



Sen. Frank C. Watson

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LRB094 11877 WGH 45012 a

1 AMENDMENT TO SENATE BILL 1979

2 AMENDMENT NO. _____. Amend Senate Bill 1979 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 1. FINDINGS

5 Section 1-5. Findings. The General Assembly finds as
6 follows:

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

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

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

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

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

5 ARTICLE 5. LITIGATION

6 Section 5-5. The Health Care Arbitration Act is amended by
7 changing Sections 8 and 9 as follows:

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

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

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

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

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

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

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

1 ~~it. Failure to comply with this provision during the discharge~~
2 ~~planning process shall void the health care arbitration~~
3 ~~agreement.~~

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

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

8 (710 ILCS 15/9) (from Ch. 10, par. 209)

9 Sec. 9. Mandatory Provisions.

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

12 (b) Every health care arbitration agreement in relation to
13 health care services rendered during hospitalization shall
14 specify the date of commencement of hospitalization. Every
15 health care arbitration agreement in relation to health care
16 services not rendered during hospitalization shall state the
17 specific cause for which the services are provided.

18 (c) Every health care arbitration agreement may be
19 cancelled by any signatory (1) within 120 ~~60~~ days of its
20 execution or within 30 ~~60~~ days of the date of the patient's
21 discharge from the hospital, whichever is later, as to an
22 agreement in relation to health care services rendered during
23 hospitalization, ~~provided, that if executed other than at the~~
24 ~~time of discharge of the patient from the hospital, the health~~
25 ~~care arbitration agreement be reaffirmed at the time of the~~
26 ~~discharge planning process in the same manner as provided for~~
27 ~~in the execution of the original agreement; or (2) within 120~~
28 ~~60~~ days of the date of its execution, or the last date of
29 treatment by the health care provider, whichever is later, as
30 to an agreement in relation to health care services not
31 rendered during hospitalization. Provided, that no health care
32 arbitration agreement shall be valid after 4 ~~2~~ years from the
33 date of its execution. An employee of a hospital or health care

1 provider who is not a signatory to an agreement may cancel such
2 agreement as to himself until 30 days following his
3 notification that he is a party to a dispute or issue on which
4 arbitration has been demanded pursuant to such agreement. If
5 any person executing a health care arbitration agreement dies
6 before the period of cancellation as outlined above, the
7 personal representative of the decedent shall have the right to
8 cancel the health care arbitration agreement within 60 days of
9 the date of his appointment as the legal representative of the
10 decedent's estate. ~~Provided, that if no legal representative is~~
11 ~~appointed within 6 months of the death of said decedent the~~
12 ~~next of kin of such decedent shall have the right to cancel the~~
13 ~~health care arbitration agreement within 8 months from the date~~
14 ~~of death.~~

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

19 "AGREEMENT TO ARBITRATE HEALTH CARE

20 NEGLIGENCE CLAIMS

21 NOTICE TO PATIENT

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

28 THIS AGREEMENT MAY BE CANCELLED WITHIN 120 ~~60~~ DAYS OF
29 SIGNING OR 30 ~~60~~ DAYS AFTER YOUR HOSPITAL DISCHARGE,
30 WHICHEVER IS LATER, OR 120 ~~60~~ DAYS AFTER YOUR LAST MEDICAL
31 TREATMENT IN RELATION TO HEALTH CARE SERVICES NOT RENDERED
32 DURING HOSPITALIZATION.

33 THIS AGREEMENT PROVIDES THAT ANY CLAIMS WHICH MAY ARISE OUT
34 OF YOUR HEALTH CARE WILL BE SUBMITTED TO A PANEL OF

1 ARBITRATORS, RATHER THAN TO A COURT FOR DETERMINATION. THIS
2 AGREEMENT REQUIRES ALL PARTIES SIGNING IT TO ABIDE BY THE
3 DECISION OF THE ARBITRATION PANEL."

4 (e) An ~~an~~ executed copy of the AGREEMENT TO ARBITRATE
5 HEALTH CARE CLAIMS ~~and any reaffirmation of that agreement as~~
6 ~~required by this Act~~ shall be given to the patient or the
7 patient's legally authorized representative upon signing
8 ~~during the time of the discharge planning process or at the~~
9 ~~time of discharge.~~

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

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

14 Section 5-10. The Code of Civil Procedure is amended by
15 reenacting and changing Sections 2-402, 2-622, 2-1107.1,
16 2-1109, 2-1701, 2-1702, and 8-2501, by changing Sections
17 2-1114, 2-1704, and 8-1901, and by adding Sections 2-1105.01,
18 2-1704.5, and 2-1721 as follows:

19 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

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

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

28 Persons or entities so named as respondents in discovery
29 shall be required to respond to discovery by the plaintiff in
30 the same manner as are defendants and may, on motion of the
31 plaintiff, be added as defendants if the evidence discloses the
32 existence of probable cause for such action.

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

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

7 Each respondent in discovery shall be paid expenses and
8 fees as provided for witnesses.

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

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

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

25 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

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

28 Sec. 2-622. Healing art malpractice.

29 (a) In any action, whether in tort, contract or otherwise,
30 in which the plaintiff seeks damages for injuries or death by
31 reason of medical, hospital, or other healing art malpractice,
32 the plaintiff's attorney or the plaintiff, if the plaintiff is
33 proceeding pro se, shall file an affidavit, attached to the

1 original and all copies of the complaint, declaring one of the
2 following:

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

1 relevant to the allegations at issue in the case. In either
2 event, the written report ~~affidavit~~ must identify the
3 profession of the reviewing health professional. A copy of
4 the written report, clearly identifying the plaintiff and
5 the reasons for the reviewing health professional's
6 determination that a reasonable and meritorious cause for
7 the filing of the action exists, including the reviewing
8 health care professional's name, address, telephone
9 number, current license number, and state of licensure,
10 must be attached to the affidavit, ~~but information which~~
11 ~~would identify the reviewing health professional may be~~
12 ~~deleted from the copy so attached.~~

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

30 3. That a request has been made by the plaintiff or his
31 attorney for examination and copying of records pursuant to
32 Part 20 of Article VIII of this Code and the party required
33 to comply under those Sections has failed to produce such
34 records within 60 days of the receipt of the request. If an

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

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

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

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

30 (e) Allegations and denials in the affidavit, made without
31 reasonable cause and found to be untrue, shall subject the
32 party pleading them or his attorney, or both, to the payment of
33 reasonable expenses, actually incurred by the other party by
34 reason of the untrue pleading, together with reasonable

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

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

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

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

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

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

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

28 (735 ILCS 5/2-1105.01 new)

29 Sec. 2-1105.01. Personal assets protected in healing art
30 malpractice cases. In all cases, whether tort, contract, or
31 otherwise, in which the plaintiff seeks damages by reason of
32 healing art malpractice, a health care professional who
33 maintains at least a minimum of \$1,000,000 in professional

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

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

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

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

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

4 (a) In all actions on account of bodily injury or death or
5 physical damage to property based on negligence, or product
6 liability based on strict tort liability, the court shall
7 instruct the jury in writing that the defendant shall be found
8 not liable if the jury finds that the contributory fault of the
9 plaintiff is more than 50% of the proximate cause of the injury
10 or damage for which recovery is sought.

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

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

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. 84-1431.)

22 (735 ILCS 5/2-1109) (from Ch. 110, par. 2-1109)

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

25 Sec. 2-1109. Itemized verdicts.

26 (a) In every case where damages for bodily injury or death
27 ~~to the person~~ are assessed by the jury the verdict shall be
28 itemized so as to reflect the monetary distribution, if any,
29 among economic loss and non-economic loss, ~~if any,~~ and, in
30 healing art medical malpractice cases, further itemized so as
31 to reflect the distribution of economic loss by category, such
32 itemization of economic loss by category to include: (i) ~~(a)~~
33 amounts intended to compensate for reasonable expenses which

1 have been incurred, or which will be incurred, for necessary
2 medical, surgical, x-ray, dental, or other health or
3 rehabilitative services, drugs, and therapy; (ii) ~~(b)~~ amounts
4 intended to compensate for lost wages or loss of earning
5 capacity; and (iii) ~~(c)~~ all other economic losses claimed by
6 the plaintiff or granted by the jury. Each category of economic
7 loss shall be further itemized into amounts intended to
8 compensate for losses which have been incurred prior to the
9 verdict and amounts intended to compensate for future losses
10 ~~which will be incurred in the future.~~

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

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

17 "Non-economic loss" or "non-economic damages" means
18 damages that are intangible, including, but not limited to,
19 damages for pain and suffering, disability, disfigurement, and
20 loss of society.

21 "Compensatory damages" or "actual damages" are the sum of
22 economic and non-economic damages.

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

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

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

29 (735 ILCS 5/2-1114) (from Ch. 110, par. 2-1114)

30 Sec. 2-1114. Contingent fees for attorneys in medical
31 malpractice actions.

32 (a) In all medical malpractice actions the total contingent
33 fee for plaintiff's attorney or attorneys shall not exceed the

1 following amounts:

2 33 1/3% of the first \$150,000 of the sum recovered;

3 25% of the next \$850,000 of the sum recovered; and

4 20% of any amount recovered over \$1,000,000 of the sum
5 recovered.

6 (b) For purposes of determining any lump sum contingent
7 fee, any future damages recoverable by the plaintiff in
8 periodic installments shall be reduced to a lump sum value.

9 (c) The court may review contingent fee agreements for
10 fairness. In special circumstances, where an attorney performs
11 extraordinary services involving more than usual participation
12 in time and effort the attorney may apply to the court for
13 approval of additional compensation. Any application for
14 additional compensation and the court's decision on additional
15 compensation shall be made part of the record.

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

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

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

23 (735 ILCS 5/2-1701) (from Ch. 110, par. 2-1701)

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

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

28 (735 ILCS 5/2-1702) (from Ch. 110, par. 2-1702)

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

31 Sec. 2-1702. Economic/Non-Economic Loss. As used in this
32 Part, "economic loss" and "non-economic loss" have the same

1 meanings as in subsection (b) of Section 2-1109. ÷

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

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

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

9 (735 ILCS 5/2-1704) (from Ch. 110, par. 2-1704)

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

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

21 (735 ILCS 5/2-1704.5 new)

22 Sec. 2-1704.5. Guaranteed payment of future medical
23 expenses.

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

1 costs and expenses for as long as the plaintiff needs medical
2 and life care.

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

8 (1) the current year annual cost of any future medical,
9 custodial, or life care required by the plaintiff
10 (including the cost of medical treatment, equipment,
11 supplies and medication, home nursing care, and
12 institutional or facility care) as described in the
13 plaintiff's life care plan determined to be acceptable by
14 the trier of fact; and

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

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

27 (c) When an election is made to pay for future medical and
28 life care costs by purchasing an annuity, the circuit court
29 shall enter a judgment ordering that such future costs be paid
30 through the use of an annuity purchased by or on behalf of the
31 defendant from a company that has itself, or is irrevocably
32 supported financially by a company that has, at least 2 of the
33 following 4 ratings: "A+ X" or higher from A.M. Best Company;
34 "AA-" or higher from Standard & Poor's; "Aa3" or higher from

1 Moody's; and "AA-" or higher from Fitch. The judgment shall
2 specify the recipient of the payments, the dollar amount of the
3 payments, the interval between payments, and the number of
4 payments or the period of time over which payments shall be
5 made if the trier of fact determines that such costs will be
6 incurred for less than the plaintiff's entire life. Such
7 payments shall only be subject to modification with leave of
8 court pursuant to subsection (d).

9 (d) A plaintiff receiving future payments by means of an
10 annuity under this Section may seek leave of court to assign or
11 otherwise transfer the right to receive such payments in
12 exchange for a negotiated lump sum value of the remaining
13 future payments or any portion of the remaining future payments
14 under the annuity to address an unanticipated financial
15 hardship under such terms as approved by the court.

16 (e) In determining contingent attorneys' fees under
17 Section 2-1114 of this Code, the sum recovered shall be
18 determined on the basis of the future value of the annuity
19 purchased in accordance with this Section.

20 (f) This Section applies to causes of action accruing on or
21 after the effective date of this amendatory Act of the 94th
22 General Assembly.

23 (735 ILCS 5/2-1721 new)

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

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

29 (1) the plaintiff came to the hospital's emergency
30 department for care, where the hospital posted a sign or
31 provided the plaintiff with a document stating the
32 following: "Some of the physicians who may provide care or
33 consultation for you at this hospital are NOT employees of

1 the hospital, and while they have qualified to practice at
2 the hospital, their treatment decisions are their own
3 independent judgments. Do not assume your physician is a
4 hospital employee. If you have any questions about this,
5 please ask your physician or a hospital administrator or
6 representative before receiving treatment."; or

7 (2) the patient was unconscious or unaware of his or
8 her surroundings when brought to the hospital and the
9 patient's legal representative was not present at the time
10 to be informed of the non-employee status of the treating
11 physician.

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

17 (1) that the hospital, through its own specific
18 advertising or other public representations, caused the
19 plaintiff to reasonably believe that the physicians
20 treating the plaintiff at the hospital were the hospital's
21 agents or employees;

22 (2) that the plaintiff selected the hospital for
23 treatment primarily because of the hospital's public
24 representations described in item (1); and

25 (3) that a reasonable plaintiff would have selected a
26 different hospital for treatment if the plaintiff knew that
27 the treating physicians at the hospital might not be the
28 hospital's agents or employees.

29 (c) A plaintiff basing a claim upon apparent or ostensible
30 agency must allege facts describing the specific advertising or
31 other public representations that gave rise to a reasonable
32 belief that the hospital employs its treating physicians. The
33 plaintiff must also allege why the employment status of the
34 hospital's physicians played a primary role in the plaintiff's

1 selection of the hospital and why the plaintiff would have
2 selected a different hospital if the plaintiff knew that the
3 treating physicians might not be hospital agents or employees.

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

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

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

13 (735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

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

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

26 (b) Any expression of grief, apology, or explanation
27 provided by a health care provider, including, but not limited
28 to, a statement that the health care provider is "sorry" for
29 the outcome to a patient, the patient's family, or the
30 patient's legal representative about an inadequate or
31 unanticipated treatment or care outcome that is provided within
32 72 hours of when the provider knew or should have known of the
33 potential cause of such outcome shall not be admissible as

1 evidence in any action of any kind in any court or before any
2 tribunal, board, agency, or person. The disclosure of any such
3 information, whether proper, or improper, shall not waive or
4 have any effect upon its confidentiality or inadmissibility. As
5 used in this Section, a "health care provider" is any hospital,
6 nursing home or other facility, or employee or agent thereof, a
7 physician, or other licensed health care professional. Nothing
8 in this Section precludes the discovery or admissibility of any
9 other facts regarding the patient's treatment or outcome as
10 otherwise permitted by law.

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

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

15 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

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

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

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

32 (b) Whether the witness has devoted a majority substantial
33 ~~portion~~ of his or her work time to the practice of medicine,

1 teaching or University based research in relation to the
 2 medical care and type of treatment at issue which gave rise to
 3 the medical problem of which the plaintiff complains;

4 (c) whether the witness is licensed in the same profession
 5 with the same class of license as the defendant if the
 6 defendant is an individual; and

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

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

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

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

22 (735 ILCS 5/2-1705 rep.) (from Ch. 110, par. 2-1705)

23 (735 ILCS 5/2-1706 rep.) (from Ch. 110, par. 2-1706)

24 (735 ILCS 5/2-1707 rep.) (from Ch. 110, par. 2-1707)

25 (735 ILCS 5/2-1708 rep.) (from Ch. 110, par. 2-1708)

26 (735 ILCS 5/2-1709 rep.) (from Ch. 110, par. 2-1709)

27 (735 ILCS 5/2-1710 rep.) (from Ch. 110, par. 2-1710)

28 (735 ILCS 5/2-1711 rep.) (from Ch. 110, par. 2-1711)

29 (735 ILCS 5/2-1712 rep.) (from Ch. 110, par. 2-1712)

30 (735 ILCS 5/2-1713 rep.) (from Ch. 110, par. 2-1713)

31 (735 ILCS 5/2-1714 rep.) (from Ch. 110, par. 2-1714)

32 (735 ILCS 5/2-1715 rep.) (from Ch. 110, par. 2-1715)

33 (735 ILCS 5/2-1716 rep.) (from Ch. 110, par. 2-1716)

1 (735 ILCS 5/2-1717 rep.) (from Ch. 110, par. 2-1717)

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

3 (735 ILCS 5/2-1719 rep.) (from Ch. 110, par. 2-1719)

4 Section 5-15. The Code of Civil Procedure is amended by
5 repealing Sections 2-1705, 2-1706, 2-1707, 2-1708, 2-1709,
6 2-1710, 2-1711, 2-1712, 2-1713, 2-1714, 2-1715, 2-1716,
7 2-1717, 2-1718, and 2-1719.

8 Section 5-20. The Good Samaritan Act is amended by changing
9 Sections 25 and 30 as follows:

10 (745 ILCS 49/25)

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

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

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

27 (745 ILCS 49/30)

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

30 (a) A person licensed under the Medical Practice Act of
31 1987, a person licensed to practice the treatment of human

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

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

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

27 (d) The immunity from civil damages provided under
28 subsection (a) also applies to physicians, retired physicians,
29 hospitals, and other health care providers that provide further
30 medical treatment, diagnosis, or advice, including but not
31 limited to hospitalization, office visits, and home visits, to
32 a patient upon referral from an established free medical clinic
33 without fee or compensation.

34 (d-5) A free medical clinic may receive reimbursement from

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

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

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

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

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

27 ARTICLE 10. INSURANCE REGULATION

28 Section 10-1. Short title. This Article 10 may be cited as
29 the Sorry Works! Pilot Program Act, and references in this
30 Article to "this Act" mean this Article.

31 Section 10-5. Sorry Works! pilot program. The Sorry Works!

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

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

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

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

1 total of all grants from the Fund for cases in any single
2 participating hospital in any year may not exceed the amount in
3 the Fund or \$2,000,000, whichever is less. All grants shall be
4 subject to appropriation. Moneys in the Fund shall consist of
5 funds transferred into the Fund or otherwise made available
6 from any source.

7 Section 10-10. Establishment of committee.

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

13 (1) The President of the Senate, the Minority Leader of
14 the Senate, the Speaker of the House of Representatives,
15 and the Minority Leader of the House of Representatives
16 shall each appoint 2 members.

17 (2) The Secretary of Financial and Professional
18 Regulation or his or her designee.

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

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

29 (d) The committee shall report to the Governor and the
30 General Assembly annually.

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

32 (f) Committee members shall receive no compensation for the
33 performance of their duties as members, but each member shall

1 be paid necessary expenses while engaged in the performance of
2 those duties.

3 Section 10-15. Termination of program.

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

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

9 Section 10-905. The Open Meetings Act is amended by
10 changing Section 2 as follows:

11 (5 ILCS 120/2) (from Ch. 102, par. 42)

12 Sec. 2. Open meetings.

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

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

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

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

1 (2) Collective negotiating matters between the public
2 body and its employees or their representatives, or
3 deliberations concerning salary schedules for one or more
4 classes of employees.

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

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

18 (5) The purchase or lease of real property for the use
19 of the public body, including meetings held for the purpose
20 of discussing whether a particular parcel should be
21 acquired.

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

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

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

30 (9) Student disciplinary cases.

31 (10) The placement of individual students in special
32 education programs and other matters relating to
33 individual students.

34 (11) Litigation, when an action against, affecting or

1 on behalf of the particular public body has been filed and
2 is pending before a court or administrative tribunal, or
3 when the public body finds that an action is probable or
4 imminent, in which case the basis for the finding shall be
5 recorded and entered into the minutes of the closed
6 meeting.

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

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

22 (14) Informant sources, the hiring or assignment of
23 undercover personnel or equipment, or ongoing, prior or
24 future criminal investigations, when discussed by a public
25 body with criminal investigatory responsibilities.

26 (15) Professional ethics or performance when
27 considered by an advisory body appointed to advise a
28 licensing or regulatory agency on matters germane to the
29 advisory body's field of competence.

30 (16) Self evaluation, practices and procedures or
31 professional ethics, when meeting with a representative of
32 a statewide association of which the public body is a
33 member.

34 (17) The recruitment, credentialing, discipline or

1 formal peer review of physicians or other health care
2 professionals for a hospital, or other institution
3 providing medical care, that is operated by the public
4 body.

5 (18) Deliberations for decisions of the Prisoner
6 Review Board.

7 (19) Review or discussion of applications received
8 under the Experimental Organ Transplantation Procedures
9 Act.

10 (20) The classification and discussion of matters
11 classified as confidential or continued confidential by
12 the State Employees Suggestion Award Board.

13 (21) Discussion of minutes of meetings lawfully closed
14 under this Act, whether for purposes of approval by the
15 body of the minutes or semi-annual review of the minutes as
16 mandated by Section 2.06.

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

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

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

31 (25) The establishment of reserves administration,
32 adjudication, or settlement of claims as provided in
33 Article XLV of the Illinois Insurance Code if otherwise the
34 disposition of a claim or potential claim might be

1 prejudiced, or the review or discussion of claims, loss or
2 risk management information, records, data, advice or
3 communications from or with respect to any self-insurance
4 trust administration or adjudication of any claim, or
5 insurer created by the public body.

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

7 "Employee" means a person employed by a public body whose
8 relationship with the public body constitutes an
9 employer-employee relationship under the usual common law
10 rules, and who is not an independent contractor.

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

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

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

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

31 Section 10-910. The State Finance Act is amended by adding
32 Section 5.640 as follows:

1 (30 ILCS 105/5.640 new)

2 Sec. 5.640. The Sorry Works! Fund.

3 Section 10-915. The Counties Code is amended by changing
4 Section 5-1005 and by adding Division 6-34 as follows:

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

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

7 1. To purchase and hold the real and personal estate
8 necessary for the uses of the county, and to purchase and hold,
9 for the benefit of the county, real estate sold by virtue of
10 judicial proceedings in which the county is plaintiff.

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

13 3. To make all contracts and do all other acts in relation
14 to the property and concerns of the county necessary to the
15 exercise of its corporate powers.

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

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

23 6. To cause to be erected, or otherwise provided, suitable
24 buildings for, and maintain a county hospital and necessary
25 branch hospitals and/or a county sheltered care home or county
26 nursing home for the care of such sick, chronically ill or
27 infirm persons as may by law be proper charges upon the county,
28 or upon other governmental units, and to provide for the
29 management of the same. The county board may establish rates to
30 be paid by persons seeking care and treatment in such hospital
31 or home in accordance with their financial ability to meet such
32 charges, either personally or through a hospital plan or

1 hospital insurance, and the rates to be paid by governmental
2 units, including the State, for the care of sick, chronically
3 ill or infirm persons admitted therein upon the request of such
4 governmental units. Any hospital maintained by a county under
5 this Section is authorized to provide any service and enter
6 into any contract or other arrangement not prohibited for a
7 hospital that is licensed under the Hospital Licensing Act,
8 incorporated under the General Not-For-Profit Corporation Act,
9 and exempt from taxation under paragraph (3) of subsection (c)
10 of Section 501 of the Internal Revenue Code.

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

15 8. To purchase and hold real estate for the preservation of
16 forests, prairies and other natural areas and to maintain and
17 regulate the use thereof.

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

22 10. To appropriate funds from the county treasury to be
23 used in any manner to be determined by the board for the
24 suppression, eradication and control of tuberculosis among
25 domestic cattle in such county.

26 11. To take all necessary measures to prevent forest fires
27 and encourage the maintenance and planting of trees and the
28 preservation of forests.

29 12. To authorize the closing on Saturday mornings of all
30 offices of all county officers at the county seat of each
31 county, and to otherwise regulate and fix the days and the
32 hours of opening and closing of such offices, except when the
33 days and the hours of opening and closing of the office of any
34 county officer are otherwise fixed by law; but the power herein

1 conferred shall not apply to the office of State's Attorney and
2 the offices of judges and clerks of courts and, in counties of
3 500,000 or more population, the offices of county clerk.

4 13. To provide for the conservation, preservation and
5 propagation of insectivorous birds through the expenditure of
6 funds provided for such purpose.

7 14. To appropriate funds from the county treasury and
8 expend the same for care and treatment of tuberculosis
9 residents.

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

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

19 17. To purchase and hold real estate for the construction
20 and maintenance of motor vehicle parking facilities for persons
21 using county buildings, but the purchase and use of such real
22 estate shall not be for revenue producing purposes.

23 18. To acquire and hold title to real property located
24 within the county, or partly within and partly outside the
25 county by dedication, purchase, gift, legacy or lease, for park
26 and recreational purposes and to charge reasonable fees for the
27 use of or admission to any such park or recreational area and
28 to provide police protection for such park or recreational
29 area. Personnel employed to provide such police protection
30 shall be conservators of the peace within such park or
31 recreational area and shall have power to make arrests on view
32 of the offense or upon warrants for violation of any of the
33 ordinances governing such park or recreational area or for any
34 breach of the peace in the same manner as the police in

1 municipalities organized and existing under the general laws of
2 the State. All such real property outside the county shall be
3 contiguous to the county and within the boundaries of the State
4 of Illinois.

5 19. To appropriate funds from the county treasury to be
6 used to provide supportive social services designed to prevent
7 the unnecessary institutionalization of elderly residents, or,
8 for operation of, and equipment for, senior citizen centers
9 providing social services to elderly residents.

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

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

33 All contracts for the purchase of coal under this Section
34 shall be subject to the provisions of "An Act concerning the

1 use of Illinois mined coal in certain plants and institutions",
2 filed July 13, 1937, as amended.

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

4 (55 ILCS 5/Div. 6-34 heading new)

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

6 (55 ILCS 5/6-34001 new)

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

21 (55 ILCS 5/6-34002 new)

22 Sec. 6-34002. Bonds. The bonds authorized in Section
23 6-34001 shall be issued in such denominations, be for such term
24 or terms, and bear interest at such rate as may be specified in
25 the resolution of the county board authorizing the issuance of
26 those bonds.

27 Section 10-920. The Illinois Insurance Code is amended by
28 adding Article XLV as follows:

29 (215 ILCS 5/Art. XLV heading new)

1 Article XLV. COUNTY RISK RETENTION ARRANGEMENTS
2 FOR THE PROVISION OF MEDICAL MALPRACTICE INSURANCE

3 (215 ILCS 5/1501 new)

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

16 (215 ILCS 5/1502 new)

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

18 "Risk retention trust" or "trust" means a risk retention
19 trust created under this Article.

20 "Trust sponsor" means a county that has created a risk
21 retention trust.

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

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

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

32 "Licensed service company" means an entity licensed by the

1 Department to perform claims adjusting, loss control, and data
2 processing.

3 (215 ILCS 5/1503 new)

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

9 (215 ILCS 5/1504 new)

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

13 (215 ILCS 5/1505 new)

14 Sec. 1505. Creation.

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

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

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

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

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

10 (215 ILCS 5/1506 new)

11 Sec. 1506. Participation.

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

16 (a) meets the underwriting standards for acceptance
17 into the trust;

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

20 (c) provides medical care and related health care in
21 the county sponsoring the trust;

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

24 (e) pays premium contributions on a timely basis as
25 required; and

26 (f) pays predetermined annual required contributions
27 into the contingency reserve fund.

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

1 (215 ILCS 5/1507 new)

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

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

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

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

18 (215 ILCS 5/1508 new)

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

25 (215 ILCS 5/1509 new)

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

30 (1) the common stocks listed on a recognized exchange
31 or market;

32 (2) stock and convertible debt investments, or

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

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

15 (4) mutual funds or commingled funds that meet the
16 following requirements:

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

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

25 (C) the mutual fund has total net assets of
26 \$150,000,000 or more;

27 (5) commercial grade real estate located in the State
28 of Illinois.

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

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

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

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

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

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

12 Section 10-925. The Illinois Insurance Code is amended by
13 changing Sections 155.18, 155.19, 402, and 1204 and by adding
14 Section 155.18a as follows:

15 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

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

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

29 (1) Rates shall not be excessive or inadequate, as
30 herein defined, nor shall they be unfairly discriminatory.
31 No rate shall be held to be excessive unless such rate is
32 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) 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.

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

15 (2) For the purposes of this Section, any change in
16 premium to the company's insureds as a result of a change
17 in the company's base rates or a change in its increased
18 limits factors shall constitute a change in rates and shall
19 require a filing with the Secretary ~~Director~~.

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

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

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

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

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

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

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

21 (f) Every company writing medical liability insurance is
22 encouraged, but not required, to offer the opportunity for
23 participation in a plan offering deductibles to its medical
24 liability insureds. Any plan to offer deductibles shall be
25 filed with the Department of Financial and Professional
26 Regulation.

27 (g) Medical liability insurers are encouraged, but not
28 required, to offer the opportunity for participation in a plan
29 providing premium discounts for participation in risk
30 management activities to its medical liability insureds. Any
31 such plan shall be filed with the Department.

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

1 Sec. 155.18a. Professional Liability Insurance Resource
2 Center. The Secretary of Financial and Professional Regulation
3 shall establish a Professional Liability Insurance Resource
4 Center on the World Wide Web containing the names and telephone
5 numbers of all licensed companies providing medical liability
6 insurance and producers who sell medical liability insurance.
7 Each company and producer shall submit the information to the
8 Department on or before September 30 of each year in order to
9 be listed on the website. The Department is under no obligation
10 to list a company or producer on the website. Hyperlinks to
11 company websites shall be included, if available. The
12 publication of the information on the Department's website
13 shall commence on January 1, 2006. The Department shall update
14 the information on the Professional Liability Insurance
15 Resource Center at least annually.

16 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

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

1 on the part of any physician, hospital, or health care provider
2 for medically-related injuries. Each clerk of the circuit court
3 shall provide to the Secretary such information as the
4 Secretary may deem necessary to verify the accuracy and
5 completeness of reports made to the Secretary under this
6 Section. The Secretary ~~Director~~ shall maintain complete and
7 accurate records of all such claims and suits including their
8 nature, amount, disposition and other information as he may
9 deem useful or desirable in observing and reporting on health
10 care provider liability trends in this State. The Secretary
11 ~~Director~~ shall release to appropriate disciplinary and
12 licensing agencies any such data or information which may
13 assist such agencies in improving the quality of health care or
14 which may be useful to such agencies for the purpose of
15 professional discipline.

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

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

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

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

31 (215 ILCS 5/402) (from Ch. 73, par. 1014)

32 Sec. 402. Examinations, investigations and hearings. (1)
33 All examinations, investigations and hearings provided for by

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

26 (2) All hearings provided for in this Code shall, unless
27 otherwise specially provided, be held at such time and place as
28 shall be designated in a notice which shall be given by the
29 Secretary ~~Director~~ in writing to the person or company whose
30 interests are affected, at least 10 days before the date
31 designated therein. The notice shall state the subject of
32 inquiry and the specific charges, if any. The hearings shall be
33 held in the City of Springfield, the City of Chicago, or in the
34 county where the principal business address of the person or

1 company affected is located. For a rate increase filing in
2 medical liability insurance under subsection (c) of Section
3 155.18 of this Code, the Secretary may hold a hearing with the
4 company and policyholders present for the purpose of receiving
5 testimony from the company and policyholders regarding the rate
6 increase. The hearing must occur under written and express
7 terms and conditions that are sufficient to protect from
8 disclosure information that the subject medical liability
9 insurance company deems proprietary, confidential, or a trade
10 secret. The insurance company must give notice of the hearing
11 time, date, and location to medical liability insurance
12 policyholders whose rates have increased. Notice to
13 policyholders may be given through regular publications issued
14 to policyholders or by electronic means. Other than the cost of
15 this notice, the Department shall be responsible for the costs
16 of this hearing.

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

18 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

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

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

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

6 (a) municipalities;

7 (b) school districts;

8 (c) other political subdivisions;

9 (2) Public official liability insurance;

10 (3) Dram shop liability insurance;

11 (4) Day care center liability insurance;

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

14 (6) Errors and omissions liability insurance;

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

17 (a) non-profit entities;

18 (b) for-profit entities;

19 (8) Products liability insurance;

20 (9) Medical malpractice insurance;

21 (10) Attorney malpractice insurance;

22 (11) Architects and engineers malpractice insurance;

23 and

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

26 (a) motor vehicle physical damage insurance;

27 (b) motor vehicle liability insurance.

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

32 (1) Direct premiums written;

33 (2) Direct premiums earned;

34 (3) Number of policies;

1 (4) Net investment income, using appropriate estimates
2 where necessary;

3 (5) Losses paid;

4 (6) Losses incurred;

5 (7) Loss reserves:

6 (a) Losses unpaid on reported claims;

7 (b) Losses unpaid on incurred but not reported
8 claims;

9 (8) Number of claims:

10 (a) Paid claims;

11 (b) Arising claims;

12 (9) Loss adjustment expenses:

13 (a) Allocated loss adjustment expenses;

14 (b) Unallocated loss adjustment expenses;

15 (10) Net underwriting gain or loss;

16 (11) Net operation gain or loss, including net
17 investment income;

18 (12) Any other information requested by the Secretary
19 Director.

20 (C-5) Additional information required from attorney and
21 medical malpractice insurers.

22 (1) In addition to the other requirements of this
23 Section, all attorney and medical malpractice insurers
24 shall include the following information in the report
25 required by subsection (A) of this Section in such form and
26 under such terms and conditions as may be prescribed by the
27 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) All information collected by the Secretary under
33 paragraph (1) of this subsection (C-5) shall be made
34 available, on an aggregate basis, to the General Assembly

1 and the general public. This provision shall supersede any
2 other provision of law that may otherwise protect such
3 information from public disclosure as confidential. The
4 identity of the plaintiff, the defendant, the attorneys,
5 and the company shall not be disclosed.

6 (C-10) Additional information required from attorney and
7 medical malpractice insurers.

8 (1) All attorney and medical malpractice insurers
9 shall annually provide the Department with a copy of the
10 following:

11 (a) the company's reserve and surplus studies; and

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

14 (2) This information is a confidential trade secret and
15 shall only be used for regulatory purposes. This
16 information may not be disclosed to any person by the
17 Department or any government official, employee, or agent.
18 Unlawful disclosure shall subject the disclosing person to
19 personal liability for damages and a fine of \$10,000 per
20 disclosure.

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

27 (E) Violations - Suspensions - Revocations.

28 (1) Any company or person subject to this Article, who
29 willfully or repeatedly fails to observe or who otherwise
30 violates any of the provisions of this Article or any rule
31 or regulation promulgated by the Secretary ~~Director~~ under
32 authority of this Article or any final order of the
33 Secretary ~~Director~~ entered under the authority of this
34 Article shall by civil penalty forfeit to the State of

1 Illinois a sum not to exceed \$2,000. Each day during which
2 a violation occurs constitutes a separate offense.

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

18 (3) No forfeiture liability under paragraph (1) of this
19 subsection may attach for any violation occurring more than
20 2 years prior to the date of issuance of the notice of
21 apparent liability and in no event may the total civil
22 penalty forfeiture imposed for the acts or omissions set
23 forth in any one notice of apparent liability exceed
24 \$100,000.

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

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

1 principal operating office.

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

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

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

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

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

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

7 Section 10-930. The Clerks of Courts Act is amended by
8 adding Section 27.10 as follows:

9 (705 ILCS 105/27.10 new)

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

15 ARTICLE 15. MEDICAL PRACTICE FOSTERING AND REGULATION

16 Section 15-1. Short title. This Article 15 may be cited as
17 the Loan Repayment Assistance for Physicians Practicing in
18 Medical Care Shortage Areas Act, and references in this Article
19 to "this Act" mean this Article.

20 Section 15-5. Purpose. The purpose of this Act is to
21 establish a program in the Department of Financial and
22 Professional Regulation to increase the total number of
23 physicians practicing in counties in the State that the
24 Department deems medical care shortage areas by providing
25 educational loan repayment assistance grants to those
26 physicians.

27 Section 15-10. Definitions. In this Act, unless the
28 context otherwise requires:

1 "Department" means the Department of Financial and
2 Professional Regulation.

3 "Educational loans" means higher education student loans
4 that a person has incurred in attending a registered
5 professional physician education program.

6 "Physician" means a person licensed under the Medical
7 Practice Act of 1987 to practice medicine in all of its
8 branches.

9 "Program" means the educational loan repayment assistance
10 program for physicians established by the Department under this
11 Act.

12 Section 15-15. Establishment of program. The Department
13 shall conduct an annual survey identifying counties in the
14 State that the Department deems medical care shortage areas.
15 The Department shall establish an educational loan repayment
16 assistance program for physicians who practice in counties in
17 the State that the Department deems medical care shortage
18 areas. The Department shall administer the program and make all
19 necessary and proper rules not inconsistent with this Act for
20 the program's effective implementation. The Department may use
21 up to 5% of the appropriation for this program for
22 administration and promotion of physician incentive programs.

23 Section 15-20. Application. Beginning July 1, 2005, the
24 Department shall, each year, consider applications for
25 assistance under the program. The form of application and the
26 information required to be set forth in the application shall
27 be determined by the Department, and the Department shall
28 require applicants to submit with their applications such
29 supporting documents as the Department deems necessary.

30 Section 15-25. Eligibility. To be eligible for assistance
31 under the program, an applicant must meet all of the following

1 qualifications:

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

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

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

8 (4) He or she must currently be repaying educational
9 loans.

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

12 Section 15-30. Awarding grants. Under the program, for
13 each year that a qualified applicant practices full-time in
14 Illinois as a physician, the Department shall, subject to
15 appropriation, award a grant to that person in an amount equal
16 to the amount in educational loans that the person must repay
17 that year. However, the total amount in grants that a person
18 may be awarded under the program shall not exceed \$30,000. The
19 Department shall require recipients to use the grants to pay
20 off their educational loans.

21 Section 15-35. Penalty for failure to fulfill obligation.
22 Loan repayment recipients who fail to practice full-time in
23 Illinois for 3 years shall repay the Department a sum equal to
24 3 times the amount received under the program.

25 Section 15-905. The Nursing Home Care Act is amended by
26 changing Section 3-602 as follows:

27 (210 ILCS 45/3-602) (from Ch. 111 1/2, par. 4153-602)

28 Sec. 3-602. The licensee shall pay the actual damages and
29 costs and reasonable attorney's fees as related to the award
30 granted ~~attorney's fees~~ to a facility resident whose rights, as

1 specified in Part 1 of Article II of this Act, are violated.
2 Such attorney's fees shall be subject to judicial review to
3 determine their reasonableness.

4 (Source: P.A. 89-197, eff. 7-21-95.)

5 Section 15-910. The Medical Practice Act of 1987 is amended
6 by changing Sections 7, 22, 23, 24, and 36 as follows:

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

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

9 Sec. 7. Medical Disciplinary Board.

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

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

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

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

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

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

21 (D) (Blank).

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

33 (F) Each member, and member-officer, of the Disciplinary
34 Board shall receive a per diem stipend as the Secretary

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

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

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

34 (H) Upon the specific request of the Disciplinary Board,

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

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

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

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

26 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

28 Sec. 22. Disciplinary action.

29 (A) The Department may revoke, suspend, place on
30 probationary status, refuse to renew, or take any other
31 disciplinary action as the Department may deem proper with
32 regard to the license or visiting professor permit of any
33 person issued under this Act to practice medicine, or to treat

1 human ailments without the use of drugs and without operative
2 surgery upon any of the following grounds:

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

5 (a) a facility licensed pursuant to the Ambulatory
6 Surgical Treatment Center Act;

7 (b) an institution licensed under the Hospital
8 Licensing Act; or

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

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

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

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

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

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

33 (5) Engaging in dishonorable, unethical or
34 unprofessional conduct of a character likely to deceive,

1 defraud or harm the public.

2 (6) Obtaining any fee by fraud, deceit, or
3 misrepresentation.

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

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

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

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

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

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

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

32 (14) Dividing with anyone other than physicians with
33 whom the licensee practices in a partnership, Professional
34 Association, limited liability company, or Medical or

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

34 (15) A finding by the Medical Disciplinary Board that

1 the registrant after having his or her license placed on
2 probationary status or subjected to conditions or
3 restrictions violated the terms of the probation or failed
4 to comply with such terms or conditions.

5 (16) Abandonment of a patient.

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

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

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

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

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

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

33 (23) Being named as a perpetrator in an indicated
34 report by the Department of Children and Family Services

1 under the Abused and Neglected Child Reporting Act, and
2 upon proof by clear and convincing evidence that the
3 licensee has caused a child to be an abused child or
4 neglected child as defined in the Abused and Neglected
5 Child Reporting Act.

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

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

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

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

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

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

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

31 (31) The use of any false, fraudulent, or deceptive
32 statement in (a) any document, (b) any consulting report
33 pursuant to Section 2-622 of the Code of Civil Procedure,
34 (c) any deposition, or (d) any testimony before a court or

1 at an administrative hearing connected with practice under
2 this Act.

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

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

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

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

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

34 (37) Failure to transfer copies of medical records as

1 required by law.

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

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

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

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

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

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

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

1 filing of the complaint. In the event of the settlement of any
2 claim or cause of action in favor of the claimant or the
3 reduction to final judgment of any civil action in favor of the
4 plaintiff, such claim, cause of action or civil action being
5 grounded on the allegation that a person licensed under this
6 Act was negligent in providing care, the Department shall have
7 an additional period of 2 years ~~one year~~ from the date of
8 notification to the Department under Section 23 of this Act of
9 such settlement or final judgment in which to investigate and
10 commence formal disciplinary proceedings under Section 36 of
11 this Act, except as otherwise provided by law. The Department
12 shall expunge the records of discipline solely for
13 administrative matters, as defined by rule, 3 years after final
14 disposition or after the statute of limitations has expired,
15 whichever is later. The time during which the holder of the
16 license was outside the State of Illinois shall not be included
17 within any period of time limiting the commencement of
18 disciplinary action by the Department.

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

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

1 the Illinois Department of Revenue.

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

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

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

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

14 (d) what constitutes gross negligence in the practice
15 of medicine.

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

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

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

31 An individual licensed under this Act, affected under this
32 Section, shall be afforded an opportunity to demonstrate to the
33 Disciplinary Board that they can resume practice in compliance
34 with acceptable and prevailing standards under the provisions

1 of their license.

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

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

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

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

1 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

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

5 (A) Entities required to report.

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

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

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

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

31 (4) State's Attorneys. The State's Attorney of each
32 county shall report to the Disciplinary Board all instances
33 in which a person licensed under this Act is convicted or
34 otherwise found guilty of the commission of any felony. The

1 State's Attorney of each county may report to the
2 Disciplinary Board through a verified complaint any
3 instance in which the State's Attorney believes that a
4 physician has willfully violated the notice requirements
5 of the Parental Notice of Abortion Act of 1995.

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

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

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

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

28 (3) The name and date of birth ~~or other means of~~
29 ~~identification~~ of any patient or patients whose treatment
30 is a subject of the report, if available, or other means of
31 identification if such information is not available,
32 identification of the hospital or other healthcare
33 facility where the care at issue in the report was
34 rendered, provided, however, no medical records may be

1 revealed ~~without the written consent of the patient or~~
2 ~~patients.~~

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

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

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

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

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

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

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

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

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

34 Should the Attorney General decline representation, the

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

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

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

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

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

1 which the person was notified by the Disciplinary Board of the
2 existence of the original report.

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

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

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

32 (F) Summary reports. The Disciplinary Board shall prepare,
33 on a timely basis, but in no event less than one every other
34 month, a summary report of final actions taken upon

1 disciplinary files maintained by the Disciplinary Board. The
2 summary reports shall be sent by the Disciplinary Board to
3 every health care facility licensed by the Illinois Department
4 of Public Health, every professional association and society of
5 persons licensed under this Act functioning on a statewide
6 basis in this State, the American Medical Association, the
7 American Osteopathic Association, the American Chiropractic
8 Association, all insurers providing professional liability
9 insurance to persons licensed under this Act in the State of
10 Illinois, the Federation of State Medical Licensing Boards, and
11 the Illinois Pharmacists Association.

12 (G) Any violation of this Section shall be a Class A
13 misdemeanor.

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

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

29 (225 ILCS 60/24) (from Ch. 111, par. 4400-24)

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

31 Sec. 24. Report of violations; medical associations. Any
32 physician licensed under this Act, the Illinois State Medical
33 Society, the Illinois Association of Osteopathic Physicians

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

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

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

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

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

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

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

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

18 (225 ILCS 60/36) (from Ch. 111, par. 4400-36)

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

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

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

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

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

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

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

1 enforcement agency may be used by that agency only for the
2 investigation and prosecution of a criminal offense.

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

4 ARTICLE 99. MISCELLANEOUS

5 Section 99-5. Liberal construction; inseverability.

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

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

13 Section 99-99. Effective date. This Act takes effect upon
14 becoming law."