



Rep. John A. Fritchey

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09500HB0317ham004

LRB095 03378 RLC 35369 a

1 AMENDMENT TO HOUSE BILL 317

2 AMENDMENT NO. _____. Amend House Bill 317, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 2. The Medical Practice Act of 1987 is amended by
6 changing Sections 22 and 23 as follows:

7 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

8 (Section scheduled to be repealed on December 31, 2008)

9 Sec. 22. Disciplinary action.

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

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

3 (a) a facility licensed pursuant to the Ambulatory
4 Surgical Treatment Center Act;

5 (b) an institution licensed under the Hospital
6 Licensing Act; or

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

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

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

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

25 (3) The conviction of a felony in this or any other
26 jurisdiction, except as otherwise provided in subsection B

1 of this Section, whether or not related to practice under
2 this Act, or the entry of a guilty or nolo contendere plea
3 to a felony charge.

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

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

8 (6) Obtaining any fee by fraud, deceit, or
9 misrepresentation.

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

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

16 (9) Fraud or misrepresentation in applying for, or
17 procuring, a license under this Act or in connection with
18 applying for renewal of a license under this Act.

19 (10) Making a false or misleading statement regarding
20 their skill or the efficacy or value of the medicine,
21 treatment, or remedy prescribed by them at their direction
22 in the treatment of any disease or other condition of the
23 body or mind.

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

26 (12) Disciplinary action of another state or

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

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

12 (14) Dividing with anyone other than physicians with
13 whom the licensee practices in a partnership, Professional
14 Association, limited liability company, or Medical or
15 Professional Corporation any fee, commission, rebate or
16 other form of compensation for any professional services
17 not actually and personally rendered. Nothing contained in
18 this subsection prohibits persons holding valid and
19 current licenses under this Act from practicing medicine in
20 partnership under a partnership agreement, including a
21 limited liability partnership, in a limited liability
22 company under the Limited Liability Company Act, in a
23 corporation authorized by the Medical Corporation Act, as
24 an association authorized by the Professional Association
25 Act, or in a corporation under the Professional Corporation
26 Act or from pooling, sharing, dividing or apportioning the

1 fees and monies received by them or by the partnership,
2 corporation or association in accordance with the
3 partnership agreement or the policies of the Board of
4 Directors of the corporation or association. Nothing
5 contained in this subsection prohibits 2 or more
6 corporations authorized by the Medical Corporation Act,
7 from forming a partnership or joint venture of such
8 corporations, and providing medical, surgical and
9 scientific research and knowledge by employees of these
10 corporations if such employees are licensed under this Act,
11 or from pooling, sharing, dividing, or apportioning the
12 fees and monies received by the partnership or joint
13 venture in accordance with the partnership or joint venture
14 agreement. Nothing contained in this subsection shall
15 abrogate the right of 2 or more persons, holding valid and
16 current licenses under this Act, to each receive adequate
17 compensation for concurrently rendering professional
18 services to a patient and divide a fee; provided, the
19 patient has full knowledge of the division, and, provided,
20 that the division is made in proportion to the services
21 performed and responsibility assumed by each.

22 (15) A finding by the Medical Disciplinary Board that
23 the registrant after having his or her license placed on
24 probationary status or subjected to conditions or
25 restrictions violated the terms of the probation or failed
26 to comply with such terms or conditions.

1 (16) Abandonment of a patient.

2 (17) Prescribing, selling, administering,
3 distributing, giving or self-administering any drug
4 classified as a controlled substance (designated product)
5 or narcotic for other than medically accepted therapeutic
6 purposes.

7 (18) Promotion of the sale of drugs, devices,
8 appliances or goods provided for a patient in such manner
9 as to exploit the patient for financial gain of the
10 physician.

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

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

19 (21) Wilfully making or filing false records or reports
20 in his or her practice as a physician, including, but not
21 limited to, false records to support claims against the
22 medical assistance program of the Department of Healthcare
23 and Family Services (formerly Department of Public Aid)
24 under the Illinois Public Aid Code.

25 (22) Wilful omission to file or record, or wilfully
26 impeding the filing or recording, or inducing another

1 person to omit to file or record, medical reports as
2 required by law, or wilfully failing to report an instance
3 of suspected abuse or neglect as required by law.

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

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

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

22 (26) A pattern of practice or other behavior which
23 demonstrates incapacity or incompetence to practice under
24 this Act.

25 (27) Mental illness or disability which results in the
26 inability to practice under this Act with reasonable

1 judgment, skill or safety.

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

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

8 (30) Wilfully or negligently violating the
9 confidentiality between physician and patient except as
10 required by law.

11 (31) The use of any false, fraudulent, or deceptive
12 statement in any document connected with practice under
13 this Act.

14 (32) Aiding and abetting an individual not licensed
15 under this Act in the practice of a profession licensed
16 under this Act.

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

20 (34) Failure to report to the Department any adverse
21 final action taken against them by another licensing
22 jurisdiction (any other state or any territory of the
23 United States or any foreign state or country), by any peer
24 review body, by any health care institution, by any
25 professional society or association related to practice
26 under this Act, by any governmental agency, by any law

1 enforcement agency, or by any court for acts or conduct
2 similar to acts or conduct which would constitute grounds
3 for action as defined in this Section.

4 (35) Failure to report to the Department surrender of a
5 license or authorization to practice as a medical doctor, a
6 doctor of osteopathy, a doctor of osteopathic medicine, or
7 doctor of chiropractic in another state or jurisdiction, or
8 surrender of membership on any medical staff or in any
9 medical or professional association or society, while
10 under disciplinary investigation by any of those
11 authorities or bodies, for acts or conduct similar to acts
12 or conduct which would constitute grounds for action as
13 defined in this Section.

14 (36) Failure to report to the Department any adverse
15 judgment, settlement, or award arising from a liability
16 claim related to acts or conduct similar to acts or conduct
17 which would constitute grounds for action as defined in
18 this Section.

19 (37) Failure to transfer copies of medical records as
20 required by law.

21 (38) Failure to furnish the Department, its
22 investigators or representatives, relevant information,
23 legally requested by the Department after consultation
24 with the Chief Medical Coordinator or the Deputy Medical
25 Coordinator.

26 (39) Violating the Health Care Worker Self-Referral

1 Act.

2 (40) Intentional failure to comply with ~~Willful~~
3 ~~failure to provide notice when notice is required under~~ the
4 Parental Notice of Abortion Act of 1995.

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

7 (42) Entering into an excessive number of written
8 collaborative agreements with licensed advanced practice
9 nurses resulting in an inability to adequately collaborate
10 and provide medical direction.

11 (43) Repeated failure to adequately collaborate with
12 or provide medical direction to a licensed advanced
13 practice nurse.

14 Except for actions involving the ground numbered (26), all
15 proceedings to suspend, revoke, place on probationary status,
16 or take any other disciplinary action as the Department may
17 deem proper, with regard to a license on any of the foregoing
18 grounds, must be commenced within 5 years next after receipt by
19 the Department of a complaint alleging the commission of or
20 notice of the conviction order for any of the acts described
21 herein. Except for the grounds numbered (8), (9), (26), and
22 (29), no action shall be commenced more than 10 years after the
23 date of the incident or act alleged to have violated this
24 Section. For actions involving the ground numbered (26), a
25 pattern of practice or other behavior includes all incidents
26 alleged to be part of the pattern of practice or other behavior

1 that occurred or a report pursuant to Section 23 of this Act
2 received within the 10-year period preceding the filing of the
3 complaint. In the event of the settlement of any claim or cause
4 of action in favor of the claimant or the reduction to final
5 judgment of any civil action in favor of the plaintiff, such
6 claim, cause of action or civil action being grounded on the
7 allegation that a person licensed under this Act was negligent
8 in providing care, the Department shall have an additional
9 period of 2 years from the date of notification to the
10 Department under Section 23 of this Act of such settlement or
11 final judgment in which to investigate and commence formal
12 disciplinary proceedings under Section 36 of this Act, except
13 as otherwise provided by law. The time during which the holder
14 of the license was outside the State of Illinois shall not be
15 included within any period of time limiting the commencement of
16 disciplinary action by the Department.

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

26 The Department may refuse to issue or take disciplinary

1 action concerning the license of any person who fails to file a
2 return, or to pay the tax, penalty or interest shown in a filed
3 return, or to pay any final assessment of tax, penalty or
4 interest, as required by any tax Act administered by the
5 Illinois Department of Revenue, until such time as the
6 requirements of any such tax Act are satisfied as determined by
7 the Illinois Department of Revenue.

8 The Department, upon the recommendation of the
9 Disciplinary Board, shall adopt rules which set forth standards
10 to be used in determining:

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

13 (b) what constitutes dishonorable, unethical or
14 unprofessional conduct of a character likely to deceive,
15 defraud, or harm the public;

16 (c) what constitutes immoral conduct in the commission
17 of any act, including, but not limited to, commission of an
18 act of sexual misconduct related to the licensee's
19 practice; and

20 (d) what constitutes gross negligence in the practice
21 of medicine.

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

25 In enforcing this Section, the Medical Disciplinary Board,
26 upon a showing of a possible violation, may compel any

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

1 17, or 19 of this Act, or, continued, reinstated, renewed,
2 disciplined or supervised, subject to such terms, conditions or
3 restrictions who shall fail to comply with such terms,
4 conditions or restrictions, or to complete a required program
5 of care, counseling, or treatment, as determined by the Chief
6 Medical Coordinator or Deputy Medical Coordinators, shall be
7 referred to the Secretary for a determination as to whether the
8 licensee shall have their license suspended immediately,
9 pending a hearing by the Disciplinary Board. In instances in
10 which the Secretary immediately suspends a license under this
11 Section, a hearing upon such person's license must be convened
12 by the Disciplinary Board within 15 days after such suspension
13 and completed without appreciable delay. The Disciplinary
14 Board shall have the authority to review the subject
15 physician's record of treatment and counseling regarding the
16 impairment, to the extent permitted by applicable federal
17 statutes and regulations safeguarding the confidentiality of
18 medical records.

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

24 The Department may promulgate rules for the imposition of
25 fines in disciplinary cases, not to exceed \$10,000 for each
26 violation of this Act. Fines may be imposed in conjunction with

1 other forms of disciplinary action, but shall not be the
2 exclusive disposition of any disciplinary action arising out of
3 conduct resulting in death or injury to a patient. Any funds
4 collected from such fines shall be deposited in the Medical
5 Disciplinary Fund.

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

19 (C) The Medical Disciplinary Board shall recommend to the
20 Department civil penalties and any other appropriate
21 discipline in disciplinary cases when the Board finds that a
22 physician intentionally failed to comply with ~~willfully~~
23 ~~performed an abortion with actual knowledge that the person~~
24 ~~upon whom the abortion has been performed is a minor or an~~
25 ~~incompetent person without notice as required under the~~
26 Parental Notice of Abortion Act of 1995. Upon the Board's

1 recommendation, the Department shall impose, for the first
2 violation, a civil penalty of \$1,000 and for a second or
3 subsequent violation, a civil penalty of \$5,000.

4 (Source: P.A. 94-556, eff. 9-11-05; 94-677, eff. 8-25-05;
5 revised 1-3-07.)

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

7 (Section scheduled to be repealed on December 31, 2008)

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

10 (A) Entities required to report.

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

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

26 (2) Professional associations. The President or chief

1 executive officer of any association or society, of persons
2 licensed under this Act, operating within this State shall
3 report to the Disciplinary Board when the association or
4 society renders a final determination that a person has
5 committed unprofessional conduct related directly to
6 patient care or that a person may be mentally or physically
7 disabled in such a manner as to endanger patients under
8 that person's care.

9 (3) Professional liability insurers. Every insurance
10 company which offers policies of professional liability
11 insurance to persons licensed under this Act, or any other
12 entity which seeks to indemnify the professional liability
13 of a person licensed under this Act, shall report to the
14 Disciplinary Board the settlement of any claim or cause of
15 action, or final judgment rendered in any cause of action,
16 which alleged negligence in the furnishing of medical care
17 by such licensed person when such settlement or final
18 judgment is in favor of the plaintiff.

19 (4) State's Attorneys. The State's Attorney of each
20 county shall report to the Disciplinary Board all instances
21 in which a person licensed under this Act is convicted or
22 otherwise found guilty of the commission of any felony. The
23 State's Attorney of each county may report to the
24 Disciplinary Board through a verified complaint any
25 instance in which the State's Attorney believes that a
26 physician has intentionally failed to comply with

1 ~~willfully violated the notice requirements of~~ the Parental
2 Notice of Abortion Act of 1995.

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

15 (B) Mandatory reporting. All reports required by items
16 (34), (35), and (36) of subsection (A) of Section 22 and by
17 Section 23 shall be submitted to the Disciplinary Board in a
18 timely fashion. The reports shall be filed in writing within 60
19 days after a determination that a report is required under this
20 Act. All reports shall contain the following information:

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

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

25 (3) The name and date of birth of any patient or
26 patients whose treatment is a subject of the report, if

1 available, or other means of identification if such
2 information is not available, identification of the
3 hospital or other healthcare facility where the care at
4 issue in the report was rendered, provided, however, no
5 medical records may be revealed.

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

9 (5) If court action is involved, the identity of the
10 court in which the action is filed, along with the docket
11 number and date of filing of the action.

12 (6) Any further pertinent information which the
13 reporting party deems to be an aid in the evaluation of the
14 report.

15 The Disciplinary Board or Department may also exercise the
16 power under Section 38 of this Act to subpoena copies of
17 hospital or medical records in mandatory report cases alleging
18 death or permanent bodily injury. Appropriate rules shall be
19 adopted by the Department with the approval of the Disciplinary
20 Board.

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

26 Nothing contained in this Section shall act to in any way,

1 waive or modify the confidentiality of medical reports and
2 committee reports to the extent provided by law. Any
3 information reported or disclosed shall be kept for the
4 confidential use of the Disciplinary Board, the Medical
5 Coordinators, the Disciplinary Board's attorneys, the medical
6 investigative staff, and authorized clerical staff, as
7 provided in this Act, and shall be afforded the same status as
8 is provided information concerning medical studies in Part 21
9 of Article VIII of the Code of Civil Procedure, except that the
10 Department may disclose information and documents to a federal,
11 State, or local law enforcement agency pursuant to a subpoena
12 in an ongoing criminal investigation. Furthermore, information
13 and documents disclosed to a federal, State, or local law
14 enforcement agency may be used by that agency only for the
15 investigation and prosecution of a criminal offense.

16 (C) Immunity from prosecution. Any individual or
17 organization acting in good faith, and not in a wilful and
18 wanton manner, in complying with this Act by providing any
19 report or other information to the Disciplinary Board or a peer
20 review committee, or assisting in the investigation or
21 preparation of such information, or by voluntarily reporting to
22 the Disciplinary Board or a peer review committee information
23 regarding alleged errors or negligence by a person licensed
24 under this Act, or by participating in proceedings of the
25 Disciplinary Board or a peer review committee, or by serving as
26 a member of the Disciplinary Board or a peer review committee,

1 shall not, as a result of such actions, be subject to criminal
2 prosecution or civil damages.

3 (D) Indemnification. Members of the Disciplinary Board,
4 the Medical Coordinators, the Disciplinary Board's attorneys,
5 the medical investigative staff, physicians retained under
6 contract to assist and advise the medical coordinators in the
7 investigation, and authorized clerical staff shall be
8 indemnified by the State for any actions occurring within the
9 scope of services on the Disciplinary Board, done in good faith
10 and not wilful and wanton in nature. The Attorney General shall
11 defend all such actions unless he or she determines either that
12 there would be a conflict of interest in such representation or
13 that the actions complained of were not in good faith or were
14 wilful and wanton.

15 Should the Attorney General decline representation, the
16 member shall have the right to employ counsel of his or her
17 choice, whose fees shall be provided by the State, after
18 approval by the Attorney General, unless there is a
19 determination by a court that the member's actions were not in
20 good faith or were wilful and wanton.

21 The member must notify the Attorney General within 7 days
22 of receipt of notice of the initiation of any action involving
23 services of the Disciplinary Board. Failure to so notify the
24 Attorney General shall constitute an absolute waiver of the
25 right to a defense and indemnification.

26 The Attorney General shall determine within 7 days after

1 receiving such notice, whether he or she will undertake to
2 represent the member.

3 (E) Deliberations of Disciplinary Board. Upon the receipt
4 of any report called for by this Act, other than those reports
5 of impaired persons licensed under this Act required pursuant
6 to the rules of the Disciplinary Board, the Disciplinary Board
7 shall notify in writing, by certified mail, the person who is
8 the subject of the report. Such notification shall be made
9 within 30 days of receipt by the Disciplinary Board of the
10 report.

11 The notification shall include a written notice setting
12 forth the person's right to examine the report. Included in
13 such notification shall be the address at which the file is
14 maintained, the name of the custodian of the reports, and the
15 telephone number at which the custodian may be reached. The
16 person who is the subject of the report shall submit a written
17 statement responding, clarifying, adding to, or proposing the
18 amending of the report previously filed. The person who is the
19 subject of the report shall also submit with the written
20 statement any medical records related to the report. The
21 statement and accompanying medical records shall become a
22 permanent part of the file and must be received by the
23 Disciplinary Board no more than 30 days after the date on which
24 the person was notified by the Disciplinary Board of the
25 existence of the original report.

26 The Disciplinary Board shall review all reports received by

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

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

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

1 Secretary of any final action on their report or complaint.

2 (F) Summary reports. The Disciplinary Board shall prepare,
3 on a timely basis, but in no event less than one every other
4 month, a summary report of final actions taken upon
5 disciplinary files maintained by the Disciplinary Board. The
6 summary reports shall be sent by the Disciplinary Board to
7 every health care facility licensed by the Illinois Department
8 of Public Health, every professional association and society of
9 persons licensed under this Act functioning on a statewide
10 basis in this State, the American Medical Association, the
11 American Osteopathic Association, the American Chiropractic
12 Association, all insurers providing professional liability
13 insurance to persons licensed under this Act in the State of
14 Illinois, the Federation of State Medical Licensing Boards, and
15 the Illinois Pharmacists Association.

16 (G) Any violation of this Section shall be a Class A
17 misdemeanor.

18 (H) If any such person violates the provisions of this
19 Section an action may be brought in the name of the People of
20 the State of Illinois, through the Attorney General of the
21 State of Illinois, for an order enjoining such violation or for
22 an order enforcing compliance with this Section. Upon filing of
23 a verified petition in such court, the court may issue a
24 temporary restraining order without notice or bond and may
25 preliminarily or permanently enjoin such violation, and if it
26 is established that such person has violated or is violating

1 the injunction, the court may punish the offender for contempt
2 of court. Proceedings under this paragraph shall be in addition
3 to, and not in lieu of, all other remedies and penalties
4 provided for by this Section.

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

6 Section 5. The Parental Notice of Abortion Act of 1995 is
7 amended by changing Sections 5, 10, 15, 20, 40, 45, 90, and 95
8 and by adding Sections 24, 26, and 46 as follows:

9 (750 ILCS 70/5)

10 Sec. 5. Legislative findings and purpose. The General
11 Assembly finds that involvement of a responsible and caring
12 adult in an unemancipated minor's decision about her pregnancy
13 can facilitate quality decision making. The General Assembly
14 finds that the involvement of an adult family member can help
15 to guide an unemancipated minor in making such healthcare
16 decisions. When circumstances preclude the involvement of an
17 adult family member, it is the intent of this Act to create an
18 alternative procedure that will ensure counseling and guidance
19 as to all of the minor's options relating to the minor's
20 decision about her pregnancy. The General Assembly's purpose in
21 enacting this Act is to further its goal of ensuring quality
22 healthcare for all of its citizens. ~~The General Assembly finds~~
23 ~~that notification of a family member as defined in this Act is~~
24 ~~in the best interest of an unemancipated minor, and the General~~

1 ~~Assembly's purpose in enacting this parental notice law is to~~
2 ~~further and protect the best interests of an unemancipated~~
3 ~~minor.~~

4 ~~The medical, emotional, and psychological consequences of~~
5 ~~abortion are sometimes serious and long lasting, and immature~~
6 ~~minors often lack the ability to make fully informed choices~~
7 ~~that consider both the immediate and long range consequences.~~

8 ~~Parental consultation is usually in the best interest of~~
9 ~~the minor and is desirable since the capacity to become~~
10 ~~pregnant and the capacity for mature judgment concerning the~~
11 ~~wisdom of an abortion are not necessarily related.~~

12 (Source: P.A. 89-18, eff. 6-1-95.)

13 (750 ILCS 70/10)

14 Sec. 10. Definitions. As used in this Act:

15 "Abortion" means the use of any instrument, medicine, or
16 drug, or any other substance or device to terminate the
17 pregnancy of a woman known to be pregnant with an intention
18 other than to increase the probability of a live birth, or to
19 preserve the life or health of a child after live birth, ~~or to~~
20 ~~remove a dead fetus.~~

21 "Actual notice" means the giving of notice directly, in
22 person, or by telephone, and not by facsimile, voicemail, or
23 answering machine.

24 "Adult family member" means a person over 18 ~~21~~ years of
25 age who is:

1 (1) the parent of the minor;

2 (2) a step-parent married to and residing with the
3 custodial parent of the minor;

4 (3) a legal guardian of the minor; or

5 (4) a grandparent, aunt, or uncle of the minor. ~~the~~
6 ~~parent, grandparent, step parent living in the household,~~
7 ~~or legal guardian.~~

8 "Constructive notice" means notice sent by certified mail
9 to the last known address of the person who can receive notice
10 under Section 15 of this Act, ~~entitled to notice~~ with delivery
11 deemed to have occurred 48 hours after the certified notice is
12 mailed.

13 "Counselor" means a person who is an advanced practice
14 nurse licensed under the Nursing and Advanced Practice Nursing
15 Act, a physician licensed under the Medical Practice Act of
16 1987, a clinical psychologist licensed under the Clinical
17 Psychologist Licensing Act, or a clinical social worker
18 licensed under the Clinical Social Work and Social Work
19 Practice Act.

20 ~~"Incompetent" means any person who has been adjudged as~~
21 ~~mentally ill or developmentally disabled and who, because of~~
22 ~~her mental illness or developmental disability, is not fully~~
23 ~~able to manage her person and for whom a guardian of the person~~
24 ~~has been appointed under Section 11a-3(a)(1) of the Probate Act~~
25 ~~of 1975.~~

26 "Medical emergency" means a condition that, on the basis of

1 the physician's good faith clinical judgment, so complicates
2 the medical condition of a pregnant woman as to necessitate the
3 immediate abortion of her pregnancy to avert her death or for
4 which a delay will create serious risk to her health ~~of~~
5 ~~substantial and irreversible impairment of major bodily~~
6 ~~function.~~

7 "Minor" means any person under 18 years of age who is not
8 or has not been married or who has not been emancipated under
9 the Emancipation of ~~Mature~~ Minors Act.

10 ~~"Neglect" means the failure of an adult family member to~~
11 ~~supply a child with necessary food, clothing, shelter, or~~
12 ~~medical care when reasonably able to do so or the failure to~~
13 ~~protect a child from conditions or actions that imminently and~~
14 ~~seriously endanger the child's physical or mental health when~~
15 ~~reasonably able to do so.~~

16 "Physical abuse" means any physical injury intentionally
17 inflicted by an adult family member on a child.

18 "Physician" means any person licensed to practice medicine
19 in all its branches under the ~~Illinois~~ Medical Practice Act of
20 1987.

21 "Sexual abuse" means any sexual conduct or sexual
22 penetration as defined in Section 12-12 of the Criminal Code of
23 1961 that is prohibited by the criminal laws of the State of
24 Illinois and committed against a minor by an adult family
25 member as defined in this Act.

26 (Source: P.A. 89-18, eff. 6-1-95; revised 10-9-03.)

1 (750 ILCS 70/15)

2 Sec. 15. Prohibitions ~~Notice to adult family member. No~~
3 ~~person shall intentionally perform an abortion upon a minor~~
4 ~~unless the person or his or her agent has given at least 48~~
5 ~~hours' actual notice to an adult family member of the pregnant~~
6 ~~minor of his or her intention to perform the abortion, unless~~
7 ~~that person or his or her agent has received a written~~
8 ~~statement by a referring physician certifying that the~~
9 ~~referring physician or his or her agent has given at least 48~~
10 ~~hours' notice to an adult family member of the pregnant minor.~~
11 ~~If actual notice is not possible based on reasonable efforts by~~
12 ~~the person seeking to perform the abortion, or his or her~~
13 ~~agent, within one day, that person or his or her agent must~~
14 ~~give 48 hours' constructive notice. No person shall knowingly~~
15 ~~perform an abortion upon a minor or upon an incompetent person~~
16 ~~unless the physician or his or her agent has given at least 48~~
17 ~~hours actual notice to an adult family member of the pregnant~~
18 ~~minor or incompetent person of his or her intention to perform~~
19 ~~the abortion, unless that person or his or her agent has~~
20 ~~received a written statement by a referring physician~~
21 ~~certifying that the referring physician or his or her agent has~~
22 ~~given at least 48 hours notice to an adult family member of the~~
23 ~~pregnant minor or incompetent person. If actual notice is not~~
24 ~~possible after a reasonable effort, the physician or his or her~~
25 ~~agent must give 48 hours constructive notice.~~

1 (Source: P.A. 89-18, eff. 6-1-95.)

2 (750 ILCS 70/20)

3 Sec. 20. Exceptions. Notice shall not be required under
4 this Act if:

5 (1) at the time the abortion is performed, the minor ~~or~~
6 ~~incompetent person~~ is accompanied by a person who can
7 receive ~~entitled to~~ notice under Section 15 of this Act; or

8 (2) notice under this Act is waived in writing by a
9 person who can receive ~~is entitled to~~ notice under Section
10 15 of this Act; or

11 (3) the attending physician certifies in the patient's
12 medical record that a medical emergency exists and there is
13 insufficient time to provide the required notice; or

14 (4) the minor declares in writing to the physician or
15 to an agent of the physician that she is a victim of sexual
16 ~~abuse, neglect,~~ or physical abuse by an adult family
17 member, as defined in this Act, in which case: (i) the ~~The~~
18 attending physician must certify in the patient's medical
19 record that he or she has received the ~~written~~ declaration
20 of abuse, (ii) any ~~or neglect. Any~~ notification of public
21 authorities of abuse that may be required under other laws
22 of this State need not be made ~~by the person performing the~~
23 ~~abortion~~ until after the minor receives an abortion that
24 otherwise complies with the requirements of this Act, and
25 (iii) the Department of Children and Family Services shall,

1 pursuant to Section 7.19 of the Abused and Neglected Child
2 Reporting Act, prohibit the release of any information or
3 data that would identify or locate the person who made the
4 report of abuse, or that in any way would reveal the
5 minor's abortion choice; or

6 (5) notice under this Act is waived by the minor
7 participating in an information and counseling session as
8 set forth in ~~under~~ Section 24; or ~~25.~~

9 (6) notice is waived under Section 26.

10 (Source: P.A. 89-18, eff. 6-1-95.)

11 (750 ILCS 70/24 new)

12 Sec. 24. Information and counseling for minors.

13 (a) The provision of information and counseling by a
14 counselor for any pregnant minor for decision making regarding
15 pregnancy shall be in accordance with this Section.

16 (b) Any counselor providing pregnancy information and
17 counseling under this Section shall, in a manner designed to be
18 clear and understandable to the minor:

19 (1) explain that the information being given to the
20 minor is being given objectively and is not intended to
21 coerce, persuade, or induce the minor to choose either to
22 have an abortion or to carry the pregnancy to term;

23 (2) discuss the possibility of involving the minor's
24 parents, guardian, or other adult family members in the
25 minor's decision making concerning the pregnancy and

1 explore whether the minor believes that involvement would
2 be in the minor's best interest;

3 (3) clearly and fully explore with the minor the
4 alternative choices available for managing the pregnancy;

5 (4) explain that the minor may withdraw a decision to
6 have an abortion at any time before the abortion is
7 performed and may reconsider a decision not to have an
8 abortion at any time within the time period during which an
9 abortion may legally be performed; and

10 (5) provide adequate opportunity for the minor to ask
11 any questions concerning the pregnancy, abortion, child
12 care, and adoption, and provide the information the minor
13 seeks or, if the counselor cannot provide the information,
14 indicate where the minor can receive the information.

15 (c) After the counselor provides the information and
16 counseling to a minor as required by this Section, that person
17 shall have the minor sign and date a form stating that:

18 (1) the minor has received information on prenatal care
19 and alternatives to abortion and that there are agencies
20 that will provide assistance;

21 (2) the counselor has discussed with the minor the
22 possibility of involving the minor's parents, guardian, or
23 other adult family members in the minor's decision making
24 about the pregnancy;

25 (3) the minor has received an explanation that the
26 minor may withdraw an abortion decision or reconsider a

1 decision to carry a pregnancy to term;

2 (4) the alternatives available for managing the
3 pregnancy have been clearly and fully explored with the
4 minor;

5 (5) the minor has received an explanation about
6 agencies available to provide birth control information;
7 and

8 (6) the minor has been given an adequate opportunity to
9 ask questions.

10 The counselor providing the information and counseling
11 shall also sign and date the form and include the counselor's
12 address and telephone number. The counselor shall retain a copy
13 in his or her files and shall give the form to the minor or, if
14 the minor requests and if the counselor providing information
15 and counseling is not the attending physician, transmit the
16 form to the minor's attending physician.

17 The counselor providing information and counseling
18 pursuant to this Section shall have no current actual financial
19 relationship with the healthcare provider who will perform the
20 minor's abortion, and such information and counseling shall not
21 be provided in the facility in which the minor's abortion shall
22 be performed.

23 (750 ILCS 70/26 new)

24 Sec. 26. Procedure for judicial waiver of notice.

25 (a) The requirements and procedures under this Section are

1 available to minors whether or not they are residents of this
2 State.

3 (b) The minor may petition any circuit court for a waiver
4 of the notice requirement and may participate in proceedings on
5 her own behalf. The circuit court shall immediately advise the
6 minor that she has a right to court-appointed counsel and shall
7 provide her with counsel upon her request. The court shall
8 appoint a guardian ad litem for the minor. Any guardian ad
9 litem appointed under this Act shall act in the best interest
10 of the minor and shall take all steps necessary to maintain the
11 absolute confidentiality of the proceedings.

12 (c) Court proceedings under this Section shall be
13 confidential and shall ensure the anonymity of the minor. The
14 minor shall have the right to file her petition in the circuit
15 court using a pseudonym or using solely her initials. All
16 documents filed with or prepared by the court in connection
17 with the minor's petition shall be maintained under seal. All
18 documents related to the minor's petition shall be confidential
19 and shall not be made available to the public. All circuit
20 courts shall establish procedures that will ensure that all
21 communications between a minor seeking to file, or having
22 filed, a petition under this Section and the circuit court
23 clerk's office are conducted confidentially. Such procedures
24 shall include designation of a member of the clerk's office
25 staff who will conduct all communication with the minor, a
26 designated telephone line for contact with such minors, and a

1 private space within the clerk's office for communications
2 between the minor and designated personnel. All court
3 personnel, including clerk's office staff, shall take all steps
4 necessary to maintain absolute confidentiality in connection
5 with the minor's petition. Court personnel are prohibited from
6 disclosing any information about the minor or her petition to
7 any member of the public or to other court personnel unless
8 disclosure to such personnel is essential to the resolution of
9 the minor's petition. All proceedings relating to the minor's
10 petition shall be closed to the public, with entry permitted
11 only to the minor, or any person she asks to be present, the
12 minor's counsel, the guardian ad litem, the circuit court judge
13 and other essential courtroom personnel. These proceedings
14 shall be given precedence over other pending matters to the
15 extent necessary to ensure that the court reaches a prompt
16 decision. Any hearing on the minor's petition must be held and
17 a ruling issued within 48 hours of the time that the petition
18 is filed, except that the 48 hour limitation may be extended at
19 the request of the minor. The court shall issue its ruling
20 along with findings of fact and conclusions of law at the
21 conclusion of any hearing on the minor's petition. Such
22 findings and conclusions shall be memorialized in a certified,
23 confidential transcript of the proceedings. A court that
24 conducts proceedings under this Section shall order that a
25 confidential record of the evidence and the court's findings
26 and conclusions be maintained. If the court fails to rule

1 within 48 hours of the time that the petition was filed, and
2 the minor has not requested an extension, the petition shall be
3 deemed to have been granted, and the notice requirement shall
4 be waived. In such case, the clerk's office shall provide the
5 minor with an official certification of waiver of notice. If
6 the court denies the minor's petition, it shall, at the time of
7 such denial, inform the minor of her right to pursue an appeal
8 from the denial of her petition and the steps she must take to
9 pursue such appeal. In addition, such steps shall be set forth
10 in detail on the back of the court's order denying the minor's
11 petition.

12 (d) Notice shall be waived if the court finds by a
13 preponderance of the evidence either:

14 (1) that the minor is sufficiently mature and well
15 enough informed to decide intelligently whether to have an
16 abortion; or

17 (2) that notification under Section 15 of this Act
18 would not be in the best interests of the minor.

19 (e) In the event that the court finds that the minor has
20 met either of the standards for waiver of notice set forth in
21 subsection (d), the court shall enter an order permitting a
22 qualified medical professional to perform an abortion on the
23 minor without giving notice under this Act and setting forth
24 that the minor may legally consent to the abortion procedure.

25 (f) An expedited confidential appeal shall be available, as
26 set forth in Illinois Supreme Court Rule 303A, to any minor to

1 whom the circuit court denies a waiver of notice. An order
2 authorizing an abortion without notice shall not be subject to
3 appeal.

4 (g) No fees shall be required of any minor who avails
5 herself of the procedures provided by this Section.

6 (750 ILCS 70/40)

7 Sec. 40. Penalties.

8 (a) A ~~Any~~ physician who intentionally willfully fails to
9 comply with ~~provide notice as required under~~ this Act may
10 ~~before performing an abortion on a minor or an incompetent~~
11 ~~person shall~~ be referred to the Illinois State Medical
12 Disciplinary Board for appropriate action ~~in accordance with~~
13 ~~Section 22 of the Medical Practice Act of 1987.~~

14 (b) A ~~Any~~ person, not authorized under this Act, who signs
15 any waiver of notice for a minor ~~or incompetent person~~ seeking
16 an abortion, is guilty of a Class C misdemeanor.

17 (c) A person who discloses confidential information
18 obtained in the context of counseling under Section 24 of this
19 Act is guilty of a Class C misdemeanor.

20 (Source: P.A. 89-18, eff. 6-1-95.)

21 (750 ILCS 70/45)

22 Sec. 45. Immunity. A ~~Any~~ physician who, in good faith,
23 provides notice in accordance with Section 15 or relies on an
24 exception under Section 20 shall not be subject to any type of

1 civil or criminal liability or discipline for unprofessional
2 conduct for failure to give ~~required~~ notice required under this
3 Act. A counselor who in good faith provides information and
4 counseling to a minor pursuant to Section 24 shall not be
5 subject to any type of civil or criminal liability or
6 discipline for unprofessional conduct for any of his or her
7 actions in connection with providing such counseling and
8 information. The immunity in this Section does not apply to
9 willful or wanton conduct.

10 (Source: P.A. 89-18, eff. 6-1-95.)

11 (750 ILCS 70/46 new)

12 Sec. 46. Right of conscience. No provision of this Act
13 impairs a physician, counselor, or other healthcare
14 professional's rights under the Health Care Right of Conscience
15 Act and the Abortion Performance Refusal Act.

16 (750 ILCS 70/90)

17 Sec. 90. The Illinois Abortion Parental Consent Act of
18 1977, which was repealed by Public Act 89-18, is again
19 repealed.

20 (Source: P.A. 89-18, eff. 6-1-95.)

21 (750 ILCS 70/95)

22 Sec. 95. The Parental Notice of Abortion Act of 1983, which
23 was repealed by Public Act 89-18, is again repealed.

1 (Source: P.A. 89-18, eff. 6-1-95.)

2 (750 ILCS 70/25 rep.)

3 (750 ILCS 70/50 rep.)

4 Section 10. The Parental Notice of Abortion Act of 1995 is
5 amended by repealing Sections 25 and 50."