

1 AN ACT concerning health care.

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

4 Section 5. The Illinois Occupational Therapy Practice Act
5 is amended by changing Sections 3.1 and 19 as follows:

6 (225 ILCS 75/3.1)

7 (Section scheduled to be repealed on January 1, 2014)

8 Sec. 3.1. Referrals. A licensed occupational therapist or
9 licensed occupational therapy assistant may consult with,
10 educate, evaluate, and monitor services for clients concerning
11 non-medical occupational therapy needs. Implementation of
12 direct occupational therapy to individuals for their specific
13 health care conditions shall be based upon a referral from a
14 licensed physician, dentist, podiatrist, advanced practice
15 nurse who has a written collaborative agreement with a
16 collaborative physician that authorizes the provision of or
17 acceptance of referrals from licensed occupational therapists,
18 physician assistant who has been delegated authority to provide
19 or accept referrals from or to licensed occupational
20 therapists, or optometrist.

21 An occupational therapist shall refer to a licensed
22 physician, dentist, optometrist, advanced practice nurse,
23 physician assistant, or podiatrist any patient whose medical
24 condition should, at the time of evaluation or treatment, be
25 determined to be beyond the scope of practice of the
26 occupational therapist.

27 (Source: P.A. 92-297, eff. 1-1-02; 93-461, eff. 8-8-03.)

28 (225 ILCS 75/19) (from Ch. 111, par. 3719)

29 (Section scheduled to be repealed on January 1, 2014)

30 Sec. 19. (a) The Department may refuse to issue or renew,
31 or may revoke, suspend, place on probation, reprimand or take

1 other disciplinary action as the Department may deem proper,
2 including fines not to exceed \$2,500 for each violation, with
3 regard to any license for any one or combination of the
4 following:

5 (1) Material misstatement in furnishing information to
6 the Department;

7 (2) Wilfully violating this Act, or of the rules
8 promulgated thereunder;

9 (3) Conviction of any crime under the laws of the
10 United States or any state or territory thereof which is a
11 felony or which is a misdemeanor, an essential element of
12 which is dishonesty, or of any crime which is directly
13 related to the practice of occupational therapy;

14 (4) Making any misrepresentation for the purpose of
15 obtaining certification, or violating any provision of
16 this Act or the rules promulgated thereunder pertaining to
17 advertising;

18 (5) Having demonstrated unworthiness, or incompetency
19 to act as an occupational therapist or occupational therapy
20 assistant in such manner as to safeguard the interest of
21 the public;

22 (6) Wilfully aiding or assisting another person, firm,
23 partnership or corporation in violating any provision of
24 this Act or rules;

25 (7) Failing, within 60 days, to provide information in
26 response to a written request made by the Department;

27 (8) Engaging in dishonorable, unethical or
28 unprofessional conduct of a character likely to deceive,
29 defraud or harm the public;

30 (9) Habitual intoxication or addiction to the use of
31 drugs;

32 (10) Discipline by another state, the District of
33 Columbia, a territory, or foreign nation, if at least one
34 of the grounds for the discipline is the same or
35 substantially equivalent to those set forth herein;

36 (11) Directly or indirectly giving to or receiving from

1 any person, firm, corporation, partnership or association
2 any fee, commission, rebate or other form of compensation
3 for professional services not actually or personally
4 rendered;

5 (12) A finding by the Department that the license
6 holder, after having his license disciplined, has violated
7 the terms of the discipline;

8 (13) Wilfully making or filing false records or reports
9 in the practice of occupational therapy, including but not
10 limited to false records filed with the State agencies or
11 departments;

12 (14) Physical illness, including but not limited to,
13 deterioration through the aging process, or loss of motor
14 skill which results in the inability to practice the
15 profession with reasonable judgment, skill or safety;

16 (15) Solicitation of professional services other than
17 by permitted advertising;

18 (16) Wilfully exceeding the scope of practice
19 customarily undertaken by persons licensed under this Act,
20 which conduct results in, or may result in, harm to the
21 public;

22 (17) Holding one's self out to practice occupational
23 therapy under any name other than his own or impersonation
24 of any other occupational therapy licensee;

25 (18) Gross negligence;

26 (19) Malpractice;

27 (20) Obtaining a fee in money or gift in kind of any
28 other items of value or in the form of financial profit or
29 benefit as personal compensation, or as compensation, or
30 charge, profit or gain for an employer or for any other
31 person or persons, on the fraudulent misrepresentation
32 that a manifestly incurable condition of sickness, disease
33 or injury to any person can be cured;

34 (21) Accepting commissions or rebates or other forms of
35 remuneration for referring persons to other professionals;

36 (22) Failure to file a return, or to pay the tax,

1 penalty or interest shown in a filed return, or to pay any
2 final assessment of tax, penalty or interest, as required
3 by any tax Act administered by the Illinois Department of
4 Revenue, until such time as the requirements of any such
5 tax Act are satisfied;

6 (23) Violating the Health Care Worker Self-Referral
7 Act; and

8 (24) Having treated patients other than by the practice
9 of occupational therapy as defined in this Act, or having
10 treated patients as a licensed occupational therapist
11 independent of a referral from a physician, advanced
12 practice nurse or physician assistant in accordance with
13 Section 3.1, dentist, podiatrist, or optometrist, or
14 having failed to notify the physician, advanced practice
15 nurse, physician assistant, dentist, podiatrist, or
16 optometrist who established a diagnosis that the patient is
17 receiving occupational therapy pursuant to that diagnosis.

18 (b) The determination by a circuit court that a license
19 holder is subject to involuntary admission or judicial
20 admission as provided in the Mental Health and Developmental
21 Disabilities Code, as now or hereafter amended, operates as an
22 automatic suspension. Such suspension will end only upon a
23 finding by a court that the patient is no longer subject to
24 involuntary admission or judicial admission, an order by the
25 court so finding and discharging the patient, and the
26 recommendation of the Board to the Director that the license
27 holder be allowed to resume his practice.

28 (c) The Department may refuse to issue or take disciplinary
29 action concerning the license of any person who fails to file a
30 return, 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 Department of Revenue, until such time as the requirements of
34 any such tax Act are satisfied as determined by the Department
35 of Revenue.

36 (d) In enforcing this Section, the Board, upon a showing of

1 a possible violation, may compel a licensee or applicant to
2 submit to a mental or physical examination, or both, as
3 required by and at the expense of the Department. The examining
4 physicians or clinical psychologists shall be those
5 specifically designated by the Board. The Board or the
6 Department may order (i) the examining physician to present
7 testimony concerning the mental or physical examination of a
8 licensee or applicant or (ii) the examining clinical
9 psychologist to present testimony concerning the mental
10 examination of a licensee or applicant. No information shall be
11 excluded by reason of any common law or statutory privilege
12 relating to communications between a licensee or applicant and
13 the examining physician or clinical psychologist. An
14 individual to be examined may have, at his or her own expense,
15 another physician or clinical psychologist of his or her choice
16 present during all aspects of the examination. Failure of an
17 individual to submit to a mental or physical examination, when
18 directed, is grounds for suspension of his or her license. The
19 license must remain suspended until the person submits to the
20 examination or the Board finds, after notice and hearing, that
21 the refusal to submit to the examination was with reasonable
22 cause.

23 If the Board finds an individual unable to practice because
24 of the reasons set forth in this Section, the Board must
25 require the individual to submit to care, counseling, or
26 treatment by a physician or clinical psychologist approved by
27 the Board, as a condition, term, or restriction for continued,
28 reinstated, or renewed licensure to practice. In lieu of care,
29 counseling, or treatment, the Board may recommend that the
30 Department file a complaint to immediately suspend or revoke
31 the license of the individual or otherwise discipline the
32 licensee.

33 Any individual whose license was granted, continued,
34 reinstated, or renewed subject to conditions, terms, or
35 restrictions, as provided for in this Section, or any
36 individual who was disciplined or placed on supervision

1 pursuant to this Section must be referred to the Director for a
2 determination as to whether the person shall have his or her
3 license suspended immediately, pending a hearing by the Board.
4 (Source: P.A. 93-461, eff. 8-8-03.)

5 Section 10. The Illinois Physical Therapy Act is amended by
6 changing Sections 1 and 17 as follows:

7 (225 ILCS 90/1) (from Ch. 111, par. 4251)

8 (Section scheduled to be repealed on January 1, 2006)

9 Sec. 1. Definitions. As used in this Act:

10 (1) "Physical therapy" means the evaluation or treatment of
11 a person by the use of the effective properties of physical
12 measures and heat, cold, light, water, radiant energy,
13 electricity, sound, and air; and the use of therapeutic
14 massage, therapeutic exercise, mobilization, and the
15 rehabilitative procedures with or without assistive devices
16 for the purposes of preventing, correcting, or alleviating a
17 physical or mental disability, or promoting physical fitness
18 and well-being. Physical therapy includes, but is not limited
19 to: (a) performance of specialized tests and measurements, (b)
20 administration of specialized treatment procedures, (c)
21 interpretation of referrals from physicians, dentists,
22 advanced practice nurses, physician assistants, and
23 podiatrists, (d) establishment, and modification of physical
24 therapy treatment programs, (e) administration of topical
25 medication used in generally accepted physical therapy
26 procedures when such medication is prescribed by the patient's
27 physician, licensed to practice medicine in all its branches,
28 the patient's physician licensed to practice podiatric
29 medicine, the patient's advanced practice nurse, the patient's
30 physician assistant, or the patient's dentist, and (f)
31 supervision or teaching of physical therapy. Physical therapy
32 does not include radiology, electrosurgery, chiropractic
33 technique or determination of a differential diagnosis;
34 provided, however, the limitation on determining a

1 differential diagnosis shall not in any manner limit a physical
2 therapist licensed under this Act from performing an evaluation
3 pursuant to such license. Nothing in this Section shall limit a
4 physical therapist from employing appropriate physical therapy
5 techniques that he or she is educated and licensed to perform.
6 A physical therapist shall refer to a licensed physician,
7 dentist, advanced practice nurse, physician assistant, or
8 podiatrist any patient whose medical condition should, at the
9 time of evaluation or treatment, be determined to be beyond the
10 scope of practice of the physical therapist.

11 (2) "Physical therapist" means a person who practices
12 physical therapy and who has met all requirements as provided
13 in this Act.

14 (3) "Department" means the Department of Professional
15 Regulation.

16 (4) "Director" means the Director of Professional
17 Regulation.

18 (5) "Committee" means the Physical Therapy Examining
19 Committee approved by the Director.

20 (6) "Referral" for the purpose of this Act means the
21 following of guidance or direction to the physical therapist
22 given by the physician, advanced practice nurse, physician
23 assistant, dentist, or podiatrist who shall maintain
24 supervision of the patient.

25 (7) "Documented current and relevant diagnosis" for the
26 purpose of this Act means a diagnosis, substantiated by
27 signature or oral verification of a physician, dentist,
28 advanced practice nurse, physician assistant, or podiatrist,
29 that a patient's condition is such that it may be treated by
30 physical therapy as defined in this Act, which diagnosis shall
31 remain in effect until changed by the physician, dentist,
32 advanced practice nurse, physician assistant, or podiatrist.

33 (8) "State" includes:

- 34 (a) the states of the United States of America;
35 (b) the District of Columbia; and
36 (c) the Commonwealth of Puerto Rico.

1 (9) "Physical therapist assistant" means a person licensed
2 to assist a physical therapist and who has met all requirements
3 as provided in this Act and who works under the supervision of
4 a licensed physical therapist to assist in implementing the
5 physical therapy treatment program as established by the
6 licensed physical therapist. The patient care activities
7 provided by the physical therapist assistant shall not include
8 the interpretation of referrals, evaluation procedures, or the
9 planning or major modification of patient programs.

10 (10) "Physical therapy aide" means a person who has
11 received on the job training, specific to the facility in which
12 he is employed, but who has not completed an approved physical
13 therapist assistant program.

14 (11) "Advanced practice nurse" means a person licensed
15 under the Nursing and Advanced Practice Nursing Act who has a
16 collaborative agreement with a collaborating physician that
17 authorizes referrals to physical therapists.

18 (12) "Physician assistant" means a person licensed under
19 the Physician Assistant Practice Act of 1987 who has been
20 delegated authority to make referrals to physical therapists.

21 (Source: P.A. 92-651, eff. 7-11-02.)

22 (225 ILCS 90/17) (from Ch. 111, par. 4267)

23 (Section scheduled to be repealed on January 1, 2006)

24 Sec. 17. (1) The Department may refuse to issue or to
25 renew, or may revoke, suspend, place on probation, reprimand,
26 or take other disciplinary action as the Department deems
27 appropriate, including the issuance of fines not to exceed
28 \$5000, with regard to a license for any one or a combination of
29 the following:

30 A. Material misstatement in furnishing information to
31 the Department or otherwise making misleading, deceptive,
32 untrue, or fraudulent representations in violation of this
33 Act or otherwise in the practice of the profession;

34 B. Violations of this Act, or of the rules or
35 regulations promulgated hereunder;

1 C. Conviction of any crime under the laws of the United
2 States or any state or territory thereof which is a felony
3 or which is a misdemeanor, an essential element of which is
4 dishonesty, or of any crime which is directly related to
5 the practice of the profession; conviction, as used in this
6 paragraph, shall include a finding or verdict of guilty, an
7 admission of guilt or a plea of nolo contendere;

8 D. Making any misrepresentation for the purpose of
9 obtaining licenses, or violating any provision of this Act
10 or the rules promulgated thereunder pertaining to
11 advertising;

12 E. A pattern of practice or other behavior which
13 demonstrates incapacity or incompetency to practice under
14 this Act;

15 F. Aiding or assisting another person in violating any
16 provision of this Act or Rules;

17 G. Failing, within 60 days, to provide information in
18 response to a written request made by the Department;

19 H. Engaging in dishonorable, unethical or
20 unprofessional conduct of a character likely to deceive,
21 defraud or harm the public. Unprofessional conduct shall
22 include any departure from or the failure to conform to the
23 minimal standards of acceptable and prevailing physical
24 therapy practice, in which proceeding actual injury to a
25 patient need not be established;

26 I. Unlawful distribution of any drug or narcotic, or
27 unlawful conversion of any drug or narcotic not belonging
28 to the person for such person's own use or benefit or for
29 other than medically accepted therapeutic purposes;

30 J. Habitual or excessive use or addiction to alcohol,
31 narcotics, stimulants, or any other chemical agent or drug
32 which results in a physical therapist's or physical
33 therapist assistant's inability to practice with
34 reasonable judgment, skill or safety;

35 K. Revocation or suspension of a license to practice
36 physical therapy as a physical therapist or physical

1 therapist assistant or the taking of other disciplinary
2 action by the proper licensing authority of another state,
3 territory or country;

4 L. Directly or indirectly giving to or receiving from
5 any person, firm, corporation, partnership or association
6 any fee, commission, rebate or other form of compensation
7 for any professional services not actually or personally
8 rendered;

9 M. A finding by the Committee that the licensee after
10 having his or her license placed on probationary status has
11 violated the terms of probation;

12 N. Abandonment of a patient;

13 O. Willfully failing to report an instance of suspected
14 child abuse or neglect as required by the Abused and
15 Neglected Child Reporting Act;

16 P. Willfully failing to report an instance of suspected
17 elder abuse or neglect as required by the Elder Abuse
18 Reporting Act;

19 Q. Physical illness, including but not limited to,
20 deterioration through the aging process, or loss of motor
21 skill which results in the inability to practice the
22 profession with reasonable judgement, skill or safety;

23 R. The use of any words (such as physical therapy,
24 physical therapist physiotherapy or physiotherapist),
25 abbreviations, figures or letters with the intention of
26 indicating practice as a licensed physical therapist
27 without a valid license as a physical therapist issued
28 under this Act;

29 S. The use of the term physical therapist assistant, or
30 abbreviations, figures, or letters with the intention of
31 indicating practice as a physical therapist assistant
32 without a valid license as a physical therapist assistant
33 issued under this Act;

34 T. Willfully violating or knowingly assisting in the
35 violation of any law of this State relating to the practice
36 of abortion;

1 U. Continued practice by a person knowingly having an
2 infectious, communicable or contagious disease;

3 V. Having treated ailments of human beings otherwise
4 than by the practice of physical therapy as defined in this
5 Act, or having treated ailments of human beings as a
6 licensed physical therapist independent of a documented
7 referral or a documented current and relevant diagnosis
8 from a physician, dentist, advanced practice nurse,
9 physician assistant, or podiatrist, or having failed to
10 notify the physician, dentist, advanced practice nurse,
11 physician assistant, or podiatrist who established a
12 documented current and relevant diagnosis that the patient
13 is receiving physical therapy pursuant to that diagnosis;

14 W. Being named as a perpetrator in an indicated report
15 by the Department of Children and Family Services pursuant
16 to the Abused and Neglected Child Reporting Act, and upon
17 proof by clear and convincing evidence that the licensee
18 has caused a child to be an abused child or neglected child
19 as defined in the Abused and Neglected Child Reporting Act;

20 X. Interpretation of referrals, performance of
21 evaluation procedures, planning or making major
22 modifications of patient programs by a physical therapist
23 assistant;

24 Y. Failure by a physical therapist assistant and
25 supervising physical therapist to maintain continued
26 contact, including periodic personal supervision and
27 instruction, to insure safety and welfare of patients;

28 Z. Violation of the Health Care Worker Self-Referral
29 Act.

30 (2) The determination by a circuit court that a licensee is
31 subject to involuntary admission or judicial admission as
32 provided in the Mental Health and Developmental Disabilities
33 Code operates as an automatic suspension. Such suspension will
34 end only upon a finding by a court that the patient is no
35 longer subject to involuntary admission or judicial admission
36 and the issuance of an order so finding and discharging the

1 patient; and upon the recommendation of the Committee to the
2 Director that the licensee be allowed to resume his practice.

3 (3) The Department may refuse to issue or may suspend the
4 license of any person who fails to file a return, or to pay the
5 tax, penalty or interest shown in a filed return, or to pay any
6 final assessment of tax, penalty or interest, as required by
7 any tax Act administered by the Illinois Department of Revenue,
8 until such time as the requirements of any such tax Act are
9 satisfied.

10 (Source: P.A. 89-387, eff. 1-1-96.)

11 Section 15. The Sexual Assault Survivors Emergency
12 Treatment Act is amended by changing Sections 2.2, 5, and 6.4
13 as follows:

14 (410 ILCS 70/2.2)

15 Sec. 2.2. Emergency contraception.

16 (a) The General Assembly finds:

17 (1) Crimes of sexual violence cause significant
18 physical, emotional, and psychological trauma to the
19 victims. This trauma is compounded by a victim's fear of
20 becoming pregnant and bearing a child as a result of the
21 sexual assault.

22 (2) Each year over 32,000 women become pregnant in the
23 United States as the result of rape and approximately 50%
24 of these pregnancies end in abortion.

25 (3) As approved for use by the Federal Food and Drug
26 Administration (FDA), emergency contraception can
27 significantly reduce the risk of pregnancy if taken within
28 72 hours after the sexual assault.

29 (4) By providing emergency contraception to rape
30 victims in a timely manner, the trauma of rape can be
31 significantly reduced.

32 (b) Within 120 days after the effective date of this
33 amendatory Act of the 92nd General Assembly, every hospital
34 providing services to alleged sexual assault survivors in

1 accordance with a plan approved under Section 2 must develop a
2 protocol that ensures that each survivor of sexual assault will
3 receive medically and factually accurate and written and oral
4 information about emergency contraception; the indications and
5 counter-indications and risks associated with the use of
6 emergency contraception; and a description of how and when
7 victims may be provided emergency contraception upon the
8 written order of a physician licensed to practice medicine in
9 all its branches, an advanced practice nurse who has a written
10 collaborative agreement with a collaborating physician that
11 authorizes prescription of emergency contraception, or a
12 physician assistant who has been delegated authority to
13 prescribe emergency contraception. The Department shall
14 approve the protocol if it finds that the implementation of the
15 protocol would provide sufficient protection for survivors of
16 an alleged sexual assault.

17 The hospital shall implement the protocol upon approval by
18 the Department. The Department shall adopt rules and
19 regulations establishing one or more safe harbor protocols and
20 setting minimum acceptable protocol standards that hospitals
21 may develop and implement. The Department shall approve any
22 protocol that meets those standards. The Department may provide
23 a sample acceptable protocol upon request.

24 (Source: P.A. 92-156, eff. 1-1-02.)

25 (410 ILCS 70/5) (from Ch. 111 1/2, par. 87-5)

26 Sec. 5. Minimum requirements for hospitals providing
27 emergency service to sexual assault survivors.

28 (a) Every hospital providing emergency hospital services
29 to an alleged sexual assault survivor under this Act shall, as
30 minimum requirements for such services, provide, with the
31 consent of the alleged sexual assault survivor, and as ordered
32 by the attending physician, an advanced practice nurse who has
33 a written collaborative agreement with a collaborating
34 physician that authorizes provision of emergency services, or a
35 physician assistant who has been delegated authority to provide

1 emergency services, the following:

2 (1) appropriate medical examinations and laboratory
3 tests required to ensure the health, safety, and welfare of
4 an alleged sexual assault survivor or which may be used as
5 evidence in a criminal proceeding against a person accused
6 of the sexual assault, or both; and records of the results
7 of such examinations and tests shall be maintained by the
8 hospital and made available to law enforcement officials
9 upon the request of the alleged sexual assault survivor;

10 (2) appropriate oral and written information
11 concerning the possibility of infection, sexually
12 transmitted disease and pregnancy resulting from sexual
13 assault;

14 (3) appropriate oral and written information
15 concerning accepted medical procedures, medication, and
16 possible contraindications of such medication available
17 for the prevention or treatment of infection or disease
18 resulting from sexual assault;

19 (4) such medication as deemed appropriate by the
20 attending physician, an advanced practice nurse, or a
21 physician assistant;

22 (5) a blood test to determine the presence or absence
23 of sexually transmitted disease;

24 (6) written and oral instructions indicating the need
25 for a second blood test 6 weeks after the sexual assault to
26 determine the presence or absence of sexually transmitted
27 disease; and

28 (7) appropriate counseling as determined by the
29 hospital, by trained personnel designated by the hospital.

30 (b) Any minor who is an alleged survivor of sexual assault
31 who seeks emergency services under this Act shall be provided
32 such services without the consent of the parent, guardian or
33 custodian of the minor.

34 (Source: P.A. 91-888, eff. 7-6-00.)

35 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)

1 Sec. 6.4. Sexual assault evidence collection program.

2 (a) There is created a statewide sexual assault evidence
3 collection program to facilitate the prosecution of persons
4 accused of sexual assault. This program shall be administered
5 by the Illinois State Police. The program shall consist of the
6 following: (1) distribution of sexual assault evidence
7 collection kits which have been approved by the Illinois State
8 Police to hospitals that request them, or arranging for such
9 distribution by the manufacturer of the kits, (2) collection of
10 the kits from hospitals after the kits have been used to
11 collect evidence, (3) analysis of the collected evidence and
12 conducting of laboratory tests, and (4) maintaining the chain
13 of custody and safekeeping of the evidence for use in a legal
14 proceeding. The standardized evidence collection kit for the
15 State of Illinois shall be the State Police Evidence Collection
16 Kit, also known as "S.P.E.C.K.". A sexual assault evidence
17 collection kit may not be released by a hospital without the
18 written consent of the sexual assault survivor. In the case of
19 a survivor who is a minor 13 years of age or older, evidence
20 and information concerning the alleged sexual assault may be
21 released at the written request of the minor. If the survivor
22 is a minor who is under 13 years of age, evidence and
23 information concerning the alleged sexual assault may be
24 released at the written request of the parent, guardian,
25 investigating law enforcement officer, or Department of
26 Children and Family Services. Any health care professional,
27 including any physician, advanced practice nurse, physician
28 assistant, or nurse, sexual assault nurse examiner, and any
29 health care institution, including any hospital, who provides
30 evidence or information to a law enforcement officer pursuant
31 to a written request as specified in this Section is immune
32 from any civil or professional liability that might arise from
33 those actions, with the exception of willful or wanton
34 misconduct. The immunity provision applies only if all of the
35 requirements of this Section are met.

36 (b) The Illinois State Police shall administer a program to

1 train hospitals and hospital personnel participating in the
2 sexual assault evidence collection program, in the correct use
3 and application of the sexual assault evidence collection kits.
4 A sexual assault nurse examiner may conduct examinations using
5 the sexual assault evidence collection kits, without the
6 presence or participation of a physician. The Department of
7 Public Health shall cooperate with the Illinois State Police in
8 this program as it pertains to medical aspects of the evidence
9 collection.

10 (c) In this Section, "sexual assault nurse examiner" means
11 a registered nurse who has completed a sexual assault nurse
12 examiner (SANE) training program that meets the Forensic Sexual
13 Assault Nurse Examiner Education Guidelines established by the
14 International Association of Forensic Nurses.

15 (Source: P.A. 91-888, eff. 7-6-00; 92-514, eff. 1-1-02.)

16 Section 20. The Prenatal and Newborn Care Act is amended by
17 changing Sections 2 and 6 as follows:

18 (410 ILCS 225/2) (from Ch. 111 1/2, par. 7022)

19 Sec. 2. Definitions. As used in this Act, unless the
20 context otherwise requires:

21 "Advanced practice nurse" or "APN" means an advanced
22 practice nurse licensed under the Nursing and Advanced Practice
23 Nursing Act who has a written collaborative agreement with a
24 collaborating physician that authorizes the provision of
25 prenatal and newborn care.

26 ~~(a)~~ "Department" means the Illinois Department of Human
27 Services.

28 ~~(b)~~ "Early and Periodic Screening, Diagnosis and Treatment
29 (EPSDT)" means the provision of preventative health care under
30 42 C.F.R. 441.50 et seq., including medical and dental
31 services, needed to assess growth and development and detect
32 and treat health problems.

33 ~~(c)~~ "Hospital" means a hospital as defined under the
34 Hospital Licensing Act.

1 ~~(d)~~ "Local health authority" means the full-time official
2 health department or board of health, as recognized by the
3 Illinois Department of Public Health, having jurisdiction over
4 a particular area.

5 ~~(e)~~ "Nurse" means a nurse licensed under the Nursing and
6 Advanced Practice Nursing Act.

7 ~~(f)~~ "Physician" means a physician licensed to practice
8 medicine in all of its branches.

9 "Physician assistant" means a physician assistant licensed
10 under the Physician Assistant Practice Act of 1987 who has been
11 delegated authority to provide prenatal and newborn care.

12 ~~(g)~~ "Postnatal visit" means a visit occurring after birth,
13 with reference to the newborn.

14 ~~(h)~~ "Prenatal visit" means a visit occurring before birth.

15 ~~(i)~~ "Program" means the Prenatal and Newborn Care Program
16 established pursuant to this Act.

17 (Source: P.A. 89-507, eff. 7-1-97; 90-742, eff. 8-13-98.)

18 (410 ILCS 225/6) (from Ch. 111 1/2, par. 7026)

19 Sec. 6. Covered services.

20 (a) Covered services under the program may include, but are
21 not necessarily limited to, the following:

22 (1) Laboratory services related to a recipient's
23 pregnancy, performed or ordered by a physician, advanced
24 practice nurse, or physician assistant.

25 (2) Screening and treatment for sexually transmitted
26 disease.

27 (3) Prenatal visits to a physician in the physician's
28 office, an advanced practice nurse in the advanced practice
29 nurse's office, a physician assistant in the physician
30 assistant's office, or to a hospital outpatient prenatal
31 clinic, local health department maternity clinic, or
32 community health center.

33 (4) Radiology services which are directly related to
34 the pregnancy, are determined to be medically necessary and
35 are ordered by a physician, an advanced practice nurse, or

1 a physician assistant.

2 (5) Pharmacy services related to the pregnancy.

3 (6) Other medical consultations related to the
4 pregnancy.

5 (7) Physician, advanced practice nurse, physician
6 assistant, or nurse services associated with delivery.

7 (8) One postnatal office visit within 60 days after
8 delivery.

9 (9) Two EPSDT-equivalent screenings for the infant
10 within 90 days after birth.

11 (10) Social and support services.

12 (11) Nutrition services.

13 (12) Case management services.

14 (b) The following services shall not be covered under the
15 program:

16 (1) Services determined by the Department not to be
17 medically necessary.

18 (2) Services not directly related to the pregnancy,
19 except for the 2 covered EPSDT-equivalent screenings.

20 (3) Hospital inpatient services.

21 (4) Anesthesiologist and radiologist services during a
22 period of hospital inpatient care.

23 (5) Physician, advanced practice nurse, and physician
24 assistant hospital visits.

25 (6) Services considered investigational or
26 experimental.

27 (Source: P.A. 89-187, eff. 7-19-95.)

28 Section 25. The AIDS Confidentiality Act is amended by
29 changing Sections 7, 8, and 9 as follows:

30 (410 ILCS 305/7) (from Ch. 111 1/2, par. 7307)

31 Sec. 7. (a) Notwithstanding the provisions of Sections 4, 5
32 and 6 of this Act, written informed consent is not required for
33 a health care provider or health facility to perform a test
34 when the health care provider or health facility procures,

1 processes, distributes or uses a human body part donated for a
2 purpose specified under the Uniform Anatomical Gift Act, or
3 semen provided prior to the effective date of this Act for the
4 purpose of artificial insemination, and such a test is
5 necessary to assure medical acceptability of such gift or semen
6 for the purposes intended.

7 (b) Written informed consent is not required for a health
8 care provider or health facility to perform a test when a
9 health care provider or employee of a health facility, or a
10 firefighter or an EMT-A, EMT-I or EMT-P, is involved in an
11 accidental direct skin or mucous membrane contact with the
12 blood or bodily fluids of an individual which is of a nature
13 that may transmit HIV, as determined by a physician, by an
14 advanced practice nurse as defined in item (iii) of subsection
15 (f-5) of Section 3, or by a physician assistant as defined in
16 item (ii) of subsection (f-5) of Section 3 ~~in his medical~~
17 ~~judgment~~. Should such test prove to be positive, the patient
18 and the health care provider, health facility employee,
19 firefighter, EMT-A, EMT-I, or EMT-P shall be provided
20 appropriate counseling consistent with this Act.

21 (c) Written informed consent is not required for a health
22 care provider or health facility to perform a test when a law
23 enforcement officer is involved in the line of duty in a direct
24 skin or mucous membrane contact with the blood or bodily fluids
25 of an individual which is of a nature that may transmit HIV, as
26 determined by a physician, by an advanced practice nurse as
27 defined in item (iii) of subsection (f-5) of Section 3, or by a
28 physician assistant as defined in item (ii) of subsection (f-5)
29 of Section 3 ~~in his medical judgment~~. Should such test prove to
30 be positive, the patient shall be provided appropriate
31 counseling consistent with this Act. For purposes of this
32 subsection (c), "law enforcement officer" means any person
33 employed by the State, a county or a municipality as a
34 policeman, peace officer, auxiliary policeman, correctional
35 officer or in some like position involving the enforcement of
36 the law and protection of the public interest at the risk of

1 that person's life.

2 (Source: P.A. 86-887; 86-891; 86-1028; 87-459.)

3 (410 ILCS 305/8) (from Ch. 111 1/2, par. 7308)

4 Sec. 8. Notwithstanding the provisions of Sections 4 and 5
5 of this Act, written informed consent, information and
6 counseling are not required for the performance of an HIV test:
7 (a) for the purpose of research, if the testing is performed in
8 such a way that the identity of the test subject is not known
9 and may not be retrieved by the researcher, and in such a way
10 that the test subject is not informed of the results of the
11 testing, or (b) when in the judgment of the physician, advanced
12 practice nurse, or physician assistant, such testing is
13 ~~medically~~ indicated to provide appropriate diagnosis and
14 treatment to the subject of the test, provided that the subject
15 of the test has otherwise provided his or her consent to such
16 physician, advanced practice nurse, or physician assistant for
17 ~~medical~~ treatment.

18 (Source: P.A. 85-1399.)

19 (410 ILCS 305/9) (from Ch. 111 1/2, par. 7309)

20 Sec. 9. No person may disclose or be compelled to disclose
21 the identity of any person upon whom a test is performed, or
22 the results of such a test in a manner which permits
23 identification of the subject of the test, except to the
24 following persons:

25 (a) The subject of the test or the subject's legally
26 authorized representative. A physician, advanced practice
27 nurse, or physician assistant may notify the spouse of the test
28 subject, if the test result is positive and has been confirmed
29 pursuant to rules adopted by the Department, provided that the
30 physician, advanced practice nurse, or physician assistant has
31 first sought unsuccessfully to persuade the patient to notify
32 the spouse or that, a reasonable time after the patient has
33 agreed to make the notification, the physician, advanced
34 practice nurse, or physician assistant has reason to believe

1 that the patient has not provided the notification. This
2 paragraph shall not create a duty or obligation under which a
3 physician, advanced practice nurse, or physician assistant
4 must notify the spouse of the test results, nor shall such duty
5 or obligation be implied. No civil liability or criminal
6 sanction under this Act shall be imposed for any disclosure or
7 non-disclosure of a test result to a spouse by a physician,
8 advanced practice nurse, or physician assistant acting in good
9 faith under this paragraph. For the purpose of any proceedings,
10 civil or criminal, the good faith of any physician, advanced
11 practice nurse, or physician assistant acting under this
12 paragraph shall be presumed.

13 (b) Any person designated in a legally effective release of
14 the test results executed by the subject of the test or the
15 subject's legally authorized representative.

16 (c) An authorized agent or employee of a health facility or
17 health care provider if the health facility or health care
18 provider itself is authorized to obtain the test results, the
19 agent or employee provides patient care or handles or processes
20 specimens of body fluids or tissues, and the agent or employee
21 has a need to know such information.

22 (d) The Department, in accordance with rules for reporting
23 and controlling the spread of disease, as otherwise provided by
24 State law. Neither the Department nor its authorized
25 representatives shall disclose information and records held by
26 them relating to known or suspected cases of AIDS or HIV
27 infection, publicly or in any action of any kind in any court
28 or before any tribunal, board, or agency. AIDS and HIV
29 infection data shall be protected from disclosure in accordance
30 with the provisions of Sections 8-2101 through 8-2105 of the
31 Code of Civil Procedure.

32 (e) A health facility or health care provider which
33 procures, processes, distributes or uses: (i) a human body part
34 from a deceased person with respect to medical information
35 regarding that person; or (ii) semen provided prior to the
36 effective date of this Act for the purpose of artificial

1 insemination.

2 (f) Health facility staff committees for the purposes of
3 conducting program monitoring, program evaluation or service
4 reviews.

5 (g) (Blank).

6 (h) Any health care provider or employee of a health
7 facility, and any firefighter or EMT-A, EMT-P, or EMT-I,
8 involved in an accidental direct skin or mucous membrane
9 contact with the blood or bodily fluids of an individual which
10 is of a nature that may transmit HIV, as determined by a
11 physician, by an advanced practice nurse as defined in item
12 (iii) of subsection (f-5) of Section 3, or by a physician
13 assistant as defined in item (ii) of subsection (f-5) of
14 Section 3 ~~in his medical judgment.~~

15 (i) Any law enforcement officer, as defined in subsection
16 (c) of Section 7, involved in the line of duty in a direct skin
17 or mucous membrane contact with the blood or bodily fluids of
18 an individual which is of a nature that may transmit HIV, as
19 determined by a physician in his medical judgment, by an
20 advanced practice nurse as defined in item (iii) of subsection
21 (f-5) of Section 3, or by a physician assistant as defined in
22 item (ii) of subsection (f-5) of Section 3.

23 (j) A temporary caretaker of a child taken into temporary
24 protective custody by the Department of Children and Family
25 Services pursuant to Section 5 of the Abused and Neglected
26 Child Reporting Act, as now or hereafter amended.

27 (k) In the case of a minor under 18 years of age whose test
28 result is positive and has been confirmed pursuant to rules
29 adopted by the Department, the health care provider who ordered
30 the test shall make a reasonable effort to notify the minor's
31 parent or legal guardian if, in the professional judgement of
32 the health care provider, notification would be in the best
33 interest of the child and the health care provider has first
34 sought unsuccessfully to persuade the minor to notify the
35 parent or legal guardian or a reasonable time after the minor
36 has agreed to notify the parent or legal guardian, the health

1 care provider has reason to believe that the minor has not made
2 the notification. This subsection shall not create a duty or
3 obligation under which a health care provider must notify the
4 minor's parent or legal guardian of the test results, nor shall
5 a duty or obligation be implied. No civil liability or criminal
6 sanction under this Act shall be imposed for any notification
7 or non-notification of a minor's test result by a health care
8 provider acting in good faith under this subsection. For the
9 purpose of any proceeding, civil or criminal, the good faith of
10 any health care provider acting under this subsection shall be
11 presumed.

12 (Source: P.A. 93-482, eff. 8-8-03.)

13 Section 30. The Illinois Sexually Transmissible Disease
14 Control Act is amended by changing Sections 4 and 5.5 as
15 follows:

16 (410 ILCS 325/4) (from Ch. 111 1/2, par. 7404)

17 Sec. 4. Reporting required.

18 (a) A physician licensed under the provisions of the
19 Medical Practice Act of 1987, an advanced practice nurse
20 licensed under the provisions of the Nursing and Advanced
21 Practice Nursing Act who has a written collaborative agreement
22 with a collaborating physician that authorizes the provision of
23 services for a sexually transmissible disease, or a physician
24 assistant licensed under the provisions of the Physician
25 Assistant Practice Act of 1987 who has been delegated authority
26 to provide services for a sexually transmissible disease who
27 makes a diagnosis of or treats a person with a sexually
28 transmissible disease and each laboratory that performs a test
29 for a sexually transmissible disease which concludes with a
30 positive result shall report such facts as may be required by
31 the Department by rule, within such time period as the
32 Department may require by rule, but in no case to exceed 2
33 weeks.

34 (b) The Department shall adopt rules specifying the

1 information required in reporting a sexually transmissible
2 disease, the method of reporting and specifying a minimum time
3 period for reporting. In adopting such rules, the Department
4 shall consider the need for information, protections for the
5 privacy and confidentiality of the patient, and the practical
6 abilities of persons and laboratories to report in a reasonable
7 fashion.

8 (c) Any person who knowingly or maliciously disseminates
9 any false information or report concerning the existence of any
10 sexually transmissible disease under this Section is guilty of
11 a Class A misdemeanor.

12 (d) Any person who violates the provisions of this Section
13 or the rules adopted hereunder may be fined by the Department
14 up to \$500 for each violation. The Department shall report each
15 violation of this Section to the regulatory agency responsible
16 for licensing a health care professional or a laboratory to
17 which these provisions apply.

18 (Source: P.A. 90-14, eff. 7-1-97.)

19 (410 ILCS 325/5.5) (from Ch. 111 1/2, par. 7405.5)

20 Sec. 5.5. Risk assessment.

21 (a) Whenever the Department receives a report of HIV
22 infection or AIDS pursuant to this Act and the Department
23 determines that the subject of the report may present or may
24 have presented a possible risk of HIV transmission, the
25 Department shall, when medically appropriate, investigate the
26 subject of the report and that person's contacts as defined in
27 subsection (c), to assess the potential risks of transmission.
28 Any investigation and action shall be conducted in a timely
29 fashion. All contacts other than those defined in subsection
30 (c) shall be investigated in accordance with Section 5 of this
31 Act.

32 (b) If the Department determines that there is or may have
33 been potential risks of HIV transmission from the subject of
34 the report to other persons, the Department shall afford the
35 subject the opportunity to submit any information and comment

1 on proposed actions the Department intends to take with respect
2 to the subject's contacts who are at potential risk of
3 transmission of HIV prior to notification of the subject's
4 contacts. The Department shall also afford the subject of the
5 report the opportunity to notify the subject's contacts in a
6 timely fashion who are at potential risk of transmission of HIV
7 prior to the Department taking any steps to notify such
8 contacts. If the subject declines to notify such contacts or if
9 the Department determines the notices to be inadequate or
10 incomplete, the Department shall endeavor to notify such other
11 persons of the potential risk, and offer testing and counseling
12 services to these individuals. When the contacts are notified,
13 they shall be informed of the disclosure provisions of the AIDS
14 Confidentiality Act and the penalties therein and this Section.

15 (c) Contacts investigated under this Section shall in the
16 case of HIV infection include (i) individuals who have
17 undergone invasive procedures performed by an HIV infected
18 health care provider and (ii) health care providers who have
19 performed invasive procedures for persons infected with HIV,
20 provided the Department has determined that there is or may
21 have been potential risk of HIV transmission from the health
22 care provider to those individuals or from infected persons to
23 health care providers. The Department shall have access to the
24 subject's records to review for the identity of contacts. The
25 subject's records shall not be copied or seized by the
26 Department.

27 For purposes of this subsection, the term "invasive
28 procedures" means those procedures termed invasive by the
29 Centers for Disease Control in current guidelines or
30 recommendations for the prevention of HIV transmission in
31 health care settings, and the term "health care provider" means
32 any physician, dentist, podiatrist, advanced practice nurse,
33 physician assistant, nurse, or other person providing health
34 care services of any kind.

35 (d) All information and records held by the Department and
36 local health authorities pertaining to activities conducted

1 pursuant to this Section shall be strictly confidential and
2 exempt from copying and inspection under the Freedom of
3 Information Act. Such information and records shall not be
4 released or made public by the Department or local health
5 authorities, and shall not be admissible as evidence, nor
6 discoverable in any action of any kind in any court or before
7 any tribunal, board, agency or person and shall be treated in
8 the same manner as the information and those records subject to
9 the provisions of Part 21 of the Code of Civil Procedure except
10 under the following circumstances:

11 (1) When made with the written consent of all persons
12 to whom this information pertains;

13 (2) When authorized under Section 8 to be released
14 under court order or subpoena pursuant to Section 12-16.2
15 of the Criminal Code of 1961; or

16 (3) When made by the Department for the purpose of
17 seeking a warrant authorized by Sections 6 and 7 of this
18 Act. Such disclosure shall conform to the requirements of
19 subsection (a) of Section 8 of this Act.

20 (e) Any person who knowingly or maliciously disseminates
21 any information or report concerning the existence of any
22 disease under this Section is guilty of a Class A misdemeanor.

23 (Source: P.A. 87-763.)

24 Section 35. The Consent by Minors to Medical Procedures Act
25 is amended by changing Sections 1, 2, 3, and 5 as follows:

26 (410 ILCS 210/1) (from Ch. 111, par. 4501)

27 Sec. 1. Consent by minor. The consent to the performance of
28 a medical or surgical procedure by a physician licensed to
29 practice medicine and surgery, an advanced practice nurse who
30 has a written collaborative agreement with a collaborating
31 physician that authorizes provision of services for minors, or
32 a physician assistant who has been delegated authority to
33 provide services for minors executed by a married person who is
34 a minor, by a parent who is a minor, by a pregnant woman who is

1 a minor, or by any person 18 years of age or older, is not
2 voidable because of such minority, and, for such purpose, a
3 married person who is a minor, a parent who is a minor, a
4 pregnant woman who is a minor, or any person 18 years of age or
5 older, is deemed to have the same legal capacity to act and has
6 the same powers and obligations as has a person of legal age.
7 (Source: P.A. 89-187, eff. 7-19-95.)

8 (410 ILCS 210/2) (from Ch. 111, par. 4502)

9 Sec. 2. Any parent, including a parent who is a minor, may
10 consent to the performance upon his or her child of a medical
11 or surgical procedure by a physician licensed to practice
12 medicine and surgery, an advanced practice nurse who has a
13 written collaborative agreement with a collaborating physician
14 that authorizes provision of services for minors, or a
15 physician assistant who has been delegated authority to provide
16 services for minors or a dental procedure by a licensed
17 dentist. The consent of a parent who is a minor shall not be
18 voidable because of such minority, but, for such purpose, a
19 parent who is a minor shall be deemed to have the same legal
20 capacity to act and shall have the same powers and obligations
21 as has a person of legal age.

22 (Source: P.A. 77-1661.)

23 (410 ILCS 210/3) (from Ch. 111, par. 4503)

24 Sec. 3. (a) Where a hospital, ~~or~~ a physician, licensed to
25 practice medicine or surgery, an advanced practice nurse who
26 has a written collaborative agreement with a collaborating
27 physician that authorizes provision of services for minors, or
28 a physician assistant who has been delegated authority to
29 provide services for minors renders emergency treatment or
30 first aid or a licensed dentist renders emergency dental
31 treatment to a minor, consent of the minor's parent or legal
32 guardian need not be obtained if, in the sole opinion of the
33 physician, advanced practice nurse, physician assistant,
34 dentist, or hospital, the obtaining of consent is not

1 reasonably feasible under the circumstances without adversely
2 affecting the condition of such minor's health.

3 (b) Where a minor is the victim of a predatory criminal
4 sexual assault of a child, aggravated criminal sexual assault,
5 criminal sexual assault, aggravated criminal sexual abuse or
6 criminal sexual abuse, as provided in Sections 12-13 through
7 12-16 of the Criminal Code of 1961, as now or hereafter
8 amended, the consent of the minor's parent or legal guardian
9 need not be obtained to authorize a hospital, physician,
10 advanced practice nurse, physician assistant, or other medical
11 personnel to furnish medical care or counseling related to the
12 diagnosis or treatment of any disease or injury arising from
13 such offense. The minor may consent to such counseling,
14 diagnosis or treatment as if the minor had reached his or her
15 age of majority. Such consent shall not be voidable, nor
16 subject to later disaffirmance, because of minority.

17 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

18 (410 ILCS 210/5) (from Ch. 111, par. 4505)

19 Sec. 5. Counseling; informing parent or guardian. Any
20 physician, advanced practice nurse, or physician assistant,
21 who provides diagnosis or treatment or any licensed clinical
22 psychologist or professionally trained social worker with a
23 master's degree or any qualified person employed (i) by an
24 organization licensed or funded by the Department of Human
25 Services, (ii) by units of local government, or (iii) by
26 agencies or organizations operating drug abuse programs funded
27 or licensed by the Federal Government or the State of Illinois
28 or any qualified person employed by or associated with any
29 public or private alcoholism or drug abuse program licensed by
30 the State of Illinois who provides counseling to a minor
31 patient who has come into contact with any sexually transmitted
32 disease referred to in Section 4 of this Act may, but shall not
33 be obligated to, inform the parent, parents, or guardian of the
34 minor as to the treatment given or needed. Any person described
35 in this Section who provides counseling to a minor who abuses

1 drugs or alcohol or has a family member who abuses drugs or
2 alcohol shall not inform the parent, parents, guardian, or
3 other responsible adult of the minor's condition or treatment
4 without the minor's consent unless that action is, in the
5 person's judgment, necessary to protect the safety of the
6 minor, a family member, or another individual.

7 Any such person shall, upon the minor's consent, make
8 reasonable efforts to involve the family of the minor in his or
9 her treatment, if the person furnishing the treatment believes
10 that the involvement of the family will not be detrimental to
11 the progress and care of the minor. Reasonable effort shall be
12 extended to assist the minor in accepting the involvement of
13 his or her family in the care and treatment being given.

14 (Source: P.A. 89-187, eff. 7-19-95; 89-507, eff. 7-1-97.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.