

1 AN ACT in relation to medical practice.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Medical Practice Act of 1987 is amended
5 by changing Section 23 and adding Section 23.1 as follows:

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

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

9 (A) Entities required to report.

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

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

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

29 (3) Professional liability insurers. Every
30 insurance company which offers policies of professional
31 liability insurance to persons licensed under this Act,
32 or any other entity which seeks to indemnify the
33 professional liability of a person licensed under this
34 Act, shall report to the Disciplinary Board the

1 settlement of any claim or cause of action, or final
2 judgment rendered in any cause of action, which alleged
3 negligence in the furnishing of medical care by such
4 licensed person when such settlement or final judgment is
5 in favor of the plaintiff.

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

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

29 (B) Mandatory reporting. All reports required by items
30 (34), (35), and (36) of subsection (A) of Section 22 and by
31 Section 23 shall be submitted to the Disciplinary Board in a
32 timely fashion. The reports shall be filed in writing within
33 60 days after a determination that a report is required under
34 this Act. All reports shall contain the following

1 information:

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

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

6 (3) The name or other means of identification of
7 any patient or patients whose treatment is a subject of
8 the report, provided, however, no medical records may be
9 revealed without the written consent of the patient or
10 patients.

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

15 (5) If court action is involved, the identity of
16 the court in which the action is filed, along with the
17 docket number and date of filing of the action.

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

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

31 When the Department has received written reports
32 concerning incidents required to be reported in items (34),
33 (35), and (36) of subsection (A) of Section 22, the
34 licensee's failure to report the incident to the Department

1 under those items shall not be the sole grounds for
2 disciplinary action.

3 Nothing contained in this Section shall act to in any
4 way, waive or modify the confidentiality of medical reports
5 and committee reports to the extent provided by law. Except
6 for information required for physician profiles under Section
7 23.1 of this Act, any information reported or disclosed shall
8 be kept for the confidential use of the Disciplinary Board,
9 the Medical Coordinators, the Disciplinary Board's attorneys,
10 the medical investigative staff, and authorized clerical
11 staff, as provided in this Act, and shall be afforded the
12 same status as is provided information concerning medical
13 studies in Part 21 of Article VIII of the Code of Civil
14 Procedure.

15 (C) Immunity from prosecution. Any individual or
16 organization acting in good faith, and not in a wilful and
17 wanton manner, in complying with this Act by providing any
18 report or other information to the Disciplinary Board, or
19 assisting in the investigation or preparation of such
20 information, or by participating in proceedings of the
21 Disciplinary Board, or by serving as a member of the
22 Disciplinary Board, shall not, as a result of such actions,
23 be subject to criminal prosecution or civil damages.

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

1 not in good faith or were wilful and wanton.

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

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

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

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

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

1 Disciplinary Board of the existence of the original report.

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

11 When the Disciplinary Board makes its initial review of
12 the 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
17 determination that there are not sufficient facts to warrant
18 further 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
22 be deemed closed and so reported to the Director. The
23 Director shall then have 30 days to accept the Medical
24 Disciplinary Board's decision or request further
25 investigation. The Director shall inform the Board in
26 writing of the decision to request further investigation,
27 including the specific reasons for the decision. The
28 individual or entity filing the original report or complaint
29 and the person who is the subject of the report or complaint
30 shall be notified in writing by the Director of any final
31 action on their report or complaint.

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

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

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

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

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

30 (225 ILCS 60/23.1 new)

31 Sec. 23.1. Public disclosure of disciplinary records.

32 (a) The Disciplinary Board shall collect all of the
33 following information to create individual profiles on

1 licensees, in a format created by the Disciplinary Board that
2 shall be available for dissemination to the public:

3 (1) A description of any criminal convictions for
4 felonies and serious misdemeanors as determined by the
5 Disciplinary Board, within the most recent 10 years. For
6 the purposes of this item, a person shall be deemed to be
7 convicted of a crime if he or she pled guilty or if he or
8 she was found or adjudged guilty by a court of competent
9 jurisdiction.

10 (2) A description of any charges to which a
11 physician pleads nolo contendere or where a disposition
12 of supervision is made by a court of competent
13 jurisdiction, within the most recent 10 years.

14 (3) A description of any final disciplinary actions
15 taken by the Disciplinary Board within the most recent 10
16 years.

17 (4) A description of any final disciplinary actions
18 taken by licensing boards in other states within the most
19 recent 10 years.

20 (5) A description of revocation or involuntary
21 restriction of hospital privileges for reasons related to
22 competence or character that have been taken by the
23 hospital's governing body or any other official of the
24 hospital after procedural due process has been afforded,
25 the resignation from or nonrenewal of medical staff
26 membership, or the restriction of privileges at a
27 hospital taken in lieu of or in settlement of a pending
28 disciplinary case related to competence or character in
29 that hospital. Only cases that have occurred within the
30 most recent 10 years shall be disclosed by the
31 Disciplinary Board to the public.

32 (6) All medical malpractice court judgments,
33 medical malpractice arbitration awards, and settlements
34 of medical malpractice claims in which a payment is made

1 to a complaining party, within the most recent 10 years.
2 Dispositions of paid claims shall be reported in a
3 minimum of 3 graduated categories indicating the level of
4 significance of the award or settlement. Information
5 concerning paid medical malpractice claims shall be put
6 in context by comparing an individual licensee's medical
7 malpractice judgment and arbitration awards and
8 settlements to the experience of other licensees within
9 the same specialty. Information concerning settlements
10 shall be accompanied by the following statement:
11 "Settlement of a claim may occur for a variety of reasons
12 which do not necessarily reflect negatively on the
13 professional competence or conduct of the physician. A
14 payment in settlement of a medical malpractice action or
15 claim should not be construed as creating a presumption
16 that medical malpractice has occurred." Nothing in this
17 Section shall be construed to limit or prevent the
18 Disciplinary Board from providing further explanatory
19 information regarding the significance of categories in
20 which settlements are reported.

21 Pending malpractice claims shall not be disclosed by
22 the Disciplinary Board to the public. Nothing in this
23 Section shall be construed to prevent the Disciplinary
24 Board from investigating and disciplining a licensee on
25 the basis of medical malpractice claims that are pending.

26 (7) Names of medical schools and dates of
27 graduation.

28 The Disciplinary Board shall provide each licensee with a
29 copy of his or her profile prior to release to the public. A
30 licensee shall be provided a reasonable time to correct
31 factual inaccuracies that appear in his or her profile.

32 (a-5) A licensee may elect to include in his or her
33 profile the following information that shall be available for
34 dissemination to the public:

- 1 (1) specialty board certification;
- 2 (2) number of years in practice;
- 3 (3) names of the hospitals where the licensee has
4 privileges;
- 5 (4) appointments to medical school faculties and
6 indication as to whether a licensee has had a
7 responsibility for graduate medical education within the
8 most recent 10 years;
- 9 (5) publications in peer-reviewed medical
10 literature within the most recent 10 years;
- 11 (6) professional or community service activities
12 and awards;
- 13 (7) the location of the licensee's primary practice
14 setting;
- 15 (8) the identification of any translating services
16 that may be available at the licensee's primary practice
17 location; and
- 18 (9) an indication of whether the licensee
19 participates in the Medicaid program.

20 (b) The Department shall maintain a toll free telephone
21 line for responding to requests for information about the
22 disciplinary records of physicians in Illinois.

23 (c) When collecting information or compiling reports
24 intended to compare physicians, the Disciplinary Board shall
25 require that:

- 26 (1) physicians shall be meaningfully involved in
27 the development of all aspects of the profile
28 methodology, including collection methods, formatting,
29 and methods and means for release and dissemination;
- 30 (2) the entire methodology for collecting and
31 analyzing the data shall be disclosed to all relevant
32 physician organizations and to all physicians under
33 review;
- 34 (3) data collection and analytical methodologies

1 shall be used that meet accepted standards of validity
2 and reliability;

3 (4) the limitations of the data sources and
4 analytic methodologies used to develop physician profiles
5 shall be clearly identified and acknowledged, including
6 but not limited to the appropriate and inappropriate uses
7 of the data;

8 (5) to the greatest extent possible, physician
9 profiling initiatives shall use standard-based norms
10 derived from widely accepted, provider-developed practice
11 guidelines;

12 (6) provider profiles and other information that
13 have been compiled regarding physician performance shall
14 be shared with physicians under review prior to
15 dissemination provided that an opportunity for
16 corrections and additions of helpful explanatory comments
17 shall be afforded before publication, and provided
18 further that the profiles shall include only data that
19 reflect care under the control of the physician for whom
20 the profile is prepared;

21 (7) comparisons among physician profiles shall
22 adjust for patient case mix and other relevant risk
23 factors and control for provider peer groups, when
24 appropriate;

25 (8) effective safeguards to protect against the
26 unauthorized use or disclosure of physician profiles
27 shall be developed and implemented;

28 (9) effective safeguards to protect against the
29 dissemination of inconsistent, incomplete, invalid,
30 inaccurate, or subjective profile data shall be developed
31 and implemented;

32 (10) the quality and accuracy of physician
33 profiles, data sources, and methodologies shall be
34 evaluated regularly; and

1 (11) only the most basic identifying information
2 from mandatory reports may be used, and details about a
3 patient or personal details about a physician not already
4 a matter of public record through another source must not
5 be released.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.