



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/6/2004, by Angelo Saviano

**SYNOPSIS AS INTRODUCED:**

225 ILCS 60/22	from Ch. 111, par. 4400-22
225 ILCS 60/23	from Ch. 111, par. 4400-23
225 ILCS 60/36	from Ch. 111, par. 4400-36

Amends the Medical Practice Act of 1987. In provisions concerning reports relating to professional conduct and capacity and investigations of violations of the Act, allows the Department of Professional Regulation to disclose information and documents to a federal, state, or local law enforcement agency upon service of a valid subpoena. Provides that violating state or federal laws or regulations relating to legend drugs or legally prohibited substances (rather than controlled substances) is grounds for disciplinary action.

LRB093 19986 AMC 45730 b

1 AN ACT concerning professional regulation.

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 by  
5 changing Sections 22, 23, and 36 as follows:

6 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

7 (Section scheduled to be repealed on January 1, 2007)

8 Sec. 22. Disciplinary action.

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

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

18 (a) a facility licensed pursuant to the Ambulatory  
19 Surgical Treatment Center Act;

20 (b) an institution licensed under the Hospital  
21 Licensing Act; or

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

29 (d) ambulatory surgical treatment centers,  
30 hospitalization or care facilities maintained by the  
31 Federal Government; or

32 (e) ambulatory surgical treatment centers,

1 hospitalization or care facilities maintained by any  
2 university or college established under the laws of  
3 this State and supported principally by public funds  
4 raised by taxation.

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

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

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

14 (5) Engaging in dishonorable, unethical or  
15 unprofessional conduct of a character likely to deceive,  
16 defraud or harm the public.

17 (6) Obtaining any fee by fraud, deceit, or  
18 misrepresentation.

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

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

25 (9) Fraud or misrepresentation in applying for, or  
26 procuring, a license under this Act or in connection with  
27 applying for renewal of a license under this Act.

28 (10) Making a false or misleading statement regarding  
29 their skill or the efficacy or value of the medicine,  
30 treatment, or remedy prescribed by them at their direction  
31 in the treatment of any disease or other condition of the  
32 body or mind.

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

35 (12) Disciplinary action of another state or  
36 jurisdiction against a license or other authorization to

1 practice as a medical doctor, doctor of osteopathy, doctor  
2 of osteopathic medicine or doctor of chiropractic, a  
3 certified copy of the record of the action taken by the  
4 other state or jurisdiction being prima facie evidence  
5 thereof.

6 (13) Violation of any provision of this Act or of the  
7 Medical Practice Act prior to the repeal of that Act, or  
8 violation of the rules, or a final administrative action of  
9 the Director, after consideration of the recommendation of  
10 the Disciplinary Board.

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

1 fees and monies received by the partnership or joint  
2 venture in accordance with the partnership or joint venture  
3 agreement. Nothing contained in this subsection shall  
4 abrogate the right of 2 or more persons, holding valid and  
5 current licenses under this Act, to each receive adequate  
6 compensation for concurrently rendering professional  
7 services to a patient and divide a fee; provided, the  
8 patient has full knowledge of the division, and, provided,  
9 that the division is made in proportion to the services  
10 performed and responsibility assumed by each.

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

16 (16) Abandonment of a patient.

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

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

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

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

34 (21) Wilfully making or filing false records or reports  
35 in his or her practice as a physician, including, but not  
36 limited to, false records to support claims against the

1 medical assistance program of the Department of Public Aid  
2 under the Illinois Public Aid Code.

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

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

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

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

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

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

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

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

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

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

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

10           (33) Violating state or federal laws or regulations  
11 relating to legend drugs or legally prohibited substances  
12 ~~controlled substances~~.

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

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

33           (36) Failure to report to the Department any adverse  
34 judgment, settlement, or award arising from a liability  
35 claim related to acts or conduct similar to acts or conduct  
36 which would constitute grounds for action as defined in

1           this Section.

2           (37) Failure to transfer copies of medical records as  
3           required by law.

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

9           (39) Violating the Health Care Worker Self-Referral  
10          Act.

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

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

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

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

22          All proceedings to suspend, revoke, place on probationary  
23          status, or take any other disciplinary action as the Department  
24          may deem proper, with regard to a license on any of the  
25          foregoing grounds, must be commenced within 3 years next after  
26          receipt by the Department of a complaint alleging the  
27          commission of or notice of the conviction order for any of the  
28          acts described herein. Except for the grounds numbered (8), (9)  
29          and (29), no action shall be commenced more than 5 years after  
30          the date of the incident or act alleged to have violated this  
31          Section. In the event of the settlement of any claim or cause  
32          of action in favor of the claimant or the reduction to final  
33          judgment of any civil action in favor of the plaintiff, such  
34          claim, cause of action or civil action being grounded on the  
35          allegation that a person licensed under this Act was negligent  
36          in providing care, the Department shall have an additional



1 period of one year from the date of notification to the  
2 Department under Section 23 of this Act of such settlement or  
3 final judgment in which to investigate and commence formal  
4 disciplinary proceedings under Section 36 of this Act, except  
5 as otherwise provided by law. The time during which the holder  
6 of the license was outside the State of Illinois shall not be  
7 included within any period of time limiting the commencement of  
8 disciplinary action by the Department.

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

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

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

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

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

34 (c) what constitutes immoral conduct in the commission  
35 of any act, including, but not limited to, commission of an  
36 act of sexual misconduct related to the licensee's

1 practice; and

2 (d) what constitutes gross negligence in the practice  
3 of medicine.

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

7 In enforcing this Section, the Medical Disciplinary Board,  
8 upon a showing of a possible violation, may compel any  
9 individual licensed to practice under this Act, or who has  
10 applied for licensure or a permit pursuant to this Act, to  
11 submit to a mental or physical examination, or both, as  
12 required by and at the expense of the Department. The examining  
13 physician or physicians shall be those specifically designated  
14 by the Disciplinary Board. The Medical Disciplinary Board or  
15 the Department may order the examining physician to present  
16 testimony concerning this mental or physical examination of the  
17 licensee or applicant. No information shall be excluded by  
18 reason of any common law or statutory privilege relating to  
19 communication between the licensee or applicant and the  
20 examining physician. The individual to be examined may have, at  
21 his or her own expense, another physician of his or her choice  
22 present during all aspects of the examination. Failure of any  
23 individual to submit to mental or physical examination, when  
24 directed, shall be grounds for suspension of his or her license  
25 until such time as the individual submits to the examination if  
26 the Disciplinary Board finds, after notice and hearing, that  
27 the refusal to submit to the examination was without reasonable  
28 cause. If the Disciplinary Board finds a physician unable to  
29 practice because of the reasons set forth in this Section, the  
30 Disciplinary Board shall require such physician to submit to  
31 care, counseling, or treatment by physicians approved or  
32 designated by the Disciplinary Board, as a condition for  
33 continued, reinstated, or renewed licensure to practice. Any  
34 physician, whose license was granted pursuant to Sections 9,  
35 17, or 19 of this Act, or, continued, reinstated, renewed,  
36 disciplined or supervised, subject to such terms, conditions or

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

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

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

30 (B) The Department shall revoke the license or visiting  
31 permit of any person issued under this Act to practice medicine  
32 or to treat human ailments without the use of drugs and without  
33 operative surgery, who has been convicted a second time of  
34 committing any felony under the Illinois Controlled Substances  
35 Act, or who has been convicted a second time of committing a  
36 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois

1 Public Aid Code. A person whose license or visiting permit is  
2 revoked under this subsection B of Section 22 of this Act shall  
3 be prohibited from practicing medicine or treating human  
4 ailments without the use of drugs and without operative  
5 surgery.

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

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

18 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

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

20 Sec. 23. Reports relating to professional conduct and  
21 capacity.

22 (A) Entities required to report.

23 (1) Health care institutions. The chief administrator  
24 or executive officer of any health care institution  
25 licensed by the Illinois Department of Public Health shall  
26 report to the Disciplinary Board when any person's clinical  
27 privileges are terminated or are restricted based on a  
28 final determination, in accordance with that institution's  
29 by-laws or rules and regulations, that a person has either  
30 committed an act or acts which may directly threaten  
31 patient care, and not of an administrative nature, or that  
32 a person may be mentally or physically disabled in such a  
33 manner as to endanger patients under that person's care.  
34 Such officer also shall report if a person accepts  
35 voluntary termination or restriction of clinical

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

28 (2) Professional associations. The President or chief  
29 executive officer of any association or society, of persons  
30 licensed under this Act, operating within this State shall  
31 report to the Disciplinary Board when the association or  
32 society renders a final determination that a person has  
33 committed unprofessional conduct related directly to  
34 patient care or that a person may be mentally or physically  
35 disabled in such a manner as to endanger patients under  
36 that person's care.

1           (3) Professional liability insurers. Every insurance  
2           company which offers policies of professional liability  
3           insurance to persons licensed under this Act, or any other  
4           entity which seeks to indemnify the professional liability  
5           of a person licensed under this Act, shall report to the  
6           Disciplinary Board the settlement of any claim or cause of  
7           action, or final judgment rendered in any cause of action,  
8           which alleged negligence in the furnishing of medical care  
9           by such licensed person when such settlement or final  
10          judgment is in favor of the plaintiff.

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

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

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

1 Act. All reports shall contain the following 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 any  
7 patient or patients whose treatment is a subject of the  
8 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 rise to  
12 the issuance of the report, including the dates of any  
13 occurrences deemed to necessitate the filing of the report.

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

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

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

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

35 Nothing contained in this Section shall act to in any way,  
36 waive or modify the confidentiality of medical reports and

1 committee reports to the extent provided by law. Any  
2 information reported or disclosed shall be kept for the  
3 confidential use of the Disciplinary Board, the Medical  
4 Coordinators, the Disciplinary Board's attorneys, the medical  
5 investigative staff, and authorized clerical staff, as  
6 provided in this Act, and shall be afforded the same status as  
7 is provided information concerning medical studies in Part 21  
8 of Article VIII of the Code of Civil Procedure, except that  
9 upon service of a valid subpoena the Department may disclose  
10 information and documents to a federal, state, or local law  
11 enforcement agency.

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

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

33 Should the Attorney General decline representation, the  
34 member shall have the right to employ counsel of his or her  
35 choice, whose fees shall be provided by the State, after  
36 approval by the Attorney General, unless there is a



1 determination by a court that the member's actions were not in  
2 good faith or were wilful and wanton.

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

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

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

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

31 The Disciplinary Board shall review all reports received by  
32 it, together with any supporting information and responding  
33 statements submitted by persons who are the subject of reports.  
34 The review by the Disciplinary Board shall be in a timely  
35 manner but in no event, shall the Disciplinary Board's initial  
36 review of the material contained in each disciplinary file be

1 less than 61 days nor more than 180 days after the receipt of  
2 the initial report by the Disciplinary Board.

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

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

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

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

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

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

18 (225 ILCS 60/36) (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  
34 Disciplinary Board under oath within 20 days after the service  
35 on them of such notice and inform them that if they fail to

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

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

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

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

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