



Sen. William R. Haine

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LRB094 09385 WGH 46459 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 3. AMENDATORY PROVISIONS

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

22 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

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

1 special charter.

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

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

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

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

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

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

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

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

15 (c) (1) Every company writing medical liability insurance
16 shall file with the Secretary of Financial and Professional
17 Regulation ~~Director of Insurance~~ the rates and rating schedules
18 it uses for medical liability insurance. A rate shall go into
19 effect upon filing, except as otherwise provided in this
20 Section.

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

25 (3) ~~(2)~~ For the purposes of this Section, any change in
26 premium to the company's insureds as a result of a change in
27 the company's base rates or a change in its increased limits
28 factors shall constitute a change in rates and shall require a
29 filing with the Secretary ~~Director~~.

30 (4) ~~(3)~~ It shall be certified in such filing by an officer
31 of the company and a qualified actuary that the company's rates
32 are based on sound actuarial principles and are not
33 inconsistent with the company's experience. The Secretary may
34 request any additional statistical data and other pertinent

1 information necessary to determine the manner the company used
2 to set the filed rates and the reasonableness of those rates.

3 (c-5) The Secretary may convene a hearing for the purpose
4 of receiving testimony from the company and policyholders
5 regarding a company's rate increase at any time at his or her
6 discretion. In addition, the Secretary shall convene a hearing
7 on a company's rate filing at the request of 5% of the
8 company's Illinois policyholders or in any event where the
9 company has increased its rate by more than 15% from the prior
10 year. The hearing must occur under written and express terms
11 and conditions that are sufficient to protect from disclosure
12 information that the subject medical liability insurance
13 company deems proprietary, confidential, or a trade secret. The
14 company shall provide notice to policyholders of their ability
15 to request a hearing on any company rate increase. Testimony at
16 the hearing may be taken from the policyholders, the company,
17 and any person invited to testify by the Secretary.

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

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

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

34 (A) Suspend ~~suspend~~ or revoke, in whole or in part,

1 the certificate of authority of such company with
2 respect to the class of insurance which has been the
3 subject of the hearing.

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

7 The burden is on the company to justify the rate or
8 proposed rate at the public hearing.

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

17 (f) Every company writing medical liability insurance is
18 encouraged, but not required, to offer the opportunity for
19 participation in a plan offering deductibles to its medical
20 liability insureds. Any plan to offer deductibles shall be
21 filed with the Department.

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

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

28 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

29 Sec. 155.19. All claims filed after December 31, 1976 with
30 any insurer and all suits filed after December 31, 1976 in any
31 court in this State, alleging liability on the part of any
32 physician, hospital or other health care provider for medically
33 related injuries, shall be reported electronically to the

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

32 With due regard for appropriate maintenance of the
33 confidentiality thereof, the Secretary ~~Director~~ shall ~~may~~
34 release, on an annual basis, from time to time to the Governor,

1 the General Assembly and the general public statistical reports
2 based on such data and information.

3 If the Secretary finds that any entity required to report
4 information in its possession under this Section has violated
5 any provision of this Section by filing late, incomplete, or
6 inaccurate reports, the Secretary may fine the entity up to
7 \$1,000 for each offense. Each day during which a violation
8 occurs constitutes a separate offense.

9 The Secretary ~~Director~~ may promulgate such rules and
10 regulations as may be necessary to carry out the provisions of
11 this Section.

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

13 (215 ILCS 5/402) (from Ch. 73, par. 1014)

14 Sec. 402. Examinations, investigations and hearings. (1)
15 All examinations, investigations and hearings provided for by
16 this Code may be conducted either by the Secretary ~~Director~~
17 personally, or by one or more of the actuaries, technical
18 advisors, deputies, supervisors or examiners employed or
19 retained by the Department and designated by the Secretary
20 ~~Director~~ for such purpose. When necessary to supplement its
21 examination procedures, the Department may retain independent
22 actuaries deemed competent by the Secretary ~~Director~~,
23 independent certified public accountants, or qualified
24 examiners of insurance companies deemed competent by the
25 Secretary ~~Director~~, or any combination of the foregoing, the
26 cost of which shall be borne by the company or person being
27 examined. The Secretary ~~Director~~ may compensate independent
28 actuaries, certified public accountants and qualified
29 examiners retained for supplementing examination procedures in
30 amounts not to exceed the reasonable and customary charges for
31 such services. The Secretary ~~Director~~ may also accept as a part
32 of the Department's examination of any company or person (a) a
33 report by an independent actuary deemed competent by the

1 Secretary ~~Director~~ or (b) a report of an audit made by an
2 independent certified public accountant. Neither those persons
3 so designated nor any members of their immediate families shall
4 be officers of, connected with, or financially interested in
5 any company other than as policyholders, nor shall they be
6 financially interested in any other corporation or person
7 affected by the examination, investigation or hearing.

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

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

32 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

33 Sec. 1204. (A) The Secretary ~~Director~~ shall promulgate

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

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

18 (1) Political subdivision liability insurance reported
19 separately in the following categories:

20 (a) municipalities;

21 (b) school districts;

22 (c) other political subdivisions;

23 (2) Public official liability insurance;

24 (3) Dram shop liability insurance;

25 (4) Day care center liability insurance;

26 (5) Labor, fraternal or religious organizations
27 liability insurance;

28 (6) Errors and omissions liability insurance;

29 (7) Officers and directors liability insurance
30 reported separately as follows:

31 (a) non-profit entities;

32 (b) for-profit entities;

33 (8) Products liability insurance;

34 (9) Medical malpractice insurance;

- 1 (10) Attorney malpractice insurance;
- 2 (11) Architects and engineers malpractice insurance;
- 3 and
- 4 (12) Motor vehicle insurance reported separately for
- 5 commercial and private passenger vehicles as follows:
- 6 (a) motor vehicle physical damage insurance;
- 7 (b) motor vehicle liability insurance.
- 8 (C) Such report may include, but need not be limited to the
- 9 following data, both specific to this State and companywide, in
- 10 the aggregate or by type of insurance for the previous year on
- 11 a calendar year basis:
- 12 (1) Direct premiums written;
- 13 (2) Direct premiums earned;
- 14 (3) Number of policies;
- 15 (4) Net investment income, using appropriate estimates
- 16 where necessary;
- 17 (5) Losses paid;
- 18 (6) Losses incurred;
- 19 (7) Loss reserves:
- 20 (a) Losses unpaid on reported claims;
- 21 (b) Losses unpaid on incurred but not reported
- 22 claims;
- 23 (8) Number of claims:
- 24 (a) Paid claims;
- 25 (b) Arising claims;
- 26 (9) Loss adjustment expenses:
- 27 (a) Allocated loss adjustment expenses;
- 28 (b) Unallocated loss adjustment expenses;
- 29 (10) Net underwriting gain or loss;
- 30 (11) Net operation gain or loss, including net
- 31 investment income;
- 32 (12) Any other information requested by the Secretary
- 33 ~~Director~~.
- 34 (C-5) Additional information required from medical

1 malpractice insurers.

2 (1) In addition to the other requirements of this
3 Section, all medical malpractice insurers shall include
4 the following information in the report required by
5 subsection (A) of this Section in such form and under such
6 terms and conditions as may be prescribed by the Secretary:

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

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

11 and

12 (c) the following actuarial information:

13 (i) Base class and territory equivalent
14 exposures by report year by relative accident
15 year.

16 (ii) Cumulative loss array by accident year by
17 calendar year of development. This array will show
18 frequency of claims in the following categories:
19 open, closed with indemnity (CWI) closed with
20 expense (CWE), and closed no pay (CNP); paid
21 severity in the following categories: indemnity
22 and allocated loss adjustment expenses (ALAE) on
23 closed claims; and indemnity and expense reserves
24 on pending claims.

25 (iii) Cumulative loss array by report year by
26 calendar year of development. This array will show
27 frequency of claims in the following categories:
28 open, closed with indemnity (CWI), closed with
29 expense (CWE), and closed no pay (CNP); paid
30 severity in the following categories: indemnity
31 and allocated loss adjustment expenses (ALAE) on
32 closed claims; and indemnity and expense reserves
33 on pending claims.

34 (iv) Maturity year and tail factors.

1 (v) Any expense, contingency ddr (death,
2 disability, and retirement), commission, tax,
3 and/or off-balance factors.

4 (2) All information collected by the Secretary under
5 paragraph (1) of this subsection (C-5) shall be made
6 available, on an aggregate basis, to the General Assembly
7 and the general public. This provision shall supersede any
8 other provision of law that may otherwise protect such
9 information from public disclosure as confidential. The
10 identity of the plaintiff, the defendant, the attorneys,
11 and the company shall not be disclosed.

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

- 15 (1) the company's reserve and surplus studies; and
16 (2) consulting actuarial report.

17 The information provided under this subsection (C-10)
18 shall be made available to the General Assembly and the public
19 in the aggregate.

20 (D) In addition to the information which may be requested
21 under subsection (C), the Secretary ~~Director~~ may also request
22 on a companywide, aggregate basis, Federal Income Tax
23 recoverable, net realized capital gain or loss, net unrealized
24 capital gain or loss, and all other expenses not requested in
25 subsection (C) above.

26 (E) Violations - Suspensions - Revocations.

27 (1) Any company or person subject to this Article, who
28 willfully or repeatedly fails to observe or who otherwise
29 violates any of the provisions of this Article or any rule
30 or regulation promulgated by the Secretary ~~Director~~ under
31 authority of this Article or any final order of the
32 Secretary ~~Director~~ entered under the authority of this
33 Article shall by civil penalty forfeit to the State of
34 Illinois a sum not to exceed \$2,000. Each day during which

1 a violation occurs constitutes a separate offense.

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

17 (3) No forfeiture liability under paragraph (1) of this
18 subsection may attach for any violation occurring more than
19 2 years prior to the date of issuance of the notice of
20 apparent liability and in no event may the total civil
21 penalty forfeiture imposed for the acts or omissions set
22 forth in any one notice of apparent liability exceed
23 \$100,000.

24 (4) All administrative hearings conducted pursuant to
25 this Article are subject to 50 Ill. Adm. Code 2402 and all
26 administrative hearings are subject to the Administrative
27 Review Law.

28 (5) The civil penalty forfeitures provided for in this
29 Section are payable to the General Revenue Fund of the
30 State of Illinois, and may be recovered in a civil suit in
31 the name of the State of Illinois brought in the Circuit
32 Court in Sangamon County or in the Circuit Court of the
33 county where the respondent is domiciled or has its
34 principal operating office.

1 (6) In any case where the Secretary ~~Director~~ issues a
2 notice of apparent liability looking toward the imposition
3 of a civil penalty forfeiture under this Section that fact
4 may not be used in any other proceeding before the
5 Secretary ~~Director~~ to the prejudice of the respondent to
6 whom the notice was issued, unless (a) the civil penalty
7 forfeiture has been paid, or (b) a court has ordered
8 payment of the civil penalty forfeiture and that order has
9 become final.

10 (7) When any person or company has a license or
11 certificate of authority under this Code and knowingly
12 fails or refuses to comply with a lawful order of the
13 Secretary ~~Director~~ requiring compliance with this Article,
14 entered after notice and hearing, within the period of time
15 specified in the order, the Secretary ~~Director~~ may, in
16 addition to any other penalty or authority provided, revoke
17 or refuse to renew the license or certificate of authority
18 of such person or company, or may suspend the license or
19 certificate of authority of such person or company until
20 compliance with such order has been obtained.

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

31 (9) No suspension or revocation under this Section may
32 become effective until 5 days from the date that the notice
33 of suspension or revocation has been personally delivered
34 or delivered by registered or certified mail to the company

1 or person. A suspension or revocation under this Section is
2 stayed upon the filing, by the company or person, of a
3 petition for judicial review under the Administrative
4 Review Law.

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

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

9 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

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

11 Sec. 7. Medical Disciplinary Board.

12 (A) There is hereby created the Illinois State Medical
13 Disciplinary Board (hereinafter referred to as the
14 "Disciplinary Board"). The Disciplinary Board shall consist of
15 9 members, to be appointed by the Governor by and with the
16 advice and consent of the Senate. All shall be residents of the
17 State, not more than 5 of whom shall be members of the same
18 political party. Five members shall be physicians licensed to
19 practice medicine in all of its branches in Illinois possessing
20 the degree of doctor of medicine. Two shall be members of the
21 public, who shall not be engaged in any way, directly or
22 indirectly, as providers of health care. The 2 public members
23 shall act as voting members. One member shall be a physician
24 licensed to practice in Illinois possessing the degree of
25 doctor of osteopathy or osteopathic medicine. One member shall
26 be a physician licensed to practice in Illinois and possessing
27 the degree of doctor of chiropractic.

28 (B) Members of the Disciplinary Board shall be appointed
29 for terms of 4 years. Upon the expiration of the term of any
30 member, their successor shall be appointed for a term of 4
31 years by the Governor by and with the advice and consent of the
32 Senate. The Governor shall fill any vacancy for the remainder

1 of the unexpired term by and with the advice and consent of the
2 Senate. Upon recommendation of the Board, any member of the
3 Disciplinary Board may be removed by the Governor for
4 misfeasance, malfeasance, or wilful neglect of duty, after
5 notice, and a public hearing, unless such notice and hearing
6 shall be expressly waived in writing. Each member shall serve
7 on the Disciplinary Board until their successor is appointed
8 and qualified. No member of the Disciplinary Board shall serve
9 more than 2 consecutive 4 year terms.

10 In making appointments the Governor shall attempt to insure
11 that the various social and geographic regions of the State of
12 Illinois are properly represented.

13 In making the designation of persons to act for the several
14 professions represented on the Disciplinary Board, the
15 Governor shall give due consideration to recommendations by
16 members of the respective professions and by organizations
17 therein.

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

23 (D) (Blank).

24 (E) Four voting members of the Disciplinary Board shall
25 constitute a quorum. A vacancy in the membership of the
26 Disciplinary Board shall not impair the right of a quorum to
27 exercise all the rights and perform all the duties of the
28 Disciplinary Board. Any action taken by the Disciplinary Board
29 under this Act may be authorized by resolution at any regular
30 or special meeting and each such resolution shall take effect
31 immediately. The Disciplinary Board shall meet at least
32 quarterly. The Disciplinary Board is empowered to adopt all
33 rules and regulations necessary and incident to the powers
34 granted to it under this Act.

1 (F) Each member, and member-officer, of the Disciplinary
2 Board shall receive a per diem stipend as the Secretary
3 ~~Director~~ of the Department, hereinafter referred to as the
4 Secretary Director, shall determine. The Secretary Director
5 shall also determine the per diem stipend that each ex-officio
6 member shall receive. Each member shall be paid their necessary
7 expenses while engaged in the performance of their duties.

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

25 The Secretary Director shall employ, in conformity with the
26 Personnel Code, not less than one full time investigator for
27 every 2,500 ~~5000~~ physicians licensed in the State. Each
28 investigator shall be a college graduate with at least 2 years'
29 investigative experience or one year advanced medical
30 education. Upon the written request of the Disciplinary Board,
31 the Secretary Director shall employ, in conformity with the
32 Personnel Code, such other professional, technical,
33 investigative, and clerical help, either on a full or part-time
34 basis as the Disciplinary Board deems necessary for the proper

1 performance of its duties.

2 (H) Upon the specific request of the Disciplinary Board,
3 signed by either the chairman, vice chairman, or a medical
4 coordinator of the Disciplinary Board, the Department of Human
5 Services or the Department of State Police shall make available
6 any and all information that they have in their possession
7 regarding a particular case then under investigation by the
8 Disciplinary Board.

9 (I) Members of the Disciplinary Board shall be immune from
10 suit in any action based upon any disciplinary proceedings or
11 other acts performed in good faith as members of the
12 Disciplinary Board.

13 (J) The Disciplinary Board may compile and establish a
14 statewide roster of physicians and other medical
15 professionals, including the several medical specialties, of
16 such physicians and medical professionals, who have agreed to
17 serve from time to time as advisors to the medical
18 coordinators. Such advisors shall assist the medical
19 coordinators or the Disciplinary Board in their investigations
20 and participation in complaints against physicians. Such
21 advisors shall serve under contract and shall be reimbursed at
22 a reasonable rate for the services provided, plus reasonable
23 expenses incurred. While serving in this capacity, the advisor,
24 for any act undertaken in good faith and in the conduct of
25 their duties under this Section, shall be immune from civil
26 suit.

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

28 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

30 Sec. 22. Disciplinary action.

31 (A) The Department may revoke, suspend, place on
32 probationary status, refuse to renew, or take any other
33 disciplinary action as the Department may deem proper with

1 regard to the license or visiting professor permit of any
2 person issued under this Act to practice medicine, or to treat
3 human ailments without the use of drugs and without operative
4 surgery upon any of the following grounds:

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

7 (a) a facility licensed pursuant to the Ambulatory
8 Surgical Treatment Center Act;

9 (b) an institution licensed under the Hospital
10 Licensing Act; or

11 (c) an ambulatory surgical treatment center or
12 hospitalization or care facility maintained by the
13 State or any agency thereof, where such department or
14 agency has authority under law to establish and enforce
15 standards for the ambulatory surgical treatment
16 centers, hospitalization, or care facilities under its
17 management and control; or

18 (d) ambulatory surgical treatment centers,
19 hospitalization or care facilities maintained by the
20 Federal Government; or

21 (e) ambulatory surgical treatment centers,
22 hospitalization or care facilities maintained by any
23 university or college established under the laws of
24 this State and supported principally by public funds
25 raised by taxation.

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

29 (3) The conviction of a felony in this or any other
30 jurisdiction, except as otherwise provided in subsection B
31 of this Section, whether or not related to practice under
32 this Act, or the entry of a guilty or nolo contendere plea
33 to a felony charge.

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

1 (5) Engaging in dishonorable, unethical or
2 unprofessional conduct of a character likely to deceive,
3 defraud or harm the public.

4 (6) Obtaining any fee by fraud, deceit, or
5 misrepresentation.

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

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

12 (9) Fraud or misrepresentation in applying for, or
13 procuring, a license under this Act or in connection with
14 applying for renewal of a license under this Act.

15 (10) Making a false or misleading statement regarding
16 their skill or the efficacy or value of the medicine,
17 treatment, or remedy prescribed by them at their direction
18 in the treatment of any disease or other condition of the
19 body or mind.

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

22 (12) Disciplinary action of another state or
23 jurisdiction against a license or other authorization to
24 practice as a medical doctor, doctor of osteopathy, doctor
25 of osteopathic medicine or doctor of chiropractic, a
26 certified copy of the record of the action taken by the
27 other state or jurisdiction being prima facie evidence
28 thereof.

29 (13) Violation of any provision of this Act or of the
30 Medical Practice Act prior to the repeal of that Act, or
31 violation of the rules, or a final administrative action of
32 the Secretary ~~Director~~, after consideration of the
33 recommendation of the Disciplinary Board.

34 (14) Dividing with anyone other than physicians with

1 whom the licensee practices in a partnership, Professional
2 Association, limited liability company, or Medical or
3 Professional Corporation any fee, commission, rebate or
4 other form of compensation for any professional services
5 not actually and personally rendered. Nothing contained in
6 this subsection prohibits persons holding valid and
7 current licenses under this Act from practicing medicine in
8 partnership under a partnership agreement, including a
9 limited liability partnership, in a limited liability
10 company under the Limited Liability Company Act, in a
11 corporation authorized by the Medical Corporation Act, as
12 an association authorized by the Professional Association
13 Act, or in a corporation under the Professional Corporation
14 Act or from pooling, sharing, dividing or apportioning the
15 fees and monies received by them or by the partnership,
16 corporation or association in accordance with the
17 partnership agreement or the policies of the Board of
18 Directors of the corporation or association. Nothing
19 contained in this subsection prohibits 2 or more
20 corporations authorized by the Medical Corporation Act,
21 from forming a partnership or joint venture of such
22 corporations, and providing medical, surgical and
23 scientific research and knowledge by employees of these
24 corporations if such employees are licensed under this Act,
25 or from pooling, sharing, dividing, or apportioning the
26 fees and monies received by the partnership or joint
27 venture in accordance with the partnership or joint venture
28 agreement. Nothing contained in this subsection shall
29 abrogate the right of 2 or more persons, holding valid and
30 current licenses under this Act, to each receive adequate
31 compensation for concurrently rendering professional
32 services to a patient and divide a fee; provided, the
33 patient has full knowledge of the division, and, provided,
34 that the division is made in proportion to the services

1 performed and responsibility assumed by each.

2 (15) A finding by the Medical Disciplinary Board that
3 the registrant after having his or her license placed on
4 probationary status or subjected to conditions or
5 restrictions violated the terms of the probation or failed
6 to comply with such terms or conditions.

7 (16) Abandonment of a patient.

8 (17) Prescribing, selling, administering,
9 distributing, giving or self-administering any drug
10 classified as a controlled substance (designated product)
11 or narcotic for other than medically accepted therapeutic
12 purposes.

13 (18) Promotion of the sale of drugs, devices,
14 appliances or goods provided for a patient in such manner
15 as to exploit the patient for financial gain of the
16 physician.

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

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

25 (21) Wilfully making or filing false records or reports
26 in his or her practice as a physician, including, but not
27 limited to, false records to support claims against the
28 medical assistance program of the Department of Public Aid
29 under the Illinois Public Aid Code.

30 (22) Wilful omission to file or record, or wilfully
31 impeding the filing or recording, or inducing another
32 person to omit to file or record, medical reports as
33 required by law, or wilfully failing to report an instance
34 of suspected abuse or neglect as required by law.

1 (23) Being named as a perpetrator in an indicated
2 report by the Department of Children and Family Services
3 under the Abused and Neglected Child Reporting Act, and
4 upon proof by clear and convincing evidence that the
5 licensee has caused a child to be an abused child or
6 neglected child as defined in the Abused and Neglected
7 Child Reporting Act.

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

11 (25) Gross and wilful and continued overcharging for
12 professional services, including filing false statements
13 for collection of fees for which services are not rendered,
14 including, but not limited to, filing such false statements
15 for collection of monies for services not rendered from the
16 medical assistance program of the Department of Public Aid
17 under the Illinois Public Aid Code.

18 (26) A pattern of practice or other behavior which
19 demonstrates incapacity or incompetence to practice under
20 this Act.

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

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

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

30 (30) Wilfully or negligently violating the
31 confidentiality between physician and patient except as
32 required by law.

33 (31) The use of any false, fraudulent, or deceptive
34 statement in any document connected with practice under

1 this Act.

2 (32) Aiding and abetting an individual not licensed
3 under this Act in the practice of a profession licensed
4 under this Act.

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

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

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

28 (36) Failure to report to the Department any adverse
29 judgment, settlement, or award arising from a liability
30 claim related to acts or conduct similar to acts or conduct
31 which would constitute grounds for action as defined in
32 this Section.

33 (37) Failure to transfer copies of medical records as
34 required by law.

1 (38) Failure to furnish the Department, its
2 investigators or representatives, relevant information,
3 legally requested by the Department after consultation
4 with the Chief Medical Coordinator or the Deputy Medical
5 Coordinator.

6 (39) Violating the Health Care Worker Self-Referral
7 Act.

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

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

12 (42) Entering into an excessive number of written
13 collaborative agreements with licensed advanced practice
14 nurses resulting in an inability to adequately collaborate
15 and provide medical direction.

16 (43) Repeated failure to adequately collaborate with
17 or provide medical direction to a licensed advanced
18 practice nurse.

19 Except for actions involving the ground numbered (26), all
20 ~~All~~ proceedings to suspend, revoke, place on probationary
21 status, or take any other disciplinary action as the Department
22 may deem proper, with regard to a license on any of the
23 foregoing grounds, must be commenced within 5 ~~3~~ years next
24 after receipt by the Department of a complaint alleging the
25 commission of or notice of the conviction order for any of the
26 acts described herein. Except for the grounds numbered (8),
27 (9), (26), and (29), no action shall be commenced more than 10
28 ~~5~~ years after the date of the incident or act alleged to have
29 violated this Section. For actions involving the ground
30 numbered (26), a pattern of practice or other behavior includes
31 all incidents alleged to be part of the pattern of practice or
32 other behavior that occurred or a report pursuant to Section 23
33 of this Act received within the 10-year period preceding the
34 filing of the complaint. In the event of the settlement of any

1 claim or cause of action in favor of the claimant or the
2 reduction to final judgment of any civil action in favor of the
3 plaintiff, such claim, cause of action or civil action being
4 grounded on the allegation that a person licensed under this
5 Act was negligent in providing care, the Department shall have
6 an additional period of 2 years ~~one year~~ from the date of
7 notification to the Department under Section 23 of this Act of
8 such settlement or final judgment in which to investigate and
9 commence formal disciplinary proceedings under Section 36 of
10 this Act, except as otherwise provided by law. The time during
11 which the holder of the license was outside the State of
12 Illinois shall not be included within any period of time
13 limiting the commencement of disciplinary action by the
14 Department.

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

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

32 The Department, upon the recommendation of the
33 Disciplinary Board, shall adopt rules which set forth standards
34 to be used in determining:

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

3 (b) what constitutes dishonorable, unethical or
4 unprofessional conduct of a character likely to deceive,
5 defraud, or harm the public;

6 (c) what constitutes immoral conduct in the commission
7 of any act, including, but not limited to, commission of an
8 act of sexual misconduct related to the licensee's
9 practice; and

10 (d) what constitutes gross negligence in the practice
11 of medicine.

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

15 In enforcing this Section, the Medical Disciplinary Board,
16 upon a showing of a possible violation, may compel any
17 individual licensed to practice under this Act, or who has
18 applied for licensure or a permit pursuant to this Act, to
19 submit to a mental or physical examination, or both, as
20 required by and at the expense of the Department. The examining
21 physician or physicians shall be those specifically designated
22 by the Disciplinary Board. The Medical Disciplinary Board or
23 the Department may order the examining physician to present
24 testimony concerning this mental or physical examination of the
25 licensee or applicant. No information shall be excluded by
26 reason of any common law or statutory privilege relating to
27 communication between the licensee or applicant and the
28 examining physician. The individual to be examined may have, at
29 his or her own expense, another physician of his or her choice
30 present during all aspects of the examination. Failure of any
31 individual to submit to mental or physical examination, when
32 directed, shall be grounds for suspension of his or her license
33 until such time as the individual submits to the examination if
34 the Disciplinary Board finds, after notice and hearing, that

1 the refusal to submit to the examination was without reasonable
2 cause. If the Disciplinary Board finds a physician unable to
3 practice because of the reasons set forth in this Section, the
4 Disciplinary Board shall require such physician to submit to
5 care, counseling, or treatment by physicians approved or
6 designated by the Disciplinary Board, as a condition for
7 continued, reinstated, or renewed licensure to practice. Any
8 physician, whose license was granted pursuant to Sections 9,
9 17, or 19 of this Act, or, continued, reinstated, renewed,
10 disciplined or supervised, subject to such terms, conditions or
11 restrictions who shall fail to comply with such terms,
12 conditions or restrictions, or to complete a required program
13 of care, counseling, or treatment, as determined by the Chief
14 Medical Coordinator or Deputy Medical Coordinators, shall be
15 referred to the Secretary ~~Director~~ for a determination as to
16 whether the licensee shall have their license suspended
17 immediately, pending a hearing by the Disciplinary Board. In
18 instances in which the Secretary ~~Director~~ immediately suspends
19 a license under this Section, a hearing upon such person's
20 license must be convened by the Disciplinary Board within 15
21 days after such suspension and completed without appreciable
22 delay. The Disciplinary Board shall have the authority to
23 review the subject physician's record of treatment and
24 counseling regarding the impairment, to the extent permitted by
25 applicable federal statutes and regulations safeguarding the
26 confidentiality of medical records.

27 An individual licensed under this Act, affected under this
28 Section, shall be afforded an opportunity to demonstrate to the
29 Disciplinary Board that they can resume practice in compliance
30 with acceptable and prevailing standards under the provisions
31 of their license.

32 The Department may promulgate rules for the imposition of
33 fines in disciplinary cases, not to exceed \$10,000 ~~\$5,000~~ for
34 each violation of this Act. Fines may be imposed in conjunction

1 with other forms of disciplinary action, but shall not be the
2 exclusive disposition of any disciplinary action arising out of
3 conduct resulting in death or injury to a patient. Any funds
4 collected from such fines shall be deposited in the Medical
5 Disciplinary Fund.

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

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

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

30 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

32 Sec. 23. Reports relating to professional conduct and
33 capacity.

1 (A) Entities required to report.

2 (1) Health care institutions. The chief administrator
3 or executive officer of any health care institution
4 licensed by the Illinois Department of Public Health shall
5 report to the Disciplinary Board when any person's clinical
6 privileges are terminated or are restricted based on a
7 final determination, in accordance with that institution's
8 by-laws or rules and regulations, that a person has either
9 committed an act or acts which may directly threaten
10 patient care, and not of an administrative nature, or that
11 a person may be mentally or physically disabled in such a
12 manner as to endanger patients under that person's care.
13 Such officer also shall report if a person accepts
14 voluntary termination or restriction of clinical
15 privileges in lieu of formal action based upon conduct
16 related directly to patient care and not of an
17 administrative nature, or in lieu of formal action seeking
18 to determine whether a person may be mentally or physically
19 disabled in such a manner as to endanger patients under
20 that person's care. The Medical Disciplinary Board shall,
21 by rule, provide for the reporting to it of all instances
22 in which a person, licensed under this Act, who is impaired
23 by reason of age, drug or alcohol abuse or physical or
24 mental impairment, is under supervision and, where
25 appropriate, is in a program of rehabilitation. Such
26 reports shall be strictly confidential and may be reviewed
27 and considered only by the members of the Disciplinary
28 Board, or by authorized staff as provided by rules of the
29 Disciplinary Board. Provisions shall be made for the
30 periodic report of the status of any such person not less
31 than twice annually in order that the Disciplinary Board
32 shall have current information upon which to determine the
33 status of any such person. Such initial and periodic
34 reports of impaired physicians shall not be considered

1 records within the meaning of The State Records Act and
2 shall be disposed of, following a determination by the
3 Disciplinary Board that such reports are no longer
4 required, in a manner and at such time as the Disciplinary
5 Board shall determine by rule. The filing of such reports
6 shall be construed as the filing of a report for purposes
7 of subsection (C) of this Section.

8 (2) Professional associations. The President or chief
9 executive officer of any association or society, of persons
10 licensed under this Act, operating within this State shall
11 report to the Disciplinary Board when the association or
12 society renders a final determination that a person has
13 committed unprofessional conduct related directly to
14 patient care or that a person may be mentally or physically
15 disabled in such a manner as to endanger patients under
16 that person's care.

17 (3) Professional liability insurers. Every insurance
18 company which offers policies of professional liability
19 insurance to persons licensed under this Act, or any other
20 entity which seeks to indemnify the professional liability
21 of a person licensed under this Act, shall report to the
22 Disciplinary Board the settlement of any claim or cause of
23 action, or final judgment rendered in any cause of action,
24 which alleged negligence in the furnishing of medical care
25 by such licensed person when such settlement or final
26 judgment is in favor of the plaintiff.

27 (4) State's Attorneys. The State's Attorney of each
28 county shall report to the Disciplinary Board all instances
29 in which a person licensed under this Act is convicted or
30 otherwise found guilty of the commission of any felony. The
31 State's Attorney of each county may report to the
32 Disciplinary Board through a verified complaint any
33 instance in which the State's Attorney believes that a
34 physician has willfully violated the notice requirements

1 of the Parental Notice of Abortion Act of 1995.

2 (5) State agencies. All agencies, boards, commissions,
3 departments, or other instrumentalities of the government
4 of the State of Illinois shall report to the Disciplinary
5 Board any instance arising in connection with the
6 operations of such agency, including the administration of
7 any law by such agency, in which a person licensed under
8 this Act has either committed an act or acts which may be a
9 violation of this Act or which may constitute
10 unprofessional conduct related directly to patient care or
11 which indicates that a person licensed under this Act may
12 be mentally or physically disabled in such a manner as to
13 endanger patients under that person's care.

14 (B) Mandatory reporting. All reports required by items
15 (34), (35), and (36) of subsection (A) of Section 22 and by
16 Section 23 shall be submitted to the Disciplinary Board in a
17 timely fashion. The reports shall be filed in writing within 60
18 days after a determination that a report is required under this
19 Act. All reports shall contain the following information:

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

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

24 (3) The name and date of birth ~~or other means of~~
25 ~~identification~~ of any patient or patients whose treatment
26 is a subject of the report, if available, or other means of
27 identification if such information is not available,
28 identification of the hospital or other healthcare
29 facility where the care at issue in the report was
30 rendered, provided, however, no medical records may be
31 revealed ~~without the written consent of the patient or~~
32 ~~patients.~~

33 (4) A brief description of the facts which gave rise to
34 the issuance of the report, including the dates of any

1 occurrences deemed to necessitate the filing of the report.

2 (5) If court action is involved, the identity of the
3 court in which the action is filed, along with the docket
4 number and date of filing of the action.

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

8 ~~The Department shall have the right to inform patients of~~
9 ~~the right to provide written consent for the Department to~~
10 ~~obtain copies of hospital and medical records.~~ The Disciplinary
11 Board or Department may also exercise the power under Section
12 38 of this Act to subpoena copies of hospital or medical
13 records in mandatory report cases alleging death or permanent
14 bodily injury ~~when consent to obtain records is not provided by~~
15 ~~a patient or legal representative.~~ Appropriate rules shall be
16 adopted by the Department with the approval of the Disciplinary
17 Board.

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

23 Nothing contained in this Section shall act to in any way,
24 waive or modify the confidentiality of medical reports and
25 committee reports to the extent provided by law. Any
26 information reported or disclosed shall be kept for the
27 confidential use of the Disciplinary Board, the Medical
28 Coordinators, the Disciplinary Board's attorneys, the medical
29 investigative staff, and authorized clerical staff, as
30 provided in this Act, and shall be afforded the same status as
31 is provided information concerning medical studies in Part 21
32 of Article VIII of the Code of Civil Procedure, except that the
33 Department may disclose information and documents to a federal,
34 State, or local law enforcement agency pursuant to a subpoena

1 in an ongoing criminal investigation. Furthermore, information
2 and documents disclosed to a federal, State, or local law
3 enforcement agency may be used by that agency only for the
4 investigation and prosecution of a criminal offense.

5 (C) Immunity from prosecution. Any individual or
6 organization acting in good faith, and not in a wilful and
7 wanton manner, in complying with this Act by providing any
8 report or other information to the Disciplinary Board or a peer
9 review committee, or assisting in the investigation or
10 preparation of such information, or by voluntarily reporting to
11 the Disciplinary Board or a peer review committee information
12 regarding alleged errors or negligence by a person licensed
13 under this Act, or by participating in proceedings of the
14 Disciplinary Board or a peer review committee, or by serving as
15 a member of the Disciplinary Board or a peer review committee,
16 shall not, as a result of such actions, be subject to criminal
17 prosecution or civil damages.

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

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

1 good faith or were wilful and wanton.

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

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

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

18 The notification shall include a written notice setting
19 forth the person's right to examine the report. Included in
20 such notification shall be the address at which the file is
21 maintained, the name of the custodian of the reports, and the
22 telephone number at which the custodian may be reached. The
23 person who is the subject of the report shall submit a written
24 statement responding, clarifying, adding to, or proposing the
25 amending of the report previously filed. The person who is the
26 subject of the report shall also submit with the written
27 statement any medical records related to the report. The
28 statement and accompanying medical records shall become a
29 permanent part of the file and must be received by the
30 Disciplinary Board no more than 30 ~~60~~ days after the date on
31 which the person was notified by the Disciplinary Board of the
32 existence of the original report.

33 The Disciplinary Board shall review all reports received by
34 it, together with any supporting information and responding

1 statements submitted by persons who are the subject of reports.
2 The review by the Disciplinary Board shall be in a timely
3 manner but in no event, shall the Disciplinary Board's initial
4 review of the material contained in each disciplinary file be
5 less than 61 days nor more than 180 days after the receipt of
6 the initial report by the Disciplinary Board.

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

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

28 (F) Summary reports. The Disciplinary Board shall prepare,
29 on a timely basis, but in no event less than one every other
30 month, a summary report of final actions taken upon
31 disciplinary files maintained by the Disciplinary Board. The
32 summary reports shall be sent by the Disciplinary Board to
33 every health care facility licensed by the Illinois Department
34 of Public Health, every professional association and society of

1 persons licensed under this Act functioning on a statewide
2 basis in this State, the American Medical Association, the
3 American Osteopathic Association, the American Chiropractic
4 Association, all insurers providing professional liability
5 insurance to persons licensed under this Act in the State of
6 Illinois, the Federation of State Medical Licensing Boards, and
7 the Illinois Pharmacists Association.

8 (G) Any violation of this Section shall be a Class A
9 misdemeanor.

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

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

25 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

27 Sec. 24. Report of violations; medical associations. Any
28 physician licensed under this Act, the Illinois State Medical
29 Society, the Illinois Association of Osteopathic Physicians
30 and Surgeons, the Illinois Chiropractic Society, the Illinois
31 Prairie State Chiropractic Association, or any component
32 societies of any of these 4 groups, and any other person, may
33 report to the Disciplinary Board any information the physician,

1 association, society, or person may have that appears to show
2 that a physician is or may be in violation of any of the
3 provisions of Section 22 of this Act.

4 The Department may enter into agreements with the Illinois
5 State Medical Society, the Illinois Association of Osteopathic
6 Physicians and Surgeons, the Illinois Prairie State
7 Chiropractic Association, or the Illinois Chiropractic Society
8 to allow these organizations to assist the Disciplinary Board
9 in the review of alleged violations of this Act. Subject to the
10 approval of the Department, any organization party to such an
11 agreement may subcontract with other individuals or
12 organizations to assist in review.

13 Any physician, association, society, or person
14 participating in good faith in the making of a report, under
15 this Act or participating in or assisting with an investigation
16 or review under this Act ~~Section~~ shall have immunity from any
17 civil, criminal, or other liability that might result by reason
18 of those actions.

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

24 Upon request by the Department after a mandatory report has
25 been filed with the Department, an attorney for any party
26 seeking to recover damages for injuries or death by reason of
27 medical, hospital, or other healing art malpractice shall
28 provide patient records related to the physician involved in
29 the disciplinary proceeding to the Department within 30 days of
30 the Department's request for use by the Department in any
31 disciplinary matter under this Act. An attorney who provides
32 patient records to the Department in accordance with this
33 requirement shall not be deemed to have violated any
34 attorney-client privilege. Notwithstanding any other provision

1 of law, consent by a patient shall not be required for the
2 provision of patient records in accordance with this
3 requirement.

4 For the purpose of any civil or criminal proceedings, the
5 good faith of any physician, association, society or person
6 shall be presumed. The Disciplinary Board may request the
7 Illinois State Medical Society, the Illinois Association of
8 Osteopathic Physicians and Surgeons, the Illinois Prairie
9 State Chiropractic Association, or the Illinois Chiropractic
10 Society to assist the Disciplinary Board in preparing for or
11 conducting any medical competency examination as the Board may
12 deem appropriate.

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

14 (225 ILCS 60/24.1 new)

15 Sec. 24.1. Physician profile.

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

18 (b) The Department shall make available to the public a
19 profile of each physician. The Department shall make this
20 information available through an Internet web site and, if
21 requested, in writing. The physician profile shall contain the
22 following information:

23 (1) the full name of the physician;

24 (2) a description of any criminal convictions for
25 felonies and Class A misdemeanors, as determined by the
26 Department, within the most recent 10 years. For the
27 purposes of this Section, a person shall be deemed to be
28 convicted of a crime if he or she pleaded guilty or if he
29 was found or adjudged guilty by a court of competent
30 jurisdiction;

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

33 (4) a description of any final disciplinary actions by

1 licensing boards in other states within the most recent 10
2 years;

3 (5) a description of revocation or involuntary
4 restriction of hospital privileges for reasons related to
5 competence or character that have been taken by the
6 hospital's governing body or any other official of the
7 hospital after procedural due process has been afforded, or
8 the resignation from or nonrenewal of medical staff
9 membership or the restriction of privileges at a hospital
10 taken in lieu of or in settlement of a pending disciplinary
11 case related to competence or character in that hospital.
12 Only cases which have occurred within the most recent 10
13 years shall be disclosed by the Department to the public;

14 (6) all medical malpractice court judgments and all
15 medical malpractice arbitration awards in which a payment
16 was awarded to a complaining party during the most recent
17 10 years and all settlements of medical malpractice claims
18 in which a payment was made to a complaining party within
19 the most recent 10 years. Dispositions of paid claims shall
20 be reported in a minimum of 3 graduated categories
21 indicating the level of significance of the award or
22 settlement. Information concerning paid medical
23 malpractice claims shall be put in context by comparing an
24 individual physician's medical malpractice judgment awards
25 and settlements to the experience of other physicians
26 within the same specialty. Information concerning all
27 settlements shall be accompanied by the following
28 statement: "Settlement of a claim may occur for a variety
29 of reasons which do not necessarily reflect negatively on
30 the professional competence or conduct of the physician. A
31 payment in settlement of a medical malpractice action or
32 claim should not be construed as creating a presumption
33 that medical malpractice has occurred." Nothing in this
34 subdivision (6) shall be construed to limit or prevent the

1 Disciplinary Board from providing further explanatory
2 information regarding the significance of categories in
3 which settlements are reported. Pending malpractice claims
4 shall not be disclosed by the Department to the public.
5 Nothing in this subdivision (6) shall be construed to
6 prevent the Disciplinary Board from investigating and the
7 Department from disciplining a physician on the basis of
8 medical malpractice claims that are pending;

9 (7) names of medical schools attended, dates of
10 attendance, and date of graduation;

11 (8) graduate medical education;

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

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

16 (11) names of the hospitals where the physician has
17 privileges;

18 (12) appointments to medical school faculties and
19 indication as to whether a physician has a responsibility
20 for graduate medical education within the most recent 10
21 years;

22 (13) information regarding publications in
23 peer-reviewed medical literature within the most recent 10
24 years;

25 (14) information regarding professional or community
26 service activities and awards;

27 (15) the location of the physician's primary practice
28 setting;

29 (16) identification of any translating services that
30 may be available at the physician's primary practice
31 location;

32 (17) an indication of whether the physician
33 participates in the Medicaid program.

34 (c) The Disciplinary Board shall provide individual

1 physicians with a copy of their profiles prior to release to
2 the public. A physician shall be provided a reasonable time to
3 correct factual inaccuracies that appear in such profile.

4 (d) A physician may elect to have his or her profile omit
5 certain information provided pursuant to subdivisions (12)
6 through (14) of subsection (b) concerning academic
7 appointments and teaching responsibilities, publication in
8 peer-reviewed journals and professional and community service
9 awards. In collecting information for such profiles and in
10 disseminating the same, the Disciplinary Board shall inform
11 physicians that they may choose not to provide such information
12 required pursuant to subdivisions (12) through (14) of
13 subsection (b).

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

16 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

18 Sec. 36. Upon the motion of either the Department or the
19 Disciplinary Board or upon the verified complaint in writing of
20 any person setting forth facts which, if proven, would
21 constitute grounds for suspension or revocation under Section
22 22 of this Act, the Department shall investigate the actions of
23 any person, so accused, who holds or represents that they hold
24 a license. Such person is hereinafter called the accused.

25 The Department shall, before suspending, revoking, placing
26 on probationary status, or taking any other disciplinary action
27 as the Department may deem proper with regard to any license at
28 least 30 days prior to the date set for the hearing, notify the
29 accused in writing of any charges made and the time and place
30 for a hearing of the charges before the Disciplinary Board,
31 direct them to file their written answer thereto to the
32 Disciplinary Board under oath within 20 days after the service
33 on them of such notice and inform them that if they fail to

1 file such answer default will be taken against them and their
2 license may be suspended, revoked, placed on probationary
3 status, or have other disciplinary action, including limiting
4 the scope, nature or extent of their practice, as the
5 Department may deem proper taken with regard thereto.

6 Where a physician has been found, upon complaint and
7 investigation of the Department, and after hearing, to have
8 performed an abortion procedure in a wilful and wanton manner
9 upon a woman who was not pregnant at the time such abortion
10 procedure was performed, the Department shall automatically
11 revoke the license of such physician to practice medicine in
12 Illinois.

13 Such written notice and any notice in such proceedings
14 thereafter may be served by delivery of the same, personally,
15 to the accused person, or by mailing the same by registered or
16 certified mail to the address last theretofore specified by the
17 accused in their last notification to the Department.

18 All information gathered by the Department during its
19 investigation including information subpoenaed under Section
20 23 or 38 of this Act and the investigative file shall be kept
21 for the confidential use of the Secretary Director,
22 Disciplinary Board, the Medical Coordinators, persons employed
23 by contract to advise the Medical Coordinator or the
24 Department, the Disciplinary Board's attorneys, the medical
25 investigative staff, and authorized clerical staff, as
26 provided in this Act and shall be afforded the same status as
27 is provided information concerning medical studies in Part 21
28 of Article VIII of the Code of Civil Procedure, except that the
29 Department may disclose information and documents to a federal,
30 State, or local law enforcement agency pursuant to a subpoena
31 in an ongoing criminal investigation. Furthermore, information
32 and documents disclosed to a federal, State, or local law
33 enforcement agency may be used by that agency only for the
34 investigation and prosecution of a criminal offense.

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

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

4 (705 ILCS 105/27.10 new)

5 Sec. 27.10. Secretary of Financial and Professional
6 Regulation. Each clerk of the circuit court shall provide to
7 the Secretary of Financial and Professional Regulation such
8 information as the Secretary of Financial and Professional
9 Regulation requests under Section 155.19 of the Illinois
10 Insurance Code.

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

13 (710 ILCS 15/8) (from Ch. 10, par. 208)

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

16 (a) The agreement is not a condition to the rendering of
17 health care services by any party and the agreement has been
18 executed by the recipient of health care services at the
19 inception of or during the term of provision of services for a
20 specific cause by either a health care provider or a hospital;
21 and

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

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

29 (d) The agreement shall not limit, impair, or waive the
30 procedural rights to be heard, to present material evidence, to

1 cross-examine witnesses, and to be represented by an attorney,
2 or other procedural rights of due process of any party.

3 (e) (Blank). ~~As a part of the discharge planning process~~
4 ~~the patient or, if appropriate, members of his family must be~~
5 ~~given a copy of the health care arbitration agreement~~
6 ~~previously executed by or for the patient and shall re-affirm~~
7 ~~it. Failure to comply with this provision during the discharge~~
8 ~~planning process shall void the health care arbitration~~
9 ~~agreement.~~

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

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

14 (710 ILCS 15/9) (from Ch. 10, par. 209)

15 Sec. 9. Mandatory Provisions.

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

18 (b) Every health care arbitration agreement in relation to
19 health care services rendered during hospitalization shall
20 specify the date of commencement of hospitalization. Every
21 health care arbitration agreement in relation to health care
22 services not rendered during hospitalization shall state the
23 specific cause for which the services are provided.

24 (c) Every health care arbitration agreement may be
25 cancelled by any signatory (1) within 90 ~~60~~ days of its
26 execution or within 90 ~~60~~ days of the date of the patient's
27 discharge from the hospital, whichever is later, as to an
28 agreement in relation to health care services rendered during
29 hospitalization, ~~provided, that if executed other than at the~~
30 ~~time of discharge of the patient from the hospital, the health~~
31 ~~care arbitration agreement be reaffirmed at the time of the~~
32 ~~discharge planning process in the same manner as provided for~~
33 ~~in the execution of the original agreement; or (2) within 90 ~~60~~~~

1 days of the date of its execution, or the last date of
2 treatment by the health care provider, whichever is later, as
3 to an agreement in relation to health care services not
4 rendered during hospitalization. Provided, that no health care
5 arbitration agreement shall be valid after 4 ~~2~~ years from the
6 date of its execution. An employee of a hospital or health care
7 provider who is not a signatory to an agreement may cancel such
8 agreement as to himself until 30 days following his
9 notification that he is a party to a dispute or issue on which
10 arbitration has been demanded pursuant to such agreement. If
11 any person executing a health care arbitration agreement dies
12 before the period of cancellation as outlined above, the
13 personal representative of the decedent shall have the right to
14 cancel the health care arbitration agreement within 60 days of
15 the date of his appointment as the legal representative of the
16 decedent's estate. ~~Provided, that if no legal representative is~~
17 ~~appointed within 6 months of the death of said decedent the~~
18 ~~next of kin of such decedent shall have the right to cancel the~~
19 ~~health care arbitration agreement within 8 months from the date~~
20 ~~of death.~~

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

25 "AGREEMENT TO ARBITRATE HEALTH CARE

26 NEGLIGENCE CLAIMS

27 NOTICE TO PATIENT

28 YOU CANNOT BE REQUIRED TO SIGN THIS AGREEMENT IN ORDER TO
29 RECEIVE TREATMENT. BY SIGNING THIS AGREEMENT, YOUR RIGHT TO
30 TRIAL BY A JURY OR A JUDGE IN A COURT WILL BE BARRED AS TO
31 ANY DISPUTE RELATING TO INJURIES THAT MAY RESULT FROM
32 NEGLIGENCE DURING YOUR TREATMENT OR CARE, AND WILL BE
33 REPLACED BY AN ARBITRATION PROCEDURE.

34 THIS AGREEMENT MAY BE CANCELLED WITHIN 90 ~~60~~ DAYS OF

1 SIGNING OR 90 ~~60~~ DAYS AFTER YOUR HOSPITAL DISCHARGE,
2 WHICHEVER IS LATER, OR 90 ~~60~~ DAYS AFTER YOUR LAST MEDICAL
3 TREATMENT IN RELATION TO HEALTH CARE SERVICES NOT RENDERED
4 DURING HOSPITALIZATION.

5 THIS AGREEMENT PROVIDES THAT ANY CLAIMS WHICH MAY ARISE OUT
6 OF YOUR HEALTH CARE WILL BE SUBMITTED TO A PANEL OF
7 ARBITRATORS, RATHER THAN TO A COURT FOR DETERMINATION. THIS
8 AGREEMENT REQUIRES ALL PARTIES SIGNING IT TO ABIDE BY THE
9 DECISION OF THE ARBITRATION PANEL."

10 (e) An ~~an~~ executed copy of the AGREEMENT TO ARBITRATE
11 HEALTH CARE CLAIMS ~~and any reaffirmation of that agreement as~~
12 ~~required by this Act~~ shall be given to the patient or the
13 patient's legally authorized representative upon signing
14 ~~during the time of the discharge planning process or at the~~
15 ~~time of discharge.~~

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

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

20 Section 330. The Code of Civil Procedure is amended by
21 reenacting and changing Sections 2-402, 2-622, 2-1109, 2-1702,
22 and 8-2501, by changing Sections 2-1701, 2-1704, and 8-1901,
23 and by adding Sections 2-1105.01 and 2-1706.5 as follows:

24 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

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

27 Sec. 2-402. Respondents in discovery. The plaintiff in any
28 civil action may designate as respondents in discovery in his
29 or her pleading those individuals or other entities, other than
30 the named defendants, believed by the plaintiff to have
31 information essential to the determination of who should
32 properly be named as additional defendants in the action.

1 Persons or entities so named as respondents in discovery
2 shall be required to respond to discovery by the plaintiff in
3 the same manner as are defendants and may, on motion of the
4 plaintiff, be added as defendants if the evidence discloses the
5 existence of probable cause for such action.

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

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

12 Each respondent in discovery shall be paid expenses and
13 fees as provided for witnesses.

14 A person or entity named as a respondent in discovery in
15 any civil action may be made a defendant in the same action at
16 any time within 6 months after being named as a respondent in
17 discovery, even though the time during which an action may
18 otherwise be initiated against him or her may have expired
19 during such 6 month period. An extension from the original
20 6-month period for good cause may be granted only once for up
21 to 90 days for (i) withdrawal of plaintiff's counsel or (ii)
22 good cause. Notwithstanding the limitations in this Section,
23 the court may grant additional reasonable extensions from this
24 6-month period for a failure or refusal on the part of the
25 respondent to comply with timely filed discovery.

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

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

30 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

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

33 Sec. 2-622. Healing art malpractice.

1 (a) In any action, whether in tort, contract or otherwise,
2 in which the plaintiff seeks damages for injuries or death by
3 reason of medical, hospital, or other healing art malpractice,
4 the plaintiff's attorney or the plaintiff, if the plaintiff is
5 proceeding pro se, shall file an affidavit, attached to the
6 original and all copies of the complaint, declaring one of the
7 following:

8 1. That the affiant has consulted and reviewed the
9 facts of the case with a health professional who the
10 affiant reasonably believes: (i) is knowledgeable in the
11 relevant issues involved in the particular action; (ii)
12 practices or has practiced within the last 5 6 years or
13 teaches or has taught within the last 5 6 years in the same
14 area of health care or medicine that is at issue in the
15 particular action; and (iii) meets the expert witness
16 standards set forth in paragraphs (a) through (d) of
17 Section 8-2501; is qualified by experience or demonstrated
18 ~~competence in the subject of the case;~~ that the reviewing
19 health professional has determined in a written report,
20 after a review of the medical record and other relevant
21 material involved in the particular action that there is a
22 reasonable and meritorious cause for the filing of such
23 action; and that the affiant has concluded on the basis of
24 the reviewing health professional's review and
25 consultation that there is a reasonable and meritorious
26 cause for filing of such action. A single written report
27 must be filed to cover each defendant in the action. As to
28 defendants who are individuals, the ~~If the affidavit is~~
29 ~~filed as to a defendant who is a physician licensed to~~
30 ~~treat human ailments without the use of drugs or medicines~~
31 ~~and without operative surgery, a dentist, a podiatrist, a~~
32 ~~psychologist, or a naprapath,~~ The written report must be
33 from a health professional licensed in the same profession,
34 with the same class of license, as the defendant. For

1 written reports ~~affidavits~~ filed as to all other
2 defendants, who are not individuals, the written report
3 must be from a physician licensed to practice medicine in
4 all its branches who is qualified by experience with the
5 standard of care, methods, procedures and treatments
6 relevant to the allegations at issue in the case. In either
7 event, the written report ~~affidavit~~ must identify the
8 profession of the reviewing health professional. A copy of
9 the written report, clearly identifying the plaintiff and
10 the reasons for the reviewing health professional's
11 determination that a reasonable and meritorious cause for
12 the filing of the action exists, must be attached to the
13 affidavit, but information which would identify the
14 reviewing health professional may be deleted from the copy
15 so attached. The report must contain the affirmations set
16 forth in items (i) through (iii) of this paragraph 1. At
17 the first Supreme Court Rule 218 case management
18 conference, the plaintiff shall present to the court the
19 original signed health professional's report, along with
20 the health professional's current license number and state
21 of licensure and curriculum vitae, for an in camera
22 inspection. The court shall verify whether the report and
23 affidavit comply with the requirements of this paragraph 1.
24 The court, in verifying whether the report and affidavit
25 comply with the requirements of this paragraph 1, shall
26 determine whether the health professional preparing the
27 report is qualified and the determination shall be either
28 in writing or transcribed. If the court finds that the
29 report, the health professional's current license
30 information or curriculum vitae, or the affidavit is
31 deficient, the court may request from the plaintiff all
32 documents it deems necessary to make its decision and shall
33 allow for a reasonable opportunity to provide any requested
34 documents and to amend that report or affidavit; provided,

1 if the statute of limitations has tolled, the judge may
2 grant only one extension not exceeding 120 days. The
3 court's verification as to whether the health professional
4 preparing the report is qualified shall be issued to all
5 parties and be made a part of the official record. The
6 original report, the health professional's current license
7 number and state of licensure and curriculum vitae, and any
8 documents requested by the court shall remain under seal
9 and part of the court record. Notwithstanding the other
10 provisions of this Section, the judge may disclose the name
11 and address of the reviewing health professional upon a
12 showing of good cause by the defendant who in good faith
13 challenges the qualifications of the health professional
14 based on information available to the defendant. If the
15 information is disclosed at the trial level, then it shall
16 be confidential and it shall not be disclosed by the
17 defendant to a third party.

18 2. That the affiant was unable to obtain a consultation
19 required by paragraph 1 because a statute of limitations
20 would impair the action and the consultation required could
21 not be obtained before the expiration of the statute of
22 limitations. If an affidavit is executed pursuant to this
23 paragraph, the affidavit ~~certificate~~ and written report
24 required by paragraph 1 shall be filed within 90 days after
25 the filing of the complaint. No additional 90-day
26 extensions pursuant to this paragraph shall be granted,
27 except where there has been a withdrawal of the plaintiff's
28 counsel. The defendant shall be excused from answering or
29 otherwise pleading until 30 days after being served with an
30 affidavit and a report ~~a certificate~~ required by paragraph
31 1.

32 3. That a request has been made by the plaintiff or his
33 attorney for examination and copying of records pursuant to
34 Part 20 of Article VIII of this Code and the party required

1 to comply under those Sections has failed to produce such
2 records within 60 days of the receipt of the request. If an
3 affidavit is executed pursuant to this paragraph, the
4 affidavit ~~certificate~~ and written report required by
5 paragraph 1 shall be filed within 90 days following receipt
6 of the requested records. All defendants except those whose
7 failure to comply with Part 20 of Article VIII of this Code
8 is the basis for an affidavit under this paragraph shall be
9 excused from answering or otherwise pleading until 30 days
10 after being served with the affidavit and report
11 ~~certificate~~ required by paragraph 1.

12 (b) Where an affidavit ~~a certificate~~ and written report are
13 required pursuant to this Section a separate affidavit
14 ~~certificate~~ and written report shall be filed as to each
15 defendant who has been named in the complaint and shall be
16 filed as to each defendant named at a later time.

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

24 (d) When the attorney intends to rely on the doctrine of
25 failure to inform of the consequences of the procedure, the
26 attorney shall certify upon the filing of the complaint that
27 the reviewing health professional has, after reviewing the
28 medical record and other relevant materials involved in the
29 particular action, concluded that a reasonable health
30 professional would have informed the patient of the
31 consequences of the procedure.

32 (e) Allegations and denials in the affidavit, made without
33 reasonable cause and found to be untrue, shall subject the
34 party pleading them or his attorney, or both, to the payment of

1 reasonable expenses, actually incurred by the other party by
2 reason of the untrue pleading, together with reasonable
3 attorneys' fees to be summarily taxed by the court upon motion
4 made within 30 days of the judgment or dismissal. In no event
5 shall the award for attorneys' fees and expenses exceed those
6 actually paid by the moving party, including the insurer, if
7 any. In proceedings under this paragraph (e), the moving party
8 shall have the right to depose and examine any and all
9 reviewing health professionals who prepared reports used in
10 conjunction with an affidavit required by this Section.

11 (f) A reviewing health professional who in good faith
12 prepares a report used in conjunction with an affidavit
13 required by this Section shall have civil immunity from
14 liability which otherwise might result from the preparation of
15 such report.

16 (g) The failure of the plaintiff to file an affidavit and
17 report in compliance with ~~to file a certificate required by~~
18 this Section shall be grounds for dismissal under Section
19 2-619.

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

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

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

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

30 (735 ILCS 5/2-1105.01 new)

31 Sec. 2-1105.01. Personal assets protected in healing art
32 malpractice cases. In all cases, whether tort, contract, or
33 otherwise, in which the plaintiff seeks damages by reason of

1 healing art malpractice, a health care professional who
2 maintains at least a minimum of \$1,000,000 in professional
3 liability insurance coverage to cover a claim against him or
4 her is entitled to an exemption of all of his or her assets
5 from attachment, garnishment, or other form of forfeiture to
6 satisfy any judgment, decision, award, or verdict. Corporate
7 assets are subject to attachment for satisfaction of a
8 judgment. For the purposes of this Section, (i) "health care
9 professional" includes, without limitation, a physician,
10 advanced practice nurse, physician assistant, dentist,
11 podiatrist, registered nurse, and physical therapist and (ii)
12 "asset" includes, without limitation, any asset, property
13 (real or personal), interest, or other thing of value, of any
14 kind or character whatsoever that would otherwise be subject to
15 immediate execution to satisfy a judgment.

16 This Section shall not restrict, impair, or otherwise
17 affect the amount of damages that may be awarded to the
18 plaintiff or the amount of any judgment in favor of the
19 plaintiff. This Section shall not restrict, impair, or
20 otherwise affect the statutory and common law causes of action
21 a health care professional or the health care professional's
22 assignee has against the health care professional's insurer for
23 the insurer acting in bad faith or vexatiously and without
24 reasonable cause by failing to settle the action against the
25 health care professional within the health care professional's
26 insurance policy limits. The plaintiff shall be required to
27 prove all the elements of any such cause of action. This
28 Section shall not reduce or limit the damages that otherwise
29 would have been recoverable in any such action.

30 This Section applies to all causes of action pending on the
31 effective date of this amendatory Act of the 94th General
32 Assembly and to all causes of action filed on or after the
33 effective date of this amendatory Act of the 94th General
34 Assembly.

1 (735 ILCS 5/2-1109) (from Ch. 110, par. 2-1109)

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

4 Sec. 2-1109. Itemized verdicts.

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

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

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

29 "Non-economic loss" or "non-economic damages" means
30 damages that are intangible, including, but not limited to,
31 damages for pain and suffering, disability, disfigurement, and
32 loss of society.

33 "Compensatory damages" or "actual damages" are the sum of

1 economic and non-economic damages.

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

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

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

8 (735 ILCS 5/2-1701) (from Ch. 110, par. 2-1701)

9 Sec. 2-1701. Application. ~~In Subject to the provisions of~~
10 ~~Section 2-1705, in~~ all medical malpractice actions the
11 provisions of this Act shall be applicable.

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

13 (735 ILCS 5/2-1702) (from Ch. 110, par. 2-1702)

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

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

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

21 ~~(b) "Non-economic loss" means loss of consortium and all~~
22 ~~nonpecuniary harm for which damages are recoverable,~~
23 ~~including, without limitation, damages for pain and suffering,~~
24 ~~inconvenience, disfigurement, and physical impairment.~~

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

26 (735 ILCS 5/2-1704) (from Ch. 110, par. 2-1704)

27 Sec. 2-1704. Healing art malpractice ~~Medical Malpractice~~
28 ~~Action.~~ As used in this Code Part, "healing art medical
29 malpractice action" means any action, whether in tort, contract
30 or otherwise, in which the plaintiff seeks damages for injuries
31 or death by reason of medical, hospital, or other healing art

1 malpractice including but not limited to medical, hospital,
2 nursing, dental, or podiatric malpractice. The term "healing
3 art" shall not include care and treatment by spiritual means
4 through prayer in accord with the tenets and practices of a
5 recognized church or religious denomination.

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

7 (735 ILCS 5/2-1706.5 new)

8 Sec. 2-1706.5. Standards for economic and non-economic
9 damages.

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

13 (1) In a case of an award against a hospital and its
14 personnel or hospital affiliates, as defined in Section
15 10.8 of the Hospital Licensing Act, the total amount of
16 non-economic damages shall not exceed \$1,000,000 awarded
17 to all plaintiffs in any civil action arising out of the
18 care.

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

24 (3) In awarding damages in a medical malpractice case,
25 the finder of fact shall render verdicts with a specific
26 award of damages for economic loss, if any, and a specific
27 award of damages for non-economic loss, if any.

28 (b) In any medical malpractice action where an individual
29 plaintiff earns less than the annual average weekly wage, as
30 determined by the Workers' Compensation Commission, at the time
31 the action is filed, any award may include an amount equal to
32 the wage the individual plaintiff earns or the annual average
33 weekly wage.

1 (c) If any provision of this Section or its application to
2 any person or circumstance is held invalid, the invalidity of
3 that provision or application does not affect other provisions
4 or applications of this Section.

5 (d) This Section applies to all causes of action accruing
6 on or after the effective date of this amendatory Act of the
7 94th General Assembly.

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

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

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

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

1 nursing home or other facility, or employee or agent thereof, a
2 physician, or other licensed health care professional. Nothing
3 in this Section precludes the discovery or admissibility of any
4 other facts regarding the patient's treatment or outcome as
5 otherwise permitted by law.

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

7 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

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

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

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

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

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

32 (d) whether, in the case against a nonspecialist, the
33 witness can demonstrate a sufficient familiarity with the

1 standard of care practiced in this State.

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

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

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

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

16 (745 ILCS 49/25)

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

29 The changes to this Section made by this amendatory Act of
30 the 94th General Assembly apply to causes of action accruing on
31 or after its effective date.

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

1 (745 ILCS 49/30)

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

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

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

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

32 (d) The immunity from civil damages provided under
33 subsection (a) also applies to physicians, retired physicians,

1 hospitals, and other health care providers that provide further
2 medical treatment, diagnosis, or advice, including but not
3 limited to hospitalization, office visits, and home visits, to
4 a patient upon referral from an established free medical clinic
5 without fee or compensation.

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

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

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

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

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

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

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

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

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

30 If the committee determines that the total costs of cases
31 handled under the Sorry Works! protocol by a hospital
32 participating in the program exceed the total costs that would

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

13 Section 410. Establishment of committee.

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

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

23 (2) The Secretary of Financial and Professional
24 Regulation or his or her designee.

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

31 (c) The committee shall communicate with hospitals,
32 physicians, and insurers that are interested in participating
33 in the program. The committee shall make final decisions as to

1 which applicants are accepted for the program.

2 (d) The committee shall report to the Governor and the
3 General Assembly annually.

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

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

9 Section 415. Termination of program.

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

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

15 Section 495. The State Finance Act is amended by adding
16 Section 5.640 as follows:

17 (30 ILCS 105/5.640 new)

18 Sec. 5.640. The Sorry Works! Fund.

19 ARTICLE 5. WORKING STUDY COMMITTEE

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

23 Section 505. Working Study Committee. The Governor,
24 President of the Senate, Senate Minority Leader, Speaker of the
25 House of Representatives, and House Minority Leader shall each
26 appoint 2 persons to serve on a Working Study Committee to
27 research, assess, and report to the General Assembly on the
28 results and impacts of other states' efforts in addressing caps

1 on non-economic damages to pay judgments or settlements in
2 medical malpractice lawsuits. The Working Study Committee
3 shall submit its report within 12 months of the effective date
4 of this Act.

5 ARTICLE 6. LOAN REPAYMENT ASSISTANCE FOR PHYSICIANS

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

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

17 Section 610. Definitions. In this Act, unless the context
18 otherwise requires:

19 "Department" means the Department of Financial and
20 Professional Regulation.

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

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

27 "Program" means the educational loan repayment assistance
28 program for physicians established by the Department under this
29 Act.

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

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

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

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

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

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

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

30 (5) He or she must agree to continue full-time practice
31 in Illinois for 3 years.

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

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

14 ARTICLE 9. MISCELLANEOUS

15 Section 995. Liberal construction; inseverability.

16 (a) This Act, being necessary for the welfare of the State
17 and its inhabitants, shall be liberally construed to effect its
18 purposes.

19 (b) The provisions of this Act are mutually dependent and
20 inseverable. If any provision is held invalid other than as
21 applied to a particular person or circumstance, then this
22 entire Act is invalid.

23 Section 999. Effective date. This Act takes effect upon
24 becoming law.".