



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB6844

by Rep. Jim Watson

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/155.18	from Ch. 73, par. 767.18
215 ILCS 5/155.18a	
215 ILCS 5/155.19	from Ch. 73, par. 767.19
215 ILCS 5/1204	from Ch. 73, par. 1065.904
735 ILCS 5/2-622	from Ch. 110, par. 2-622
735 ILCS 5/2-1303	from Ch. 110, par. 2-1303
735 ILCS 5/2-1704.5	
735 ILCS 5/8-1901	from Ch. 110, par. 8-1901
735 ILCS 5/8-2006	
735 ILCS 5/8-2501	from Ch. 110, par. 8-2501
740 ILCS 180/2	from Ch. 70, par. 2
745 ILCS 49/30	

Amends the Illinois Insurance Code, the Code of Civil Procedure, and the Good Samaritan Act to reenact certain provisions of Public Act 94-677, which was declared to be unconstitutional. Includes explanatory and validation provisions. Makes changes relating to the reenactment, including revisory changes. Also makes these substantive changes: Amends the Code of Civil Procedure to lower the rate of interest payable on judgments; to provide for annual indexing of those rates; and to delay the accrual of interest in certain cases where a federal Medicare lien may exist against the judgment. Amends the Wrongful Death Act to undo the changes made by Public Act 95-003: removes a reference to certain types of damages that may be included in a jury award and restores certain historic limitations on the amount of damages that may be awarded. Includes an inseverability provision. Effective immediately.

LRB096 21714 EFG 39327 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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

4 Section 1. Findings; purpose; text and revisory changes;  
5 validation; additional material.

6 (a) The Illinois Supreme Court, in *Lebron v. Gottlieb*  
7 *Memorial Hospital*, found that the limitations on noneconomic  
8 damages in medical malpractice actions that were created in  
9 Public Act 94-677, contained in Section 2-1706.5 of the Code of  
10 Civil Procedure, violate the separation of powers clause of the  
11 Illinois Constitution. Because Public Act 94-677 contained an  
12 inseverability provision, the Court held the Act to be void in  
13 its entirety. The Court emphasized, however, that "because the  
14 other provisions contained in Public Act 94-677 are deemed  
15 invalid solely on inseverability grounds, the legislature  
16 remains free to reenact any provisions it deems appropriate".

17 (b) It is the purpose of this Act to reenact certain  
18 provisions of Public Act 94-677 that did not involve  
19 limitations on noneconomic damages in medical malpractice  
20 actions, to validate certain actions taken in reliance on those  
21 provisions, and to make certain additional changes to statutes  
22 affecting interest and limitations on judgments.

23 (c) This Act reenacts (i) Sections 155.18, 155.18a, 155.19,  
24 and 1204 of the Illinois Insurance Code; (ii) Sections 2-622,

1 2-1704.5, 8-1901, and 8-2501 of the Code of Civil Procedure;  
2 and (iii) Section 30 of the Good Samaritan Act. In those  
3 Sections, certain effective date references and applicability  
4 provisions have been changed to reflect the reenactment. This  
5 Act does not reenact any other provisions of Public Act 94-677.

6 (d) Public Act 94-677 amended existing Sections 155.18,  
7 155.19, and 1204 of the Illinois Insurance Code and added a new  
8 Section 155.18a. Section 1204 was subsequently amended by  
9 Public Act 95-331, which was a revisory bill that combined the  
10 changes made by Public Act 94-277 with those made by Public Act  
11 94-677. Sections 155.18, 155.18a, and 155.19 have not been  
12 amended since the enactment of Public Act 94-677.

13 Executive Order No. 2004-6 changed the Department of  
14 Insurance into the Division of Insurance within the Department  
15 of Financial and Professional Regulation. In conformance with  
16 that executive order, Public Act 94-677 changed certain  
17 references in the affected Sections from the Director of  
18 Insurance to the Secretary of Financial and Professional  
19 Regulation. Public Act 96-811 superseded the executive order  
20 and re-established the Department of Insurance as a separate  
21 department, once again under the supervision of the Director of  
22 Insurance. Therefore, in reenacting these Sections, revisory  
23 changes have been included that conform the text to Public Act  
24 96-811 by changing references to the Secretary back to the  
25 Director. A revisory change is also made in a reference to the  
26 effective date of Public Act 94-677, which is replaced by the

1 actual date.

2 In this Act, the base text of the reenacted Sections is set  
3 forth as it existed at the time of the Supreme Court's  
4 decision, including any amendments that occurred after P.A.  
5 94-677. Striking and underscoring is used only to show the  
6 changes being made to that base text.

7 (e) All otherwise lawful actions taken in reasonable  
8 reliance on or pursuant to the Sections reenacted by this Act,  
9 as set forth in Public Act 94-677 or subsequently amended, by  
10 any officer, employee, agency, or unit of State or local  
11 government or by any other person or entity, are hereby  
12 validated.

13 With respect to actions taken in relation to matters  
14 arising under the Sections reenacted by this Act, a person is  
15 rebuttably presumed to have acted in reasonable reliance on and  
16 pursuant to the provisions of Public Act 94-677, as those  
17 provisions had been amended at the time the action was taken.

18 With respect to their administration of matters arising  
19 under the Sections reenacted by this Act, officers, employees,  
20 agencies, and units of State and local government shall  
21 continue to apply the provisions of Public Act 94-677, as those  
22 provisions had been amended at the relevant time.

23 (f) This Act also contains material making new substantive  
24 changes:

25 (1) It amends Sections 2-1303 and 8-2006 of the Code of  
26 Civil Procedure to lower the rate of interest payable on

1 judgments; to provide for annual indexing of those rates;  
2 and to delay the accrual of interest in certain cases where  
3 a federal Medicare lien may exist against the judgment.

4 (2) It amends Section 2 of the Wrongful Death Act to  
5 undo the changes made by Public Act 95-003: it removes a  
6 reference to certain types of damages that may be included  
7 in a jury award, and it restores certain historic  
8 limitations on the amount of damages that may be awarded.

9 Section 5. The Illinois Insurance Code is amended by  
10 reenacting and changing Sections 155.18, 155.18a, 155.19, and  
11 1204 as follows:

12 (215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

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

23 (b) The following standards shall apply to the making and  
24 use of rates pertaining to all classes of medical liability

1 insurance:

2 (1) Rates shall not be excessive or inadequate nor  
3 shall they be unfairly discriminatory.

4 (2) Consideration shall be given, to the extent  
5 applicable, to past and prospective loss experience within  
6 and outside this State, to a reasonable margin for  
7 underwriting profit and contingencies, to past and  
8 prospective expenses both countrywide and those especially  
9 applicable to this State, and to all other factors,  
10 including judgment factors, deemed relevant within and  
11 outside this State.

12 Consideration may also be given in the making and use  
13 of rates to dividends, savings or unabsorbed premium  
14 deposits allowed or returned by companies to their  
15 policyholders, members or subscribers.

16 (3) The systems of expense provisions included in the  
17 rates for use by any company or group of companies may  
18 differ from those of other companies or groups of companies  
19 to reflect the operating methods of any such company or  
20 group with respect to any kind of insurance, or with  
21 respect to any subdivision or combination thereof.

22 (4) Risks may be grouped by classifications for the  
23 establishment of rates and minimum premiums.  
24 Classification rates may be modified to produce rates for  
25 individual risks in accordance with rating plans which  
26 establish standards for measuring variations in hazards or

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

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

18 (2) If (i) 1% of a company's insureds within a specialty or  
19 25 of the company's insureds (whichever is greater) request a  
20 public hearing, (ii) the Director ~~Secretary~~ at his or her  
21 discretion decides to convene a public hearing, or (iii) the  
22 percentage increase in a company's rate is greater than 6%,  
23 then the Director ~~Secretary~~ shall convene a public hearing in  
24 accordance with this paragraph (2). The Director ~~Secretary~~  
25 shall notify the public of any application by an insurer for a  
26 rate increase to which this paragraph (2) applies. A public

1 hearing under this paragraph (2) must be concluded within 90  
2 days after the request, decision, or increase that gave rise to  
3 the hearing. The Director ~~Secretary~~ may, by order, adjust a  
4 rate or take any other appropriate action at the conclusion of  
5 the hearing.

6 (3) A rate filing shall occur upon a company's commencement  
7 of medical liability insurance business in this State and  
8 thereafter as often as the rates are changed or amended.

9 (4) For the purposes of this Section, any change in premium  
10 to the company's insureds as a result of a change in the  
11 company's base rates or a change in its increased limits  
12 factors shall constitute a change in rates and shall require a  
13 filing with the Director ~~Secretary~~.

14 (5) It shall be certified in such filing by an officer of  
15 the company and a qualified actuary that the company's rates  
16 are based on sound actuarial principles and are not  
17 inconsistent with the company's experience. The Director  
18 ~~Secretary~~ may request any additional statistical data and other  
19 pertinent information necessary to determine the manner the  
20 company used to set the filed rates and the reasonableness of  
21 those rates. This data and information shall be made available,  
22 on a company-by-company basis, to the general public.

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

24 (1) that any rate, rating plan or rating system  
25 violates the provisions of this Section applicable to it,  
26 he shall issue an order to the company which has been the



1 subject of the hearing specifying in what respects such  
2 violation exists and, in that order, may adjust the rate;

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

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

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

15 The burden is on the company to justify the rate or  
16 proposed rate at the public hearing.

17 (e) Every company writing medical liability insurance in  
18 this State shall offer to each of its medical liability  
19 insureds the option to make premium payments in quarterly  
20 installments as prescribed by and filed with the Director  
21 ~~Secretary~~. This offer shall be included in the initial offer or  
22 in the first policy renewal occurring after August 25, 2005 ~~the~~  
23 ~~effective date of this amendatory Act of the 94th General~~  
24 ~~Assembly~~, but no earlier than January 1, 2006.

25 (f) Every company writing medical liability insurance is  
26 encouraged, but not required, to offer the opportunity for

1 participation in a plan offering deductibles to its medical  
2 liability insureds. Any plan to offer deductibles shall be  
3 filed with the Department.

4 (g) Every company writing medical liability insurance is  
5 encouraged, but not required, to offer their medical liability  
6 insureds a plan providing premium discounts for participation  
7 in risk management activities. Any such plan shall be reported  
8 to the Department.

9 (h) A company writing medical liability insurance in  
10 Illinois must give 180 days' notice before the company  
11 discontinues the writing of medical liability insurance in  
12 Illinois.

13 (Source: P.A. 94-677, eff. 8-25-05.)

14 (215 ILCS 5/155.18a)

15 Sec. 155.18a. Professional Liability Insurance Resource  
16 Center. The Director of Insurance ~~Secretary of Financial and~~  
17 ~~Professional Regulation~~ shall establish a Professional  
18 Liability Insurance Resource Center on the Department's  
19 Internet website containing the name, telephone number, and  
20 base rates of each licensed company providing medical liability  
21 insurance and the name, address, and telephone number of each  
22 producer who sells medical liability insurance and the name of  
23 each licensed company for which the producer sells medical  
24 liability insurance. Each company and producer shall submit the  
25 information to the Department on or before September 30 of each

1 year in order to be listed on the website. Hyperlinks to  
2 company websites shall be included, if available. The  
3 publication of the information on the Department's website  
4 shall commence on January 1, 2006. The Department shall update  
5 the information on the Professional Liability Insurance  
6 Resource Center at least annually.

7 (Source: P.A. 94-677, eff. 8-25-05.)

8 (215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

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

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

24 With due regard for appropriate maintenance of the  
25 confidentiality thereof, the Director ~~Secretary~~ shall release,  
26 on an annual basis, to the Governor, the General Assembly and

1 the general public statistical reports based on such data and  
2 information.

3 If the Director ~~Secretary~~ finds that any entity required to  
4 report information in its possession under this Section has  
5 violated any provision of this Section by filing late,  
6 incomplete, or inaccurate reports, the Director ~~Secretary~~ may  
7 fine the entity up to \$1,000 for each offense. Each day during  
8 which a violation occurs constitutes a separate offense.

9 The Director ~~Secretary~~ may promulgate such rules and  
10 regulations as may be necessary to carry out the provisions of  
11 this Section.

12 (Source: P.A. 94-677, eff. 8-25-05.)

13 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

14 Sec. 1204. (A) The Director ~~Secretary~~ shall promulgate  
15 rules and regulations which shall require each insurer licensed  
16 to write property or casualty insurance in the State and each  
17 syndicate doing business on the Illinois Insurance Exchange to  
18 record and report its loss and expense experience and other  
19 data as may be necessary to assess the relationship of  
20 insurance premiums and related income as compared to insurance  
21 costs and expenses. The Director ~~Secretary~~ may designate one or  
22 more rate service organizations or advisory organizations to  
23 gather and compile such experience and data. The Director  
24 ~~Secretary~~ shall require each insurer licensed to write property  
25 or casualty insurance in this State and each syndicate doing

1 business on the Illinois Insurance Exchange to submit a report,  
2 on a form furnished by the Director ~~Secretary~~, showing its  
3 direct writings in this State and companywide.

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

7 (1) Political subdivision liability insurance reported  
8 separately in the following categories:

9 (a) municipalities;

10 (b) school districts;

11 (c) other political subdivisions;

12 (2) Public official liability insurance;

13 (3) Dram shop liability insurance;

14 (4) Day care center liability insurance;

15 (5) Labor, fraternal or religious organizations  
16 liability insurance;

17 (6) Errors and omissions liability insurance;

18 (7) Officers and directors liability insurance  
19 reported separately as follows:

20 (a) non-profit entities;

21 (b) for-profit entities;

22 (8) Products liability insurance;

23 (9) Medical malpractice insurance;

24 (10) Attorney malpractice insurance;

25 (11) Architects and engineers malpractice insurance;

26 and

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

3                   (a) motor vehicle physical damage insurance;

4                   (b) motor vehicle liability insurance.

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

9                   (1) Direct premiums written;

10                   (2) Direct premiums earned;

11                   (3) Number of policies;

12                   (4) Net investment income, using appropriate estimates

13 where necessary;

14                   (5) Losses paid;

15                   (6) Losses incurred;

16                   (7) Loss reserves:

17                           (a) Losses unpaid on reported claims;

18                           (b) Losses unpaid on incurred but not reported  
19 claims;

20                   (8) Number of claims:

21                           (a) Paid claims;

22                           (b) Arising claims;

23                   (9) Loss adjustment expenses:

24                           (a) Allocated loss adjustment expenses;

25                           (b) Unallocated loss adjustment expenses;

26                   (10) Net underwriting gain or loss;

1 (11) Net operation gain or loss, including net  
2 investment income;

3 (12) Any other information requested by the Director  
4 ~~Secretary~~.

5 (C-3) Additional information by an advisory organization  
6 as defined in Section 463 of this Code.

7 (1) An advisory organization as defined in Section 463  
8 of this Code shall report annually the following  
9 information in such format as may be prescribed by the  
10 Director Secretary:

11 (a) paid and incurred losses for each of the past  
12 10 years;

13 (b) medical payments and medical charges, if  
14 collected, for each of the past 10 years;

15 (c) the following indemnity payment information:  
16 cumulative payments by accident year by calendar year  
17 of development. This array will show payments made and  
18 frequency of claims in the following categories:  
19 medical only, permanent partial disability (PPD),  
20 permanent total disability (PTD), temporary total  
21 disability (TTD), and fatalities;

22 (d) injuries by frequency and severity;

23 (e) by class of employee.

24 (2) The report filed with the Director ~~Secretary of~~  
25 ~~Financial and Professional Regulation~~ under paragraph (1)  
26 of this subsection (C-3) shall be made available, on an



1 aggregate basis, to the General Assembly and to the general  
2 public. The identity of the petitioner, the respondent, the  
3 attorneys, and the insurers shall not be disclosed.

4 (3) Reports required under this subsection (C-3) shall  
5 be filed with the Director ~~Secretary~~ no later than  
6 September 1 in 2006 and no later than September 1 of each  
7 year thereafter.

8 (C-5) Additional information required from medical  
9 malpractice insurers.

10 (1) In addition to the other requirements of this  
11 Section, the following information shall be included in the  
12 report required by subsection (A) of this Section in such  
13 form and under such terms and conditions as may be  
14 prescribed by the Director ~~Secretary~~:

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

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

20 (c) the following actuarial information:

21 (i) Base class and territory equivalent  
22 exposures by report year by relative accident  
23 year.

24 (ii) Cumulative loss array by accident year by  
25 calendar year of development. This array will show  
26 frequency of claims in the following categories:

1 open, closed with indemnity (CWI), closed with  
2 expense (CWE), and closed no pay (CNP); paid  
3 severity in the following categories: indemnity  
4 and allocated loss adjustment expenses (ALAE) on  
5 closed claims; and indemnity and expense reserves  
6 on pending claims.

7 (iii) Cumulative loss array by report year by  
8 calendar year of development. This array will show  
9 frequency of claims in the following categories:  
10 open, closed with indemnity (CWI), closed with  
11 expense (CWE), and closed no pay (CNP); paid  
12 severity in the following categories: indemnity  
13 and allocated loss adjustment expenses (ALAE) on  
14 closed claims; and indemnity and expense reserves  
15 on pending claims.

16 (iv) Maturity year and tail factors.

17 (v) Any expense, contingency ddr (death,  
18 disability, and retirement), commission, tax,  
19 and/or off-balance factors.

20 (2) The following information must also be annually  
21 provided to the Department:

22 (a) copies of the company's reserve and surplus  
23 studies; and

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

26 (3) All information collected by the Director

1 ~~Secretary~~ under paragraphs (1) and (2) shall be made  
2 available, on a company-by-company basis, to the General  
3 Assembly and the general public. This provision shall  
4 supersede any other provision of State law that may  
5 otherwise protect such information from public disclosure  
6 as confidential.

7 (D) In addition to the information which may be requested  
8 under subsection (C), the Director ~~Secretary~~ may also request  
9 on a companywide, aggregate basis, Federal Income Tax  
10 recoverable, net realized capital gain or loss, net unrealized  
11 capital gain or loss, and all other expenses not requested in  
12 subsection (C) above.

13 (E) Violations - Suspensions - Revocations.

14 (1) Any company or person subject to this Article, who  
15 willfully or repeatedly fails to observe or who otherwise  
16 violates any of the provisions of this Article or any rule  
17 or regulation promulgated by the Director ~~Secretary~~ under  
18 authority of this Article or any final order of the  
19 Director ~~Secretary~~ entered under the authority of this  
20 Article shall by civil penalty forfeit to the State of  
21 Illinois a sum not to exceed \$2,000. Each day during which  
22 a violation occurs constitutes a separate offense.

23 (2) No forfeiture liability under paragraph (1) of this  
24 subsection may attach unless a written notice of apparent  
25 liability has been issued by the Director ~~Secretary~~ and  
26 received by the respondent, or the Director ~~Secretary~~ sends

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

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

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

23 (5) The civil penalty forfeitures provided for in this  
24 Section are payable to the General Revenue Fund of the  
25 State of Illinois, and may be recovered in a civil suit in  
26 the name of the State of Illinois brought in the Circuit

1 Court in Sangamon County or in the Circuit Court of the  
2 county where the respondent is domiciled or has its  
3 principal operating office.

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

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

23 (8) When any person or company has a license or  
24 certificate of authority under this Code and knowingly  
25 fails or refuses to comply with any provisions of this  
26 Article, the Director ~~Secretary~~ may, after notice and

1 hearing, in addition to any other penalty provided, revoke  
2 or refuse to renew the license or certificate of authority  
3 of such person or company, or may suspend the license or  
4 certificate of authority of such person or company, until  
5 compliance with such provision of this Article has been  
6 obtained.

7 (9) No suspension or revocation under this Section may  
8 become effective until 5 days from the date that the notice  
9 of suspension or revocation has been personally delivered  
10 or delivered by registered or certified mail to the company  
11 or person. A suspension or revocation under this Section is  
12 stayed upon the filing, by the company or person, of a  
13 petition for judicial review under the Administrative  
14 Review Law.

15 (Source: P.A. 94-277, eff. 7-20-05; 94-677, eff. 8-25-05;  
16 95-331, eff. 8-21-07.)

17 Section 10. The Code of Civil Procedure is amended by  
18 reenacting and changing Sections 2-622, 2-1704.5, 8-1901, and  
19 8-2501 and by changing Sections 2-1303 and 8-2006 as follows:

20 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

21 Sec. 2-622. Healing art malpractice.

22 (a) In any action, whether in tort, contract or otherwise,  
23 in which the plaintiff seeks damages for injuries or death by  
24 reason of medical, hospital, or other healing art malpractice,

1 the plaintiff's attorney or the plaintiff, if the plaintiff is  
2 proceeding pro se, shall file an affidavit, attached to the  
3 original and all copies of the complaint, declaring one of the  
4 following:

5 1. That the affiant has consulted and reviewed the  
6 facts of the case with a health professional who the  
7 affiant reasonably believes: (i) is knowledgeable in the  
8 relevant issues involved in the particular action; (ii)  
9 practices or has practiced within the last 5 years or  
10 teaches or has taught within the last 5 years in the same  
11 area of health care or medicine that is at issue in the  
12 particular action; and (iii) meets the expert witness  
13 standards set forth in paragraphs (a) through (d) of  
14 Section 8-2501; that the reviewing health professional has  
15 determined in a written report, after a review of the  
16 medical record and other relevant material involved in the  
17 particular action that there is a reasonable and  
18 meritorious cause for the filing of such action; and that  
19 the affiant has concluded on the basis of the reviewing  
20 health professional's review and consultation that there  
21 is a reasonable and meritorious cause for filing of such  
22 action. A single written report must be filed to cover each  
23 defendant in the action. As to defendants who are  
24 individuals, the written report must be from a health  
25 professional licensed in the same profession, with the same  
26 class of license, as the defendant. For written reports

1 filed as to all other defendants, who are not individuals,  
2 the written report must be from a physician licensed to  
3 practice medicine in all its branches who is qualified by  
4 experience with the standard of care, methods, procedures  
5 and treatments relevant to the allegations at issue in the  
6 case. In either event, the written report must identify the  
7 profession of the reviewing health professional. A copy of  
8 the written report, clearly identifying the plaintiff and  
9 the reasons for the reviewing health professional's  
10 determination that a reasonable and meritorious cause for  
11 the filing of the action exists, including the reviewing  
12 health care professional's name, address, current license  
13 number, and state of licensure, must be attached to the  
14 affidavit. Information regarding the preparation of a  
15 written report by the reviewing health professional shall  
16 not be used to discriminate against that professional in  
17 the issuance of medical liability insurance or in the  
18 setting of that professional's medical liability insurance  
19 premium. No professional organization may discriminate  
20 against a reviewing health professional on the basis that  
21 the reviewing health professional has prepared a written  
22 report.

23 2. That the affiant was unable to obtain a consultation  
24 required by paragraph 1 because a statute of limitations  
25 would impair the action and the consultation required could  
26 not be obtained before the expiration of the statute of



1 limitations. If an affidavit is executed pursuant to this  
2 paragraph, the affidavit and written report required by  
3 paragraph 1 shall be filed within 90 days after the filing  
4 of the complaint. No additional 90-day extensions pursuant  
5 to this paragraph shall be granted, except where there has  
6 been a withdrawal of the plaintiff's counsel. The defendant  
7 shall be excused from answering or otherwise pleading until  
8 30 days after being served with an affidavit and a report  
9 required by paragraph 1.

10 3. That a request has been made by the plaintiff or his  
11 attorney for examination and copying of records pursuant to  
12 Part 20 of Article VIII of this Code and the party required  
13 to comply under those Sections has failed to produce such  
14 records within 60 days of the receipt of the request. If an  
15 affidavit is executed pursuant to this paragraph, the  
16 affidavit and written report required by paragraph 1 shall  
17 be filed within 90 days following receipt of the requested  
18 records. All defendants except those whose failure to  
19 comply with Part 20 of Article VIII of this Code is the  
20 basis for an affidavit under this paragraph shall be  
21 excused from answering or otherwise pleading until 30 days  
22 after being served with the affidavit and report required  
23 by paragraph 1.

24 (b) Where an affidavit and written report are required  
25 pursuant to this Section a separate affidavit and written  
26 report shall be filed as to each defendant who has been named

1 in the complaint and shall be filed as to each defendant named  
2 at a later time.

3 (c) Where the plaintiff intends to rely on the doctrine of  
4 "res ipsa loquitur", as defined by Section 2-1113 of this Code,  
5 the affidavit and written report must state that, in the  
6 opinion of the reviewing health professional, negligence has  
7 occurred in the course of medical treatment. The affiant shall  
8 certify upon filing of the complaint that he is relying on the  
9 doctrine of "res ipsa loquitur".

10 (d) When the attorney intends to rely on the doctrine of  
11 failure to inform of the consequences of the procedure, the  
12 attorney shall certify upon the filing of the complaint that  
13 the reviewing health professional has, after reviewing the  
14 medical record and other relevant materials involved in the  
15 particular action, concluded that a reasonable health  
16 professional would have informed the patient of the  
17 consequences of the procedure.

18 (e) Allegations and denials in the affidavit, made without  
19 reasonable cause and found to be untrue, shall subject the  
20 party pleading them or his attorney, or both, to the payment of  
21 reasonable expenses, actually incurred by the other party by  
22 reason of the untrue pleading, together with reasonable  
23 attorneys' fees to be summarily taxed by the court upon motion  
24 made within 30 days of the judgment or dismissal. In no event  
25 shall the award for attorneys' fees and expenses exceed those  
26 actually paid by the moving party, including the insurer, if

1 any. In proceedings under this paragraph (e), the moving party  
2 shall have the right to depose and examine any and all  
3 reviewing health professionals who prepared reports used in  
4 conjunction with an affidavit required by this Section.

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

10 (g) The failure of the plaintiff to file an affidavit and  
11 report in compliance with this Section shall be grounds for  
12 dismissal under Section 2-619.

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

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

19 (j) The changes to this Section made by Public Act 94-677  
20 and reenacted by this amendatory Act of the 94th General  
21 Assembly apply to causes of action accruing on or after August  
22 25, 2005, as those changes may be amended from time to time ~~its~~  
23 effective date.

24 (Source: P.A. 94-677, eff. 8-25-05.)

25 (735 ILCS 5/2-1303) (from Ch. 110, par. 2-1303)

1           Sec. 2-1303. Interest on judgment.

2           (a) Judgments recovered in any court shall draw interest at  
3 the rate of 3% ~~9%~~ per annum from the date of the judgment until  
4 satisfied or 1% ~~6%~~ per annum when the judgment debtor is a unit  
5 of local government, as defined in Section 1 of Article VII of  
6 the Constitution, a school district, a community college  
7 district, or any other governmental entity. The interest rate  
8 shall be increased or decreased in accordance with the  
9 provisions of Section 8-2006. When judgment is entered upon any  
10 award, report or verdict, interest shall be computed at the  
11 above rate, from the time when made or rendered to the time of  
12 entering judgment upon the same, and included in the judgment,  
13 except as provided in subsection (b) of this Section. Interest  
14 shall be computed and charged only on the unsatisfied portion  
15 of the judgment as it exists from time to time. The judgment  
16 debtor may by tender of payment of judgment, costs and interest  
17 accrued to the date of tender, stop the further accrual of  
18 interest on such judgment notwithstanding the prosecution of an  
19 appeal, or other steps to reverse, vacate or modify the  
20 judgment.

21           (b) In cases where a federal Medicare lien may exist  
22 against the judgment, this statutory interest shall be computed  
23 from the day after the federal Medicare program provides  
24 confirmation of any lien against the judgment.

25           (Source: P.A. 85-907.)

1 (735 ILCS 5/2-1704.5)

2 Sec. 2-1704.5. Guaranteed payment of future medical  
3 expenses and costs of life care.

4 (a) At any time, but no later than 5 days after a verdict  
5 in the plaintiff's favor for a plaintiff's future medical  
6 expenses and costs of life care is reached, either party in a  
7 medical malpractice action may elect, or the court may enter an  
8 order, to have the payment of the plaintiff's future medical  
9 expenses and costs of life care made under this Section.

10 (b) In all cases in which a defendant in a medical  
11 malpractice action is found liable for the plaintiff's future  
12 medical expenses and costs of care, the trier of fact shall  
13 make the following findings based on evidence presented at  
14 trial:

15 (1) the present cash value of the plaintiff's future  
16 medical expenses and costs of life care;

17 (2) the current year annual cost of the plaintiff's  
18 future medical expenses and costs of life care; and

19 (3) the annual composite rate of inflation that should  
20 be applied to the costs specified in item (2).

21 Based upon evidence presented at trial, the trier of fact  
22 may also vary the amount of future costs under this Section  
23 from year to year to account for different annual expenditures,  
24 including the immediate medical and life care needs of the  
25 plaintiff. The jury shall not be informed of an election to pay  
26 for future medical expenses and costs of life care by

1 purchasing an annuity.

2 (c) When an election is made to pay for future medical  
3 expenses and costs of life care by purchasing an annuity, the  
4 court shall enter a judgment ordering that the defendant pay  
5 the plaintiff an amount equal to 20% of the present cash value  
6 of future medical expenses and cost of life care determined  
7 under subsection (b)(1) of this Section and ordering that the  
8 remaining future expenses and costs be paid by the purchase of  
9 an annuity by or on behalf of the defendant from a company that  
10 has itself, or is irrevocably supported financially by a  
11 company that has, at least 2 of the following 4 ratings: "A+ X"  
12 or higher from A.M. Best Company; "AA-" or higher from Standard  
13 & Poor's; "Aa3" or higher from Moody's; and "AA-" or higher  
14 from Fitch. The annuity must guarantee that the plaintiff will  
15 receive annual payments equal to 80% of the amount determined  
16 in subsection (b)(2) inflated by the rate determined in  
17 subsection (b)(3) for the life of the plaintiff.

18 (d) If the company providing the annuity becomes unable to  
19 pay amounts required by the annuity, the defendant shall secure  
20 a replacement annuity for the remainder of the plaintiff's life  
21 from a company that satisfies the requirements of subsection  
22 (c).

23 (e) A plaintiff receiving future payments by means of an  
24 annuity under this Section may seek leave of court to assign or  
25 otherwise transfer the right to receive such payments in  
26 exchange for a negotiated lump sum value of the remaining

1 future payments or any portion of the remaining future payments  
2 under the annuity to address an unanticipated financial  
3 hardship under such terms as approved by the court.

4 (f) This Section applies to all causes of action accruing  
5 on or after August 25, 2005 ~~the effective date of this~~  
6 ~~amendatory Act of the 94th General Assembly.~~

7 (Source: P.A. 94-677, eff. 8-25-05.)

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

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

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

21 (b) Any expression of grief, apology, or explanation  
22 provided by a health care provider, including, but not limited  
23 to, a statement that the health care provider is "sorry" for  
24 the outcome to a patient, the patient's family, or the  
25 patient's legal representative about an inadequate or

1 unanticipated treatment or care outcome that is provided within  
2 72 hours of when the provider knew or should have known of the  
3 potential cause of such outcome shall not be admissible as  
4 evidence in any action of any kind in any court or before any  
5 tribunal, board, agency, or person. The disclosure of any such  
6 information, whether proper, or improper, shall not waive or  
7 have any effect upon its confidentiality or inadmissibility. As  
8 used in this Section, a "health care provider" is any hospital,  
9 nursing home or other facility, or employee or agent thereof, a  
10 physician, or other licensed health care professional. Nothing  
11 in this Section precludes the discovery or admissibility of any  
12 other facts regarding the patient's treatment or outcome as  
13 otherwise permitted by law.

14 (c) The changes to this Section made by Public Act 94-677  
15 and reenacted by this amendatory Act of the 96th ~~94th~~ General  
16 Assembly apply to causes of action accruing on or after August  
17 25, 2005, as those changes may be amended from time to time ~~its~~  
18 ~~effective date.~~

19 (Source: P.A. 94-677, eff. 8-25-05.)

20 (735 ILCS 5/8-2006)

21 Sec. 8-2006. Copying fees and interest rates; adjustment  
22 for inflation. ~~Every Beginning in 2003, every~~ January 20, the  
23 copying fee limits established in Sections 8-2001 and 8-2005  
24 and the interest rates established in Section 2-1303 shall  
25 automatically be increased or decreased, as applicable, by a



1 percentage equal to the percentage change in the consumer price  
2 index-u during the preceding 12-month calendar year. "Consumer  
3 price index-u" means the index published by the Bureau of Labor  
4 Statistics of the United States Department of Labor that  
5 measures the average change in prices of goods and services  
6 purchased by all urban consumers, United States city average,  
7 all items, 1982-84 = 100. The new amount resulting from each  
8 annual adjustment shall be determined by the Comptroller and  
9 made available to the public via the Comptroller's official  
10 website by January 31 of every year.

11 (Source: P.A. 94-982, eff. 6-30-06; 95-478, eff. 1-1-08  
12 (changed from 8-27-07 by P.A. 95-480).)

13 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

14 Sec. 8-2501. Expert Witness Standards. In any case in which  
15 the standard of care applicable to a medical professional is at  
16 issue, the court shall apply the following standards to  
17 determine if a witness qualifies as an expert witness and can  
18 testify on the issue of the appropriate standard of care.

19 (a) Whether the witness is board certified or board  
20 eligible, or has completed a residency, in the same or  
21 substantially similar medical specialties as the defendant and  
22 is otherwise qualified by significant experience with the  
23 standard of care, methods, procedures, and treatments relevant  
24 to the allegations against the defendant;

25 (b) Whether the witness has devoted a majority of his or

1 her work time to the practice of medicine, teaching or  
2 University based research in relation to the medical care and  
3 type of treatment at issue which gave rise to the medical  
4 problem of which the plaintiff complains;

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

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

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

19 The changes to this Section made by Public Act 94-677 and  
20 reenacted by this amendatory Act of the 96th ~~94th~~ General  
21 Assembly apply to causes of action accruing on or after August  
22 25, 2005, as those changes may be amended from time to time ~~its~~  
23 ~~effective date~~.

24 (Source: P.A. 94-677, eff. 8-25-05.)

25 Section 15. The Wrongful Death Act is amended by changing

1 Section 2 as follows:

2 (740 ILCS 180/2) (from Ch. 70, par. 2)

3 Sec. 2. Every such action shall be brought by and in the  
4 names of the personal representatives of such deceased person,  
5 and, except as otherwise hereinafter provided, the amount  
6 recovered in every such action shall be for the exclusive  
7 benefit of the surviving spouse and next of kin of such  
8 deceased person and in. ~~In~~ every such action the jury may give  
9 such damages as they shall deem a fair and just compensation  
10 with reference to the pecuniary injuries resulting from such  
11 death, ~~including damages for grief, sorrow, and mental~~  
12 ~~suffering,~~ to the surviving spouse and next of kin of such  
13 deceased person.

14 In every such action, the jury shall determine the amount  
15 of damages to be recovered without regard to and with no  
16 special instruction as to the dollar limits on recovery imposed  
17 by this Section. In no event shall the judgment entered upon  
18 such verdict exceed \$20,000 where such death occurred prior to  
19 July 14, 1955, and not exceeding \$25,000 where such death  
20 occurred on or after July 14, 1955 and prior to July 8, 1957,  
21 and not exceeding \$30,000 where such death occurs on or after  
22 July 8, 1957 and prior to the effective date of this amendatory  
23 Act of 1967, and without limitation where such death occurs on  
24 or after the effective date of this amendatory Act of 1967  
25 (August 18, 1967).

1           The amount recovered in any such action shall be  
2 distributed by the court in which the cause is heard or, in the  
3 case of an agreed settlement, by the circuit court, to each of  
4 the surviving spouse and next of kin of such deceased person in  
5 the proportion, as determined by the court, that the percentage  
6 of dependency of each such person upon the deceased person  
7 bears to the sum of the percentages of dependency of all such  
8 persons upon the deceased person.

9           Where the deceased person left no surviving spouse or next  
10 of kin entitled to recovery, the damages shall, subject to the  
11 following limitations inure, to the exclusive benefit of the  
12 following persons, or any one or more of them:

13           (a) to the person or persons furnishing hospitalization or  
14 hospital services in connection with the last illness or injury  
15 of the deceased person, not exceeding \$450;

16           (b) to the person or persons furnishing medical or surgical  
17 services in connection with such last illness or injury, not  
18 exceeding \$450;

19           (c) to the personal representatives, as such, for the costs  
20 and expenses of administering the estate and prosecuting or  
21 compromising the action, including a reasonable attorney's  
22 fee. In any such case the measure of damages to be recovered  
23 shall be the total of the reasonable value of such  
24 hospitalization or hospital service, medical and surgical  
25 services, funeral expenses, and such costs and expenses of  
26 administration, including attorney fees, not exceeding the

1 foregoing limitations for each class of such expenses and not  
2 exceeding \$900 plus a reasonable attorney's fee.

3 Every such action shall be commenced within 2 years after  
4 the death of such person but an action against a defendant  
5 arising from a crime committed by the defendant in whose name  
6 an escrow account was established under the "Criminal Victims'  
7 Escrow Account Act" shall be commenced within 2 years after the  
8 establishment of such account. For the purposes of this Section  
9 2, next of kin includes an adopting parent and an adopted  
10 child, and they shall be treated as a natural parent and a  
11 natural child, respectively. However, if a person entitled to  
12 recover benefits under this Act, is, at the time the cause of  
13 action accrued, within the age of 18 years, he or she may cause  
14 such action to be brought within 2 years after attainment of  
15 the age of 18.

16 In any such action to recover damages, it shall not be a  
17 defense that the death was caused in whole or in part by the  
18 contributory negligence of one or more of the beneficiaries on  
19 behalf of whom the action is brought, but the amount of damages  
20 given shall be reduced in the following manner.

21 The trier of fact shall first determine the decedent's  
22 contributory fault in accordance with Sections 2-1116 and  
23 2-1107.1 of the Code of Civil Procedure. Recovery of damages  
24 shall be barred or diminished accordingly. The trier of fact  
25 shall then determine the contributory fault, if any, of each  
26 beneficiary on behalf of whom the action was brought:

1           (1) Where the trier of fact finds that the contributory  
2           fault of a beneficiary on whose behalf the action is  
3           brought is not more than 50% of the proximate cause of the  
4           wrongful death of the decedent, then the damages allowed to  
5           that beneficiary shall be diminished in proportion to the  
6           contributory fault attributed to that beneficiary. The  
7           amount of the reduction shall not be payable by any  
8           defendant.

9           (2) Where the trier of fact finds that the contributory  
10          fault of a beneficiary on whose behalf the action is  
11          brought is more than 50% of the proximate cause of the  
12          wrongful death of the decedent, then the beneficiary shall  
13          be barred from recovering damages and the amount of damages  
14          which would have been payable to that beneficiary, but for  
15          the beneficiary's contributory fault, shall not inure to  
16          the benefit of the remaining beneficiaries and shall not be  
17          payable by any defendant.

18          The trial judge shall conduct a hearing to determine the  
19          degree of dependency of each beneficiary upon the decedent. The  
20          trial judge shall calculate the amount of damages to be awarded  
21          each beneficiary, taking into account any reduction arising  
22          from either the decedent's or the beneficiary's contributory  
23          fault.

24          ~~This amendatory Act of the 91st General Assembly applies to~~  
25          ~~all actions pending on or filed after the effective date of~~  
26          ~~this amendatory Act.~~

1       ~~This amendatory Act of the 95th General Assembly applies to~~  
2       ~~causes of actions accruing on or after its effective date.~~

3       This amendatory Act of the 96th General Assembly applies to  
4       causes of actions accruing on or after its effective date.

5       (Source: P.A. 95-3, eff. 5-31-07.)

6       Section 20. The Good Samaritan Act is amended by reenacting  
7       and changing Section 30 as follows:

8           (745 ILCS 49/30)

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

11       (a) A person licensed under the Medical Practice Act of  
12       1987, a person licensed to practice the treatment of human  
13       ailments in any other state or territory of the United States,  
14       or a health care professional, including but not limited to an  
15       advanced practice nurse, retired physician, physician  
16       assistant, nurse, pharmacist, physical therapist, podiatrist,  
17       or social worker licensed in this State or any other state or  
18       territory of the United States, who, in good faith, provides  
19       medical treatment, diagnosis, or advice as a part of the  
20       services of an established free medical clinic providing care,  
21       including but not limited to home visits, without charge to  
22       patients which is limited to care that does not require the  
23       services of a licensed hospital or ambulatory surgical  
24       treatment center and who receives no fee or compensation from

1 that source shall not be liable for civil damages as a result  
2 of his or her acts or omissions in providing that medical  
3 treatment, except for willful or wanton misconduct.

4 (b) For purposes of this Section, a "free medical clinic"  
5 is an organized community based program providing medical care  
6 without charge to individuals, at which the care provided does  
7 not include an overnight stay in a health-care facility.

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

12 (d) The immunity from civil damages provided under  
13 subsection (a) also applies to physicians, retired physicians,  
14 hospitals, and other health care providers that provide further  
15 medical treatment, diagnosis, or advice, including but not  
16 limited to hospitalization, office visits, and home visits, to  
17 a patient upon referral from an established free medical clinic  
18 without fee or compensation.

19 (d-5) A free medical clinic may receive reimbursement from  
20 the Illinois Department of Public Aid, provided any  
21 reimbursements shall be used only to pay overhead expenses of  
22 operating the free medical clinic and may not be used, in whole  
23 or in part, to provide a fee or other compensation to any  
24 person licensed under the Medical Practice Act of 1987 or any  
25 other health care professional who is receiving an exemption  
26 under this Section. Any health care professional receiving an



1 exemption under this Section may not receive any fee or other  
2 compensation in connection with any services provided to, or  
3 any ownership interest in, the clinic. Medical care shall not  
4 include an overnight stay in a health care facility.

5 (e) Nothing in this Section prohibits a free medical clinic  
6 from accepting voluntary contributions for medical services  
7 provided to a patient who has acknowledged his or her ability  
8 and willingness to pay a portion of the value of the medical  
9 services provided.

10 (f) Any voluntary contribution collected for providing  
11 care at a free medical clinic shall be used only to pay  
12 overhead expenses of operating the clinic. No portion of any  
13 moneys collected shall be used to provide a fee or other  
14 compensation to any person licensed under Medical Practice Act  
15 of 1987.

16 (g) The changes to this Section made by Public Act 94-677  
17 and reenacted by this amendatory Act of the 96th ~~94th~~ General  
18 Assembly apply to causes of action accruing on or after August  
19 25, 2005, as those changes may be amended from time to time ~~its~~  
20 ~~effective date.~~

21 (Source: P.A. 94-677, eff. 8-25-05.)

22 Section 97. Inseverability. The provisions of this Act are  
23 mutually dependent and inseverable. If any provision is held  
24 invalid, then this entire Act, including all new and amendatory  
25 provisions, is invalid.

1           Section 99. Effective date. This Act takes effect upon  
2           becoming law.