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1 AMENDMENT TO SENATE BILL 1353

2 AMENDMENT NO. _____. Amend Senate Bill 1353 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 1

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, and that encourage physicians and
16 hospitals to continue providing health care services in
17 Illinois.

18 ARTICLE 2

19 Section 201. Short title. This Article 2 may be cited as
20 the Sorry Works! Pilot Program Act, and references in this
21 Article to "this Act" mean this Article.

22 Section 205. Sorry Works! pilot program. The Sorry Works!
23 pilot program is established. During the first year of the
24 program's operation, participation in the program shall be open
25 to one hospital. Hospitals may participate only with the
26 approval of the hospital administration and the hospital's
27 organized medical staff. During the second year of the
28 program's operation, participation in the program shall be open
29 to one additional hospital.

30 The first participating hospital selected by the committee
31 established under Section 210 shall be located in a county with

1 a population greater than 200,000 that is contiguous with the
2 Mississippi River.

3 Under the program, participating hospitals and physicians
4 shall promptly acknowledge and apologize for mistakes in
5 patient care and promptly offer fair settlements.
6 Participating hospitals shall encourage patients and families
7 to retain their own legal counsel to ensure that their rights
8 are protected and to help facilitate negotiations for fair
9 settlements. Participating hospitals shall report to the
10 committee their total costs for healing art malpractice
11 verdicts, settlements, and defense litigation for the
12 preceding 5 years to enable the committee to determine average
13 costs for that hospital during that period. The committee shall
14 develop standards and protocols to compare costs for cases
15 handled by traditional means and cases handled under the Sorry
16 Works! protocol.

17 If the committee determines that the total costs of cases
18 handled under the Sorry Works! protocol by a hospital
19 participating in the program exceed the total costs that would
20 have been incurred if the cases had been handled by traditional
21 means, the hospital may apply for a grant from the Sorry Works!
22 Fund, a special fund that is created in the State Treasury, for
23 an amount, as determined by the committee, by which the total
24 costs exceed the total costs that would have been incurred if
25 the cases had been handled by traditional means; however, the
26 total of all grants from the Fund for cases in any single
27 participating hospital in any year may not exceed the amount in
28 the Fund or \$2,000,000, whichever is less. All grants shall be
29 subject to appropriation. Moneys in the Fund shall consist of
30 funds transferred into the Fund or otherwise made available
31 from any source.

32 Section 210. Establishment of committee.

33 (a) A committee is established to develop, oversee, and

1 implement the Sorry Works! pilot program. The committee shall
2 have 10 members, each of whom shall be a voting member. Six
3 members of the committee shall constitute a quorum. The
4 committee shall be comprised as follows:

5 (1) The President of the Senate, the Minority Leader of
6 the Senate, the Speaker of the House of Representatives,
7 and the Minority Leader of the House of Representatives
8 shall each appoint 2 members.

9 (2) The Director of the Division of Professional
10 Regulation or his or her designee.

11 (3) The Director of the Division of Insurance or his or
12 her designee.

13 (b) The committee shall establish criteria for the program,
14 including but not limited to: selection of hospitals,
15 physicians, and insurers to participate in the program; and
16 creation of a subcommittee to review cases from hospitals and
17 determine whether hospitals, physicians, and insurers are
18 entitled to compensation under the program.

19 (c) The committee shall communicate with hospitals,
20 physicians, and insurers that are interested in participating
21 in the program. The committee shall make final decisions as to
22 which applicants are accepted for the program.

23 (d) The committee shall report to the Governor and the
24 General Assembly annually.

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

26 (f) Committee members shall receive no compensation for the
27 performance of their duties as members, but each member shall
28 be paid necessary expenses while engaged in the performance of
29 those duties.

30 Section 215. Termination of program.

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

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

3 Section 270. Findings and purpose. The following are the
4 findings and purposes related to (i) the changes made to the
5 Open Meetings Act and the Counties Code by this amendatory Act
6 of the 94th General Assembly and (ii) Article XLV of the
7 Illinois Insurance Code added by this amendatory Act of the
8 94th General Assembly:

9 (1) In order to provide an alternative to the private
10 insurance market to cover medical liability risks, it is
11 the finding of the General Assembly that counties in the
12 State may find it necessary to seek to protect the public
13 health, safety, and welfare by providing an alternative
14 source of insurance or self-insurance for physicians
15 practicing medicine and their personnel within that
16 county, and that providing such an alternative source is in
17 the public interest and serves a public purpose.

18 (2) A program to provide a stable and ongoing source of
19 professional liability coverage for physicians and their
20 personnel through an insurance or self-insurance trust,
21 under the direction and control of a county or counties,
22 will operate for the protection of the public health,
23 safety, and welfare and serve a paramount public interest
24 and purpose of the county or counties.

25 Section 275. The Open Meetings Act is amended by changing
26 Section 2 as follows:

27 (5 ILCS 120/2) (from Ch. 102, par. 42)

28 Sec. 2. Open meetings.

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

1 (b) Construction of exceptions. The exceptions contained
2 in subsection (c) are in derogation of the requirement that
3 public bodies meet in the open, and therefore, the exceptions
4 are to be strictly construed, extending only to subjects
5 clearly within their scope. The exceptions authorize but do not
6 require the holding of a closed meeting to discuss a subject
7 included within an enumerated exception.

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

10 (1) The appointment, employment, compensation,
11 discipline, performance, or dismissal of specific
12 employees of the public body or legal counsel for the
13 public body, including hearing testimony on a complaint
14 lodged against an employee of the public body or against
15 legal counsel for the public body to determine its
16 validity.

17 (2) Collective negotiating matters between the public
18 body and its employees or their representatives, or
19 deliberations concerning salary schedules for one or more
20 classes of employees.

21 (3) The selection of a person to fill a public office,
22 as defined in this Act, including a vacancy in a public
23 office, when the public body is given power to appoint
24 under law or ordinance, or the discipline, performance or
25 removal of the occupant of a public office, when the public
26 body is given power to remove the occupant under law or
27 ordinance.

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

34 (5) The purchase or lease of real property for the use

1 of the public body, including meetings held for the purpose
2 of discussing whether a particular parcel should be
3 acquired.

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

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

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

12 (9) Student disciplinary cases.

13 (10) The placement of individual students in special
14 education programs and other matters relating to
15 individual students.

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

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

33 (13) Conciliation of complaints of discrimination in
34 the sale or rental of housing, when closed meetings are

1 authorized by the law or ordinance prescribing fair housing
2 practices and creating a commission or administrative
3 agency for their enforcement.

4 (14) Informant sources, the hiring or assignment of
5 undercover personnel or equipment, or ongoing, prior or
6 future criminal investigations, when discussed by a public
7 body with criminal investigatory responsibilities.

8 (15) Professional ethics or performance when
9 considered by an advisory body appointed to advise a
10 licensing or regulatory agency on matters germane to the
11 advisory body's field of competence.

12 (16) Self evaluation, practices and procedures or
13 professional ethics, when meeting with a representative of
14 a statewide association of which the public body is a
15 member.

16 (17) The recruitment, credentialing, discipline or
17 formal peer review of physicians or other health care
18 professionals for a hospital, or other institution
19 providing medical care, that is operated by the public
20 body.

21 (18) Deliberations for decisions of the Prisoner
22 Review Board.

23 (19) Review or discussion of applications received
24 under the Experimental Organ Transplantation Procedures
25 Act.

26 (20) The classification and discussion of matters
27 classified as confidential or continued confidential by
28 the State Employees Suggestion Award Board.

29 (21) Discussion of minutes of meetings lawfully closed
30 under this Act, whether for purposes of approval by the
31 body of the minutes or semi-annual review of the minutes as
32 mandated by Section 2.06.

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

1 (23) The operation by a municipality of a municipal
2 utility or the operation of a municipal power agency or
3 municipal natural gas agency when the discussion involves
4 (i) contracts relating to the purchase, sale, or delivery
5 of electricity or natural gas or (ii) the results or
6 conclusions of load forecast studies.

7 (24) Meetings of a residential health care facility
8 resident sexual assault and death review team or the
9 Residential Health Care Facility Resident Sexual Assault
10 and Death Review Teams Executive Council under the
11 Residential Health Care Facility Resident Sexual Assault
12 and Death Review Team Act.

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

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

23 "Employee" means a person employed by a public body whose
24 relationship with the public body constitutes an
25 employer-employee relationship under the usual common law
26 rules, and who is not an independent contractor.

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

1 "Quasi-adjudicative body" means an administrative body
2 charged by law or ordinance with the responsibility to conduct
3 hearings, receive evidence or testimony and make
4 determinations based thereon, but does not include local
5 electoral boards when such bodies are considering petition
6 challenges.

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

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

13 Section 280. The State Finance Act is amended by adding
14 Section 5.640 as follows:

15 (30 ILCS 105/5.640 new)

16 Sec. 5.640. The Sorry Works! Fund.

17 Section 285. The Counties Code is amended by changing
18 Section 5-1005 and by adding Division 6-34 as follows:

19 (55 ILCS 5/5-1005) (from Ch. 34, par. 5-1005)

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

21 1. To purchase and hold the real and personal estate
22 necessary for the uses of the county, and to purchase and hold,
23 for the benefit of the county, real estate sold by virtue of
24 judicial proceedings in which the county is plaintiff.

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

27 3. To make all contracts and do all other acts in relation
28 to the property and concerns of the county necessary to the
29 exercise of its corporate powers.

30 4. To take all necessary measures and institute proceedings

1 to enforce all laws for the prevention of cruelty to animals.

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

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

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

31 8. To purchase and hold real estate for the preservation of
32 forests, prairies and other natural areas and to maintain and
33 regulate the use thereof.

34 9. To purchase and hold real estate for the purpose of

1 preserving historical spots in the county, to restore, maintain
2 and regulate the use thereof and to donate any historical spot
3 to the State.

4 10. To appropriate funds from the county treasury to be
5 used in any manner to be determined by the board for the
6 suppression, eradication and control of tuberculosis among
7 domestic cattle in such county.

8 11. To take all necessary measures to prevent forest fires
9 and encourage the maintenance and planting of trees and the
10 preservation of forests.

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

20 13. To provide for the conservation, preservation and
21 propagation of insectivorous birds through the expenditure of
22 funds provided for such purpose.

23 14. To appropriate funds from the county treasury and
24 expend the same for care and treatment of tuberculosis
25 residents.

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

29 16. To install an adequate system of accounts and financial
30 records in the offices and divisions of the county, suitable to
31 the needs of the office and in accordance with generally
32 accepted principles of accounting for governmental bodies,
33 which system may include such reports as the county board may
34 determine.

1 17. To purchase and hold real estate for the construction
2 and maintenance of motor vehicle parking facilities for persons
3 using county buildings, but the purchase and use of such real
4 estate shall not be for revenue producing purposes.

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

21 19. To appropriate funds from the county treasury to be
22 used to provide supportive social services designed to prevent
23 the unnecessary institutionalization of elderly residents, or,
24 for operation of, and equipment for, senior citizen centers
25 providing social services to elderly residents.

26 20. To appropriate funds from the county treasury and loan
27 such funds to a county water commission created under the
28 "Water Commission Act", approved June 30, 1984, as now or
29 hereafter amended, in such amounts and upon such terms as the
30 county may determine or the county and the commission may
31 agree. The county shall not under any circumstances be
32 obligated to make such loans. The county shall not be required
33 to charge interest on any such loans.

34 21. To establish an independent entity to administer a

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

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

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

20 (55 ILCS 5/Div. 6-34 heading new)

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

22 (55 ILCS 5/6-34001 new)

23 Sec. 6-34001. Authorization. The county board of any county
24 with a population of 200,000 or more according to the most
25 recent federal decennial census (and a county with a population
26 of less than 200,000 according to the most recent federal
27 decennial census if that county is participating in a single
28 trust program with one or more other counties in accordance
29 with the requirements of paragraph (21) of Section 5-1005 of
30 this Code) may, upon finding such action necessary for
31 protection of the public health, safety, and welfare, incur an
32 indebtedness by the establishment of lines or letters of credit

1 or issue general obligation or revenue bonds for the purpose of
2 ensuring the availability of and improving hospital, medical,
3 and health services as authorized under paragraph (21) of
4 Section 5-1005 of this Code.

5 (55 ILCS 5/6-34002 new)

6 Sec. 6-34002. Bonds. The bonds authorized in Section
7 6-34001 shall be issued in such denominations, be for such term
8 or terms, and bear interest at such rate as may be specified in
9 the resolution of the county board authorizing the issuance of
10 those bonds.

11 Section 290. The Illinois Insurance Code is amended by
12 changing Sections 155.18, 155.19, and 1204 and by adding
13 Section 155.18a and Article XLV as follows:

14 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

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

25 (b) The following standards shall apply to the making and
26 use of rates pertaining to all classes of medical liability
27 insurance:

28 (1) Rates shall not be excessive or inadequate, ~~as~~
29 ~~herein defined,~~ nor shall they be unfairly discriminatory.
30 ~~No rate shall be held to be excessive unless such rate is~~
31 ~~unreasonably high for the insurance provided, and a~~

1 ~~reasonable degree of competition does not exist in the area~~
2 ~~with respect to the classification to which such rate is~~
3 ~~applicable.~~

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

7 (2) Consideration shall be given, to the extent
8 applicable, to past and prospective loss experience within
9 and outside this State, to a reasonable margin for
10 underwriting profit and contingencies, to past and
11 prospective expenses both countrywide and those especially
12 applicable to this State, and to all other factors,
13 including judgment factors, deemed relevant within and
14 outside this State.

15 Consideration may also be given in the making and use
16 of rates to dividends, savings or unabsorbed premium
17 deposits allowed or returned by companies to their
18 policyholders, members or subscribers.

19 (3) The systems of expense provisions included in the
20 rates for use by any company or group of companies may
21 differ from those of other companies or groups of companies
22 to reflect the operating methods of any such company or
23 group with respect to any kind of insurance, or with
24 respect to any subdivision or combination thereof.

25 (4) Risks may be grouped by classifications for the
26 establishment of rates and minimum premiums.
27 Classification rates may be modified to produce rates for
28 individual risks in accordance with rating plans which
29 establish standards for measuring variations in hazards or
30 expense provisions, or both. Such standards may measure any
31 difference among risks that have a probable effect upon
32 losses or expenses. Such classifications or modifications
33 of classifications of risks may be established based upon
34 size, expense, management, individual experience, location

1 or dispersion of hazard, or any other reasonable
2 considerations and shall apply to all risks under the same
3 or substantially the same circumstances or conditions. The
4 rate for an established classification should be related
5 generally to the anticipated loss and expense factors of
6 the class.

7 (c) (1) Every company writing medical liability insurance
8 shall file with the Secretary of Financial and Professional
9 Regulation ~~Director of Insurance~~ the rates and rating schedules
10 it uses for medical liability insurance. A rate shall go into
11 effect upon filing, except as otherwise provided in this
12 Section.

13 (2) If the percentage increase in a company's rate is
14 higher than the percentage increase in the Consumer Price Index
15 for All Urban Consumers, United States city average, medical
16 care, 1982-84 = 100, published by the Bureau of Labor
17 Statistics of the United States Department of Labor for the
18 period between the last previous rate filing for rates covered
19 in the increase for that company and the current rate filing,
20 then the company's rate increase may be approved by the
21 Secretary only in accordance with this paragraph (2). The
22 Secretary shall notify the public of any application by an
23 insurer for a rate increase to which this paragraph (2)
24 applies. The application shall be deemed approved 60 days after
25 public notice unless (A) an insured requests a public hearing
26 within 45 days of public notice and the Secretary determines to
27 convene the public hearing, or (B) the Secretary at his or her
28 discretion convenes a public hearing. In any event, a rate
29 increase application to which this paragraph (2) applies shall
30 be deemed approved as filed 180 days after the rate application
31 is received by the Secretary unless that application has been
32 disapproved or otherwise adjusted by an order of the Secretary
33 subsequent to a public hearing. If the rate is adjusted but not
34 disapproved in total, the order shall specify that the rate

1 shall go into effect as adjusted.

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

6 (4) ~~(2)~~ For the purposes of this Section, any change in
7 premium to the company's insureds as a result of a change in
8 the company's base rates or a change in its increased limits
9 factors shall constitute a change in rates and shall require a
10 filing with the Secretary ~~Director~~.

11 (5) ~~(3)~~ It shall be certified in such filing by an officer
12 of the company and a qualified actuary that the company's rates
13 are based on sound actuarial principles and are not
14 inconsistent with the company's experience. The Secretary may
15 request any additional statistical data and other pertinent
16 information necessary to determine the manner the company used
17 to set the filed rates and the reasonableness of those rates.

18 (c-5) At the request of an insured, the Secretary shall
19 convene a public hearing for the purpose of receiving testimony
20 from the company and from any interested persons regarding the
21 company's rate. The Secretary may also convene a public hearing
22 under this subsection (c-5) at any time at his or her
23 discretion.

24 (d) If after a public hearing the Secretary ~~Director~~ finds:

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

34 (2) that the violation of any of the provisions of this

1 Section ~~applicable to it~~ by any company which has been the
2 subject of the hearing was wilful or that any company has
3 repeatedly violated any provision of this Section, he may
4 take either or both of the following actions:

5 (A) Suspend ~~suspend~~ or revoke, in whole or in part,
6 the certificate of authority of such company with
7 respect to the class of insurance which has been the
8 subject of the hearing.

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

12 The burden is on the company to justify the rate or
13 proposed rate at the public hearing.

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

22 (f) Medical liability insurers are required to offer their
23 medical liability insureds a plan providing premium discounts
24 for participation in risk management activities. Any such plan
25 shall be reported to the Department.

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

27 (215 ILCS 5/155.18a new)

28 Sec. 155.18a. Professional Liability Insurance Resource
29 Center. The Secretary of Financial and Professional Regulation
30 shall establish a Professional Liability Insurance Resource
31 Center on the Internet containing the names and telephone
32 numbers of all licensed companies providing medical liability
33 insurance and producers who sell medical liability insurance.

1 Each company and producer shall submit the information to the
2 Department on or before September 30 of each year in order to
3 be listed on the website. Hyperlinks to company websites shall
4 be included, if available. The publication of the information
5 on the Department's website shall commence on January 1, 2006.
6 The Department shall update the information on the Professional
7 Liability Insurance Resource Center at least annually.

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

9 Sec. 155.19. All claims filed after December 31, 1976 with
10 any insurer and all suits filed after December 31, 1976 in any
11 court in this State, alleging liability on the part of any
12 physician, hospital or other health care provider for medically
13 related injuries, shall be reported to the Secretary of
14 Financial and Professional Regulation ~~Director of Insurance~~ in
15 such form and under such terms and conditions as may be
16 prescribed by the Secretary ~~Director~~. Each clerk of the circuit
17 court shall provide to the Secretary such information as the
18 Secretary may deem necessary to verify the accuracy and
19 completeness of reports made to the Secretary under this
20 Section. The Secretary ~~Director~~ shall maintain complete and
21 accurate records of all ~~such~~ claims and suits including their
22 nature, amount, disposition (categorized by verdict,
23 settlement, dismissal, or otherwise and including disposition
24 of any post-trial motions and types of damages awarded, if any,
25 including but not limited to economic damages and non-economic
26 damages) and other information as he may deem useful or
27 desirable in observing and reporting on health care provider
28 liability trends in this State. Records received by the
29 Secretary under this Section shall be available to the general
30 public; however, the records made available to the general
31 public shall not include the names or addresses of the parties
32 to any claims or suits. The Secretary ~~Director~~ shall release to
33 appropriate disciplinary and licensing agencies any such data

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

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

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

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

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

19 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

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

1 direct writings in this State and companywide.

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

5 (1) Political subdivision liability insurance reported
6 separately in the following categories:

7 (a) municipalities;

8 (b) school districts;

9 (c) other political subdivisions;

10 (2) Public official liability insurance;

11 (3) Dram shop liability insurance;

12 (4) Day care center liability insurance;

13 (5) Labor, fraternal or religious organizations
14 liability insurance;

15 (6) Errors and omissions liability insurance;

16 (7) Officers and directors liability insurance
17 reported separately as follows:

18 (a) non-profit entities;

19 (b) for-profit entities;

20 (8) Products liability insurance;

21 (9) Medical malpractice insurance;

22 (10) Attorney malpractice insurance;

23 (11) Architects and engineers malpractice insurance;

24 and

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

27 (a) motor vehicle physical damage insurance;

28 (b) motor vehicle liability insurance.

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

33 (1) Direct premiums written;

34 (2) Direct premiums earned;

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

21 (C-5) Additional information required from medical

22 malpractice insurers.

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

24 Section, the following information shall be included in the

25 report required by subsection (A) of this Section in such

26 form and under such terms and conditions as may be

27 prescribed by the Secretary:

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

29 the past 10 policy years; and

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

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

32 (2) The following information must also be annually

33 provided to the Department:

34 (a) copies of the company's reserve and surplus

1 studies; and

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

4 (3) All information collected by the Secretary under
5 paragraphs (1) and (2) shall be made available, on a
6 company-by-company basis, to the General Assembly and the
7 general public. This provision shall supersede any other
8 provision of State law that may otherwise protect such
9 information from public disclosure as confidential.

10 (D) In addition to the information which may be requested
11 under subsection (C), the Secretary ~~Director~~ may also request
12 on a companywide, aggregate basis, Federal Income Tax
13 recoverable, net realized capital gain or loss, net unrealized
14 capital gain or loss, and all other expenses not requested in
15 subsection (C) above.

16 (E) Violations - Suspensions - Revocations.

17 (1) Any company or person subject to this Article, who
18 willfully or repeatedly fails to observe or who otherwise
19 violates any of the provisions of this Article or any rule
20 or regulation promulgated by the Secretary ~~Director~~ under
21 authority of this Article or any final order of the
22 Secretary ~~Director~~ entered under the authority of this
23 Article shall by civil penalty forfeit to the State of
24 Illinois a sum not to exceed \$2,000. Each day during which
25 a violation occurs constitutes a separate offense.

26 (2) No forfeiture liability under paragraph (1) of this
27 subsection may attach unless a written notice of apparent
28 liability has been issued by the Secretary ~~Director~~ and
29 received by the respondent, or the Secretary ~~Director~~ sends
30 written notice of apparent liability by registered or
31 certified mail, return receipt requested, to the last known
32 address of the respondent. Any respondent so notified must
33 be granted an opportunity to request a hearing within 10
34 days from receipt of notice, or to show in writing, why he

1 should not be held liable. A notice issued under this
2 Section must set forth the date, facts and nature of the
3 act or omission with which the respondent is charged and
4 must specifically identify the particular provision of
5 this Article, rule, regulation or order of which a
6 violation is charged.

7 (3) No forfeiture liability under paragraph (1) of this
8 subsection may attach for any violation occurring more than
9 2 years prior to the date of issuance of the notice of
10 apparent liability and in no event may the total civil
11 penalty forfeiture imposed for the acts or omissions set
12 forth in any one notice of apparent liability exceed
13 \$100,000.

14 (4) All administrative hearings conducted pursuant to
15 this Article are subject to 50 Ill. Adm. Code 2402 and all
16 administrative hearings are subject to the Administrative
17 Review Law.

18 (5) The civil penalty forfeitures provided for in this
19 Section are payable to the General Revenue Fund of the
20 State of Illinois, and may be recovered in a civil suit in
21 the name of the State of Illinois brought in the Circuit
22 Court in Sangamon County or in the Circuit Court of the
23 county where the respondent is domiciled or has its
24 principal operating office.

25 (6) In any case where the Secretary ~~Director~~ issues a
26 notice of apparent liability looking toward the imposition
27 of a civil penalty forfeiture under this Section that fact
28 may not be used in any other proceeding before the
29 Secretary ~~Director~~ to the prejudice of the respondent to
30 whom the notice was issued, unless (a) the civil penalty
31 forfeiture has been paid, or (b) a court has ordered
32 payment of the civil penalty forfeiture and that order has
33 become final.

34 (7) When any person or company has a license or

1 certificate of authority under this Code and knowingly
2 fails or refuses to comply with a lawful order of the
3 Secretary ~~Director~~ requiring compliance with this Article,
4 entered after notice and hearing, within the period of time
5 specified in the order, the Secretary ~~Director~~ may, in
6 addition to any other penalty or authority provided, revoke
7 or refuse to renew the license or certificate of authority
8 of such person or company, or may suspend the license or
9 certificate of authority of such person or company until
10 compliance with such order has been obtained.

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

21 (9) No suspension or revocation under this Section may
22 become effective until 5 days from the date that the notice
23 of suspension or revocation has been personally delivered
24 or delivered by registered or certified mail to the company
25 or person. A suspension or revocation under this Section is
26 stayed upon the filing, by the company or person, of a
27 petition for judicial review under the Administrative
28 Review Law.

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

30 (215 ILCS 5/Art. XLV heading new)

31 Article XLV. COUNTY RISK RETENTION ARRANGEMENTS
32 FOR THE PROVISION OF MEDICAL MALPRACTICE INSURANCE

1 (215 ILCS 5/1501 new)

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

14 (215 ILCS 5/1502 new)

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

16 "Risk retention trust" or "trust" means a risk retention
17 trust created under this Article.

18 "Trust sponsor" means a county that has created a risk
19 retention trust.

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

24 "Contingency reserve fund" means a separate fund
25 maintained for payment of claims in excess of the pool
26 retention fund amount.

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

30 "Licensed service company" means an entity licensed by the
31 Department to perform claims adjusting, loss control, and data
32 processing.

1 (215 ILCS 5/1503 new)

2 Sec. 1503. Name. The corporate name of any risk retention
3 trust shall not be the same as or deceptively similar to the
4 name of any domestic insurance company or of any foreign or
5 alien insurance company authorized to transact business in this
6 State.

7 (215 ILCS 5/1504 new)

8 Sec. 1504. Principal office place of business. The
9 principal office of any risk retention trust shall be located
10 in this State.

11 (215 ILCS 5/1505 new)

12 Sec. 1505. Creation.

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

27 (2) The trustees shall appoint a qualified licensed
28 administrator who shall administer the affairs of the risk
29 retention trust.

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

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

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

7 (215 ILCS 5/1506 new)

8 Sec. 1506. Participation.

9 (1) A physician or health care professional providing
10 medical care and related health care within the county's limits
11 may participate in a risk retention trust if the physician or
12 health care professional:

13 (a) meets the underwriting standards for acceptance
14 into the trust;

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

17 (c) provides medical care and related health care in
18 the county sponsoring the trust;

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

21 (e) pays premium contributions on a timely basis as
22 required; and

23 (f) pays predetermined annual required contributions
24 into the contingency reserve fund.

25 (2) A physician or health care professional accepted for
26 trust membership and participating in the trust is liable for
27 payment to the trust of the amount of his or her annual premium
28 contribution and his or her annual predetermined contingency
29 reserve fund contribution.

30 (215 ILCS 5/1507 new)

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

32 (1) A risk retention trust may not issue coverage grants

1 until it has established a contingency reserve fund in an
2 amount deemed appropriate by the trust and filed with the
3 Department. A risk retention trust must have and at all times
4 maintain a pool retention fund or a line or letter of credit at
5 least equal to its unpaid liabilities as determined by an
6 independent actuary.

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

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

15 (215 ILCS 5/1508 new)

16 Sec. 1508. Applicable Illinois Insurance Code provisions.
17 Other than this Article, only Sections 155.19, 155.20, and
18 155.25 and subsections (a) through (c) of Section 155.18 of
19 this Code shall apply to county risk retention trusts. The
20 Secretary shall advise the county board of any determinations
21 made pursuant to subsection (b) of Section 155.18 of this Code.

22 (215 ILCS 5/1509 new)

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

27 (1) the common stocks listed on a recognized exchange
28 or market;

29 (2) stock and convertible debt investments, or
30 investment grade corporate bonds, in or issued by any
31 corporation, the book value of which may not exceed 5% of
32 the total intergovernmental risk management entity's

1 investment account at book value in which those securities
2 are held, determined as of the date of the investment,
3 provided that investments in the stock of any one
4 corporation may not exceed 5% of the total outstanding
5 stock of the corporation and that the investments in the
6 convertible debt of any one corporation may not exceed 5%
7 of the total amount of such debt that may be outstanding;

8 (3) the straight preferred stocks or convertible
9 preferred stocks and convertible debt securities issued or
10 guaranteed by a corporation whose common stock is listed on
11 a recognized exchange or market;

12 (4) mutual funds or commingled funds that meet the
13 following requirements:

14 (A) the mutual fund or commingled fund is managed
15 by an investment company as defined in and registered
16 under the federal Investment Company Act of 1940 and
17 registered under the Illinois Securities Law of 1953 or
18 an investment adviser as defined under the federal
19 Investment Advisers Act of 1940;

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

22 (C) the mutual fund has total net assets of
23 \$150,000,000 or more;

24 (5) commercial grade real estate located in the State
25 of Illinois.

26 Any investment adviser retained by a trust must be a
27 fiduciary who has the power to manage, acquire, or dispose of
28 any asset of the trust and has acknowledged in writing that he
29 or she is a fiduciary with respect to the trust and that he or
30 she will adhere to all of the guidelines of the trust and is
31 one or more of the following:

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

34 (ii) registered as an investment adviser under the

Illinois Securities Law of 1953;

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

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

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

ARTICLE 3

Section 305. The Regulatory Sunset Act is amended by
changing Section 4.17 and adding Section 4.26 as follows:

(5 ILCS 80/4.17)

Sec. 4.17. Acts repealed on January 1, 2007. The following
are repealed on January 1, 2007:

The Boiler and Pressure Vessel Repairer Regulation
Act.

The Structural Pest Control Act.

Articles II, III, IV, V, V 1/2, VI, VIIA, VIIB, VIIC,
XVII, XXXI, XXXI 1/4, and XXXI 3/4 of the Illinois
Insurance Code.

The Clinical Psychologist Licensing Act.

The Illinois Optometric Practice Act of 1987.

~~The Medical Practice Act of 1987.~~

The Environmental Health Practitioner Licensing Act.

(Source: P.A. 92-837, eff. 8-22-02.)

(5 ILCS 80/4.26 new)

Sec. 4.26. Act repealed on January 1, 2016. The following
Act is repealed on January 1, 2016:

The Medical Practice Act of 1987.

1 Section 310. The Medical Practice Act of 1987 is amended by
2 changing Sections 7, 22, 23, 24, and 36 as follows:

3 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

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

5 Sec. 7. Medical Disciplinary Board.

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

22 (B) Members of the Disciplinary Board shall be appointed
23 for terms of 4 years. Upon the expiration of the term of any
24 member, their successor shall be appointed for a term of 4
25 years by the Governor by and with the advice and consent of the
26 Senate. The Governor shall fill any vacancy for the remainder
27 of the unexpired term by and with the advice and consent of the
28 Senate. Upon recommendation of the Board, any member of the
29 Disciplinary Board may be removed by the Governor for
30 misfeasance, malfeasance, or wilful neglect of duty, after
31 notice, and a public hearing, unless such notice and hearing
32 shall be expressly waived in writing. Each member shall serve
33 on the Disciplinary Board until their successor is appointed

1 and qualified. No member of the Disciplinary Board shall serve
2 more than 2 consecutive 4 year terms.

3 In making appointments the Governor shall attempt to insure
4 that the various social and geographic regions of the State of
5 Illinois are properly represented.

6 In making the designation of persons to act for the several
7 professions represented on the Disciplinary Board, the
8 Governor shall give due consideration to recommendations by
9 members of the respective professions and by organizations
10 therein.

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

16 (D) (Blank).

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

28 (F) Each member, and member-officer, of the Disciplinary
29 Board shall receive a per diem stipend as the Director of the
30 Department, hereinafter referred to as the Director, shall
31 determine. The Director shall also determine the per diem
32 stipend that each ex-officio member shall receive. Each member
33 shall be paid their necessary expenses while engaged in the
34 performance of their duties.

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

17 The Director shall employ, in conformity with the Personnel
18 Code, not less than one full time investigator for every 2,500
19 ~~5000~~ physicians licensed in the State. Each investigator shall
20 be a college graduate with at least 2 years' investigative
21 experience or one year advanced medical education. Upon the
22 written request of the Disciplinary Board, the Director shall
23 employ, in conformity with the Personnel Code, such other
24 professional, technical, investigative, and clerical help,
25 either on a full or part-time basis as the Disciplinary Board
26 deems necessary for the proper performance of its duties.

27 (H) Upon the specific request of the Disciplinary Board,
28 signed by either the chairman, vice chairman, or a medical
29 coordinator of the Disciplinary Board, the Department of Human
30 Services or the Department of State Police shall make available
31 any and all information that they have in their possession
32 regarding a particular case then under investigation by the
33 Disciplinary Board.

34 (I) Members of the Disciplinary Board shall be immune from

1 suit in any action based upon any disciplinary proceedings or
2 other acts performed in good faith as members of the
3 Disciplinary Board.

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

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

19 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

21 Sec. 22. Disciplinary action.

22 (A) The Department may revoke, suspend, place on
23 probationary status, refuse to renew, or take any other
24 disciplinary action as the Department may deem proper with
25 regard to the license or visiting professor permit of any
26 person issued under this Act to practice medicine, or to treat
27 human ailments without the use of drugs and without operative
28 surgery upon any of the following grounds:

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

31 (a) a facility licensed pursuant to the Ambulatory
32 Surgical Treatment Center Act;

33 (b) an institution licensed under the Hospital

1 Licensing Act; or

2 (c) an ambulatory surgical treatment center or
3 hospitalization or care facility maintained by the
4 State or any agency thereof, where such department or
5 agency has authority under law to establish and enforce
6 standards for the ambulatory surgical treatment
7 centers, hospitalization, or care facilities under its
8 management and control; or

9 (d) ambulatory surgical treatment centers,
10 hospitalization or care facilities maintained by the
11 Federal Government; or

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

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

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

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

26 (5) Engaging in dishonorable, unethical or
27 unprofessional conduct of a character likely to deceive,
28 defraud or harm the public.

29 (6) Obtaining any fee by fraud, deceit, or
30 misrepresentation.

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

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

3 (9) Fraud or misrepresentation in applying for, or
4 procuring, a license under this Act or in connection with
5 applying for renewal of a license under this Act.

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

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

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

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

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

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

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

32 (16) Abandonment of a patient.

33 (17) Prescribing, selling, administering,
34 distributing, giving or self-administering any drug

1 classified as a controlled substance (designated product)
2 or narcotic for other than medically accepted therapeutic
3 purposes.

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

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

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

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

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

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

33 (24) Solicitation of professional patronage by any
34 corporation, agents or persons, or profiting from those

1 representing themselves to be agents of the licensee.

2 (25) Gross and wilful and continued overcharging for
3 professional services, including filing false statements
4 for collection of fees for which services are not rendered,
5 including, but not limited to, filing such false statements
6 for collection of monies for services not rendered from the
7 medical assistance program of the Department of Public Aid
8 under the Illinois Public Aid Code.

9 (26) A pattern of practice or other behavior which
10 demonstrates incapacity or incompetence to practice under
11 this Act.

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

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

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

21 (30) Wilfully or negligently violating the
22 confidentiality between physician and patient except as
23 required by law.

24 (31) The use of any false, fraudulent, or deceptive
25 statement in any document connected with practice under
26 this Act.

27 (32) Aiding and abetting an individual not licensed
28 under this Act in the practice of a profession licensed
29 under this Act.

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

33 (34) Failure to report to the Department any adverse
34 final action taken against them by another licensing

1 jurisdiction (any other state or any territory of the
2 United States or any foreign state or country), by any peer
3 review body, by any health care institution, by any
4 professional society or association related to practice
5 under this Act, by any governmental agency, by any law
6 enforcement agency, or by any court for acts or conduct
7 similar to acts or conduct which would constitute grounds
8 for action as defined in this Section.

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

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

24 (37) Failure to transfer copies of medical records as
25 required by law.

26 (38) Failure to furnish the Department, its
27 investigators or representatives, relevant information,
28 legally requested by the Department after consultation
29 with the Chief Medical Coordinator or the Deputy Medical
30 Coordinator.

31 (39) Violating the Health Care Worker Self-Referral
32 Act.

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

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

3 (42) Entering into an excessive number of written
4 collaborative agreements with licensed advanced practice
5 nurses resulting in an inability to adequately collaborate
6 and provide medical direction.

7 (43) Repeated failure to adequately collaborate with
8 or provide medical direction to a licensed advanced
9 practice nurse.

10 Except for actions involving the ground numbered (26), all
11 ~~All~~ proceedings to suspend, revoke, place on probationary
12 status, or take any other disciplinary action as the Department
13 may deem proper, with regard to a license on any of the
14 foregoing grounds, must be commenced within 5 ~~3~~ years next
15 after receipt by the Department of a complaint alleging the
16 commission of or notice of the conviction order for any of the
17 acts described herein. Except for the grounds numbered (8),
18 (9), (26), and (29), no action shall be commenced more than 10
19 ~~5~~ years after the date of the incident or act alleged to have
20 violated this Section. For actions involving the ground
21 numbered (26), a pattern of practice or other behavior includes
22 all incidents alleged to be part of the pattern of practice or
23 other behavior that occurred or a report pursuant to Section 23
24 of this Act received within the 10-year period preceding the
25 filing of the complaint. In the event of the settlement of any
26 claim or cause of action in favor of the claimant or the
27 reduction to final judgment of any civil action in favor of the
28 plaintiff, such claim, cause of action or civil action being
29 grounded on the allegation that a person licensed under this
30 Act was negligent in providing care, the Department shall have
31 an additional period of 2 years ~~one year~~ from the date of
32 notification to the Department under Section 23 of this Act of
33 such settlement or final judgment in which to investigate and
34 commence formal disciplinary proceedings under Section 36 of

1 this Act, except as otherwise provided by law. The Department
2 shall expunge the records of discipline solely for
3 administrative matters 3 years after final disposition or after
4 the statute of limitations has expired, whichever is later. The
5 time during which the holder of the license was outside the
6 State of Illinois shall not be included within any period of
7 time limiting the commencement of disciplinary action by the
8 Department.

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

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

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

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

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

34 (c) what constitutes immoral conduct in the commission

1 of any act, including, but not limited to, commission of an
2 act of sexual misconduct related to the licensee's
3 practice; and

4 (d) what constitutes gross negligence in the practice
5 of medicine.

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

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

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

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

26 The Department may promulgate rules for the imposition of
27 fines in disciplinary cases, not to exceed \$10,000 ~~\$5,000~~ for
28 each violation of this Act. Fines may be imposed in conjunction
29 with other forms of disciplinary action, but shall not be the
30 exclusive disposition of any disciplinary action arising out of
31 conduct resulting in death or injury to a patient. Any funds
32 collected from such fines shall be deposited in the Medical
33 Disciplinary Fund.

34 (B) The Department shall revoke the license or visiting

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

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

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

24 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

26 Sec. 23. Reports relating to professional conduct and
27 capacity.

28 (A) Entities required to report.

29 (1) Health care institutions. The chief administrator
30 or executive officer of any health care institution
31 licensed by the Illinois Department of Public Health shall
32 report to the Disciplinary Board when any person's clinical
33 privileges are terminated or are restricted based on a

1 final determination, in accordance with that institution's
2 by-laws or rules and regulations, that a person has either
3 committed an act or acts which may directly threaten
4 patient care, and not of an administrative nature, or that
5 a person may be mentally or physically disabled in such a
6 manner as to endanger patients under that person's care.
7 Such officer also shall report if a person accepts
8 voluntary termination or restriction of clinical
9 privileges in lieu of formal action based upon conduct
10 related directly to patient care and not of an
11 administrative nature, or in lieu of formal action seeking
12 to determine whether a person may be mentally or physically
13 disabled in such a manner as to endanger patients under
14 that person's care. The Medical Disciplinary Board shall,
15 by rule, provide for the reporting to it of all instances
16 in which a person, licensed under this Act, who is impaired
17 by reason of age, drug or alcohol abuse or physical or
18 mental impairment, is under supervision and, where
19 appropriate, is in a program of rehabilitation. Such
20 reports shall be strictly confidential and may be reviewed
21 and considered only by the members of the Disciplinary
22 Board, or by authorized staff as provided by rules of the
23 Disciplinary Board. Provisions shall be made for the
24 periodic report of the status of any such person not less
25 than twice annually in order that the Disciplinary Board
26 shall have current information upon which to determine the
27 status of any such person. Such initial and periodic
28 reports of impaired physicians shall not be considered
29 records within the meaning of The State Records Act and
30 shall be disposed of, following a determination by the
31 Disciplinary Board that such reports are no longer
32 required, in a manner and at such time as the Disciplinary
33 Board shall determine by rule. The filing of such reports
34 shall be construed as the filing of a report for purposes

1 of subsection (C) of this Section.

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

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

21 (4) State's Attorneys. The State's Attorney of each
22 county shall report to the Disciplinary Board all instances
23 in which a person licensed under this Act is convicted or
24 otherwise found guilty of the commission of any felony. The
25 State's Attorney of each county may report to the
26 Disciplinary Board through a verified complaint any
27 instance in which the State's Attorney believes that a
28 physician has willfully violated the notice requirements
29 of the Parental Notice of Abortion Act of 1995.

30 (5) State agencies. All agencies, boards, commissions,
31 departments, or other instrumentalities of the government
32 of the State of Illinois shall report to the Disciplinary
33 Board any instance arising in connection with the
34 operations of such agency, including the administration of

1 any law by such agency, in which a person licensed under
2 this Act has either committed an act or acts which may be a
3 violation of this Act or which may constitute
4 unprofessional conduct related directly to patient care or
5 which indicates that a person licensed under this Act may
6 be mentally or physically disabled in such a manner as to
7 endanger patients under that person's care.

8 (B) Mandatory reporting. All reports required by items
9 (34), (35), and (36) of subsection (A) of Section 22 and by
10 Section 23 shall be submitted to the Disciplinary Board in a
11 timely fashion. The reports shall be filed in writing within 60
12 days after a determination that a report is required under this
13 Act. All reports shall contain the following information:

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

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

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

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

30 (5) If court action is involved, the identity of the
31 court in which the action is filed, along with the docket
32 number and date of filing of the action.

33 (6) Any further pertinent information which the
34 reporting party deems to be an aid in the evaluation of the

1 report.

2 ~~The Department shall have the right to inform patients of~~
3 ~~the right to provide written consent for the Department to~~
4 ~~obtain copies of hospital and medical records.~~ The Disciplinary
5 Board or Department may also exercise the power under Section
6 38 of this Act to subpoena copies of hospital or medical
7 records in mandatory report cases alleging death or permanent
8 bodily injury ~~when consent to obtain records is not provided by~~
9 ~~a patient or legal representative.~~ Appropriate rules shall be
10 adopted by the Department with the approval of the Disciplinary
11 Board.

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

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

33 (C) Immunity from prosecution. Any individual or
34 organization acting in good faith, and not in a wilful and

1 wanton manner, in complying with this Act by providing any
2 report or other information to the Disciplinary Board or a peer
3 review committee, or assisting in the investigation or
4 preparation of such information, or by voluntarily reporting to
5 the Disciplinary Board or a peer review committee information
6 regarding alleged errors or negligence by a person licensed
7 under this Act, or by participating in proceedings of the
8 Disciplinary Board or a peer review committee, or by serving as
9 a member of the Disciplinary Board or a peer review committee,
10 shall not, as a result of such actions, be subject to criminal
11 prosecution or civil damages.

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

24 Should the Attorney General decline representation, the
25 member shall have the right to employ counsel of his or her
26 choice, whose fees shall be provided by the State, after
27 approval by the Attorney General, unless there is a
28 determination by a court that the member's actions were not in
29 good faith or were wilful and wanton.

30 The member must notify the Attorney General within 7 days
31 of receipt of notice of the initiation of any action involving
32 services of the Disciplinary Board. Failure to so notify the
33 Attorney General shall constitute an absolute waiver of the
34 right to a defense and indemnification.

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

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

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

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

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

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

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

1 (G) Any violation of this Section shall be a Class A
2 misdemeanor.

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

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

18 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

20 Sec. 24. Report of violations; medical associations. Any
21 physician licensed under this Act, the Illinois State Medical
22 Society, the Illinois Association of Osteopathic Physicians
23 and Surgeons, the Illinois Chiropractic Society, the Illinois
24 Prairie State Chiropractic Association, or any component
25 societies of any of these 4 groups, and any other person, may
26 report to the Disciplinary Board any information the physician,
27 association, society, or person may have that appears to show
28 that a physician is or may be in violation of any of the
29 provisions of Section 22 of this Act.

30 The Department may enter into agreements with the Illinois
31 State Medical Society, the Illinois Association of Osteopathic
32 Physicians and Surgeons, the Illinois Prairie State
33 Chiropractic Association, or the Illinois Chiropractic Society

1 to allow these organizations to assist the Disciplinary Board
2 in the review of alleged violations of this Act. Subject to the
3 approval of the Department, any organization party to such an
4 agreement may subcontract with other individuals or
5 organizations to assist in review.

6 Any physician, association, society, or person
7 participating in good faith in the making of a report⁷ under
8 this Act or participating in or assisting with an investigation
9 or review under this Act ~~Section~~ shall have immunity from any
10 civil, criminal, or other liability that might result by reason
11 of those actions.

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

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

31 For the purpose of any civil or criminal proceedings, the
32 good faith of any physician, association, society or person
33 shall be presumed. The Disciplinary Board may request the
34 Illinois State Medical Society, the Illinois Association of

1 Osteopathic Physicians and Surgeons, the Illinois Prairie
2 State Chiropractic Association, or the Illinois Chiropractic
3 Society to assist the Disciplinary Board in preparing for or
4 conducting any medical competency examination as the Board may
5 deem appropriate.

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

7 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

9 Sec. 36. Upon the motion of either the Department or the
10 Disciplinary Board or upon the verified complaint in writing of
11 any person setting forth facts which, if proven, would
12 constitute grounds for suspension or revocation under Section
13 22 of this Act, the Department shall investigate the actions of
14 any person, so accused, who holds or represents that they hold
15 a license. Such person is hereinafter called the accused.

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

30 Where a physician has been found, upon complaint and
31 investigation of the Department, and after hearing, to have
32 performed an abortion procedure in a wilful and wanton manner
33 upon a woman who was not pregnant at the time such abortion

1 procedure was performed, the Department shall automatically
2 revoke the license of such physician to practice medicine in
3 Illinois.

4 Such written notice and any notice in such proceedings
5 thereafter may be served by delivery of the same, personally,
6 to the accused person, or by mailing the same by registered or
7 certified mail to the address last theretofore specified by the
8 accused in their last notification to the Department.

9 All information gathered by the Department during its
10 investigation including information subpoenaed under Section
11 23 or 38 of this Act and the investigative file shall be kept
12 for the confidential use of the Director, Disciplinary Board,
13 the Medical Coordinators, persons employed by contract to
14 advise the Medical Coordinator or the Department, the
15 Disciplinary Board's attorneys, the medical investigative
16 staff, and authorized clerical staff, as provided in this Act
17 and shall be afforded the same status as is provided
18 information concerning medical studies in Part 21 of Article
19 VIII of the Code of Civil Procedure, except that the Department
20 may disclose information and documents to a federal, State, or
21 local law enforcement agency pursuant to a subpoena in an
22 ongoing criminal investigation. Furthermore, information and
23 documents disclosed to a federal, State, or local law
24 enforcement agency may be used by that agency only for the
25 investigation and prosecution of a criminal offense.

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

27 Section 315. The Clerks of Courts Act is amended by adding
28 Section 27.10 as follows:

29 (705 ILCS 105/27.10 new)

30 Sec. 27.10. Secretary of Financial and Professional
31 Regulation. Each clerk of the circuit court shall provide to
32 the Secretary of Financial and Professional Regulation such

1 information as he or she requests under Section 155.19 of the
2 Illinois Insurance Code.

3 ARTICLE 4

4 Section 405. The Health Care Arbitration Act is amended by
5 changing Sections 8 and 9 as follows:

6 (710 ILCS 15/8) (from Ch. 10, par. 208)

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

9 (a) The agreement is not a condition to the rendering of
10 health care services by any party and the agreement has been
11 executed by the recipient of health care services at the
12 inception of or during the term of provision of services ~~for a~~
13 ~~specific cause~~ by either a health care provider or a hospital;
14 and

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

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

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

26 ~~(e) As a part of the discharge planning process the patient~~
27 ~~or, if appropriate, members of his family must be given a copy~~
28 ~~of the health care arbitration agreement previously executed by~~
29 ~~or for the patient and shall re-affirm it.~~

30 ~~Failure to comply with this provision during the discharge~~
31 ~~planning process shall void the health care arbitration~~

1 ~~agreement.~~

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

3 (710 ILCS 15/9) (from Ch. 10, par. 209)

4 Sec. 9. Mandatory Provisions.

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

7 (b) (Blank). ~~Every health care arbitration agreement in~~
8 ~~relation to health care services rendered during~~
9 ~~hospitalization shall specify the date of commencement of~~
10 ~~hospitalization. Every health care arbitration agreement in~~
11 ~~relation to health care services not rendered during~~
12 ~~hospitalization shall state the specific cause for which the~~
13 ~~services are provided.~~

14 (c) Every health care arbitration agreement may be
15 cancelled by any signatory ~~(1)~~ within 30 ~~60~~ days of its
16 execution ~~or within 60 days of the date of the patient's~~
17 ~~discharge from the hospital, whichever is later, as to an~~
18 ~~agreement in relation to health care services rendered during~~
19 ~~hospitalization, provided, that if executed other than at the~~
20 ~~time of discharge of the patient from the hospital, the health~~
21 ~~care arbitration agreement be reaffirmed at the time of the~~
22 ~~discharge planning process in the same manner as provided for~~
23 ~~in the execution of the original agreement; or (2) within 60~~
24 ~~days of the date of its execution, or the last date of~~
25 ~~treatment by the health care provider, whichever is later, as~~
26 ~~to an agreement in relation to health care services not~~
27 ~~rendered during hospitalization.~~ Provided, that no health care
28 arbitration agreement shall be valid after 5 ~~2~~ years from the
29 date of its execution. An employee of a hospital or health care
30 provider who is not a signatory to an agreement may cancel such
31 agreement as to himself until 30 days following his
32 notification that he is a party to a dispute or issue on which
33 arbitration has been demanded pursuant to such agreement. If

1 any person executing a health care arbitration agreement dies
2 before the period of cancellation as outlined above, the
3 personal representative of the decedent shall have the right to
4 cancel the health care arbitration agreement within 60 days of
5 the date of his appointment as the legal representative of the
6 decedent's estate. ~~Provided, that if no legal representative is~~
7 ~~appointed within 6 months of the death of said decedent the~~
8 ~~next of kin of such decedent shall have the right to cancel the~~
9 ~~health care arbitration agreement within 8 months from the date~~
10 ~~of death.~~

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

15 "AGREEMENT TO ARBITRATE HEALTH CARE

16 NEGLIGENCE CLAIMS

17 NOTICE TO PATIENT

18 YOU CANNOT BE REQUIRED TO SIGN THIS AGREEMENT IN ORDER TO
19 RECEIVE TREATMENT. BY SIGNING THIS AGREEMENT, YOUR RIGHT TO
20 TRIAL BY A JURY OR A JUDGE IN A COURT WILL BE BARRED AS TO
21 ANY DISPUTE RELATING TO INJURIES THAT MAY RESULT FROM
22 NEGLIGENCE DURING YOUR TREATMENT OR CARE, AND WILL BE
23 REPLACED BY AN ARBITRATION PROCEDURE.

24 THIS AGREEMENT MAY BE CANCELLED WITHIN 30 ~~60~~ DAYS OF
25 SIGNING ~~OR 60 DAYS AFTER YOUR HOSPITAL DISCHARGE OR 60 DAYS~~
26 ~~AFTER YOUR LAST MEDICAL TREATMENT IN RELATION TO HEALTH~~
27 ~~CARE SERVICES NOT RENDERED DURING HOSPITALIZATION.~~

28 THIS AGREEMENT PROVIDES THAT ANY CLAIMS WHICH MAY ARISE OUT
29 OF YOUR HEALTH CARE WILL BE SUBMITTED TO A PANEL OF
30 ARBITRATORS, RATHER THAN TO A COURT FOR DETERMINATION. THIS
31 AGREEMENT REQUIRES ALL PARTIES SIGNING IT TO ABIDE BY THE
32 DECISION OF THE ARBITRATION PANEL."

33 (e) An ~~an~~ executed copy of the AGREEMENT TO ARBITRATE
34 HEALTH CARE CLAIMS ~~and any reaffirmation of that agreement as~~

1 ~~required by this Act~~ shall be given to the patient or the
2 patient's legally authorized representative upon signing
3 ~~during the time of the discharge planning process or at the~~
4 ~~time of discharge.~~

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

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

9 Section 410. The Code of Civil Procedure is amended by
10 reenacting and changing Sections 2-402, 2-622, 2-1107.1,
11 2-1109, 2-1701, 2-1702, and 8-2501, by changing Sections
12 2-1114, 2-1704, and 8-1901, and by adding Sections 2-1105.01,
13 2-1704.5, 2-1706.5, 2-1721 as follows:

14 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

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

17 Sec. 2-402. Respondents in discovery. The plaintiff in any
18 civil action may designate as respondents in discovery in his
19 or her pleading those individuals or other entities, other than
20 the named defendants, believed by the plaintiff to have
21 information essential to the determination of who should
22 properly be named as additional defendants in the action.

23 Persons or entities so named as respondents in discovery
24 shall be required to respond to discovery by the plaintiff in
25 the same manner as are defendants and may, on motion of the
26 plaintiff, be added as defendants if the evidence discloses the
27 existence of probable cause for such action.

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

32 A copy of the complaint shall be served on each person or

1 entity named as a respondent in discovery.

2 Each respondent in discovery shall be paid expenses and
3 fees as provided for witnesses.

4 A person or entity named as a respondent in discovery in
5 any civil action may be made a defendant in the same action at
6 any time within 6 months after being named as a respondent in
7 discovery, even though the time during which an action may
8 otherwise be initiated against him or her may have expired
9 during such 6 month period. An extension from the original
10 6-month period for good cause may be granted only once for up
11 to 90 days for (i) withdrawal of plaintiff's counsel or (ii)
12 good cause. Notwithstanding the limitations in this Section,
13 the court may grant additional reasonable extensions from this
14 6-month period for a failure or refusal on the part of the
15 respondent to comply with timely filed discovery.

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

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

20 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

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

23 Sec. 2-622. Healing art malpractice.

24 (a) In any action, whether in tort, contract or otherwise,
25 in which the plaintiff seeks damages for injuries or death by
26 reason of medical, hospital, or other healing art malpractice,
27 the plaintiff's attorney or the plaintiff, if the plaintiff is
28 proceeding pro se, shall file an affidavit, attached to the
29 original and all copies of the complaint, declaring one of the
30 following:

31 1. That the affiant has consulted and reviewed the
32 facts of the case with a health professional who the
33 affiant reasonably believes: (i) is knowledgeable in the

1 relevant issues involved in the particular action; (ii)
2 practices or has practiced within the last 5 ~~6~~ years or
3 teaches or has taught within the last 5 ~~6~~ years in the same
4 area of health care or medicine that is at issue in the
5 particular action; and (iii) meets the expert witness
6 standards set forth in paragraphs (a) through (d) of
7 Section 8-2501; ~~is qualified by experience or demonstrated~~
8 ~~competence in the subject of the case;~~ that the reviewing
9 health professional has determined in a written report,
10 after a review of the medical record and other relevant
11 material involved in the particular action that there is a
12 reasonable and meritorious cause for the filing of such
13 action; and that the affiant has concluded on the basis of
14 the reviewing health professional's review and
15 consultation that there is a reasonable and meritorious
16 cause for filing of such action. A single written report
17 must be filed to cover each defendant in the action. As to
18 defendants who are individuals, the ~~If the affidavit is~~
19 ~~filed as to a defendant who is a physician licensed to~~
20 ~~treat human ailments without the use of drugs or medicines~~
21 ~~and without operative surgery, a dentist, a podiatrist, a~~
22 ~~psychologist, or a naprapath, The written report must be~~
23 from a health professional licensed in the same profession,
24 with the same class of license, as the defendant in
25 accordance with items (i) through (iii) of this paragraph
26 1. For written reports ~~affidavits~~ filed as to all other
27 defendants, who are not individuals, the written report
28 must be from a physician licensed to practice medicine in
29 all its branches who is qualified by experience with the
30 standard of care, methods, procedures and treatments
31 relevant to the allegations at issue in the case. In either
32 event, the written report ~~affidavit~~ must identify the
33 profession of the reviewing health professional. A copy of
34 the written report, clearly identifying the plaintiff and

1 the reasons for the reviewing health professional's
2 determination that a reasonable and meritorious cause for
3 the filing of the action exists, including the reviewing
4 health care professional's name, address, telephone
5 number, current license number, and state of licensure,
6 must be attached to the affidavit, ~~but information which~~
7 ~~would identify the reviewing health professional may be~~
8 ~~deleted from the copy so attached.~~

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

23 3. That a request has been made by the plaintiff or his
24 attorney for examination and copying of records pursuant to
25 Part 20 of Article VIII of this Code and the party required
26 to comply under those Sections has failed to produce such
27 records within 60 days of the receipt of the request. If an
28 affidavit is executed pursuant to this paragraph, the
29 affidavit ~~certificate~~ and written report required by
30 paragraph 1 shall be filed within 90 days following receipt
31 of the requested records. All defendants except those whose
32 failure to comply with Part 20 of Article VIII of this Code
33 is the basis for an affidavit under this paragraph shall be
34 excused from answering or otherwise pleading until 30 days

1 after being served with the affidavit and report
2 ~~certificate~~ required by paragraph 1.

3 (b) Where an affidavit ~~a certificate~~ and written report are
4 required pursuant to this Section a separate affidavit
5 ~~certificate~~ and written report shall be filed as to each
6 defendant who has been named in the complaint and shall be
7 filed as to each defendant named at a later time.

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

15 (d) When the attorney intends to rely on the doctrine of
16 failure to inform of the consequences of the procedure, the
17 attorney shall certify upon the filing of the complaint that
18 the reviewing health professional has, after reviewing the
19 medical record and other relevant materials involved in the
20 particular action, concluded that a reasonable health
21 professional would have informed the patient of the
22 consequences of the procedure.

23 (e) Allegations and denials in the affidavit, made without
24 reasonable cause and found to be untrue, shall subject the
25 party pleading them or his attorney, or both, to the payment of
26 reasonable expenses, actually incurred by the other party by
27 reason of the untrue pleading, together with reasonable
28 attorneys' fees to be summarily taxed by the court upon motion
29 made within 30 days of the judgment or dismissal. In no event
30 shall the award for attorneys' fees and expenses exceed those
31 actually paid by the moving party, including the insurer, if
32 any. In proceedings under this paragraph (e), the moving party
33 shall have the right to depose and examine any and all
34 reviewing health professionals who prepared reports used in

1 conjunction with an affidavit required by this Section.

2 (f) A reviewing health professional who in good faith
3 prepares a report used in conjunction with an affidavit
4 required by this Section shall have civil immunity from
5 liability which otherwise might result from the preparation of
6 such report.

7 (g) The failure of the plaintiff to file an affidavit and
8 report in compliance with ~~to file a certificate required by~~
9 this Section shall be grounds for dismissal under Section
10 2-619.

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

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

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

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

21 (735 ILCS 5/2-1105.01 new)

22 Sec. 2-1105.01. Personal assets protected in healing art
23 malpractice cases. In all cases, whether tort, contract, or
24 otherwise, in which the plaintiff seeks damages by reason of
25 healing art malpractice, a health care professional who
26 maintains at least a minimum of \$1,000,000 in professional
27 liability insurance coverage to cover a claim against him or
28 her is entitled to an exemption of all of his or her assets
29 from attachment, garnishment, or other form of forfeiture to
30 satisfy any judgment, decision, award, or verdict. Corporate
31 assets are subject to attachment for satisfaction of a
32 judgment. For the purposes of this Section, (i) "health care
33 professional" includes, without limitation, a physician,

1 advanced practice nurse, physician assistant, dentist,
2 podiatrist, and physical therapist and (ii) "asset" includes,
3 without limitation, any asset, property (real or personal),
4 interest, or other thing of value, of any kind or character
5 whatsoever that would otherwise be subject to immediate
6 execution to satisfy a judgment.

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

21 This Section applies to all causes of action pending on the
22 effective date of this amendatory Act of the 94th General
23 Assembly and to all causes of action filed on or after the
24 effective date of this amendatory Act of the 94th General
25 Assembly.

26 (735 ILCS 5/2-1107.1) (from Ch. 110, par. 2-1107.1)

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

29 Sec. 2-1107.1. Jury instruction in tort actions.

30 (a) In all actions on account of bodily injury or death or
31 physical damage to property based on negligence, or product
32 liability based on strict tort liability, the court shall
33 instruct the jury in writing that the defendant shall be found

1 not liable if the jury finds that the contributory fault of the
2 plaintiff is more than 50% of the proximate cause of the injury
3 or damage for which recovery is sought.

4 (b) In all healing art malpractice actions, the court shall
5 instruct the jury in writing whether or not any award of
6 compensatory damages will be taxable under federal or State
7 income tax law.

8 (c) In all healing art malpractice actions, the court shall
9 instruct the jury in writing that punitive damages may not be
10 awarded in any form under Illinois law.

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

14 (Source: P.A. 84-1431.)

15 (735 ILCS 5/2-1109) (from Ch. 110, par. 2-1109)

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

18 Sec. 2-1109. Itemized verdicts.

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

1 compensate for losses which have been incurred prior to the
2 verdict and amounts intended to compensate for future losses
3 ~~which will be incurred in the future.~~

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

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

10 "Non-economic loss" or "non-economic damages" means
11 damages that are intangible, including, but not limited to,
12 damages for pain and suffering, disability, disfigurement, and
13 loss of society.

14 "Compensatory damages" or "actual damages" are the sum of
15 economic and non-economic damages.

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

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

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

22 (735 ILCS 5/2-1114) (from Ch. 110, par. 2-1114)

23 Sec. 2-1114. Contingent fees for attorneys in medical
24 malpractice actions.

25 (a) In all medical malpractice actions the total contingent
26 fee for plaintiff's attorney or attorneys shall not exceed the
27 following amounts:

28 33 1/3% of the first \$150,000 of the sum recovered;

29 25% of the next \$850,000 of the sum recovered; and

30 20% of any amount recovered over \$1,000,000 of the sum
31 recovered.

32 (b) For purposes of determining any lump sum contingent
33 fee, any future damages recoverable by the plaintiff in

1 periodic installments shall be reduced to a lump sum value.

2 (c) The court may review contingent fee agreements for
3 fairness. In special circumstances, where an attorney performs
4 extraordinary services involving more than usual participation
5 in time and effort the attorney may apply to the court for
6 approval of additional compensation. Any application for
7 additional compensation and the court's decision on additional
8 compensation shall be made part of the record.

9 (d) As used in this Section, "contingent fee basis"
10 includes any fee arrangement under which the compensation is to
11 be determined in whole or in part on the result obtained.

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

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

16 (735 ILCS 5/2-1701) (from Ch. 110, par. 2-1701)

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

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

21 (735 ILCS 5/2-1702) (from Ch. 110, par. 2-1702)

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

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

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

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

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

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

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

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

14 (735 ILCS 5/2-1704.5 new)

15 Sec. 2-1704.5. Guaranteed payment of future medical
16 expenses.

17 (a) Either party in a medical malpractice action may elect
18 to have the payment of the plaintiff's future medical expenses
19 and costs of life care determined under this Section. The
20 election must be made not less than 60 days before commencement
21 of a trial involving issues of damages for such future medical
22 and life care. If found liable for damages for a plaintiff's
23 future medical and life care, the defendant shall compensate
24 the plaintiff for such expenses and costs by purchasing an
25 annuity as described in this Section that will pay for these
26 costs and expenses for as long as the plaintiff needs medical
27 and life care.

28 (b) If a defendant in a medical malpractice action is found
29 liable for the plaintiff's future medical expenses and costs of
30 care, the trier of fact, in addition to other appropriate
31 findings, shall make the following findings based on evidence
32 presented at trial:

1 (1) the current year annual cost of any future medical,
2 custodial, or life care required by the plaintiff
3 (including the cost of medical treatment, equipment,
4 supplies and medication, home nursing care, and
5 institutional or facility care) as described in the
6 plaintiff's life care plan determined to be acceptable by
7 the trier of fact; and

8 (2) the annual composite rate of inflation that should
9 be applied to the costs specified in item (1).

10 Based upon evidence presented at trial, the trier of fact may
11 also vary the amount of future costs under this Section from
12 year to year to account for different annual expenditures,
13 including the immediate medical and life care needs of the
14 plaintiff. If the trier of fact determines that the plaintiff
15 will need future medical and life care for less than the
16 plaintiff's entire life, the trier of fact shall specify the
17 number of years such care will be needed, but in no event shall
18 the payments required under this Section be required for a
19 period in excess of the plaintiff's life.

20 (c) When an election is made to pay for future medical and
21 life care costs by purchasing an annuity, the circuit court
22 shall enter a judgment ordering that such future costs be paid
23 through the use of an annuity purchased by or on behalf of the
24 defendant from a company that has itself, or is irrevocably
25 supported financially by a company that has, at least 2 of the
26 following 4 ratings: "A+x" or higher from A.M. Best Company;
27 "AA-" or higher from Standard & Poor's; "Aa3" or higher from
28 Moody's; and "AA-" or higher from Fitch. The judgment shall
29 specify the recipient of the payments, the dollar amount of the
30 payments, the interval between payments, and the number of
31 payments or the period of time over which payments shall be
32 made if the trier of fact determines that such costs will be
33 incurred for less than the plaintiff's entire life. Such
34 payments shall only be subject to modification with leave of

1 court pursuant to subsection (d).

2 (d) A plaintiff receiving future payments by means of an
3 annuity under this Section may seek leave of court to assign or
4 otherwise transfer the right to receive such payments in
5 exchange for a negotiated lump sum value of the remaining
6 future payments or any portion of the remaining future payments
7 under the annuity to address an unanticipated financial
8 hardship under such terms as approved by the court.

9 (e) In determining contingent attorneys' fees under
10 Section 2-1114 of this Code, the sum recovered shall be
11 determined on the basis of the cost of the annuity purchased in
12 accordance with this Section.

13 (735 ILCS 5/2-1706.5 new)

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

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

19 (1) In a case of an award against a hospital and its
20 personnel or hospital affiliates, as defined in Section
21 10.8 of the Hospital Licensing Act, the total amount of
22 non-economic damages shall not exceed \$500,000 awarded to
23 all plaintiffs in any civil action arising out of the care.

24 (2) In a case of an award against a physician and the
25 physician's business or corporate entity and personnel or
26 health care professional, the total amount of non-economic
27 damages shall not exceed \$250,000 awarded to all plaintiffs
28 in any civil action arising out of the care.

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

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

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

6 (c) Any party in a medical malpractice case may introduce
7 annuity evidence to inform the trier of fact about the time
8 value of an award and its ability to cover the plaintiff's
9 damages over time.

10 (d) If any provision of this Section or its application to
11 any person or circumstance is held invalid, the invalidity of
12 that provision or application does not affect other provisions
13 or applications of this Section.

14 (735 ILCS 5/2-1721 new)

15 Sec. 2-1721. Hospitals; apparent or ostensible agency.

16 (a) In addition to any other defense, a hospital shall not
17 be liable for the conduct of a non-employee member of its
18 medical staff under any claim based upon apparent or ostensible
19 agency as a matter of law, provided that:

20 (1) the plaintiff came to the hospital's emergency
21 department for care, where the hospital posted a sign or
22 provided the plaintiff with a document stating the
23 following: "Some of the physicians who may provide care or
24 consultation for you at this hospital are NOT employees of
25 the hospital, and while they have qualified to practice at
26 the hospital, their treatment decisions are their own
27 independent judgments. Do not assume your physician is a
28 hospital employee. If you have any questions about this,
29 please ask your physician or a hospital administrator or
30 representative before receiving treatment."; or

31 (2) the patient was unconscious or unaware of his or
32 her surroundings when brought to the hospital and the
33 patient's legal representative was not present at the time

1 to be informed of the non-employee status of the treating
2 physician.

3 (b) In any other action against a hospital arising out of
4 the provision of health care in which the plaintiff seeks
5 damages for any loss, bodily injury, or death in a claim based
6 upon apparent or ostensible agency, the plaintiff must allege
7 and prove the following:

8 (1) that the hospital, through its own specific
9 advertising or other public representations, caused the
10 plaintiff to reasonably believe that the physicians
11 treating the plaintiff at the hospital were the hospital's
12 agents or employees;

13 (2) that the plaintiff selected the hospital for
14 treatment primarily because of the hospital's public
15 representations described in item (1); and

16 (3) that a reasonable plaintiff would have selected a
17 different hospital for treatment if the plaintiff knew that
18 the treating physicians at the hospital might not be the
19 hospital's agents or employees.

20 (c) A plaintiff basing a claim upon apparent or ostensible
21 agency must allege facts describing the specific advertising or
22 other public representations that gave rise to a reasonable
23 belief that the hospital employs its treating physicians. The
24 plaintiff must also allege why the employment status of the
25 hospital's physicians played a primary role in the plaintiff's
26 selection of the hospital and why the plaintiff would have
27 selected a different hospital if the plaintiff knew that the
28 treating physicians might not be hospital agents or employees.

29 (d) As used in this Section, "public representations" does
30 not include granting a physician medical staff membership or
31 clinical privileges or making any statements about the granting
32 of such membership or privileges.

33 (e) Nothing in this Section precludes any other defense to
34 a claim of apparent or ostensible agency.

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

4 (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)
5 Sec. 8-1901. Admission of liability - Effect.

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

17 (b) Any expression of grief, apology, or explanation
18 provided by a health care provider, including, but not limited
19 to, a statement that the health care provider is "sorry" for
20 the outcome to a patient, the patient's family, or the
21 patient's legal representative about an inadequate or
22 unanticipated treatment or care outcome that is provided within
23 72 hours of when the provider knew or should have known of the
24 potential cause of such outcome shall not be admissible as
25 evidence in any action of any kind in any court or before any
26 tribunal, board, agency, or person. The disclosure of any such
27 information, whether proper, or improper, shall not waive or
28 have any effect upon its confidentiality or inadmissibility. As
29 used in this Section, a "health care provider" is any hospital,
30 nursing home or other facility, or employee or agent thereof, a
31 physician, or other licensed health care professional. Nothing
32 in this Section precludes the discovery or admissibility of any
33 other facts regarding the patient's treatment or outcome as

1 otherwise permitted by law.

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

3 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

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

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

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

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

25 (c) whether the witness is licensed in the same profession
26 with the same class of license as the defendant if the
27 defendant is an individual; and

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

31 An expert shall provide evidence of active practice,
32 teaching, or engaging in university-based research. If
33 retired, an expert must provide evidence of attendance and

1 completion of continuing education courses for 3 years previous
2 to giving testimony. An expert who has not actively practiced,
3 taught, or been engaged in university-based research, or any
4 combination thereof, during the preceding 5 years may not be
5 qualified as an expert witness.

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

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

10 (735 ILCS 5/2-1705 rep.) (from Ch. 110, par. 2-1705)

11 (735 ILCS 5/2-1706 rep.) (from Ch. 110, par. 2-1706)

12 (735 ILCS 5/2-1707 rep.) (from Ch. 110, par. 2-1707)

13 (735 ILCS 5/2-1708 rep.) (from Ch. 110, par. 2-1708)

14 (735 ILCS 5/2-1709 rep.) (from Ch. 110, par. 2-1709)

15 (735 ILCS 5/2-1710 rep.) (from Ch. 110, par. 2-1710)

16 (735 ILCS 5/2-1711 rep.) (from Ch. 110, par. 2-1711)

17 (735 ILCS 5/2-1712 rep.) (from Ch. 110, par. 2-1712)

18 (735 ILCS 5/2-1713 rep.) (from Ch. 110, par. 2-1713)

19 (735 ILCS 5/2-1714 rep.) (from Ch. 110, par. 2-1714)

20 (735 ILCS 5/2-1715 rep.) (from Ch. 110, par. 2-1715)

21 (735 ILCS 5/2-1716 rep.) (from Ch. 110, par. 2-1716)

22 (735 ILCS 5/2-1717 rep.) (from Ch. 110, par. 2-1717)

23 (735 ILCS 5/2-1718 rep.) (from Ch. 110, par. 2-1718)

24 (735 ILCS 5/2-1719 rep.) (from Ch. 110, par. 2-1719)

25 Section 415. The Code of Civil Procedure is amended by
26 repealing Sections 2-1705, 2-1706, 2-1707, 2-1708, 2-1709,
27 2-1710, 2-1711, 2-1712, 2-1713, 2-1714, 2-1715, 2-1716,
28 2-1717, 2-1718, and 2-1719.

29 Section 420. The Good Samaritan Act is amended by changing
30 Sections 25 and 30 as follows:

31 (745 ILCS 49/25)

1 Sec. 25. Physicians; exemption from civil liability for
2 emergency care. Any person licensed under the Medical Practice
3 Act of 1987 or any person licensed to practice the treatment of
4 human ailments in any other state or territory of the United
5 States who, in good faith, provides emergency care without fee
6 to a person, shall not, as a result of his or her acts or
7 omissions, except willful or wanton misconduct on the part of
8 the person, in providing the care, be liable for civil damages.
9 This good faith immunity applies to physicians licensed to
10 practice medicine in all its branches, including retired
11 physicians providing care without fee to a person pursuant to
12 an emergency department on call list.

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

14 (745 ILCS 49/30)

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

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

1 misconduct.

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

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

12 (d) The immunity from civil damages provided under
13 subsection (a) also applies to physicians, retired physicians,
14 hospitals, and other health care providers that provide further
15 medical treatment, diagnosis, or advice, including but not
16 limited to hospitalization, office visits, and home visits, to
17 a patient upon referral from an established free medical clinic
18 without fee or compensation.

19 (d-5) A free medical clinic may receive reimbursement from
20 the Illinois Department of Public Aid, provided any
21 reimbursements shall be used only to pay overhead expenses of
22 operating the free medical clinic and may not be used, in whole
23 or in part, to provide a fee or other compensation to any
24 person licensed under the Medical Practice Act of 1987 or any
25 other health care professional who is receiving an exemption
26 under this Section. Any health care professional receiving an
27 exemption under this Section may not receive any fee or other
28 compensation in connection with any services provided to, or
29 any ownership interest in, the clinic. Medical care shall not
30 include an overnight stay in a health care facility.

31 (e) Nothing in this Section prohibits a free medical clinic
32 from accepting voluntary contributions for medical services
33 provided to a patient who has acknowledged his or her ability
34 and willingness to pay a portion of the value of the medical

1 services provided.

2 (f) Any voluntary contribution collected for providing
3 care at a free medical clinic shall be used only to pay
4 overhead expenses of operating the clinic. No portion of any
5 moneys collected shall be used to provide a fee or other
6 compensation to any person licensed under Medical Practice Act
7 of 1987.

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

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

12 ARTICLE 9

13 Section 995. Liberal construction; inseverability.

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

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

21 Section 999. Effective date. This Act takes effect upon
22 becoming law.".