



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB1355

Introduced 2/18/2009, by Rep. Angelo Saviano - Dan Reitz -  
Brandon W. Phelps

#### SYNOPSIS AS INTRODUCED:

225 ILCS 60/7.5	
225 ILCS 60/9	from Ch. 111, par. 4400-9
225 ILCS 60/18	from Ch. 111, par. 4400-18
225 ILCS 60/19	from Ch. 111, par. 4400-19
225 ILCS 60/23	from Ch. 111, par. 4400-23
225 ILCS 60/26	from Ch. 111, par. 4400-26
225 ILCS 60/32 rep.	

Amends the Medical Practice Act of 1987. Provides that in determining what action to take or whether to proceed with prosecution of a complaint, the Complaint Committee shall consider any recommendation made by the Department. Sets forth criteria that the Medical Licensing Board may consider in making a determination of professional capacity, and makes other changes concerning professional capacity. Makes a change concerning a visiting professor permit. Changes references from "licensure without examination" to "licensure by endorsement". Makes a change concerning requiring an examination. Requires the State's Attorney of each county to report to the Disciplinary Board, within 5 days after a conviction, all instances in which a person licensed under the Act is convicted of any felony or a class A misdemeanor for an act or conduct similar to an act or conduct that would constitute grounds for disciplinary action (now, the State's Attorney must report all instances in which a licensee is convicted or otherwise found guilty of any felony). Allows the disclosure of certain confidential information to a medical licensing authority of another state or jurisdiction in certain instances. Makes other changes. Repeals a Section concerning the practice of medicine by persons licensed in any other state who have applied to the Department of Financial and Professional Regulation for a license to practice medicine in all of its branches. Effective immediately.

LRB096 03907 ASK 13942 b

1 AN ACT concerning professional regulation.

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

4 Section 5. The Medical Practice Act of 1987 is amended by  
5 changing Sections 7.5, 9, 18, 19, 23, and 26 as follows:

6 (225 ILCS 60/7.5)

7 (Section scheduled to be repealed on December 31, 2010)

8 Sec. 7.5. Complaint Committee.

9 (a) There shall be a Complaint Committee of the  
10 Disciplinary Board composed of at least one of the medical  
11 coordinators established by subsection (g) of Section 7 of this  
12 Act, the Chief of Medical Investigations (person employed by  
13 the Department who is in charge of investigating complaints  
14 against physicians and physician assistants), and at least 3  
15 voting members of the Disciplinary Board (at least 2 of whom  
16 shall be physicians) designated by the Chairman of the Medical  
17 Disciplinary Board with the approval of the Disciplinary Board.  
18 The Disciplinary Board members so appointed shall serve  
19 one-year terms and may be eligible for reappointment for  
20 subsequent terms.

21 (b) The Complaint Committee shall meet at least twice a  
22 month to exercise its functions and duties set forth in  
23 subsection (c) below. At least 2 members of the Disciplinary

1 Board shall be in attendance in order for any business to be  
2 transacted by the Complaint Committee. The Complaint Committee  
3 shall make every effort to consider expeditiously and take  
4 prompt action on each item on its agenda.

5 (c) The Complaint Committee shall have the following duties  
6 and functions:

7 (1) To recommend to the Disciplinary Board that a  
8 complaint file be closed.

9 (2) To refer a complaint file to the office of the  
10 Chief of Medical Prosecutions (person employed by the  
11 Department who is in charge of prosecuting formal  
12 complaints against licensees) for review.

13 (3) To make a decision in conjunction with the Chief of  
14 Medical Prosecutions regarding action to be taken on a  
15 complaint file.

16 (d) In determining what action to take or whether to  
17 proceed with prosecution of a complaint, the Complaint  
18 Committee shall consider, but not be limited to, the following  
19 factors: sufficiency of the evidence presented, prosecutorial  
20 merit under Section 22 of this Act, any recommendation made by  
21 the Department, and insufficient cooperation from complaining  
22 parties.

23 (Source: P.A. 93-214, eff. 1-1-04.)

24 (225 ILCS 60/9) (from Ch. 111, par. 4400-9)

25 (Section scheduled to be repealed on December 31, 2010)

1           Sec. 9. Application for license. Each applicant for a  
2 license shall:

3           (A) Make application on blank forms prepared and  
4 furnished by the Department of Professional Regulation  
5 hereinafter referred to as the Department.

6           (B) Submit evidence satisfactory to the Department  
7 that the applicant:

8           (1) is of good moral character. In determining  
9 moral character under this Section, the Department may  
10 take into consideration whether the applicant has  
11 engaged in conduct or activities which would  
12 constitute grounds for discipline under this Act. The  
13 Department may also request the applicant to submit,  
14 and may consider as evidence of moral character,  
15 endorsements from 2 or 3 individuals licensed under  
16 this Act;

17           (2) has the preliminary and professional education  
18 required by this Act;

19           (3) (blank); and

20           (4) is physically, mentally, and professionally  
21 capable of practicing medicine with reasonable  
22 judgment, skill, and safety. In determining physical,  
23 mental and professional capacity under this Section,  
24 the Medical Licensing Board may, upon a showing of a  
25 possible incapacity, compel any applicant to submit to  
26 a mental or physical examination, or both. The

1           Licensing Board may condition or restrict any license,  
2           subject to the same terms and conditions as are  
3           provided for the Medical Disciplinary Board under  
4           Section 22 of this Act. Any such condition of a  
5           restricted license shall provide that the Chief  
6           Medical Coordinator or Deputy Medical Coordinator  
7           shall have the authority to review the subject  
8           physician's compliance with such conditions or  
9           restrictions, including, where appropriate, the  
10          physician's record of treatment and counseling  
11          regarding the impairment, to the extent permitted by  
12          applicable federal statutes and regulations  
13          safeguarding the confidentiality of medical records of  
14          patients.

15          In determining professional capacity under this  
16          Section, an ~~any~~ individual ~~who has not been actively~~  
17          ~~engaged in the practice of medicine or as a medical,~~  
18          ~~osteopathic, or chiropractic student or who has not been~~  
19          ~~engaged in a formal program of medical education during the~~  
20          ~~2 years immediately preceding their application~~ may be  
21          required to complete such additional testing, training, or  
22          remedial education as the Licensing Board may deem  
23          necessary in order to establish the applicant's present  
24          capacity to practice medicine with reasonable judgment,  
25          skill, and safety. The Medical Licensing Board may consider  
26          all of the following criteria as they relate to an

1 applicant, as part of its determination of professional  
2 capacity:

3 (1) Medical research in an established research  
4 facility, hospital, college or university, or private  
5 corporation.

6 (2) Specialized training or education.

7 (3) Publication of original work in learned,  
8 medical or scientific journals.

9 (4) Participation in federal, State, local, or  
10 international public health programs or organizations.

11 (5) Professional service in a federal veterans or  
12 military institution.

13 (6) Any other professional activities deemed to  
14 maintain and enhance the clinical capabilities of the  
15 applicant.

16 Any applicant applying for a license to practice  
17 medicine in all of its branches or for a license as a  
18 chiropractic physician who has not been engaged in the  
19 active practice of medicine or has not been enrolled in a  
20 medical program for 2 years prior to application must  
21 submit proof of professional capacity to the Medical  
22 Licensing Board.

23 Any applicant applying for a temporary license that has  
24 not been engaged in the active practice of medicine or has  
25 not been enrolled in a medical program for longer than 5  
26 years prior to application must submit proof of

1       professional capacity to the Medical Licensing Board.

2           (C) Designate specifically the name, location, and  
3       kind of professional school, college, or institution of  
4       which the applicant is a graduate and the category under  
5       which the applicant seeks, and will undertake, to practice.

6           (D) Pay to the Department at the time of application  
7       the required fees.

8           (E) Pursuant to Department rules, as required, pass an  
9       examination authorized by the Department to determine the  
10      applicant's fitness to receive a license.

11          (F) Complete the application process within 3 years  
12      from the date of application. If the process has not been  
13      completed within 3 years, the application shall be denied,  
14      application fees shall be forfeited, and the applicant must  
15      reapply and meet the requirements in effect at the time of  
16      reapplication.

17      (Source: P.A. 89-387, eff. 8-20-95; 89-702, eff. 7-1-97.)

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

19           (Section scheduled to be repealed on December 31, 2010)

20      Sec. 18. Visiting professor, physician, or resident  
21      permits.

22           (A) Visiting professor permit.

23           (1) A visiting professor permit shall entitle a person  
24      to practice medicine in all of its branches or to practice  
25      the treatment of human ailments without the use of drugs

1 and without operative surgery provided:

2 (a) the person maintains an equivalent  
3 authorization to practice medicine in all of its  
4 branches or to practice the treatment of human ailments  
5 without the use of drugs and without operative surgery  
6 in good standing in their native licensing  
7 jurisdiction during the period of the visiting  
8 professor permit;

9 (b) the person has received a faculty appointment  
10 to teach in a medical, osteopathic or chiropractic  
11 school in Illinois; and

12 (c) the Department may prescribe the information  
13 necessary to establish an applicant's eligibility for  
14 a permit. This information shall include without  
15 limitation (i) a statement from the dean of the medical  
16 school at which the applicant will be employed  
17 describing the applicant's qualifications and (ii) a  
18 statement from the dean of the medical school listing  
19 every affiliated institution in which the applicant  
20 will be providing instruction as part of the medical  
21 school's education program and justifying any clinical  
22 activities at each of the institutions listed by the  
23 dean.

24 (2) Application for visiting professor permits shall  
25 be made to the Department, in writing, on forms prescribed  
26 by the Department and shall be accompanied by the required



1 fee established by rule, which shall not be refundable. Any  
2 application shall require the information as, in the  
3 judgment of the Department, will enable the Department to  
4 pass on the qualifications of the applicant.

5 (3) A visiting professor permit shall be valid for no  
6 longer than 2 years from the date of issuance or until the  
7 time the faculty appointment is terminated, whichever  
8 occurs first, and may be renewed only in accordance with  
9 subdivision (A) (6) of this Section.

10 (4) The applicant may be required to appear before the  
11 Medical Licensing Board for an interview prior to, and as a  
12 requirement for, the issuance of the original permit and  
13 the renewal.

14 (5) Persons holding a permit under this Section shall  
15 only practice medicine in all of its branches or practice  
16 the treatment of human ailments without the use of drugs  
17 and without operative surgery in the State of Illinois in  
18 their official capacity under their contract within the  
19 medical school itself and any affiliated institution in  
20 which the permit holder is providing instruction as part of  
21 the medical school's educational program and for which the  
22 medical school has assumed direct responsibility.

23 (6) After the initial renewal of a visiting professor  
24 permit, a ~~A~~ visiting professor permit shall be valid until  
25 the last day of the next physician license renewal period,  
26 as set by rule, and may only be renewed for applicants who

1 meet the following requirements:

2 (i) have obtained the required continuing  
3 education hours as set by rule; and

4 (ii) have paid the fee prescribed for a license  
5 under Section 21 of this Act.

6 For initial renewal, the visiting professor must  
7 successfully pass a general competency examination authorized  
8 by the Department by rule, unless he or she was issued an  
9 initial visiting professor permit on or after January 1, 2007,  
10 but prior to July 1, 2007.

11 (B) Visiting physician permit.

12 (1) The Department may, in its discretion, issue a  
13 temporary visiting physician permit, without examination,  
14 provided:

15 (a) (blank);

16 (b) that the person maintains an equivalent  
17 authorization to practice medicine in all of its  
18 branches or to practice the treatment of human ailments  
19 without the use of drugs and without operative surgery  
20 in good standing in his or her native licensing  
21 jurisdiction during the period of the temporary  
22 visiting physician permit;

23 (c) that the person has received an invitation or  
24 appointment to study, demonstrate, or perform a  
25 specific medical, osteopathic, chiropractic or

1 clinical subject or technique in a medical,  
2 osteopathic, or chiropractic school, a hospital  
3 licensed under the Hospital Licensing Act, a hospital  
4 organized under the University of Illinois Hospital  
5 Act, or a facility operated pursuant to the Ambulatory  
6 Surgical Treatment Center Act; and

7 (d) that the temporary visiting physician permit  
8 shall only permit the holder to practice medicine in  
9 all of its branches or practice the treatment of human  
10 ailments without the use of drugs and without operative  
11 surgery within the scope of the medical, osteopathic,  
12 chiropractic, or clinical studies for which the holder  
13 was invited or appointed.

14 (2) The application for the temporary visiting  
15 physician permit shall be made to the Department, in  
16 writing, on forms prescribed by the Department, and shall  
17 be accompanied by the required fee established by rule,  
18 which shall not be refundable. The application shall  
19 require information that, in the judgment of the  
20 Department, will enable the Department to pass on the  
21 qualification of the applicant, and the necessity for the  
22 granting of a temporary visiting physician permit.

23 (3) A temporary visiting physician permit shall be  
24 valid for 180 days from the date of issuance or until the  
25 time the medical, osteopathic, chiropractic, or clinical  
26 studies are completed, whichever occurs first.

1           (4) The applicant for a temporary visiting physician  
2 permit may be required to appear before the Medical  
3 Licensing Board for an interview prior to, and as a  
4 requirement for, the issuance of a temporary visiting  
5 physician permit.

6           (5) A limited temporary visiting physician permit  
7 shall be issued to a physician licensed in another state  
8 who has been requested to perform emergency procedures in  
9 Illinois if he or she meets the requirements as established  
10 by rule.

11           (C) Visiting resident permit.

12           (1) The Department may, in its discretion, issue a  
13 temporary visiting resident permit, without examination,  
14 provided:

15                   (a) (blank);

16                   (b) that the person maintains an equivalent  
17 authorization to practice medicine in all of its  
18 branches or to practice the treatment of human ailments  
19 without the use of drugs and without operative surgery  
20 in good standing in his or her native licensing  
21 jurisdiction during the period of the temporary  
22 visiting resident permit;

23                   (c) that the applicant is enrolled in a  
24 postgraduate clinical training program outside the  
25 State of Illinois that is approved by the Department;

1 (d) that the individual has been invited or  
2 appointed for a specific period of time to perform a  
3 portion of that post graduate clinical training  
4 program under the supervision of an Illinois licensed  
5 physician in an Illinois patient care clinic or  
6 facility that is affiliated with the out-of-State post  
7 graduate training program; and

8 (e) that the temporary visiting resident permit  
9 shall only permit the holder to practice medicine in  
10 all of its branches or practice the treatment of human  
11 ailments without the use of drugs and without operative  
12 surgery within the scope of the medical, osteopathic,  
13 chiropractic or clinical studies for which the holder  
14 was invited or appointed.

15 (2) The application for the temporary visiting  
16 resident permit shall be made to the Department, in  
17 writing, on forms prescribed by the Department, and shall  
18 be accompanied by the required fee established by rule. The  
19 application shall require information that, in the  
20 judgment of the Department, will enable the Department to  
21 pass on the qualifications of the applicant.

22 (3) A temporary visiting resident permit shall be valid  
23 for 180 days from the date of issuance or until the time  
24 the medical, osteopathic, chiropractic, or clinical  
25 studies are completed, whichever occurs first.

26 (4) The applicant for a temporary visiting resident

1 permit may be required to appear before the Medical  
2 Licensing Board for an interview prior to, and as a  
3 requirement for, the issuance of a temporary visiting  
4 resident permit.

5 (Source: P.A. 95-915, eff. 8-26-08.)

6 (225 ILCS 60/19) (from Ch. 111, par. 4400-19)

7 (Section scheduled to be repealed on December 31, 2010)

8 Sec. 19. Licensure by endorsement ~~without examination~~. The  
9 Department may, in its discretion, issue a license by  
10 endorsement ~~without examination~~ to any person who is currently  
11 licensed to practice medicine in all of its branches, or to  
12 practice the treatment of human ailments without the use of  
13 drugs or operative surgery, in any other state, territory,  
14 country or province, upon the following conditions:

15 (A) (Blank);

16 (B) That the applicant is of good moral character. In  
17 determining moral character under this Section, the  
18 Department may take into consideration whether the  
19 applicant has engaged in conduct or activities which would  
20 constitute grounds for discipline under this Act. The  
21 Department may also request the applicant to submit, and  
22 may consider as evidence of moral character, endorsements  
23 from 2 or 3 individuals licensed under this Act;

24 (C) That the applicant is physically, mentally and  
25 professionally capable of practicing medicine with

1 reasonable judgment, skill and safety. In determining  
2 physical, mental and professional capacity under this  
3 Section the Medical Licensing Board may, upon a showing of  
4 a possible incapacity, compel an applicant to submit to a  
5 mental or physical examination, or both, and may condition  
6 or restrict any license, subject to the same terms and  
7 conditions as are provided for the Medical Disciplinary  
8 Board under Section 22 of this Act. The Medical Licensing  
9 Board or the Department may order the examining physician  
10 to present testimony concerning this mental or physical  
11 examination of the applicant. No information shall be  
12 excluded by reason of any common law or statutory privilege  
13 relating to communications between the applicant and the  
14 examining physician. Any condition of restricted license  
15 shall provide that the Chief Medical Coordinator or Deputy  
16 Medical Coordinator shall have the authority to review the  
17 subject physician's compliance with such conditions or  
18 restrictions, including, where appropriate, the  
19 physician's record of treatment and counseling regarding  
20 the impairment, to the extent permitted by applicable  
21 federal statutes and regulations safeguarding the  
22 confidentiality of medical records of patients.

23 (D) That if the applicant seeks to practice medicine in  
24 all of its branches:

25 (1) if the applicant was licensed in another  
26 jurisdiction prior to January 1, 1988, that the

1 applicant has satisfied the educational requirements  
2 of paragraph (1) of subsection (A) or paragraph (2) of  
3 subsection (A) of Section 11 of this Act; or

4 (2) if the applicant was licensed in another  
5 jurisdiction after December 31, 1987, that the  
6 applicant has satisfied the educational requirements  
7 of paragraph (A) (2) of Section 11 of this Act; and

8 (3) the requirements for a license to practice  
9 medicine in all of its branches in the particular  
10 state, territory, country or province in which the  
11 applicant is licensed are deemed by the Department to  
12 have been substantially equivalent to the requirements  
13 for a license to practice medicine in all of its  
14 branches in force in this State at the date of the  
15 applicant's license;

16 (E) That if the applicant seeks to treat human ailments  
17 without the use of drugs and without operative surgery:

18 (1) the applicant is a graduate of a chiropractic  
19 school or college approved by the Department at the  
20 time of their graduation;

21 (2) the requirements for the applicant's license  
22 to practice the treatment of human ailments without the  
23 use of drugs are deemed by the Department to have been  
24 substantially equivalent to the requirements for a  
25 license to practice in this State at the date of the  
26 applicant's license;



1           (F) That the Department may, in its discretion, issue a  
2           license by endorsement ~~, without examination,~~ to any  
3           graduate of a medical or osteopathic college, reputable and  
4           in good standing in the judgment of the Department, who has  
5           passed an examination for admission to the United States  
6           Public Health Service, or who has passed any other  
7           examination deemed by the Department to have been at least  
8           equal in all substantial respects to the examination  
9           required for admission to any such medical corps;

10          (G) That applications for licenses by endorsement  
11          ~~without examination~~ shall be filed with the Department,  
12          under oath, on forms prepared and furnished by the  
13          Department, and shall set forth, and applicants therefor  
14          shall supply such information respecting the life,  
15          education, professional practice, and moral character of  
16          applicants as the Department may require to be filed for  
17          its use;

18          (H) That the applicant undergo the criminal background  
19          check established under Section 9.7 of this Act.

20          In the exercise of its discretion under this Section, the  
21          Department is empowered to consider and evaluate each applicant  
22          on an individual basis. It may take into account, among other  
23          things, the extent to which there is or is not available to the  
24          Department, authentic and definitive information concerning  
25          the quality of medical education and clinical training which  
26          the applicant has had. Under no circumstances shall a license

1 be issued under the provisions of this Section to any person  
2 who has previously taken and failed the written examination  
3 conducted by the Department for such license. In the exercise  
4 of its discretion under this Section, the Department may, upon  
5 the recommendation of the Medical Licensing Board, require an  
6 applicant to successfully complete an examination as  
7 recommended by the Medical Licensing Board. In determining  
8 moral character, the Department may take into consideration  
9 whether the applicant has engaged in conduct or activities  
10 which would constitute grounds for discipline under this Act.  
11 The Department may also request the applicant to submit, and  
12 may consider as evidence of moral character, evidence from 2 or  
13 3 individuals licensed under this Act. Applicants have 3 years  
14 from the date of application to complete the application  
15 process. If the process has not been completed within 3 years,  
16 the application shall be denied, the fees shall be forfeited,  
17 and the applicant must reapply and meet the requirements in  
18 effect at the time of reapplication.

19 (Source: P.A. 89-702, eff. 7-1-97; 90-722, eff. 1-1-99.)

20 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

21 (Section scheduled to be repealed on December 31, 2010)

22 Sec. 23. Reports relating to professional conduct and  
23 capacity.

24 (A) Entities required to report.

25 (1) Health care institutions. The chief administrator

1 or executive officer of any health care institution  
2 licensed by the Illinois Department of Public Health shall  
3 report to the Disciplinary Board when any person's clinical  
4 privileges are terminated or are restricted based on a  
5 final determination made 7 in accordance with that  
6 institution's by-laws or rules and regulations,7 that a  
7 person has either committed an act or acts which may  
8 directly threaten patient care, and not of an  
9 administrative nature, or that a person may be mentally or  
10 physically disabled in such a manner as to endanger  
11 patients under that person's care. Such officer also shall  
12 report if a person accepts voluntary termination or  
13 restriction of clinical privileges in lieu of formal action  
14 based upon conduct related directly to patient care and not  
15 of an administrative nature, or in lieu of formal action  
16 seeking to determine whether a person may be mentally or  
17 physically disabled in such a manner as to endanger  
18 patients under that person's care. The Medical  
19 Disciplinary Board shall, by rule, provide for the  
20 reporting to it of all instances in which a person,  
21 licensed under this Act, who is impaired by reason of age,  
22 drug or alcohol abuse or physical or mental impairment, is  
23 under supervision and, where appropriate, is in a program  
24 of rehabilitation. Such reports shall be strictly  
25 confidential and may be reviewed and considered only by the  
26 members of the Disciplinary Board, or by authorized staff

1 as provided by rules of the Disciplinary Board. Provisions  
2 shall be made for the periodic report of the status of any  
3 such person not less than twice annually in order that the  
4 Disciplinary Board shall have current information upon  
5 which to determine the status of any such person. Such  
6 initial and periodic reports of impaired physicians shall  
7 not be considered records within the meaning of The State  
8 Records Act and shall be disposed of, following a  
9 determination by the Disciplinary Board that such reports  
10 are no longer required, in a manner and at such time as the  
11 Disciplinary Board shall determine by rule. The filing of  
12 such reports shall be construed as the filing of a report  
13 for purposes of subsection (C) of this Section.

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

23 (3) Professional liability insurers. Every insurance  
24 company which offers policies of professional liability  
25 insurance to persons licensed under this Act, or any other  
26 entity which seeks to indemnify the professional liability

1 of a person licensed under this Act, shall report to the  
2 Disciplinary Board the settlement of any claim or cause of  
3 action, or final judgment rendered in any cause of action,  
4 which alleged negligence in the furnishing of medical care  
5 by such licensed person when such settlement or final  
6 judgment is in favor of the plaintiff.

7 (4) State's Attorneys. The State's Attorney of each  
8 county shall report to the Disciplinary Board, within 5  
9 days, any ~~all~~ instances in which a person licensed under  
10 this Act is convicted ~~or otherwise found guilty of the~~  
11 ~~commission~~ of any felony or a class A misdemeanor for an  
12 act or conduct similar to an act or conduct that would  
13 constitute grounds for disciplinary action under Section  
14 22 of this Act. The State's Attorney of each county may  
15 report to the Disciplinary Board through a verified  
16 complaint any instance in which the State's Attorney  
17 believes that a physician has willfully violated the notice  
18 requirements of the Parental Notice of Abortion Act of  
19 1995.

20 (5) State agencies. All agencies, boards, commissions,  
21 departments, or other instrumentalities of the government  
22 of the State of Illinois shall report to the Disciplinary  
23 Board any instance arising in connection with the  
24 operations of such agency, including the administration of  
25 any law by such agency, in which a person licensed under  
26 this Act has either committed an act or acts which may be a

1 violation of this Act or which may constitute  
2 unprofessional conduct related directly to patient care or  
3 which indicates that a person licensed under this Act may  
4 be mentally or physically disabled in such a manner as to  
5 endanger patients under that person's care.

6 (B) Mandatory reporting. All reports required by items  
7 (34), (35), and (36) of subsection (A) of Section 22 and by  
8 Section 23 shall be submitted to the Disciplinary Board in a  
9 timely fashion. The reports shall be filed in writing within 60  
10 days after a determination that a report is required under this  
11 Act. All reports shall contain the following information:

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

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

16 (3) The name and date of birth of any patient or  
17 patients whose treatment is a subject of the report, if  
18 available, or other means of identification if such  
19 information is not available, identification of the  
20 hospital or other healthcare facility where the care at  
21 issue in the report was rendered, provided, however, no  
22 medical records may be revealed.

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

26 (5) If court action is involved, the identity of the

1 court in which the action is filed, along with the docket  
2 number and date of filing of the action.

3 (6) Any further pertinent information which the  
4 reporting party deems to be an aid in the evaluation of the  
5 report.

6 The Disciplinary Board or Department may also exercise the  
7 power under Section 38 of this Act to subpoena copies of  
8 hospital or medical records in mandatory report cases alleging  
9 death or permanent bodily injury. Appropriate rules shall be  
10 adopted by the Department with the approval of the Disciplinary  
11 Board.

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

17 Nothing contained in this Section shall act to in any way,  
18 waive or modify the confidentiality of medical reports and  
19 committee reports to the extent provided by law. Any  
20 information reported or disclosed shall be kept for the  
21 confidential use of the Disciplinary Board, the Medical  
22 Coordinators, the Disciplinary Board's attorneys, the medical  
23 investigative staff, and authorized clerical staff, as  
24 provided in this Act, and shall be afforded the same status as  
25 is provided information concerning medical studies in Part 21  
26 of Article VIII of the Code of Civil Procedure, except that the

1 Department may disclose information and documents to a federal,  
2 State, or local law enforcement agency pursuant to a subpoena  
3 in an ongoing criminal investigation or to a medical licensing  
4 authority of another state or jurisdiction pursuant to an  
5 official request made by that authority. Furthermore,  
6 information and documents disclosed to a federal, State, or  
7 local law enforcement agency may be used by that agency only  
8 for the investigation and prosecution of a criminal offense or,  
9 in the case of disclosure to another medical licensing  
10 authority, only for investigations and disciplinary action  
11 proceedings with regard to a license.

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

25 (D) Indemnification. Members of the Disciplinary Board,  
26 the Medical Coordinators, the Disciplinary Board's attorneys,



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

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

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

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

25 (E) Deliberations of Disciplinary Board. Upon the receipt  
26 of any report called for by this Act, other than those reports

1 of impaired persons licensed under this Act required pursuant  
2 to the rules of the Disciplinary Board, the Disciplinary Board  
3 shall notify in writing, by certified mail, the person who is  
4 the subject of the report. Such notification shall be made  
5 within 30 days of receipt by the Disciplinary Board of the  
6 report.

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

22 The Disciplinary Board shall review all reports received by  
23 it, together with any supporting information and responding  
24 statements submitted by persons who are the subject of reports.  
25 The review by the Disciplinary Board shall be in a timely  
26 manner but in no event, shall the Disciplinary Board's initial

1 review of the material contained in each disciplinary file be  
2 less than 61 days nor more than 180 days after the receipt of  
3 the initial report by the Disciplinary Board.

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

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

24 (F) Summary reports. The Disciplinary Board shall prepare,  
25 on a timely basis, but in no event less than once every other  
26 month, a summary report of final actions taken upon

1 disciplinary files maintained by the Disciplinary Board. The  
2 summary reports shall be made available to the public upon  
3 request and payment of the fees set by the Department. This  
4 publication may be made available to the public on the  
5 Department's Internet website.

6 (G) Any violation of this Section shall be a Class A  
7 misdemeanor.

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

21 (Source: P.A. 94-677, eff. 8-25-05; 95-639, eff. 10-5-07.)

22 (225 ILCS 60/26) (from Ch. 111, par. 4400-26)

23 (Section scheduled to be repealed on December 31, 2010)

24 Sec. 26. Advertising.

25 (1) Any person licensed under this Act may advertise the

1 availability of professional services in the public media or on  
2 the premises where such professional services are rendered.  
3 Such advertising shall be limited to the following information:

4 (a) Publication of the person's name, title, office  
5 hours, address and telephone number;

6 (b) Information pertaining to the person's areas of  
7 specialization, including appropriate board certification  
8 or limitation of professional practice;

9 (c) Information on usual and customary fees for routine  
10 professional services offered, which information shall  
11 include, notification that fees may be adjusted due to  
12 complications or unforeseen circumstances;

13 (d) Announcement of the opening of, change of, absence  
14 from, or return to business;

15 (e) Announcement of additions to or deletions from  
16 professional licensed staff;

17 (f) The issuance of business or appointment cards.

18 (2) It is unlawful for any person licensed under this Act  
19 to use ~~testimonials or~~ claims of superior quality of care to  
20 entice the public. It shall be unlawful to advertise fee  
21 comparisons of available services with those of other persons  
22 licensed under this Act.

23 (3) This Act does not authorize the advertising of  
24 professional services which the offeror of such services is not  
25 licensed to render. Nor shall the advertiser use statements  
26 which contain false, fraudulent, deceptive or misleading

1 material or guarantees of success, statements which play upon  
2 the vanity or fears of the public, or statements which promote  
3 or produce unfair competition.

4 (4) A licensee shall include in every advertisement for  
5 services regulated under this Act his or her title as it  
6 appears on the license or the initials authorized under this  
7 Act.

8 (Source: P.A. 91-310, eff. 1-1-00.)

9 (225 ILCS 60/32 rep.)

10 Section 10. The Medical Practice Act of 1987 is amended by  
11 repealing Section 32.

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.