violation of this Section shall be a Class A
19 misdemeanor.

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

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

1 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

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

13 The Department may enter into agreements with the Illinois
14 State Medical Society, the Illinois Association of Osteopathic
15 Physicians and Surgeons, the Illinois Prairie State
16 Chiropractic Association, or the Illinois Chiropractic Society
17 to allow these organizations to assist the Disciplinary Board
18 in the review of alleged violations of this Act. Subject to the
19 approval of the Department, any organization party to such an
20 agreement may subcontract with other individuals or
21 organizations to assist in review.

22 Any physician, association, society, or person
23 participating in good faith in the making of a report, under
24 this Act or participating in or assisting with an investigation
25 or review under this Act ~~Section~~ shall have immunity from any
26 civil, criminal, or other liability that might result by reason
27 of those actions.

28 The medical information in the custody of an entity under
29 contract with the Department participating in an investigation
30 or review shall be privileged and confidential to the same
31 extent as are information and reports under the provisions of
32 Part 21 of Article VIII of the Code of Civil Procedure.

33 Upon request by the Department after a mandatory report has

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

14 For the purpose of any civil or criminal proceedings, the
15 good faith of any physician, association, society or person
16 shall be presumed. The Disciplinary Board may request the
17 Illinois State Medical Society, the Illinois Association of
18 Osteopathic Physicians and Surgeons, the Illinois Prairie
19 State Chiropractic Association, or the Illinois Chiropractic
20 Society to assist the Disciplinary Board in preparing for or
21 conducting any medical competency examination as the Board may
22 deem appropriate.

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

24 (225 ILCS 60/24.1 new)

25 Sec. 24.1. Physician profile.

26 (a) This Section may be cited as the Patients' Right to
27 Know Law.

28 (b) The Department shall make available to the public a
29 profile of each physician. The Department shall make this
30 information available through an Internet web site and, if
31 requested, in writing. The physician profile shall contain the
32 following information:

33 (1) the full name of the physician;

1 (2) a description of any criminal convictions for
2 felonies and Class A misdemeanors, as determined by the
3 Department, within the most recent 10 years. For the
4 purposes of this Section, a person shall be deemed to be
5 convicted of a crime if he or she pleaded guilty or if he
6 was found or adjudged guilty by a court of competent
7 jurisdiction;

8 (3) a description of any final Department disciplinary
9 actions within the most recent 10 years;

10 (4) a description of any final disciplinary actions by
11 licensing boards in other states within the most recent 10
12 years;

13 (5) a description of revocation or involuntary
14 restriction of hospital privileges for reasons related to
15 competence or character that have been taken by the
16 hospital's governing body or any other official of the
17 hospital after procedural due process has been afforded, or
18 the resignation from or nonrenewal of medical staff
19 membership or the restriction of privileges at a hospital
20 taken in lieu of or in settlement of a pending disciplinary
21 case related to competence or character in that hospital.
22 Only cases which have occurred within the most recent 10
23 years shall be disclosed by the Department to the public;

24 (6) all medical malpractice court judgments and all
25 medical malpractice arbitration awards in which a payment
26 was awarded to a complaining party during the most recent
27 10 years and all settlements of medical malpractice claims
28 in which a payment was made to a complaining party within
29 the most recent 10 years. Dispositions of paid claims shall
30 be reported in a minimum of 3 graduated categories
31 indicating the level of significance of the award or
32 settlement. Information concerning paid medical
33 malpractice claims shall be put in context by comparing an
34 individual physician's medical malpractice judgment awards

1 and settlements to the experience of other physicians
2 within the same specialty. Information concerning all
3 settlements shall be accompanied by the following
4 statement: "Settlement of a claim may occur for a variety
5 of reasons which do not necessarily reflect negatively on
6 the professional competence or conduct of the physician. A
7 payment in settlement of a medical malpractice action or
8 claim should not be construed as creating a presumption
9 that medical malpractice has occurred." Nothing in this
10 subdivision (6) shall be construed to limit or prevent the
11 Disciplinary Board from providing further explanatory
12 information regarding the significance of categories in
13 which settlements are reported. Pending malpractice claims
14 shall not be disclosed by the Department to the public.
15 Nothing in this subdivision (6) shall be construed to
16 prevent the Disciplinary Board from investigating and the
17 Department from disciplining a physician on the basis of
18 medical malpractice claims that are pending;

19 (7) names of medical schools attended, dates of
20 attendance, and date of graduation;

21 (8) graduate medical education;

22 (9) specialty board certification. The toll-free
23 number of the American Board of Medical Specialties shall
24 be included to verify current board certification status;

25 (10) number of years in practice and locations;

26 (11) names of the hospitals where the physician has
27 privileges;

28 (12) appointments to medical school faculties and
29 indication as to whether a physician has a responsibility
30 for graduate medical education within the most recent 10
31 years;

32 (13) information regarding publications in
33 peer-reviewed medical literature within the most recent 10
34 years;

1 (14) information regarding professional or community
2 service activities and awards;

3 (15) the location of the physician's primary practice
4 setting;

5 (16) identification of any translating services that
6 may be available at the physician's primary practice
7 location;

8 (17) an indication of whether the physician
9 participates in the Medicaid program.

10 (c) The Disciplinary Board shall provide individual
11 physicians with a copy of their profiles prior to release to
12 the public. A physician shall be provided a reasonable time to
13 correct factual inaccuracies that appear in such profile.

14 (d) A physician may elect to have his or her profile omit
15 certain information provided pursuant to subdivisions (12)
16 through (14) of subsection (b) concerning academic
17 appointments and teaching responsibilities, publication in
18 peer-reviewed journals and professional and community service
19 awards. In collecting information for such profiles and in
20 disseminating the same, the Disciplinary Board shall inform
21 physicians that they may choose not to provide such information
22 required pursuant to subdivisions (12) through (14) of
23 subsection (b).

24 (e) The Department shall promulgate such rules as it deems
25 necessary to accomplish the requirements of this Section.

26 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

28 Sec. 36. Upon the motion of either the Department or the
29 Disciplinary Board or upon the verified complaint in writing of
30 any person setting forth facts which, if proven, would
31 constitute grounds for suspension or revocation under Section
32 22 of this Act, the Department shall investigate the actions of
33 any person, so accused, who holds or represents that they hold

1 a license. Such person is hereinafter called the accused.

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

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

23 Such written notice and any notice in such proceedings
24 thereafter may be served by delivery of the same, personally,
25 to the accused person, or by mailing the same by registered or
26 certified mail to the address last theretofore specified by the
27 accused in their last notification to the Department.

28 All information gathered by the Department during its
29 investigation including information subpoenaed under Section
30 23 or 38 of this Act and the investigative file shall be kept
31 for the confidential use of the Secretary ~~Director~~,
32 Disciplinary Board, the Medical Coordinators, persons employed
33 by contract to advise the Medical Coordinator or the
34 Department, the Disciplinary Board's attorneys, the medical

1 investigative staff, and authorized clerical staff, as
2 provided in this Act and shall be afforded the same status as
3 is provided information concerning medical studies in Part 21
4 of Article VIII of the Code of Civil Procedure, except that the
5 Department may disclose information and documents to a federal,
6 State, or local law enforcement agency pursuant to a subpoena
7 in an ongoing criminal investigation. Furthermore, information
8 and documents disclosed to a federal, State, or local law
9 enforcement agency may be used by that agency only for the
10 investigation and prosecution of a criminal offense.

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

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

14 (705 ILCS 105/27.10 new)

15 Sec. 27.10. Secretary of Financial and Professional
16 Regulation. Each clerk of the circuit court shall provide to
17 the Secretary of Financial and Professional Regulation such
18 information as the Secretary of Financial and Professional
19 Regulation requests under Section 155.19 of the Illinois
20 Insurance Code.

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

23 (710 ILCS 15/8) (from Ch. 10, par. 208)

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

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

1 and

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

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

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

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

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

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

24 (710 ILCS 15/9) (from Ch. 10, par. 209)

25 Sec. 9. Mandatory Provisions.

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

28 (b) Every health care arbitration agreement in relation to
29 health care services rendered during hospitalization shall
30 specify the date of commencement of hospitalization. Every
31 health care arbitration agreement in relation to health care
32 services not rendered during hospitalization shall state the
33 specific cause for which the services are provided.

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

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

1 "AGREEMENT TO ARBITRATE HEALTH CARE

2 NEGLIGENCE CLAIMS

3 NOTICE TO PATIENT

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

10 THIS AGREEMENT MAY BE CANCELLED WITHIN 120 ~~60~~ DAYS OF
11 SIGNING OR 120 ~~60~~ DAYS AFTER YOUR HOSPITAL DISCHARGE,
12 WHICHEVER IS LATER, OR 120 ~~60~~ DAYS AFTER YOUR LAST MEDICAL
13 TREATMENT IN RELATION TO HEALTH CARE SERVICES NOT RENDERED
14 DURING HOSPITALIZATION.

15 THIS AGREEMENT PROVIDES THAT ANY CLAIMS WHICH MAY ARISE OUT
16 OF YOUR HEALTH CARE WILL BE SUBMITTED TO A PANEL OF
17 ARBITRATORS, RATHER THAN TO A COURT FOR DETERMINATION. THIS
18 AGREEMENT REQUIRES ALL PARTIES SIGNING IT TO ABIDE BY THE
19 DECISION OF THE ARBITRATION PANEL."

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

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

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

30 Section 330. The Code of Civil Procedure is amended by
31 reenacting and changing Sections 2-402, 2-622, 2-1109, 2-1702,
32 and 8-2501, by changing Sections 2-1701, 2-1704, and 8-1901,
33 and by adding Section 2-1706.5 as follows:

1 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

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

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

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

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

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

21 Each respondent in discovery shall be paid expenses and
22 fees as provided for witnesses.

23 A person or entity named as a respondent in discovery in
24 any civil action may be made a defendant in the same action at
25 any time within 6 months after being named as a respondent in
26 discovery, even though the time during which an action may
27 otherwise be initiated against him or her may have expired
28 during such 6 month period. An extension from the original
29 6-month period for good cause may be granted only once for up
30 to 90 days for (i) withdrawal of plaintiff's counsel or (ii)
31 good cause. Notwithstanding the limitations in this Section,
32 the court may grant additional reasonable extensions from this
33 6-month period for a failure or refusal on the part of the

1 respondent to comply with timely filed discovery.

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

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

6 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

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

9 Sec. 2-622. Healing art malpractice.

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

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

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

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

28 2. That the affiant was unable to obtain a consultation
29 required by paragraph 1 because a statute of limitations
30 would impair the action and the consultation required could
31 not be obtained before the expiration of the statute of
32 limitations. If an affidavit is executed pursuant to this
33 paragraph, the affidavit ~~certificate~~ and written report
34 required by paragraph 1 shall be filed within 90 days after

1 the filing of the complaint. No additional 90-day
2 extensions pursuant to this paragraph shall be granted,
3 except where there has been a withdrawal of the plaintiff's
4 counsel. The defendant shall be excused from answering or
5 otherwise pleading until 30 days after being served with an
6 affidavit and a report ~~a certificate~~ required by paragraph
7 1.

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

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

27 (c) Where the plaintiff intends to rely on the doctrine of
28 "res ipsa loquitur", as defined by Section 2-1113 of this Code,
29 the affidavit ~~certificate~~ and written report must state that,
30 in the opinion of the reviewing health professional, negligence
31 has occurred in the course of medical treatment. The affiant
32 shall certify upon filing of the complaint that he is relying
33 on the doctrine of "res ipsa loquitur".

34 (d) When the attorney intends to rely on the doctrine of

1 failure to inform of the consequences of the procedure, the
2 attorney shall certify upon the filing of the complaint that
3 the reviewing health professional has, after reviewing the
4 medical record and other relevant materials involved in the
5 particular action, concluded that a reasonable health
6 professional would have informed the patient of the
7 consequences of the procedure.

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

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

26 (g) The failure of the plaintiff to file an affidavit and
27 report in compliance with ~~to file a certificate required by~~
28 this Section shall be grounds for dismissal under Section
29 2-619.

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

33 (i) This amendatory Act of 1997 does not apply to or
34 affect any actions pending at the time of its effective date,

1 but applies to cases filed on or after its effective date.

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

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

6 (735 ILCS 5/2-1109) (from Ch. 110, par. 2-1109)

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

9 Sec. 2-1109. Itemized verdicts.

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

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

31 "Economic loss" or "economic damages" means all damages
32 that are tangible, such as damages for past and future medical
33 expenses, loss of income or earnings, and other property loss.

1 "Non-economic loss" or "non-economic damages" means
2 damages that are intangible, including, but not limited to,
3 damages for pain and suffering, disability, disfigurement, and
4 loss of society.

5 "Compensatory damages" or "actual damages" are the sum of
6 economic and non-economic damages.

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

9 (d) The changes to this Section made by this amendatory Act
10 of the 94th General Assembly apply to causes of action filed on
11 or after its effective date.

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

13 (735 ILCS 5/2-1701) (from Ch. 110, par. 2-1701)

14 Sec. 2-1701. Application. ~~In subject to the provisions of~~
15 ~~Section 2-1705, in~~ all medical malpractice actions the
16 provisions of this Act shall be applicable.

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

18 (735 ILCS 5/2-1702) (from Ch. 110, par. 2-1702)

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

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

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

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

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

31 (735 ILCS 5/2-1704) (from Ch. 110, par. 2-1704)

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

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

12 (735 ILCS 5/2-1706.5 new)

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

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

18 (1) In a case of an award against a hospital and its
19 personnel or hospital affiliates, as defined in Section
20 10.8 of the Hospital Licensing Act, the total amount of
21 non-economic damages shall not exceed \$1,000,000 awarded
22 to all plaintiffs in any civil action arising out of the
23 care.

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

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

33 (b) In any medical malpractice action where an individual

1 plaintiff earns less than the annual average weekly wage, as
2 determined by the Workers' Compensation Commission, at the time
3 the action is filed, any award may include an amount equal to
4 the wage the individual plaintiff earns or the annual average
5 weekly wage.

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

10 (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

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

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

23 (b) Any expression of grief, apology, or explanation
24 provided by a health care provider, including, but not limited
25 to, a statement that the health care provider is "sorry" for
26 the outcome to a patient, the patient's family, or the
27 patient's legal representative about an inadequate or
28 unanticipated treatment or care outcome that is provided within
29 72 hours of when the provider knew or should have known of the
30 potential cause of such outcome shall not be admissible as
31 evidence in any action of any kind in any court or before any
32 tribunal, board, agency, or person. The disclosure of any such
33 information, whether proper, or improper, shall not waive or

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

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

9 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

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

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

18 (a) Whether the witness is board certified or board
19 eligible, or has completed a residency, in the same or
20 substantially similar medical specialties as the defendant and
21 is otherwise qualified by significant experience with the
22 standard of care, methods, procedures, and treatments relevant
23 to the allegations against the defendant ~~Relationship of the~~
24 ~~medical specialties of the witness to the medical problem or~~
25 ~~problems and the type of treatment administered in the case;~~

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

31 (c) whether the witness is licensed in the same profession
32 with the same class of license as the defendant if the
33 defendant is an individual; and

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

4 An expert shall provide evidence of active practice,
5 teaching, or engaging in university-based research. If
6 retired, an expert must provide evidence of attendance and
7 completion of continuing education courses for 3 years previous
8 to giving testimony. An expert who has not actively practiced,
9 taught, or been engaged in university-based research, or any
10 combination thereof, during the preceding 5 years may not be
11 qualified as an expert witness.

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

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

16 Section 340. The Good Samaritan Act is amended by changing
17 Sections 25 and 30 as follows:

18 (745 ILCS 49/25)

19 Sec. 25. Physicians; exemption from civil liability for
20 emergency care. Any person licensed under the Medical Practice
21 Act of 1987 or any person licensed to practice the treatment of
22 human ailments in any other state or territory of the United
23 States who, in good faith, provides emergency care without fee
24 to a person, shall not, as a result of his or her acts or
25 omissions, except willful or wanton misconduct on the part of
26 the person, in providing the care, be liable for civil damages.
27 This good faith immunity applies to physicians licensed to
28 practice medicine in all its branches, including retired
29 physicians providing care without fee to a person pursuant to
30 an emergency department on call list.

31 The changes to this Section made by this amendatory Act of
32 the 94th General Assembly apply to causes of action accruing on

1 or after its effective date.

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

3 (745 ILCS 49/30)

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

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

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

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

1 (d) The immunity from civil damages provided under
2 subsection (a) also applies to physicians, retired physicians,
3 hospitals, and other health care providers that provide further
4 medical treatment, diagnosis, or advice, including but not
5 limited to hospitalization, office visits, and home visits, to
6 a patient upon referral from an established free medical clinic
7 without fee or compensation.

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

20 (e) Nothing in this Section prohibits a free medical clinic
21 from accepting voluntary contributions for medical services
22 provided to a patient who has acknowledged his or her ability
23 and willingness to pay a portion of the value of the medical
24 services provided.

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

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

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

1 ARTICLE 4. SORRY WORKS! PILOT PROGRAM ACT

2 Section 401. Short title. This Article 4 may be cited as
3 the Sorry Works! Pilot Program Act, and references in this
4 Article to "this Act" mean this Article.

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

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

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

31 If the committee determines that the total costs of cases

1 handled under the Sorry Works! protocol by a hospital
2 participating in the program exceed the total costs that would
3 have been incurred if the cases had been handled by traditional
4 means, the hospital may apply for a grant from the Sorry Works!
5 Fund, a special fund that is created in the State Treasury, for
6 an amount, as determined by the committee, by which the total
7 costs exceed the total costs that would have been incurred if
8 the cases had been handled by traditional means; however, the
9 total of all grants from the Fund for cases in any single
10 participating hospital in any year may not exceed the amount in
11 the Fund or \$2,000,000, whichever is less. All grants shall be
12 subject to appropriation. Moneys in the Fund shall consist of
13 funds transferred into the Fund or otherwise made available
14 from any source.

15 Section 410. Establishment of committee.

16 (a) A committee is established to develop, oversee, and
17 implement the Sorry Works! pilot program. The committee shall
18 have 9 members, each of whom shall be a voting member. Six
19 members of the committee shall constitute a quorum. The
20 committee shall be comprised as follows:

21 (1) The President of the Senate, the Minority Leader of
22 the Senate, the Speaker of the House of Representatives,
23 and the Minority Leader of the House of Representatives
24 shall each appoint 2 members.

25 (2) The Secretary of Financial and Professional
26 Regulation or his or her designee.

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

33 (c) The committee shall communicate with hospitals,

1 physicians, and insurers that are interested in participating
2 in the program. The committee shall make final decisions as to
3 which applicants are accepted for the program.

4 (d) The committee shall report to the Governor and the
5 General Assembly annually.

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

7 (f) Committee members shall receive no compensation for the
8 performance of their duties as members, but each member shall
9 be paid necessary expenses while engaged in the performance of
10 those duties.

11 Section 415. Termination of program.

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

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

17 Section 495. The State Finance Act is amended by adding
18 Section 5.640 as follows:

19 (30 ILCS 105/5.640 new)

20 Sec. 5.640. The Sorry Works! Fund.

21 ARTICLE 5. WORKING STUDY COMMITTEE

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

25 Section 505. Working Study Committee. The Governor,
26 President of the Senate, Senate Minority Leader, Speaker of the
27 House of Representatives, and House Minority Leader shall each
28 appoint 2 persons to serve on a Working Study Committee to

1 research, assess, and report to the General Assembly on the
2 results and impacts of other states' efforts in addressing caps
3 on non-economic damages to pay judgments or settlements in
4 medical malpractice lawsuits. The Working Study Committee
5 shall submit its report within 12 months of the effective date
6 of this Act.

7 ARTICLE 6. LOAN REPAYMENT ASSISTANCE FOR PHYSICIANS

8 Section 601. Short title. This Article 6 may be cited as
9 the Loan Repayment Assistance for Physicians Practicing in
10 Medical Care Shortage Areas Act, and references in this Article
11 to "this Act" mean this Article.

12 Section 605. Purpose. The purpose of this Act is to
13 establish a program in the Department of Financial and
14 Professional Regulation to increase the total number of
15 physicians practicing in counties in the State that the
16 Department deems medical care shortage areas by providing
17 educational loan repayment assistance grants to those
18 physicians.

19 Section 610. Definitions. In this Act, unless the context
20 otherwise requires:

21 "Department" means the Department of Financial and
22 Professional Regulation.

23 "Educational loans" means higher education student loans
24 that a person has incurred in attending a registered
25 professional physician education program.

26 "Physician" means a person licensed under the Medical
27 Practice Act of 1987 to practice medicine in all of its
28 branches.

29 "Program" means the educational loan repayment assistance
30 program for physicians established by the Department under this

1 Act.

2 Section 615. Establishment of program. The Department
3 shall conduct an annual survey identifying counties in the
4 State that the Department deems medical care shortage areas.
5 The Department shall establish an educational loan repayment
6 assistance program for physicians who practice in counties in
7 the State that the Department deems medical care shortage
8 areas. The Department shall administer the program and make all
9 necessary and proper rules not inconsistent with this Act for
10 the program's effective implementation. The Department may use
11 up to 5% of the appropriation for this program for
12 administration and promotion of physician incentive programs.

13 Section 620. Application. Beginning July 1, 2005, the
14 Department shall, each year, consider applications for
15 assistance under the program. The form of application and the
16 information required to be set forth in the application shall
17 be determined by the Department, and the Department shall
18 require applicants to submit with their applications such
19 supporting documents as the Department deems necessary.

20 Section 625. Eligibility. To be eligible for assistance
21 under the program, an applicant must meet all of the following
22 qualifications:

23 (1) He or she must be a citizen or permanent resident
24 of the United States.

25 (2) He or she must be a resident of Illinois.

26 (3) He or she must be practicing full-time as a
27 physician in a county in the State that the Department
28 deems a medical care shortage area.

29 (4) He or she must currently be repaying educational
30 loans.

31 (5) He or she must agree to continue full-time practice

1 in Illinois for 3 years.

2 Section 630. Awarding grants. Under the program, for each
3 year that a qualified applicant practices full-time in Illinois
4 as a physician, the Department shall, subject to appropriation,
5 award a grant to that person in an amount equal to the amount
6 in educational loans that the person must repay that year.
7 However, the total amount in grants that a person may be
8 awarded under the program shall not exceed \$30,000. The
9 Department shall require recipients to use the grants to pay
10 off their educational loans.

11 Section 635. Penalty for failure to fulfill obligation.
12 Loan repayment recipients who fail to practice full-time in
13 Illinois for 3 years shall repay the Department a sum equal to
14 3 times the amount received under the program.

15 ARTICLE 9. MISCELLANEOUS

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

18 Section 999. Effective date. This Act takes effect upon
19 becoming law."