



**Filed: 5/31/2005**

09400SB1353sam004

LRB094 04645 WGH 47349 a

1 AMENDMENT TO SENATE BILL 1353

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1353, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "ARTICLE 3. AMENDATORY PROVISIONS

6 Section 310. The Illinois Insurance Code is amended by  
7 changing Sections 155.18, 155.19, and 1204 and by adding  
8 Section 155.18a as follows:

9 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

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

20 (b) The following standards shall apply to the making and  
21 use of rates pertaining to all classes of medical liability  
22 insurance:

23 (1) Rates shall not be excessive or inadequate, ~~as~~

1 ~~herein defined,~~ nor shall they be unfairly discriminatory.  
2 ~~No rate shall be held to be excessive unless such rate is~~  
3 ~~unreasonably high for the insurance provided, and a~~  
4 ~~reasonable degree of competition does not exist in the area~~  
5 ~~with respect to the classification to which such rate is~~  
6 ~~applicable.~~

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

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

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

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

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

1 losses or expenses. Such classifications or modifications  
2 of classifications of risks may be established based upon  
3 size, expense, management, individual experience, location  
4 or dispersion of hazard, or any other reasonable  
5 considerations and shall apply to all risks under the same  
6 or substantially the same circumstances or conditions. The  
7 rate for an established classification should be related  
8 generally to the anticipated loss and expense factors of  
9 the class.

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

16 (2) If (i) 1% of a company's insureds within a specialty or  
17 25 of the company's insureds (whichever is greater) request a  
18 public hearing, (ii) the Secretary at his or her discretion  
19 decides to convene a public hearing, or (iii) the percentage  
20 increase in a company's rate is greater than 6%, then the  
21 Secretary shall convene a public hearing in accordance with  
22 this paragraph (2). The Secretary shall notify the public of  
23 any application by an insurer for a rate increase to which this  
24 paragraph (2) applies. A public hearing under this paragraph  
25 (2) must be concluded within 90 days after the request,  
26 decision, or increase that gave rise to the hearing. The  
27 Secretary may, by order, adjust a rate or take any other  
28 appropriate action at the conclusion of the hearing.

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

33 (4) ~~(2)~~ For the purposes of this Section, any change in  
34 premium to the company's insureds as a result of a change in

1 the company's base rates or a change in its increased limits  
2 factors shall constitute a change in rates and shall require a  
3 filing with the Secretary ~~Director~~.

4 (5) ~~(3)~~ It shall be certified in such filing by an officer  
5 of the company and a qualified actuary that the company's rates  
6 are based on sound actuarial principles and are not  
7 inconsistent with the company's experience. The Secretary may  
8 request any additional statistical data and other pertinent  
9 information necessary to determine the manner the company used  
10 to set the filed rates and the reasonableness of those rates.  
11 This data and information shall be made available, on a  
12 company-by-company basis, to the general public.

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

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

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

28 (A) Suspend ~~suspend~~ or revoke, in whole or in part,  
29 the certificate of authority of such company with  
30 respect to the class of insurance which has been the  
31 subject of the hearing.

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

1       The burden is on the company to justify the rate or  
2 proposed rate at the public hearing.

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

11       (f) Every company writing medical liability insurance is  
12 encouraged, but not required, to offer the opportunity for  
13 participation in a plan offering deductibles to its medical  
14 liability insureds. Any plan to offer deductibles shall be  
15 filed with the Department.

16       (g) Every company writing medical liability insurance is  
17 encouraged, but not required, to offer their medical liability  
18 insureds a plan providing premium discounts for participation  
19 in risk management activities. Any such plan shall be reported  
20 to the Department.

21       (h) A company writing medical liability insurance in  
22 Illinois must give 180 days' notice before the company  
23 discontinues the writing of medical liability insurance in  
24 Illinois.

25       (Source: P.A. 79-1434.)

26       (215 ILCS 5/155.18a new)

27       Sec. 155.18a. Professional Liability Insurance Resource  
28 Center. The Secretary of Financial and Professional Regulation  
29 shall establish a Professional Liability Insurance Resource  
30 Center on the Department's Internet website containing the  
31 name, telephone number, and base rates of each licensed company  
32 providing medical liability insurance and the name, address,  
33 and telephone number of each producer who sells medical

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

10 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

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

1 maintain complete and accurate records of all ~~such~~ claims and  
2 suits including their nature, amount, disposition (categorized  
3 by verdict, settlement, dismissal, or otherwise and including  
4 disposition of any post-trial motions and types of damages  
5 awarded, if any, including but not limited to economic damages  
6 and non-economic damages) and other information as he may deem  
7 useful or desirable in observing and reporting on health care  
8 provider liability trends in this State. Records received by  
9 the Secretary under this Section shall be available to the  
10 general public; however, the records made available to the  
11 general public shall not include the names or addresses of the  
12 parties to any claims or suits. The Secretary ~~Director~~ shall  
13 release to appropriate disciplinary and licensing agencies any  
14 such data or information which may assist such agencies in  
15 improving the quality of health care or which may be useful to  
16 such agencies for the purpose of professional discipline.

17 With due regard for appropriate maintenance of the  
18 confidentiality thereof, the Secretary ~~Director~~ shall ~~may~~  
19 release, on an annual basis, from time to time to the Governor,  
20 the General Assembly and the general public statistical reports  
21 based on such data and information.

22 If the Secretary finds that any entity required to report  
23 information in its possession under this Section has violated  
24 any provision of this Section by filing late, incomplete, or  
25 inaccurate reports, the Secretary may fine the entity up to  
26 \$1,000 for each offense. Each day during which a violation  
27 occurs constitutes a separate offense.

28 The Secretary ~~Director~~ may promulgate such rules and  
29 regulations as may be necessary to carry out the provisions of  
30 this Section.

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

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

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

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

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

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

20 (a) municipalities;

21 (b) school districts;

22 (c) other political subdivisions;

23 (2) Public official liability insurance;

24 (3) Dram shop liability insurance;

25 (4) Day care center liability insurance;

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

28 (6) Errors and omissions liability insurance;

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

31 (a) non-profit entities;

32 (b) for-profit entities;

33 (8) Products liability insurance;

34 (9) Medical malpractice insurance;



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

1 malpractice insurers.

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

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

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

12 (c) the following actuarial information:

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

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

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

34 (iv) Maturity year and tail factors.

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

4                   (2) The following information must also be annually  
5                   provided to the Department:

6                   (a) copies of the company's reserve and surplus  
7                   studies; and

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

10                   (3) All information collected by the Secretary under  
11                   paragraphs (1) and (2) shall be made available, on a  
12                   company-by-company basis, to the General Assembly and the  
13                   general public. This provision shall supersede any other  
14                   provision of State law that may otherwise protect such  
15                   information from public disclosure as confidential.

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

22                   (E) Violations - Suspensions - Revocations.

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

32                   (2) No forfeiture liability under paragraph (1) of this  
33 subsection may attach unless a written notice of apparent  
34 liability has been issued by the Secretary ~~Director~~ and

1 received by the respondent, or the Secretary ~~Director~~ sends  
2 written notice of apparent liability by registered or  
3 certified mail, return receipt requested, to the last known  
4 address of the respondent. Any respondent so notified must  
5 be granted an opportunity to request a hearing within 10  
6 days from receipt of notice, or to show in writing, why he  
7 should not be held liable. A notice issued under this  
8 Section must set forth the date, facts and nature of the  
9 act or omission with which the respondent is charged and  
10 must specifically identify the particular provision of  
11 this Article, rule, regulation or order of which a  
12 violation is charged.

13 (3) No forfeiture liability under paragraph (1) of this  
14 subsection may attach for any violation occurring more than  
15 2 years prior to the date of issuance of the notice of  
16 apparent liability and in no event may the total civil  
17 penalty forfeiture imposed for the acts or omissions set  
18 forth in any one notice of apparent liability exceed  
19 \$100,000.

20 (4) All administrative hearings conducted pursuant to  
21 this Article are subject to 50 Ill. Adm. Code 2402 and all  
22 administrative hearings are subject to the Administrative  
23 Review Law.

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

31 (6) In any case where the Secretary ~~Director~~ issues a  
32 notice of apparent liability looking toward the imposition  
33 of a civil penalty forfeiture under this Section that fact  
34 may not be used in any other proceeding before the

1        Secretary ~~Director~~ to the prejudice of the respondent to  
2        whom the notice was issued, unless (a) the civil penalty  
3        forfeiture has been paid, or (b) a court has ordered  
4        payment of the civil penalty forfeiture and that order has  
5        become final.

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

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

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

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

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

5 (225 ILCS 60/7) (from Ch. 111, par. 4400-7)

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

7 Sec. 7. Medical Disciplinary Board.

8 (A) There is hereby created the Illinois State Medical  
9 Disciplinary Board (hereinafter referred to as the  
10 "Disciplinary Board"). The Disciplinary Board shall consist of  
11 11 ~~9~~ members, to be appointed by the Governor by and with the  
12 advice and consent of the Senate. All members shall be  
13 residents of the State, not more than 6 ~~5~~ of whom shall be  
14 members of the same political party. All members shall be  
15 voting members. Five members shall be physicians licensed to  
16 practice medicine in all of its branches in Illinois possessing  
17 the degree of doctor of medicine, and it shall be the goal that  
18 at least one of the members practice in the field of  
19 neurosurgery, one of the members practice in the field of  
20 obstetrics and gynecology, and one of the members practice in  
21 the field of cardiology. One member shall be a physician  
22 licensed to practice in Illinois possessing the degree of  
23 doctor of osteopathy or osteopathic medicine. One member shall  
24 be a physician licensed to practice in Illinois and possessing  
25 the degree of doctor of chiropractic. Four members ~~Two~~ shall be  
26 members of the public, who shall not be engaged in any way,  
27 directly or indirectly, as providers of health care. ~~The 2~~  
28 ~~public members shall act as voting members. One member shall be~~  
29 ~~a physician licensed to practice in Illinois possessing the~~  
30 ~~degree of doctor of osteopathy or osteopathic medicine. One~~  
31 ~~member shall be a physician licensed to practice in Illinois~~  
32 ~~and possessing the degree of doctor of chiropractic.~~

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

15 In making appointments the Governor shall attempt to insure  
16 that the various social and geographic regions of the State of  
17 Illinois are properly represented.

18 In making the designation of persons to act for the several  
19 professions represented on the Disciplinary Board, the  
20 Governor shall give due consideration to recommendations by  
21 members of the respective professions and by organizations  
22 therein.

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

28 (D) (Blank).

29 (E) Six ~~Four~~ voting members of the Disciplinary Board, at  
30 least 4 of whom are physicians, shall constitute a quorum. A  
31 vacancy in the membership of the Disciplinary Board shall not  
32 impair the right of a quorum to exercise all the rights and  
33 perform all the duties of the Disciplinary Board. Any action  
34 taken by the Disciplinary Board under this Act may be

1 authorized by resolution at any regular or special meeting and  
2 each such resolution shall take effect immediately. The  
3 Disciplinary Board shall meet at least quarterly. The  
4 Disciplinary Board is empowered to adopt all rules and  
5 regulations necessary and incident to the powers granted to it  
6 under this Act.

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

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

31 The Secretary Director shall employ, in conformity with the  
32 Personnel Code, not less than one full time investigator for  
33 every 2,500 ~~5000~~ physicians licensed in the State. Each  
34 investigator shall be a college graduate with at least 2 years'



1 investigative experience or one year advanced medical  
2 education. Upon the written request of the Disciplinary Board,  
3 the Secretary ~~Director~~ shall employ, in conformity with the  
4 Personnel Code, such other professional, technical,  
5 investigative, and clerical help, either on a full or part-time  
6 basis as the Disciplinary Board deems necessary for the proper  
7 performance of its duties.

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

15 (I) Members of the Disciplinary Board shall be immune from  
16 suit in any action based upon any disciplinary proceedings or  
17 other acts performed in good faith as members of the  
18 Disciplinary Board.

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

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

1 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

3 Sec. 22. Disciplinary action.

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

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

13 (a) a facility licensed pursuant to the Ambulatory  
14 Surgical Treatment Center Act;

15 (b) an institution licensed under the Hospital  
16 Licensing Act; or

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

24 (d) ambulatory surgical treatment centers,  
25 hospitalization or care facilities maintained by the  
26 Federal Government; or

27 (e) ambulatory surgical treatment centers,  
28 hospitalization or care facilities maintained by any  
29 university or college established under the laws of  
30 this State and supported principally by public funds  
31 raised by taxation.

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

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

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

7           (5) Engaging in dishonorable, unethical or  
8 unprofessional conduct of a character likely to deceive,  
9 defraud or harm the public.

10          (6) Obtaining any fee by fraud, deceit, or  
11 misrepresentation.

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

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

18          (9) Fraud or misrepresentation in applying for, or  
19 procuring, a license under this Act or in connection with  
20 applying for renewal of a license under this Act.

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

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

28          (12) Disciplinary action of another state or  
29 jurisdiction against a license or other authorization to  
30 practice as a medical doctor, doctor of osteopathy, doctor  
31 of osteopathic medicine or doctor of chiropractic, a  
32 certified copy of the record of the action taken by the  
33 other state or jurisdiction being prima facie evidence  
34 thereof.

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

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

1 abrogate the right of 2 or more persons, holding valid and  
2 current licenses under this Act, to each receive adequate  
3 compensation for concurrently rendering professional  
4 services to a patient and divide a fee; provided, the  
5 patient has full knowledge of the division, and, provided,  
6 that the division is made in proportion to the services  
7 performed and responsibility assumed by each.

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

13 (16) Abandonment of a patient.

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

19 (18) Promotion of the sale of drugs, devices,  
20 appliances or goods provided for a patient in such manner  
21 as to exploit the patient for financial gain of the  
22 physician.

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

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

31 (21) Wilfully making or filing false records or reports  
32 in his or her practice as a physician, including, but not  
33 limited to, false records to support claims against the  
34 medical assistance program of the Department of Public Aid

1 under the Illinois Public Aid Code.

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

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

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

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

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

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

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

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

1 examinations administered under this Act.

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

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

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

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

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

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

34 (36) Failure to report to the Department any adverse

1 judgment, settlement, or award arising from a liability  
2 claim related to acts or conduct similar to acts or conduct  
3 which would constitute grounds for action as defined in  
4 this Section.

5 (37) Failure to transfer copies of medical records as  
6 required by law.

7 (38) Failure to furnish the Department, its  
8 investigators or representatives, relevant information,  
9 legally requested by the Department after consultation  
10 with the Chief Medical Coordinator or the Deputy Medical  
11 Coordinator.

12 (39) Violating the Health Care Worker Self-Referral  
13 Act.

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

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

18 (42) Entering into an excessive number of written  
19 collaborative agreements with licensed advanced practice  
20 nurses resulting in an inability to adequately collaborate  
21 and provide medical direction.

22 (43) Repeated failure to adequately collaborate with  
23 or provide medical direction to a licensed advanced  
24 practice nurse.

25 Except for actions involving the ground numbered (26), all  
26 ~~All~~ proceedings to suspend, revoke, place on probationary  
27 status, or take any other disciplinary action as the Department  
28 may deem proper, with regard to a license on any of the  
29 foregoing grounds, must be commenced within 5 ~~3~~ years next  
30 after receipt by the Department of a complaint alleging the  
31 commission of or notice of the conviction order for any of the  
32 acts described herein. Except for the grounds numbered (8),  
33 (9), (26), and (29), no action shall be commenced more than 10  
34 ~~5~~ years after the date of the incident or act alleged to have



1 violated this Section. For actions involving the ground  
2 numbered (26), a pattern of practice or other behavior includes  
3 all incidents alleged to be part of the pattern of practice or  
4 other behavior that occurred or a report pursuant to Section 23  
5 of this Act received within the 10-year period preceding the  
6 filing of the complaint. In the event of the settlement of any  
7 claim or cause of action in favor of the claimant or the  
8 reduction to final judgment of any civil action in favor of the  
9 plaintiff, such claim, cause of action or civil action being  
10 grounded on the allegation that a person licensed under this  
11 Act was negligent in providing care, the Department shall have  
12 an additional period of 2 years ~~one year~~ from the date of  
13 notification to the Department under Section 23 of this Act of  
14 such settlement or final judgment in which to investigate and  
15 commence formal disciplinary proceedings under Section 36 of  
16 this Act, except as otherwise provided by law. The time during  
17 which the holder of the license was outside the State of  
18 Illinois shall not be included within any period of time  
19 limiting the commencement of disciplinary action by the  
20 Department.

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

30 The Department may refuse to issue or take disciplinary  
31 action concerning the license of any person who fails to file a  
32 return, or to pay the tax, penalty or interest shown in a filed  
33 return, or to pay any final assessment of tax, penalty or  
34 interest, as required by any tax Act administered by the

1 Illinois Department of Revenue, until such time as the  
2 requirements of any such tax Act are satisfied as determined by  
3 the Illinois Department of Revenue.

4 The Department, upon the recommendation of the  
5 Disciplinary Board, shall adopt rules which set forth standards  
6 to be used in determining:

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

9 (b) what constitutes dishonorable, unethical or  
10 unprofessional conduct of a character likely to deceive,  
11 defraud, or harm the public;

12 (c) what constitutes immoral conduct in the commission  
13 of any act, including, but not limited to, commission of an  
14 act of sexual misconduct related to the licensee's  
15 practice; and

16 (d) what constitutes gross negligence in the practice  
17 of medicine.

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

21 In enforcing this Section, the Medical Disciplinary Board,  
22 upon a showing of a possible violation, may compel any  
23 individual licensed to practice under this Act, or who has  
24 applied for licensure or a permit pursuant to this Act, to  
25 submit to a mental or physical examination, or both, as  
26 required by and at the expense of the Department. The examining  
27 physician or physicians shall be those specifically designated  
28 by the Disciplinary Board. The Medical Disciplinary Board or  
29 the Department may order the examining physician to present  
30 testimony concerning this mental or physical examination of the  
31 licensee or applicant. No information shall be excluded by  
32 reason of any common law or statutory privilege relating to  
33 communication between the licensee or applicant and the  
34 examining physician. The individual to be examined may have, at

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

33 An individual licensed under this Act, affected under this  
34 Section, shall be afforded an opportunity to demonstrate to the

1 Disciplinary Board that they can resume practice in compliance  
2 with acceptable and prevailing standards under the provisions  
3 of their license.

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

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

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

34 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626,

1 eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

2 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

4 Sec. 23. Reports relating to professional conduct and  
5 capacity.

6 (A) Entities required to report.

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

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

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

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

33           (4) State's Attorneys. The State's Attorney of each  
34          county shall report to the Disciplinary Board all instances

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

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

20 (B) Mandatory reporting. All reports required by items  
21 (34), (35), and (36) of subsection (A) of Section 22 and by  
22 Section 23 shall be submitted to the Disciplinary Board in a  
23 timely fashion. The reports shall be filed in writing within 60  
24 days after a determination that a report is required under this  
25 Act. All reports shall contain the following information:

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

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

30 (3) The name and date of birth ~~or other means of~~  
31 ~~identification~~ of any patient or patients whose treatment  
32 is a subject of the report, if available, or other means of  
33 identification if such information is not available,  
34 identification of the hospital or other healthcare

1        facility where the care at issue in the report was  
2        rendered, provided, however, no medical records may be  
3        revealed ~~without the written consent of the patient or~~  
4        ~~patients.~~

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

8            (5) If court action is involved, the identity of the  
9        court in which the action is filed, along with the docket  
10       number and date of filing of the action.

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

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

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

29           Nothing contained in this Section shall act to in any way,  
30        waive or modify the confidentiality of medical reports and  
31        committee reports to the extent provided by law. Any  
32        information reported or disclosed shall be kept for the  
33        confidential use of the Disciplinary Board, the Medical  
34        Coordinators, the Disciplinary Board's attorneys, the medical



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

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

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

1 wilful and wanton.

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

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

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

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

24 The notification shall include a written notice setting  
25 forth the person's right to examine the report. Included in  
26 such notification shall be the address at which the file is  
27 maintained, the name of the custodian of the reports, and the  
28 telephone number at which the custodian may be reached. The  
29 person who is the subject of the report shall submit a written  
30 statement responding, clarifying, adding to, or proposing the  
31 amending of the report previously filed. The person who is the  
32 subject of the report shall also submit with the written  
33 statement any medical records related to the report. The  
34 statement and accompanying medical records shall become a

1 permanent part of the file and must be received by the  
2 Disciplinary Board no more than 30 ~~60~~ days after the date on  
3 which the person was notified by the Disciplinary Board of the  
4 existence of the original report.

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

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

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

34 (F) Summary reports. The Disciplinary Board shall prepare,

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

14 (G) Any violation of this Section shall be a Class A  
15 misdemeanor.

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

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

31 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

33 Sec. 24. Report of violations; medical associations. Any

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

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

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

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

30 Upon request by the Department after a mandatory report has  
31 been filed with the Department, an attorney for any party  
32 seeking to recover damages for injuries or death by reason of  
33 medical, hospital, or other healing art malpractice shall  
34 provide patient records related to the physician involved in

1 the disciplinary proceeding to the Department within 30 days of  
2 the Department's request for use by the Department in any  
3 disciplinary matter under this Act. An attorney who provides  
4 patient records to the Department in accordance with this  
5 requirement shall not be deemed to have violated any  
6 attorney-client privilege. Notwithstanding any other provision  
7 of law, consent by a patient shall not be required for the  
8 provision of patient records in accordance with this  
9 requirement.

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

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

20 (225 ILCS 60/24.1 new)

21 Sec. 24.1. Physician profile.

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

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

29 (1) the full name of the physician;

30 (2) a description of any criminal convictions for  
31 felonies and Class A misdemeanors, as determined by the  
32 Department, within the most recent 5 years. For the  
33 purposes of this Section, a person shall be deemed to be

1 convicted of a crime if he or she pleaded guilty or if he  
2 was found or adjudged guilty by a court of competent  
3 jurisdiction;

4 (3) a description of any final Department disciplinary  
5 actions within the most recent 5 years;

6 (4) a description of any final disciplinary actions by  
7 licensing boards in other states within the most recent 5  
8 years;

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

20 (6) all medical malpractice court judgments and all  
21 medical malpractice arbitration awards in which a payment  
22 was awarded to a complaining party during the most recent 5  
23 years and all settlements of medical malpractice claims in  
24 which a payment was made to a complaining party within the  
25 most recent 5 years. A medical malpractice judgment or  
26 award that has been appealed shall be identified  
27 prominently as "Under Appeal" on the profile within 20 days  
28 of formal written notice to the Department. Information  
29 concerning all settlements shall be accompanied by the  
30 following statement: "Settlement of a claim may occur for a  
31 variety of reasons which do not necessarily reflect  
32 negatively on the professional competence or conduct of the  
33 physician. A payment in settlement of a medical malpractice  
34 action or claim should not be construed as creating a

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

12 (7) names of medical schools attended, dates of  
13 attendance, and date of graduation;

14 (8) graduate medical education;

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

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

19 (11) names of the hospitals where the physician has  
20 privileges;

21 (12) appointments to medical school faculties and  
22 indication as to whether a physician has a responsibility  
23 for graduate medical education within the most recent 5  
24 years;

25 (13) information regarding publications in  
26 peer-reviewed medical literature within the most recent 5  
27 years;

28 (14) information regarding professional or community  
29 service activities and awards;

30 (15) the location of the physician's primary practice  
31 setting;

32 (16) identification of any translating services that  
33 may be available at the physician's primary practice  
34 location;



1           (17) an indication of whether the physician  
2           participates in the Medicaid program.

3           (c) The Disciplinary Board shall provide individual  
4           physicians with a copy of their profiles prior to release to  
5           the public. A physician shall be provided 60 days to correct  
6           factual inaccuracies that appear in such profile.

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

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

19           (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

21           Sec. 36. Upon the motion of either the Department or the  
22           Disciplinary Board or upon the verified complaint in writing of  
23           any person setting forth facts which, if proven, would  
24           constitute grounds for suspension or revocation under Section  
25           22 of this Act, the Department shall investigate the actions of  
26           any person, so accused, who holds or represents that they hold  
27           a license. Such person is hereinafter called the accused.

28           The Department shall, before suspending, revoking, placing  
29           on probationary status, or taking any other disciplinary action  
30           as the Department may deem proper with regard to any license at  
31           least 30 days prior to the date set for the hearing, notify the  
32           accused in writing of any charges made and the time and place  
33           for a hearing of the charges before the Disciplinary Board,

1 direct them to file their written answer thereto to the  
2 Disciplinary Board under oath within 20 days after the service  
3 on them of such notice and inform them that if they fail to  
4 file such answer default will be taken against them and their  
5 license may be suspended, revoked, placed on probationary  
6 status, or have other disciplinary action, including limiting  
7 the scope, nature or extent of their practice, as the  
8 Department may deem proper taken with regard thereto.

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

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

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

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

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

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

7 (705 ILCS 105/27.10 new)

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

14 ARTICLE 9. MISCELLANEOUS

15 Section 995. Inseverability. The provisions of this Act are  
16 mutually dependent and inseverable. If any provision is held  
17 invalid, then this entire Act, including all new and amendatory  
18 provisions, is invalid.

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