

1 AN ACT concerning abortions.

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

4 Section 1. Short title. This Act may be cited as the
5 Parental Notice of Abortion Act of 2001.

6 Section 5. Legislative findings and purpose. The General
7 Assembly finds that notification of an adult family member as
8 defined in this Act is in the best interest of an
9 unemancipated minor, and the General Assembly's purpose in
10 enacting this parental notice law is to further the important
11 and compelling State interests of protecting the best
12 interests of an unemancipated minor, fostering the family
13 unit and preserving it as a viable social unit, protecting
14 the constitutional rights of parents to rear children who are
15 members of their household, and preventing the influx of
16 minors entering the State of Illinois to evade the laws of
17 their home state that require parental notification or
18 parental consent.

19 The medical, emotional, and psychological consequences of
20 abortion are sometimes serious and long-lasting, and immature
21 minors often lack the ability to make fully informed choices
22 that consider both the immediate and long-range consequences.

23 Parental consultation is usually in the best interest of
24 the minor and is desirable since the capacity to become
25 pregnant and the capacity for mature judgment concerning the
26 wisdom of an abortion are not necessarily related. Parents
27 ordinarily possess information essential to a physician's
28 exercise of his or her best medical judgment concerning the
29 minor, and parents who are aware their daughter has had an
30 abortion may better ensure her appropriate medical attention
31 after her abortion.

1 Section 10. Definitions. In this Act:

2 "Abortion" means the use of any instrument, medicine, or
3 drug, or any other substance or device, to terminate the
4 pregnancy of a woman known to be pregnant with an intention
5 other than to increase the probability of a live birth, to
6 preserve the life or health of a child after live birth, or
7 to remove a dead fetus.

8 "Actual notice" means the giving of notice directly, in
9 person or by telephone, and not by facsimile, voice mail, or
10 answering machine message.

11 "Adult family member" means a person over 18 years of age
12 who is:

- 13 (1) the parent of the minor;
- 14 (2) a step-parent married to and residing with the
15 custodial parent of the minor;
- 16 (3) a legal guardian of the minor; or
- 17 (4) a grandparent, sibling, step-sibling, aunt, or
18 uncle of the minor.

19 "Clergy" means a practitioner of any religious
20 denomination ordained or otherwise accredited by the
21 religious body to which he or she belongs.

22 "Constructive notice" means notice sent by certified mail
23 to the last known address of the person entitled to notice,
24 with delivery deemed to have occurred 48 hours after the
25 notice is mailed.

26 "Medical emergency" means a condition that, on the basis
27 of a physician's good faith clinical judgment, so complicates
28 the medical condition of a pregnant woman as to necessitate
29 the immediate abortion of her pregnancy to avert her death or
30 for which a delay will create serious risk of substantial and
31 irreversible impairment of major bodily function.

32 "Minor" means any person under 18 years of age who is not
33 or has not been married or who has not been emancipated under
34 the Emancipation of Mature Minors Act.

1 "Neglect" means the failure of an adult family member to
2 supply a child with necessary food, clothing, shelter, or
3 medical care when reasonably able to do so or the failure to
4 protect a child from conditions or actions that imminently
5 and seriously endanger the child's physical or mental health
6 when reasonably able to do so.

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

9 "Physician" means a person licensed to practice medicine
10 in all its branches under the Medical Practice Act of 1987.

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

16 Section 15. Notice to adult family member or clergy. No
17 person shall knowingly perform an abortion upon a minor
18 unless the person or his or her agent has given at least 48
19 hours actual notice to an adult family member of the pregnant
20 minor or a member of the clergy of his or her intention to
21 perform the abortion, unless that person or his or her agent
22 has received a written statement by a referring physician
23 certifying that the referring physician or his or her agent
24 has given at least 48 hours notice to an adult family member
25 of the pregnant minor or incompetent person. If actual
26 notice is not possible after a reasonable effort, the person
27 or his or her agent must give 48 hours constructive notice.

28 Section 20. Exceptions. Notice is not required under
29 this Act if:

- 30 (1) at the time the abortion is performed, the minor
31 is accompanied by a person entitled to notice under this
32 Act; or

1 (2) notice under this Act is waived in writing by a
2 person who is entitled to that notice; or

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

7 (4) the minor declares in writing that she is a
8 victim of sexual abuse, neglect, or physical abuse by an
9 adult family member as defined in this Act, in which case
10 (i) the attending physician must certify in the patient's
11 medical record that he or she has received the written
12 declaration of abuse or neglect and (ii) any notification
13 of public authorities of abuse that may be required under
14 other laws of this State need not be made by the person
15 performing the abortion until after the minor receives an
16 abortion that otherwise complies with the requirements of
17 this Act; or

18 (5) notice under this Act is waived under Section
19 25.

20 Section 25. Procedure for judicial waiver of notice.

21 (a) The requirements and procedures under this Section
22 are available to minors whether or not they are residents of
23 this State.

24 (b) A minor may petition any circuit court for a waiver
25 of the parental notice of abortion requirement under this Act
26 and may participate in proceedings on her own behalf. The
27 court shall appoint a guardian ad litem for her in any such
28 proceedings. A guardian ad litem appointed under this Act
29 must act in the best interests of the minor and shall
30 maintain the confidentiality of the proceedings. The circuit
31 court shall advise the minor that she has a right to
32 court-appointed counsel and shall provide her with counsel
33 upon her request.

1 (c) Court proceedings under this Section shall be
2 confidential and must ensure the anonymity of the minor. All
3 court proceedings under this Section shall be sealed. The
4 minor has the right to file her petition in the circuit court
5 using a pseudonym or using solely her initials. All
6 documents related to the petition shall be confidential and
7 shall not be made available to the public. These proceedings
8 shall be given precedence over other pending matters to the
9 extent necessary to ensure that the court reaches a decision
10 promptly. The court shall rule and issue written findings of
11 fact and conclusions of law within 48 hours after the
12 petition is filed, except that the 48-hour limitation may be
13 extended at the request of the minor. If the court fails to
14 rule within the 48-hour period and an extension is not
15 requested, then the petition shall be deemed to have been
16 granted, and the notice requirement shall be waived.

17 (d) Notice under this Act shall be waived if the court
18 finds by clear and convincing evidence either:

19 (1) that the minor is sufficiently mature and
20 well-enough informed to decide intelligently whether to
21 have an abortion; or

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

24 (e) A court that conducts proceedings under this Section
25 shall issue written and specific factual findings and legal
26 conclusions supporting its decision and shall order that a
27 confidential record of the evidence and the judge's findings
28 and conclusions be maintained.

29 (f) An expedited confidential appeal shall be available
30 to any minor to whom the circuit court denies a waiver of
31 notice under this Act. An order authorizing an abortion
32 without notice is not subject to appeal.

33 (g) The following rules apply to the appeal of a denial
34 of a petition for waiver of parental notice of abortion under

1 this Section. These rules shall remain in effect only until
2 the Illinois Supreme Court issues its own rules providing for
3 an expedited confidential appeal of a denial of a petition
4 for waiver of parental notice. If the rules adopted by the
5 Illinois Supreme Court are declared unconstitutional, the
6 following rules are thereafter once again in effect.

7 (1) Review of the denial of a waiver of parental
8 notice under this Act shall be by petition filed in the
9 Appellate Court. An appropriate supporting record must
10 accompany the petition. The record must include the
11 notice of interlocutory appeal; the pleadings filed in
12 the circuit court, if any; the decision of the circuit
13 court, including the specific findings of fact and legal
14 conclusions supporting the decision; and any supporting
15 documents of record the petition may offer. The record
16 may be authenticated by the certificate of the clerk of
17 the trial court or by the affidavit of an attorney or
18 party filing it.

19 (2) The minor may file a brief statement of facts
20 and a short memorandum of law supporting her petition.
21 These may be filed instead of a brief and abstract and
22 must be filed within 2 days after the denial of the
23 petition for waiver of parental notice.

24 (3) Except by order of the court upon request of the
25 minor or her guardian ad litem or counsel, no extension
26 of time may be granted.

27 (4) After the petitioner has filed the petition,
28 supporting record, and any memorandum, the Appellate
29 Court shall consider and decide the petition within 2
30 days. No oral argument on the petition may be heard.

31 (5) The minor may appear and file her notice of
32 appeal and her petition using only her initials or a
33 pseudonym. If she does not use her own name, however,
34 she must provide the Clerk of the Appellate Court with a

1 name, telephone number, and address where she can be
2 reached to be informed of the time and place of any
3 hearing and the decision of the court.

4 (6) The Appellate Court shall appoint counsel to
5 assist the minor if she so requests.

6 (7) All Appellate Court records concerning an appeal
7 under this Section shall be sealed as confidential.
8 Inspection and copying of any court records relating to
9 the proceeding and the minor who is the subject of the
10 proceeding shall not be available to the minor who is the
11 subject of the proceeding or to her guardian ad litem or
12 counsel.

13 (8) Any further appeal to the Illinois Supreme Court
14 may be taken in a manner similar to that provided in
15 other civil cases.

16 (h) No fees shall be required of any minor who avails
17 herself of the procedures provided by this Section.

18 Section 30. Minor's consent to abortion. A person may
19 not perform an abortion on a minor without the minor's
20 consent, except in a medical emergency.

21 Section 35. Reports. The Department of Public Health
22 must comply with the reporting requirements set forth in the
23 consent decree in Herbst v. O'Malley, case no. 84-C-5602 in
24 the U.S. District Court for the Northern District of
25 Illinois, Eastern Division. These reports must also include
26 a statement of whether the required notice under Section 15
27 of this Act was given and, if an exception to the notice
28 requirement applies, which exception was used. No patient's
29 name or any other information that could lead to the
30 identification of the patient may be used in any report
31 submitted under this Section.

1 Section 40. Penalties.

2 (a) A physician who willfully fails to provide notice as
3 required under this Act before performing an abortion on a
4 minor or an incompetent person shall be referred to the
5 Illinois State Medical Disciplinary Board for action in
6 accordance with Section 22 of the Medical Practice Act of
7 1987.

8 (b) A person, not authorized under this Act, who signs
9 any waiver of notice under this Act for a minor or
10 incompetent person seeking an abortion is guilty of a Class C
11 misdemeanor.

12 (c) A person who discloses confidential information in
13 violation of Section 25 is guilty of a Class C misdemeanor.

14 Section 45. Immunity. A physician who, in good faith,
15 provides notice in accordance with Section 15 or relies on an
16 exception under Section 20 is not subject to any type of
17 civil or criminal liability or discipline for unprofessional
18 conduct for failure to give notice required under this Act.

19 Section 50. Severability. If any provision, word,
20 phrase, or clause of this Act, or its application to any
21 person or circumstance, is held invalid, the invalidity of
22 that provision or application does not affect the provisions,
23 words, phrases, clauses, or applications of the Act that can
24 be given effect without the invalid provision, word, phrase,
25 clause, or application, and to this end the provisions,
26 words, phrases, and clauses of this Act are declared to be
27 severable.

28 Section 90. The Medical Practice Act of 1987 is amended
29 by changing Sections 22 and 23 as follows:

30 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

1 Sec. 22. Disciplinary action.

2 (A) The Department may revoke, suspend, place on
3 probationary status, or take any other disciplinary action as
4 the Department may deem proper with regard to the license or
5 visiting professor permit of any person issued under this Act
6 to practice medicine, or to treat human ailments without the
7 use of drugs and without operative surgery upon any of the
8 following grounds:

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

11 (a) a facility licensed pursuant to the
12 Ambulatory Surgical Treatment Center Act;

13 (b) an institution licensed under the Hospital
14 Licensing Act; or

15 (c) an ambulatory surgical treatment center or
16 hospitalization or care facility maintained by the
17 State or any agency thereof, where such department
18 or agency has authority under law to establish and
19 enforce standards for the ambulatory surgical
20 treatment centers, hospitalization, or care
21 facilities under its management and control; or

22 (d) ambulatory surgical treatment centers,
23 hospitalization or care facilities maintained by the
24 Federal Government; or

25 (e) ambulatory surgical treatment centers,
26 hospitalization or care facilities maintained by any
27 university or college established under the laws of
28 this State and supported principally by public funds
29 raised by taxation.

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

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

1 B of this Section, whether or not related to practice
2 under this Act, or the entry of a guilty or nolo
3 contendere plea 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
11 defined in law as controlled substances, of alcohol, or
12 of any other substances which results in the inability to
13 practice with reasonable judgment, skill or safety.

14 (8) Practicing under a false or, except as provided
15 by 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
20 regarding their skill or the efficacy or value of the
21 medicine, treatment, or remedy prescribed by them at
22 their direction in the treatment of any disease or other
23 condition of the 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
27 jurisdiction against a license or other authorization to
28 practice as a medical doctor, doctor of osteopathy,
29 doctor of osteopathic medicine or doctor of chiropractic,
30 a certified copy of the record of the action taken by the
31 other state or jurisdiction being prima facie evidence
32 thereof.

33 (13) Violation of any provision of this Act or of
34 the Medical Practice Act prior to the repeal of that Act,

1 or violation of the rules, or a final administrative
2 action of the Director, after consideration of the
3 recommendation of the Disciplinary Board.

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

1 under this Act, to each receive adequate compensation for
2 concurrently rendering professional services to a patient
3 and divide a fee; provided, the patient has full
4 knowledge of the division, and, provided, that the
5 division is made in proportion to the services performed
6 and responsibility assumed by each.

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

12 (16) Abandonment of a patient.

13 (17) Prescribing, selling, administering,
14 distributing, giving or self-administering any drug
15 classified as a controlled substance (designated product)
16 or narcotic for other than medically accepted therapeutic
17 purposes.

18 (18) Promotion of the sale of drugs, devices,
19 appliances or goods provided for a patient in such manner
20 as to exploit the patient for financial gain of the
21 physician.

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

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

31 (21) Wilfully making or filing false records or
32 reports in his or her practice as a physician, including,
33 but not limited to, false records to support claims
34 against the medical assistance program of the Department

1 of Public Aid under the Illinois Public Aid Code.

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

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

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

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

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

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

32 (28) Physical illness, including, but not limited
33 to, deterioration through the aging process, or loss of
34 motor skill which results in a physician's inability to

1 practice under this Act with reasonable judgment, skill
2 or safety.

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

5 (30) Wilfully or negligently violating the
6 confidentiality between physician and patient except as
7 required by law.

8 (31) The use of any false, fraudulent, or deceptive
9 statement in any document connected with practice under
10 this Act.

11 (32) Aiding and abetting an individual not licensed
12 under this Act in the practice of a profession licensed
13 under this Act.

14 (33) Violating state or federal laws or regulations
15 relating to controlled substances.

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

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

1 action as defined in this Section.

2 (36) Failure to report to the Department any
3 adverse judgment, settlement, or award arising from a
4 liability claim related to acts or conduct similar to
5 acts or conduct which would constitute grounds for action
6 as defined in this Section.

7 (37) Failure to transfer copies of medical records
8 as required by law.

9 (38) Failure to furnish the Department, its
10 investigators or representatives, relevant information,
11 legally requested by the Department after consultation
12 with the Chief Medical Coordinator or the Deputy Medical
13 Coordinator.

14 (39) Violating the Health Care Worker Self-Referral
15 Act.

16 (40) Willful failure to provide notice when notice
17 is required under the Parental Notice of Abortion Act of
18 2001. ~~Willful failure to provide notice when notice is~~
19 ~~required under the Parental Notice of Abortion Act of~~
20 ~~1995.~~

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

23 (42) Entering into an excessive number of written
24 collaborative agreements with licensed advanced practice
25 nurses resulting in an inability to adequately
26 collaborate and provide medical direction.

27 (43) Repeated failure to adequately collaborate
28 with or provide medical direction to a licensed advanced
29 practice nurse.

30 All proceedings to suspend, revoke, place on probationary
31 status, or take any other disciplinary action as the
32 Department may deem proper, with regard to a license on any
33 of the foregoing grounds, must be commenced within 3 years
34 next after receipt by the Department of a complaint alleging

1 the commission of or notice of the conviction order for any
2 of the acts described herein. Except for the grounds
3 numbered (8), (9) and (29), no action shall be commenced more
4 than 5 years after the date of the incident or act alleged to
5 have violated this Section. In the event of the settlement
6 of any claim or cause of action in favor of the claimant or
7 the reduction to final judgment of any civil action in favor
8 of the plaintiff, such claim, cause of action or civil action
9 being grounded on the allegation that a person licensed under
10 this Act was negligent in providing care, the Department
11 shall have an additional period of one year from the date of
12 notification to the Department under Section 23 of this Act
13 of such settlement or final judgment in which to investigate
14 and commence formal disciplinary proceedings under Section 36
15 of this Act, except as otherwise provided by law. The time
16 during which the holder of the license was outside the State
17 of Illinois shall not be included within any period of time
18 limiting the commencement of disciplinary action by the
19 Department.

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

29 The Department may refuse to issue or take disciplinary
30 action concerning the license of any person who fails to file
31 a return, or to pay the tax, penalty or interest shown in a
32 filed return, or to pay any final assessment of tax, penalty
33 or interest, as required by any tax Act administered by the
34 Illinois Department of Revenue, until such time as the

1 requirements of any such tax Act are satisfied as determined
2 by the Illinois Department of Revenue.

3 The Department, upon the recommendation of the
4 Disciplinary Board, shall adopt rules which set forth
5 standards to be used in determining:

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

8 (b) what constitutes dishonorable, unethical or
9 unprofessional conduct of a character likely to deceive,
10 defraud, or harm the public;

11 (c) what constitutes immoral conduct in the
12 commission of any act, including, but not limited to,
13 commission of an act of sexual misconduct related to the
14 licensee's practice; and

15 (d) what constitutes gross negligence in the
16 practice of medicine.

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

20 In enforcing this Section, the Medical Disciplinary
21 Board, upon a showing of a possible violation, may compel any
22 individual licensed to practice under this Act, or who has
23 applied for licensure or a permit pursuant to this Act, to
24 submit to a mental or physical examination, or both, as
25 required by and at the expense of the Department. The
26 examining physician or physicians shall be those specifically
27 designated by the Disciplinary Board. The Medical
28 Disciplinary Board or the Department may order the examining
29 physician to present testimony concerning this mental or
30 physical examination of the licensee or applicant. No
31 information shall be excluded by reason of any common law or
32 statutory privilege relating to communication between the
33 licensee or applicant and the examining physician. The
34 individual to be examined may have, at his or her own

1 expense, another physician of his or her choice present
2 during all aspects of the examination. Failure of any
3 individual to submit to mental or physical examination, when
4 directed, shall be grounds for suspension of his or her
5 license until such time as the individual submits to the
6 examination if the Disciplinary Board finds, after notice and
7 hearing, that the refusal to submit to the examination was
8 without reasonable cause. If the Disciplinary Board finds a
9 physician unable to practice because of the reasons set forth
10 in this Section, the Disciplinary Board shall require such
11 physician to submit to care, counseling, or treatment by
12 physicians approved or designated by the Disciplinary Board,
13 as a condition for continued, reinstated, or renewed
14 licensure to practice. Any physician, whose license was
15 granted pursuant to Sections 9, 17, or 19 of this Act, or,
16 continued, reinstated, renewed, disciplined or supervised,
17 subject to such terms, conditions or restrictions who shall
18 fail to comply with such terms, conditions or restrictions,
19 or to complete a required program of care, counseling, or
20 treatment, as determined by the Chief Medical Coordinator or
21 Deputy Medical Coordinators, shall be referred to the
22 Director for a determination as to whether the licensee shall
23 have their license suspended immediately, pending a hearing
24 by the Disciplinary Board. In instances in which the
25 Director immediately suspends a license under this Section, a
26 hearing upon such person's license must be convened by the
27 Disciplinary Board within 15 days after such suspension and
28 completed without appreciable delay. The Disciplinary Board
29 shall have the authority to review the subject physician's
30 record of treatment and counseling regarding the impairment,
31 to the extent permitted by applicable federal statutes and
32 regulations safeguarding the confidentiality of medical
33 records.

34 An individual licensed under this Act, affected under

1 this Section, shall be afforded an opportunity to demonstrate
2 to the Disciplinary Board that they can resume practice in
3 compliance with acceptable and prevailing standards under the
4 provisions of their license.

5 The Department may promulgate rules for the imposition of
6 fines in disciplinary cases, not to exceed \$5,000 for each
7 violation of this Act. Fines may be imposed in conjunction
8 with other forms of disciplinary action, but shall not be the
9 exclusive disposition of any disciplinary action arising out
10 of conduct resulting in death or injury to a patient. Any
11 funds collected from such fines shall be deposited in the
12 Medical Disciplinary Fund.

13 (B) The Department shall revoke the license or visiting
14 permit of any person issued under this Act to practice
15 medicine or to treat human ailments without the use of drugs
16 and without operative surgery, who has been convicted a
17 second time of committing any felony under the Illinois
18 Controlled Substances Act, or who has been convicted a second
19 time of committing a Class 1 felony under Sections 8A-3 and
20 8A-6 of the Illinois Public Aid Code. A person whose license
21 or visiting permit is revoked under this subsection B of
22 Section 22 of this Act shall be prohibited from practicing
23 medicine or treating human ailments without the use of drugs
24 and without operative surgery.

25 (C) The Medical Disciplinary Board shall recommend to
26 the Department civil penalties and any other appropriate
27 discipline in disciplinary cases when the Board finds that a
28 physician willfully performed an abortion with actual
29 knowledge that the person upon whom the abortion has been
30 performed is a minor without notice as required under the
31 Parental Notice of Abortion Act of 2001. Upon the Board's
32 recommendation, the Department shall impose, for the first
33 violation, a civil penalty of \$1,000 and for a second or
34 subsequent violation, a civil penalty of \$5,000. The-Medical

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

11 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96;
 12 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff.
 13 8-13-98.)

14 (225 ILCS 60/23) (from Ch. 111, par. 4400-23)

15 Sec. 23. Reports relating to professional conduct and
 16 capacity.

17 (A) Entities required to report.

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

1 formal action seeking to determine whether a person may
2 be mentally or physically disabled in such a manner as to
3 endanger patients under that person's care. The Medical
4 Disciplinary Board shall, by rule, provide for the
5 reporting to it of all instances in which a person,
6 licensed under this Act, who is impaired by reason of
7 age, drug or alcohol abuse or physical or mental
8 impairment, is under supervision and, where appropriate,
9 is in a program of rehabilitation. Such reports shall be
10 strictly confidential and may be reviewed and considered
11 only by the members of the Disciplinary Board, or by
12 authorized staff as provided by rules of the Disciplinary
13 Board. Provisions shall be made for the periodic report
14 of the status of any such person not less than twice
15 annually in order that the Disciplinary Board shall have
16 current information upon which to determine the status of
17 any such person. Such initial and periodic reports of
18 impaired physicians shall not be considered records
19 within the meaning of The State Records Act and shall be
20 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
23 Disciplinary Board shall determine by rule. The filing
24 of such reports shall be construed as the filing of a
25 report for purposes of subsection (C) of this Section.

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

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

12 (4) State's Attorneys. The State's Attorney of
 13 each county shall report to the Disciplinary Board all
 14 instances in which a person licensed under this Act is
 15 convicted or otherwise found guilty of the commission of
 16 any felony. The State's Attorney of each county may
 17 report to the Disciplinary Board through a verified
 18 complaint any instance in which the State's Attorney
 19 believes that a physician has willfully violated the
 20 notice requirements of the Parental Notice of Abortion
 21 Act of 2001. ~~The--State's--Attorney--of--each--county--may~~
 22 ~~report--to--the--Disciplinary--Board--through--a--verified~~
 23 ~~complaint--any--instance--in--which--the--State's--Attorney~~
 24 ~~believes--that--a--physician--has--willfully--violated--the~~
 25 ~~notice--requirements--of--the--Parental--Notice--of--Abortion~~
 26 ~~Act--of--1995.~~

27 (5) State agencies. All agencies, boards,
 28 commissions, departments, or other instrumentalities of
 29 the government of the State of Illinois shall report to
 30 the Disciplinary Board any instance arising in connection
 31 with the operations of such agency, including the
 32 administration of any law by such agency, in which a
 33 person licensed under this Act has either committed an
 34 act or acts which may be a violation of this Act or which

1 may constitute unprofessional conduct related directly to
2 patient care or which indicates that a person licensed
3 under this Act may be mentally or physically disabled in
4 such a manner as to endanger patients under that person's
5 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
10 60 days after a determination that a report is required under
11 this Act. All reports shall contain the following
12 information:

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

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

17 (3) The name or other means of identification of
18 any patient or patients whose treatment is a subject of
19 the report, provided, however, no medical records may be
20 revealed without the written consent of the patient or
21 patients.

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

26 (5) If court action is involved, the identity of
27 the court in which the action is filed, along with the
28 docket number and date of filing of the action.

29 (6) Any further pertinent information which the
30 reporting party deems to be an aid in the evaluation of
31 the report.

32 The Department shall have the right to inform patients of
33 the right to provide written consent for the Department to
34 obtain copies of hospital and medical records. The

1 Disciplinary Board or Department may exercise the power under
2 Section 38 of this Act to subpoena copies of hospital or
3 medical records in mandatory report cases alleging death or
4 permanent bodily injury when consent to obtain records is not
5 provided by a patient or legal representative. Appropriate
6 rules shall be adopted by the Department with the approval of
7 the Disciplinary Board.

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

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

24 (C) Immunity from prosecution. Any individual or
25 organization acting in good faith, and not in a wilful and
26 wanton manner, in complying with this Act by providing any
27 report or other information to the Disciplinary Board, or
28 assisting in the investigation or preparation of such
29 information, or by participating in proceedings of the
30 Disciplinary Board, or by serving as a member of the
31 Disciplinary Board, shall not, as a result of such actions,
32 be subject to criminal prosecution or civil damages.

33 (D) Indemnification. Members of the Disciplinary Board,
34 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
6 faith and not wilful and wanton in nature. The Attorney
7 General shall defend all such actions unless he or she
8 determines either that there would be a conflict of interest
9 in such representation or that the actions complained of were
10 not in good faith or were 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
16 in 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
19 involving services of the Disciplinary Board. Failure to so
20 notify the Attorney General shall constitute an absolute
21 waiver of the 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
26 receipt of any report called for by this Act, other than
27 those reports of impaired persons licensed under this Act
28 required pursuant to the rules of the Disciplinary Board, the
29 Disciplinary Board shall notify in writing, by certified
30 mail, the person who is the subject of the report. Such
31 notification shall be made within 30 days of receipt by the
32 Disciplinary Board of the report.

33 The notification shall include a written notice setting
34 forth the person's right to examine the report. Included in

1 such notification shall be the address at which the file is
2 maintained, the name of the custodian of the reports, and the
3 telephone number at which the custodian may be reached. The
4 person who is the subject of the report shall submit a
5 written statement responding, clarifying, adding to, or
6 proposing the amending of the report previously filed. The
7 statement shall become a permanent part of the file and must
8 be received by the Disciplinary Board no more than 60 days
9 after the date on which the person was notified by the
10 Disciplinary Board of the existence of the original report.

11 The Disciplinary Board shall review all reports received
12 by it, together with any supporting information and
13 responding statements submitted by persons who are the
14 subject of reports. The review by the Disciplinary Board
15 shall be in a timely manner but in no event, shall the
16 Disciplinary Board's initial review of the material contained
17 in each disciplinary file be less than 61 days nor more than
18 180 days after the receipt of the initial report by the
19 Disciplinary Board.

20 When the Disciplinary Board makes its initial review of
21 the materials contained within its disciplinary files, the
22 Disciplinary Board shall, in writing, make a determination as
23 to whether there are sufficient facts to warrant further
24 investigation or action. Failure to make such determination
25 within the time provided shall be deemed to be a
26 determination that there are not sufficient facts to warrant
27 further investigation or action.

28 Should the Disciplinary Board find that there are not
29 sufficient facts to warrant further investigation, or action,
30 the report shall be accepted for filing and the matter shall
31 be deemed closed and so reported to the Director. The
32 Director shall then have 30 days to accept the Medical
33 Disciplinary Board's decision or request further
34 investigation. The Director shall inform the Board in

1 writing of the decision to request further investigation,
2 including the specific reasons for the decision. The
3 individual or entity filing the original report or complaint
4 and the person who is the subject of the report or complaint
5 shall be notified in writing by the Director of any final
6 action on their report or complaint.

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

22 (G) Any violation of this Section shall be a Class A
23 misdemeanor.

24 (H) If any such person violates the provisions of this
25 Section an action may be brought in the name of the People of
26 the State of Illinois, through the Attorney General of the
27 State of Illinois, for an order enjoining such violation or
28 for an order enforcing compliance with this Section. Upon
29 filing of a verified petition in such court, the court may
30 issue a temporary restraining order without notice or bond
31 and may preliminarily or permanently enjoin such violation,
32 and if it is established that such person has violated or is
33 violating the injunction, the court may punish the offender
34 for contempt of court. Proceedings under this paragraph

1 shall be in addition to, and not in lieu of, all other
2 remedies and penalties provided for by this Section.

3 (Source: P.A. 89-18, eff. 6-1-95; 89-702, eff. 7-1-97;
4 90-699, eff. 1-1-99.)

5 (720 ILCS 515/Act rep.)

6 Section 95. The Illinois Abortion Parental Consent Act
7 of 1977, which was repealed by Public Act 89-18, is again
8 repealed.

9 (720 ILCS 520/Act rep.)

10 Section 96. The Parental Notice of Abortion Act of 1983,
11 which was repealed by Public Act 89-18, is again repealed.

12 (750 ILCS 70/Act rep.)

13 Section 97. The Parental Notice of Abortion Act of 1995
14 is repealed.

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