AN ACT concerning insurance.

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

ARTICLE 1. FINDINGS

Section 101. Findings. The General Assembly finds as follows:

(1) The increasing cost of medical liability insurance results in increased financial burdens on physicians and hospitals.

(2) The increasing cost of medical liability insurance in Illinois is believed to have contributed to the reduction of the availability of medical care in portions of the State and is believed to have discouraged some medical students from choosing Illinois as the place they will receive their medical education and practice medicine.

(3) The public would benefit from making the services of hospitals and physicians more available.

(4) This health care crisis, which endangers the public health, safety, and welfare of the citizens of Illinois, requires significant reforms to the civil justice system currently endangering health care for citizens of Illinois. Limiting non-economic damages is one of these significant reforms designed to benefit the people of the State of Illinois. An increasing number of citizens or municipalities are enacting ordinances that limit damages and help maintain the health care delivery system in Illinois and protect the health, safety, and welfare of the people of Illinois.

(5) In order to preserve the public health, safety, and welfare of the people of Illinois, the current medical malpractice situation requires reforms that enhance the

State's oversight of physicians and ability to discipline physicians, that increase the State's oversight of medical liability insurance carriers, that reduce the number of nonmeritorious healing art malpractice actions, that limit non-economic damages in healing art malpractice actions, that encourage physicians to provide voluntary services at free medical clinics, that encourage physicians and hospitals to continue providing health care services in Illinois, and that encourage physicians to practice in medical care shortage areas.

ARTICLE 3. AMENDATORY PROVISIONS

Section 310. The Illinois Insurance Code is amended by changing Sections 155.18, 155.19, and 1204 and by adding Section 155.18a as follows:

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

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

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

(1) Rates shall not be excessive or inadequate~~, as herein defined,~~ nor shall they be unfairly discriminatory. ~~No rate shall be held to be excessive unless such rate is unreasonably high for the insurance provided, and a reasonable degree of competition does not exist in the area~~

~~with respect to the classification to which such rate is applicable.~~

~~No rate shall be held inadequate unless it is unreasonably low for the insurance provided and continued use of it would endanger solvency of the company.~~

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

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

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

(4) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that have a probable effect upon losses or expenses. Such classifications or modifications of classifications of risks may be established based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations and shall apply to all risks under the same or substantially the same circumstances or conditions. The

rate for an established classification should be related generally to the anticipated loss and expense factors of the class.

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

(2) If (i) 1% of a company's insureds within a specialty or 25 of the company's insureds (whichever is greater) request a public hearing, (ii) the Secretary at his or her discretion decides to convene a public hearing, or (iii) the percentage increase in a company's rate is greater than 6%, then the Secretary shall convene a public hearing in accordance with this paragraph (2). The Secretary shall notify the public of any application by an insurer for a rate increase to which this paragraph (2) applies. A public hearing under this paragraph (2) must be concluded within 90 days after the request, decision, or increase that gave rise to the hearing. The Secretary may, by order, adjust a rate or take any other appropriate action at the conclusion of the hearing.

(3) A rate ~~(1) This~~ filing shall occur upon a company's commencement of medical liability insurance business in this State ~~at least annually~~ and thereafter as often as the rates are changed or amended.

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

(5) ~~(3)~~ It shall be certified in such filing by an officer of the company and a qualified actuary that the company's rates are based on sound actuarial principles and are not inconsistent with the company's experience. The Secretary may request any additional statistical data and other pertinent

information necessary to determine the manner the company used to set the filed rates and the reasonableness of those rates. This data and information shall be made available, on a company-by-company basis, to the general public.

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

(1) that any rate, rating plan or rating system violates the provisions of this Section applicable to it, he shall ~~may~~ issue an order to the company which has been the subject of the hearing specifying in what respects such violation exists and, in that order, may adjust the rate ~~stating when, within a reasonable period of time, the further use of such rate or rating system by such company in contracts of insurance made thereafter shall be prohibited~~;

(2) that the violation of any of the provisions of this Section ~~applicable to it~~ by any company which has been the subject of the hearing was wilful or that any company has repeatedly violated any provision of this Section, he may take either or both of the following actions:

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

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

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

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

(f) Every company writing medical liability insurance is encouraged, but not required, to offer the opportunity for participation in a plan offering deductibles to its medical liability insureds. Any plan to offer deductibles shall be filed with the Department.

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

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

(Source: P.A. 79-1434.)

(215 ILCS 5/155.18a new)

Sec. 155.18a. Professional Liability Insurance Resource Center. The Secretary of Financial and Professional Regulation shall establish a Professional Liability Insurance Resource Center on the Department's Internet website containing the name, telephone number, and base rates of each licensed company providing medical liability insurance and the name, address, and telephone number of each producer who sells medical liability insurance and the name of each licensed company for which the producer sells medical liability insurance. Each company and producer shall submit the information to the Department on or before September 30 of each year in order to be listed on the website. Hyperlinks to company websites shall be included, if available. The publication of the information on the Department's website shall commence on January 1, 2006. The Department shall update the information on the Professional Liability Insurance Resource Center at least annually.

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

Sec. 155.19. All claims filed after December 31, 1976 with

any insurer and all suits filed after December 31, 1976 in any court in this State, alleging liability on the part of any physician, hospital or other health care provider for medically related injuries, shall be reported to the Secretary of Financial and Professional Regulation ~~Director of Insurance~~ in such form and under such terms and conditions as may be prescribed by the Secretary ~~Director~~. In addition, and notwithstanding any other provision of law to the contrary, any insurer, stop loss insurer, captive insurer, risk retention group, county risk retention trust, religious or charitable risk pooling trust, surplus line insurer, or other entity authorized or permitted by law to provide medical liability insurance in this State shall report to the Secretary, in such form and under such terms and conditions as may be prescribed by the Secretary, all claims filed after December 31, 2005 and all suits filed after December 31, 2005 in any court in this State alleging liability on the part of any physician, hospital, or health care provider for medically related injuries. Each clerk of the circuit court shall provide to the Secretary such information as the Secretary may deem necessary to verify the accuracy and completeness of reports made to the Secretary under this Section. The Secretary ~~Director~~ shall maintain complete and accurate records of all ~~such~~ claims and suits including their nature, amount, disposition (categorized by verdict, settlement, dismissal, or otherwise and including disposition of any post-trial motions and types of damages awarded, if any, including but not limited to economic damages and non-economic damages) and other information as he may deem useful or desirable in observing and reporting on health care provider liability trends in this State. Records received by the Secretary under this Section shall be available to the general public; however, the records made available to the general public shall not include the names or addresses of the parties to any claims or suits. The Secretary ~~Director~~ shall release to appropriate disciplinary and licensing agencies any such data or information which may assist such agencies in

improving the quality of health care or which may be useful to such agencies for the purpose of professional discipline.

With due regard for appropriate maintenance of the confidentiality thereof, the Secretary ~~Director~~ shall ~~may~~ release, on an annual basis, ~~from time to time~~ to the Governor, the General Assembly and the general public statistical reports based on such data and information.

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

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

(Source: P.A. 79-1434.)

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

Sec. 1204. (A) The Secretary ~~Director~~ shall promulgate rules and regulations which shall require each insurer licensed to write property or casualty insurance in the State and each syndicate doing business on the Illinois Insurance Exchange to record and report its loss and expense experience and other data as may be necessary to assess the relationship of insurance premiums and related income as compared to insurance costs and expenses. The Secretary ~~Director~~ may designate one or more rate service organizations or advisory organizations to gather and compile such experience and data. The Secretary ~~Director~~ shall require each insurer licensed to write property or casualty insurance in this State and each syndicate doing business on the Illinois Insurance Exchange to submit a report, on a form furnished by the Secretary ~~Director~~, showing its direct writings in this State and companywide.

(B) Such report required by subsection (A) of this Section may include, but not be limited to, the following specific

types of insurance written by such insurer:

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

(a) municipalities;

(b) school districts;

(c) other political subdivisions;

(2) Public official liability insurance;

(3) Dram shop liability insurance;

(4) Day care center liability insurance;

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

(6) Errors and omissions liability insurance;

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

(a) non-profit entities;

(b) for-profit entities;

(8) Products liability insurance;

(9) Medical malpractice insurance;

(10) Attorney malpractice insurance;

(11) Architects and engineers malpractice insurance; and

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

(a) motor vehicle physical damage insurance;

(b) motor vehicle liability insurance.

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

(1) Direct premiums written;

(2) Direct premiums earned;

(3) Number of policies;

(4) Net investment income, using appropriate estimates where necessary;

(5) Losses paid;

(6) Losses incurred;

(7) Loss reserves:

(a) Losses unpaid on reported claims;

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

(8) Number of claims:

(a) Paid claims;

(b) Arising claims;

(9) Loss adjustment expenses:

(a) Allocated loss adjustment expenses;

(b) Unallocated loss adjustment expenses;

(10) Net underwriting gain or loss;

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

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

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

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

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

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

(c) the following actuarial information:

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

(ii) Cumulative loss array by accident year by calendar year of development. This array will show frequency of claims in the following categories: open, closed with indemnity (CWI), closed with expense (CWE), and closed no pay (CNP); paid

severity in the following categories: indemnity and allocated loss adjustment expenses (ALAE) on closed claims; and indemnity and expense reserves on pending claims.

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

(iv) Maturity year and tail factors.

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

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

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

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

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

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

(E) Violations - Suspensions - Revocations.

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

(2) No forfeiture liability under paragraph (1) of this subsection may attach unless a written notice of apparent liability has been issued by the Secretary ~~Director~~ and received by the respondent, or the Secretary ~~Director~~ sends written notice of apparent liability by registered or certified mail, return receipt requested, to the last known address of the respondent. Any respondent so notified must be granted an opportunity to request a hearing within 10 days from receipt of notice, or to show in writing, why he should not be held liable. A notice issued under this Section must set forth the date, facts and nature of the act or omission with which the respondent is charged and must specifically identify the particular provision of this Article, rule, regulation or order of which a violation is charged.

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

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

(5) The civil penalty forfeitures provided for in this

Section are payable to the General Revenue Fund of the State of Illinois, and may be recovered in a civil suit in the name of the State of Illinois brought in the Circuit Court in Sangamon County or in the Circuit Court of the county where the respondent is domiciled or has its principal operating office.

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

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

(8) When any person or company has a license or certificate of authority under this Code and knowingly fails or refuses to comply with any provisions of this Article, the Secretary ~~Director~~ may, after notice and hearing, in addition to any other penalty provided, revoke or refuse to renew the license or certificate of authority of such person or company, or may suspend the license or certificate of authority of such person or company, until compliance with such provision of this Article has been obtained.

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

(Source: P.A. 93-32, eff. 7-1-03.)

Section 315. The Medical Practice Act of 1987 is amended by changing Sections 7, 22, 23, 24, and 36 and adding Section 24.1 as follows:

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

(Section scheduled to be repealed on January 1, 2007)

Sec. 7. Medical Disciplinary Board.

(A) There is hereby created the Illinois State Medical Disciplinary Board (hereinafter referred to as the "Disciplinary Board"). The Disciplinary Board shall consist of 11 ~~9~~ members, to be appointed by the Governor by and with the advice and consent of the Senate. All members shall be residents of the State, not more than 6 ~~5~~ of whom shall be members of the same political party. All members shall be voting members. Five members shall be physicians licensed to practice medicine in all of its branches in Illinois possessing the degree of doctor of medicine, and it shall be the goal that at least one of the members practice in the field of neurosurgery, one of the members practice in the field of obstetrics and gynecology, and one of the members practice in the field of cardiology. One member shall be a physician licensed to practice in Illinois possessing the degree of doctor of osteopathy or osteopathic medicine. One member shall be a physician licensed to practice in Illinois and possessing the degree of doctor of chiropractic. Four members ~~Two~~ shall be members of the public, who shall not be engaged in any way,

directly or indirectly, as providers of health care. ~~The 2 public members shall act as voting members. One member shall be a physician licensed to practice in Illinois possessing the degree of doctor of osteopathy or osteopathic medicine. One member shall be a physician licensed to practice in Illinois and possessing the degree of doctor of chiropractic.~~

(B) Members of the Disciplinary Board shall be appointed for terms of 4 years. Upon the expiration of the term of any member, their successor shall be appointed for a term of 4 years by the Governor by and with the advice and consent of the Senate. The Governor shall fill any vacancy for the remainder of the unexpired term by and with the advice and consent of the Senate. Upon recommendation of the Board, any member of the Disciplinary Board may be removed by the Governor for misfeasance, malfeasance, or wilful neglect of duty, after notice, and a public hearing, unless such notice and hearing shall be expressly waived in writing. Each member shall serve on the Disciplinary Board until their successor is appointed and qualified. No member of the Disciplinary Board shall serve more than 2 consecutive 4 year terms.

In making appointments the Governor shall attempt to insure that the various social and geographic regions of the State of Illinois are properly represented.

In making the designation of persons to act for the several professions represented on the Disciplinary Board, the Governor shall give due consideration to recommendations by members of the respective professions and by organizations therein.

(C) The Disciplinary Board shall annually elect one of its voting members as chairperson and one as vice chairperson. No officer shall be elected more than twice in succession to the same office. Each officer shall serve until their successor has been elected and qualified.

(D) (Blank).

(E) Six ~~Four~~ voting members of the Disciplinary Board, at least 4 of whom are physicians, shall constitute a quorum. A

vacancy in the membership of the Disciplinary Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Disciplinary Board. Any action taken by the Disciplinary Board under this Act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately. The Disciplinary Board shall meet at least quarterly. The Disciplinary Board is empowered to adopt all rules and regulations necessary and incident to the powers granted to it under this Act.

(F) Each member, and member-officer, of the Disciplinary Board shall receive a per diem stipend as the Secretary ~~Director~~ of the Department, hereinafter referred to as the Secretary ~~Director~~, shall determine. The Secretary ~~Director~~ shall also determine the per diem stipend that each ex-officio member shall receive. Each member shall be paid their necessary expenses while engaged in the performance of their duties.

(G) The Secretary ~~Director~~ shall select a Chief Medical Coordinator and not less than 2 ~~a~~ Deputy Medical Coordinators ~~Coordinator~~ who shall not be members of the Disciplinary Board. Each medical coordinator shall be a physician licensed to practice medicine in all of its branches, and the Secretary ~~Director~~ shall set their rates of compensation. The Secretary ~~Director~~ shall assign at least one medical coordinator to a region composed of Cook County and such other counties as the Secretary ~~Director~~ may deem appropriate, and such medical coordinator or coordinators shall locate their office in Chicago. The Secretary ~~Director~~ shall assign at least one ~~the remaining~~ medical coordinator to a region composed of the balance of counties in the State, and such medical coordinator or coordinators shall locate their office in Springfield. Each medical coordinator shall be the chief enforcement officer of this Act in his or her ~~their~~ assigned region and shall serve at the will of the Disciplinary Board.

The Secretary ~~Director~~ shall employ, in conformity with the Personnel Code, not less than one full time investigator for

every 2,500 ~~5000~~ physicians licensed in the State. Each investigator shall be a college graduate with at least 2 years' investigative experience or one year advanced medical education. Upon the written request of the Disciplinary Board, the Secretary ~~Director~~ shall employ, in conformity with the Personnel Code, such other professional, technical, investigative, and clerical help, either on a full or part-time basis as the Disciplinary Board deems necessary for the proper performance of its duties.

(H) Upon the specific request of the Disciplinary Board, signed by either the chairman, vice chairman, or a medical coordinator of the Disciplinary Board, the Department of Human Services or the Department of State Police shall make available any and all information that they have in their possession regarding a particular case then under investigation by the Disciplinary Board.

(I) Members of the Disciplinary Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Disciplinary Board.

(J) The Disciplinary Board may compile and establish a statewide roster of physicians and other medical professionals, including the several medical specialties, of such physicians and medical professionals, who have agreed to serve from time to time as advisors to the medical coordinators. Such advisors shall assist the medical coordinators or the Disciplinary Board in their investigations and participation in complaints against physicians. Such advisors shall serve under contract and shall be reimbursed at a reasonable rate for the services provided, plus reasonable expenses incurred. While serving in this capacity, the advisor, for any act undertaken in good faith and in the conduct of their duties under this Section, shall be immune from civil suit.

(Source: P.A. 93-138, eff. 7-10-03.)

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

(Section scheduled to be repealed on January 1, 2007)

Sec. 22. Disciplinary action.

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

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

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

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

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

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

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

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

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

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

(4) Gross negligence in practice under this Act.

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

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

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

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

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

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

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

(12) Disciplinary action of another state or jurisdiction against a license or other authorization to practice as a medical doctor, doctor of osteopathy, doctor of osteopathic medicine or doctor of chiropractic, a certified copy of the record of the action taken by the other state or jurisdiction being prima facie evidence thereof.

(13) Violation of any provision of this Act or of the Medical Practice Act prior to the repeal of that Act, or violation of the rules, or a final administrative action of the Secretary ~~Director~~, after consideration of the

recommendation of the Disciplinary Board.

(14) Dividing with anyone other than physicians with whom the licensee practices in a partnership, Professional Association, limited liability company, or Medical or Professional Corporation any fee, commission, rebate or other form of compensation for any professional services not actually and personally rendered. Nothing contained in this subsection prohibits persons holding valid and current licenses under this Act from practicing medicine in partnership under a partnership agreement, including a limited liability partnership, in a limited liability company under the Limited Liability Company Act, in a corporation authorized by the Medical Corporation Act, as an association authorized by the Professional Association Act, or in a corporation under the Professional Corporation Act or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the Board of Directors of the corporation or association. Nothing contained in this subsection prohibits 2 or more corporations authorized by the Medical Corporation Act, from forming a partnership or joint venture of such corporations, and providing medical, surgical and scientific research and knowledge by employees of these corporations if such employees are licensed under this Act, or from pooling, sharing, dividing, or apportioning the fees and monies received by the partnership or joint venture in accordance with the partnership or joint venture agreement. Nothing contained in this subsection shall abrogate the right of 2 or more persons, holding valid and current licenses under this Act, to each receive adequate compensation for concurrently rendering professional services to a patient and divide a fee; provided, the patient has full knowledge of the division, and, provided, that the division is made in proportion to the services

performed and responsibility assumed by each.

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

(16) Abandonment of a patient.

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

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

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

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

(21) Wilfully making or filing false records or reports in his or her practice as a physician, including, but not limited to, false records to support claims against the medical assistance program of the Department of Public Aid under the Illinois Public Aid Code.

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

(23) Being named as a perpetrator in an indicated report by the Department of Children and Family Services

under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(39) Violating the Health Care Worker Self-Referral

Act.

(40) Willful failure to provide notice when notice is required under the Parental Notice of Abortion Act of 1995.

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

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

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

Except for actions involving the ground numbered (26), all ~~All~~ proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 5 ~~3~~ years next after receipt by the Department of a complaint alleging the commission of or notice of the conviction order for any of the acts described herein. Except for the grounds numbered (8), (9), (26), and (29), no action shall be commenced more than 10 ~~5~~ years after the date of the incident or act alleged to have violated this Section. For actions involving the ground numbered (26), a pattern of practice or other behavior includes all incidents alleged to be part of the pattern of practice or other behavior that occurred or a report pursuant to Section 23 of this Act received within the 10-year period preceding the filing of the complaint. In the event of the settlement of any claim or cause of action in favor of the claimant or the reduction to final judgment of any civil action in favor of the plaintiff, such claim, cause of action or civil action being grounded on the allegation that a person licensed under this Act was negligent in providing care, the Department shall have an additional period of 2 years ~~one year~~ from the date of notification to the Department under Section 23 of this Act of such settlement or final judgment in which to investigate and

commence formal disciplinary proceedings under Section 36 of this Act, except as otherwise provided by law. The time during which the holder of the license was outside the State of Illinois shall not be included within any period of time limiting the commencement of disciplinary action by the Department.

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

The Department may refuse to issue or take disciplinary action concerning the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied as determined by the Illinois Department of Revenue.

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

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

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

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

(d) what constitutes gross negligence in the practice

of medicine.

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

In enforcing this Section, the Medical Disciplinary Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure or a permit pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Disciplinary Board. The Medical Disciplinary Board or the Department may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Disciplinary Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause. If the Disciplinary Board finds a physician unable to practice because of the reasons set forth in this Section, the Disciplinary Board shall require such physician to submit to care, counseling, or treatment by physicians approved or designated by the Disciplinary Board, as a condition for continued, reinstated, or renewed licensure to practice. Any physician, whose license was granted pursuant to Sections 9, 17, or 19 of this Act, or, continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions, or to complete a required program

of care, counseling, or treatment, as determined by the Chief Medical Coordinator or Deputy Medical Coordinators, shall be referred to the Secretary ~~Director~~ for a determination as to whether the licensee shall have their license suspended immediately, pending a hearing by the Disciplinary Board. In instances in which the Secretary ~~Director~~ immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Disciplinary Board within 15 days after such suspension and completed without appreciable delay. The Disciplinary Board shall have the authority to review the subject physician's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

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

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

(B) The Department shall revoke the license or visiting permit of any person issued under this Act to practice medicine or to treat human ailments without the use of drugs and without operative surgery, who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or visiting permit is revoked under this subsection B of Section 22 of this Act shall

be prohibited from practicing medicine or treating human ailments without the use of drugs and without operative surgery.

(C) The Medical Disciplinary Board shall recommend to the Department civil penalties and any other appropriate discipline in disciplinary cases when the Board finds that a physician willfully performed an abortion with actual knowledge that the person upon whom the abortion has been performed is a minor or an incompetent person without notice as required under the Parental Notice of Abortion Act of 1995. Upon the Board's recommendation, the Department shall impose, for the first violation, a civil penalty of $1,000 and for a second or subsequent violation, a civil penalty of $5,000.
(Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

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

(Section scheduled to be repealed on January 1, 2007)

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

(A) Entities required to report.

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

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

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

(3) Professional liability insurers. Every insurance company which offers policies of professional liability

insurance to persons licensed under this Act, or any other entity which seeks to indemnify the professional liability of a person licensed under this Act, shall report to the Disciplinary Board the settlement of any claim or cause of action, or final judgment rendered in any cause of action, which alleged negligence in the furnishing of medical care by such licensed person when such settlement or final judgment is in favor of the plaintiff.

(4) State's Attorneys. The State's Attorney of each county shall report to the Disciplinary Board all instances in which a person licensed under this Act is convicted or otherwise found guilty of the commission of any felony. The State's Attorney of each county may report to the Disciplinary Board through a verified complaint any instance in which the State's Attorney believes that a physician has willfully violated the notice requirements of the Parental Notice of Abortion Act of 1995.

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

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

(1) The name, address and telephone number of the

person making the report.

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

(3) The name and date of birth ~~or other means of identification~~ of any patient or patients whose treatment is a subject of the report, if available, or other means of identification if such information is not available, identification of the hospital or other healthcare facility where the care at issue in the report was rendered, provided, however, no medical records may be revealed ~~without the written consent of the patient or patients~~.

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

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

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

~~The Department shall have the right to inform patients of the right to provide written consent for the Department to obtain copies of hospital and medical records.~~ The Disciplinary Board or Department may also exercise the power under Section 38 of this Act to subpoena copies of hospital or medical records in mandatory report cases alleging death or permanent bodily injury ~~when consent to obtain records is not provided by a patient or legal representative~~. Appropriate rules shall be adopted by the Department with the approval of the Disciplinary Board.

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

Nothing contained in this Section shall act to in any way, waive or modify the confidentiality of medical reports and committee reports to the extent provided by law. Any information reported or disclosed shall be kept for the confidential use of the Disciplinary Board, the Medical Coordinators, the Disciplinary Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act, and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation. Furthermore, information and documents disclosed to a federal, State, or local law enforcement agency may be used by that agency only for the investigation and prosecution of a criminal offense.

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

(D) Indemnification. Members of the Disciplinary Board, the Medical Coordinators, the Disciplinary Board's attorneys, the medical investigative staff, physicians retained under contract to assist and advise the medical coordinators in the investigation, and authorized clerical staff shall be indemnified by the State for any actions occurring within the scope of services on the Disciplinary Board, done in good faith

and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

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

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

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

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

The notification shall include a written notice setting forth the person's right to examine the report. Included in such notification shall be the address at which the file is maintained, the name of the custodian of the reports, and the telephone number at which the custodian may be reached. The person who is the subject of the report shall submit a written statement responding, clarifying, adding to, or proposing the amending of the report previously filed. <u>The person who is the subject of the report shall also submit with the written</u>

statement any medical records related to the report. The statement and accompanying medical records shall become a permanent part of the file and must be received by the Disciplinary Board no more than 30 ~~60~~ days after the date on which the person was notified by the Disciplinary Board of the existence of the original report.

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

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

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

(F) Summary reports. The Disciplinary Board shall prepare,

on a timely basis, but in no event less than one every other month, a summary report of final actions taken upon disciplinary files maintained by the Disciplinary Board. The summary reports shall be sent by the Disciplinary Board to every health care facility licensed by the Illinois Department of Public Health, every professional association and society of persons licensed under this Act functioning on a statewide basis in this State, the American Medical Association, the American Osteopathic Association, the American Chiropractic Association, all insurers providing professional liability insurance to persons licensed under this Act in the State of Illinois, the Federation of State Medical Licensing Boards, and the Illinois Pharmacists Association.

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

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

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

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

(Section scheduled to be repealed on January 1, 2007)

Sec. 24. Report of violations; medical associations. Any physician licensed under this Act, the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians

and Surgeons, the Illinois Chiropractic Society, the Illinois Prairie State Chiropractic Association, or any component societies of any of these 4 groups, and any other person, may report to the Disciplinary Board any information the physician, association, society, or person may have that appears to show that a physician is or may be in violation of any of the provisions of Section 22 of this Act.

The Department may enter into agreements with the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Prairie State Chiropractic Association, or the Illinois Chiropractic Society to allow these organizations to assist the Disciplinary Board in the review of alleged violations of this Act. Subject to the approval of the Department, any organization party to such an agreement may subcontract with other individuals or organizations to assist in review.

Any physician, association, society, or person participating in good faith in the making of a report~~,~~ under this Act or participating in or assisting with an investigation or review under this Act ~~Section~~ shall have immunity from any civil, criminal, or other liability that might result by reason of those actions.

The medical information in the custody of an entity under contract with the Department participating in an investigation or review shall be privileged and confidential to the same extent as are information and reports under the provisions of Part 21 of Article VIII of the Code of Civil Procedure.

Upon request by the Department after a mandatory report has been filed with the Department, an attorney for any party seeking to recover damages for injuries or death by reason of medical, hospital, or other healing art malpractice shall provide patient records related to the physician involved in the disciplinary proceeding to the Department within 30 days of the Department's request for use by the Department in any disciplinary matter under this Act. An attorney who provides patient records to the Department in accordance with this

requirement shall not be deemed to have violated any attorney-client privilege. Notwithstanding any other provision of law, consent by a patient shall not be required for the provision of patient records in accordance with this requirement.

For the purpose of any civil or criminal proceedings, the good faith of any physician, association, society or person shall be presumed. The Disciplinary Board may request the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Prairie State Chiropractic Association, or the Illinois Chiropractic Society to assist the Disciplinary Board in preparing for or conducting any medical competency examination as the Board may deem appropriate.

(Source: P.A. 88-324.)

(225 ILCS 60/24.1 new)

Sec. 24.1. Physician profile.

(a) This Section may be cited as the Patients' Right to Know Law.

(b) The Department shall make available to the public a profile of each physician. The Department shall make this information available through an Internet web site and, if requested, in writing. The physician profile shall contain the following information:

(1) the full name of the physician;

(2) a description of any criminal convictions for felonies and Class A misdemeanors, as determined by the Department, within the most recent 5 years. For the purposes of this Section, a person shall be deemed to be convicted of a crime if he or she pleaded guilty or if he was found or adjudged guilty by a court of competent jurisdiction;

(3) a description of any final Department disciplinary actions within the most recent 5 years;

(4) a description of any final disciplinary actions by

licensing boards in other states within the most recent 5 years;

(5) a description of revocation or involuntary restriction of hospital privileges for reasons related to competence or character that have been taken by the hospital's governing body or any other official of the hospital after procedural due process has been afforded, or the resignation from or nonrenewal of medical staff membership or the restriction of privileges at a hospital taken in lieu of or in settlement of a pending disciplinary case related to competence or character in that hospital. Only cases which have occurred within the most recent 5 years shall be disclosed by the Department to the public;

(6) all medical malpractice court judgments and all medical malpractice arbitration awards in which a payment was awarded to a complaining party during the most recent 5 years and all settlements of medical malpractice claims in which a payment was made to a complaining party within the most recent 5 years. A medical malpractice judgment or award that has been appealed shall be identified prominently as "Under Appeal" on the profile within 20 days of formal written notice to the Department. Information concerning all settlements shall be accompanied by the following statement: "Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred." Nothing in this subdivision (6) shall be construed to limit or prevent the Disciplinary Board from providing further explanatory information regarding the significance of categories in which settlements are reported. Pending malpractice claims shall not be disclosed by the Department to the public. Nothing in this subdivision (6) shall be construed to prevent the Disciplinary Board from

investigating and the Department from disciplining a physician on the basis of medical malpractice claims that are pending;

(7) names of medical schools attended, dates of attendance, and date of graduation;

(8) graduate medical education;

(9) specialty board certification. The toll-free number of the American Board of Medical Specialties shall be included to verify current board certification status;

(10) number of years in practice and locations;

(11) names of the hospitals where the physician has privileges;

(12) appointments to medical school faculties and indication as to whether a physician has a responsibility for graduate medical education within the most recent 5 years;

(13) information regarding publications in peer-reviewed medical literature within the most recent 5 years;

(14) information regarding professional or community service activities and awards;

(15) the location of the physician's primary practice setting;

(16) identification of any translating services that may be available at the physician's primary practice location;

(17) an indication of whether the physician participates in the Medicaid program.

(c) The Disciplinary Board shall provide individual physicians with a copy of their profiles prior to release to the public. A physician shall be provided 60 days to correct factual inaccuracies that appear in such profile.

(d) A physician may elect to have his or her profile omit certain information provided pursuant to subdivisions (12) through (14) of subsection (b) concerning academic appointments and teaching responsibilities, publication in

peer-reviewed journals and professional and community service awards. In collecting information for such profiles and in disseminating the same, the Disciplinary Board shall inform physicians that they may choose not to provide such information required pursuant to subdivisions (12) through (14) of subsection (b).

(e) The Department shall promulgate such rules as it deems necessary to accomplish the requirements of this Section.

(225 ILCS 60/36) (from Ch. 111, par. 4400-36)

(Section scheduled to be repealed on January 1, 2007)

Sec. 36. Upon the motion of either the Department or the Disciplinary Board or upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for suspension or revocation under Section 22 of this Act, the Department shall investigate the actions of any person, so accused, who holds or represents that they hold a license. Such person is hereinafter called the accused.

The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made and the time and place for a hearing of the charges before the Disciplinary Board, direct them to file their written answer thereto to the Disciplinary Board under oath within 20 days after the service on them of such notice and inform them that if they fail to file such answer default will be taken against them and their license may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of their practice, as the Department may deem proper taken with regard thereto.

Where a physician has been found, upon complaint and investigation of the Department, and after hearing, to have performed an abortion procedure in a wilful and wanton manner upon a woman who was not pregnant at the time such abortion

procedure was performed, the Department shall automatically revoke the license of such physician to practice medicine in Illinois.

Such written notice and any notice in such proceedings thereafter may be served by delivery of the same, personally, to the accused person, or by mailing the same by registered or certified mail to the address last theretofore specified by the accused in their last notification to the Department.

All information gathered by the Department during its investigation including information subpoenaed under Section 23 or 38 of this Act and the investigative file shall be kept for the confidential use of the Secretary ~~Director~~, Disciplinary Board, the Medical Coordinators, persons employed by contract to advise the Medical Coordinator or the Department, the Disciplinary Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation. Furthermore, information and documents disclosed to a federal, State, or local law enforcement agency may be used by that agency only for the investigation and prosecution of a criminal offense.

(Source: P.A. 90-699, eff. 1-1-99.)

Section 320. The Clerks of Courts Act is amended by adding Section 27.10 as follows:

(705 ILCS 105/27.10 new)

Sec. 27.10. Secretary of Financial and Professional Regulation. Each clerk of the circuit court shall provide to the Secretary of Financial and Professional Regulation such information as the Secretary of Financial and Professional Regulation requests under Section 155.19 of the Illinois

Insurance Code.

Section 330. The Code of Civil Procedure is amended by reenacting and changing Sections 2-622 and 8-2501, by changing Section 8-1901, and by adding Sections 2-1704.5 and 2-1706.5 as follows:

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

(Text of Section WITHOUT the changes made by P.A. 89-7, which has been held unconstitutional)

Sec. 2-622. Healing art malpractice.

(a) In any action, whether in tort, contract or otherwise, in which the plaintiff seeks damages for injuries or death by reason of medical, hospital, or other healing art malpractice, the plaintiff's attorney or the plaintiff, if the plaintiff is proceeding pro se, shall file an affidavit, attached to the original and all copies of the complaint, declaring one of the following:

1. That the affiant has consulted and reviewed the facts of the case with a health professional who the affiant reasonably believes: (i) is knowledgeable in the relevant issues involved in the particular action; (ii) practices or has practiced within the last 5 ~~6~~ years or teaches or has taught within the last 5 ~~6~~ years in the same area of health care or medicine that is at issue in the particular action; and (iii) meets the expert witness standards set forth in paragraphs (a) through (d) of Section 8-2501; ~~is qualified by experience or demonstrated competence in the subject of the case;~~ that the reviewing health professional has determined in a written report, after a review of the medical record and other relevant material involved in the particular action that there is a reasonable and meritorious cause for the filing of such action; and that the affiant has concluded on the basis of the reviewing health professional's review and consultation that there is a reasonable and meritorious

cause for filing of such action. A single written report must be filed to cover each defendant in the action. As to defendants who are individuals, the ~~If the affidavit is filed as to a defendant who is a physician licensed to treat human ailments without the use of drugs or medicines and without operative surgery, a dentist, a podiatrist, a psychologist, or a naprapath, The~~ written report must be from a health professional licensed in the same profession, with the same class of license, as the defendant. For written reports ~~affidavits~~ filed as to all other defendants, who are not individuals, the written report must be from a physician licensed to practice medicine in all its branches who is qualified by experience with the standard of care, methods, procedures and treatments relevant to the allegations at issue in the case. In either event, the written report ~~affidavit~~ must identify the profession of the reviewing health professional. A copy of the written report, clearly identifying the plaintiff and the reasons for the reviewing health professional's determination that a reasonable and meritorious cause for the filing of the action exists, including the reviewing health care professional's name, address, current license number, and state of licensure, must be attached to the affidavit~~, but information which would identify the reviewing health professional may be deleted from the copy so attached~~. Information regarding the preparation of a written report by the reviewing health professional shall not be used to discriminate against that professional in the issuance of medical liability insurance or in the setting of that professional's medical liability insurance premium. No professional organization may discriminate against a reviewing health professional on the basis that the reviewing health professional has prepared a written report.

2. That the affiant was unable to obtain a consultation required by paragraph 1 because a statute of limitations

would impair the action and the consultation required could not be obtained before the expiration of the statute of limitations. If an affidavit is executed pursuant to this paragraph, the affidavit ~~certificate~~ and written report required by paragraph 1 shall be filed within 90 days after the filing of the complaint. No additional 90-day extensions pursuant to this paragraph shall be granted, except where there has been a withdrawal of the plaintiff's counsel. The defendant shall be excused from answering or otherwise pleading until 30 days after being served with an affidavit and a report ~~a certificate~~ required by paragraph 1.

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

(b) Where an affidavit ~~a certificate~~ and written report are required pursuant to this Section a separate affidavit ~~certificate~~ and written report shall be filed as to each defendant who has been named in the complaint and shall be filed as to each defendant named at a later time.

(c) Where the plaintiff intends to rely on the doctrine of "res ipsa loquitur", as defined by Section 2-1113 of this Code, the affidavit ~~certificate~~ and written report must state that, in the opinion of the reviewing health professional, negligence has occurred in the course of medical treatment. The affiant

shall certify upon filing of the complaint that he is relying on the doctrine of "res ipsa loquitur".

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

(e) Allegations and denials in the affidavit, made without reasonable cause and found to be untrue, shall subject the party pleading them or his attorney, or both, to the payment of reasonable expenses, actually incurred by the other party by reason of the untrue pleading, together with reasonable attorneys' fees to be summarily taxed by the court upon motion made within 30 days of the judgment or dismissal. In no event shall the award for attorneys' fees and expenses exceed those actually paid by the moving party, including the insurer, if any. In proceedings under this paragraph (e), the moving party shall have the right to depose and examine any and all reviewing health professionals who prepared reports used in conjunction with an affidavit required by this Section.

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

(g) The failure <u>of the plaintiff to file an affidavit and report in compliance with</u> ~~to file a certificate required by~~ this Section shall be grounds for dismissal under Section 2-619.

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

(i) This amendatory Act of 1997 does not apply to or

affect any actions pending at the time of its effective date, but applies to cases filed on or after its effective date.

(j) The changes to this Section made by this amendatory Act of the 94th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 86-646; 90-579, eff. 5-1-98.)

(735 ILCS 5/2-1704.5 new)

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

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

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

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

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

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

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

(c) When an election is made to pay for future medical expenses and costs of life care by purchasing an annuity, the

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

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

(e) A plaintiff receiving future payments by means of an annuity under this Section may seek leave of court to assign or otherwise transfer the right to receive such payments in exchange for a negotiated lump sum value of the remaining future payments or any portion of the remaining future payments under the annuity to address an unanticipated financial hardship under such terms as approved by the court.

(f) This Section applies to all causes of action accruing on or after the effective date of this amendatory Act of the 94th General Assembly.

(735 ILCS 5/2-1706.5 new)

Sec. 2-1706.5. Standards for economic and non-economic damages.

(a) In any medical malpractice action or wrongful death action based on medical malpractice in which economic and non-economic damages may be awarded, the following standards

shall apply:

(1) In a case of an award against a hospital and its personnel or hospital affiliates, as defined in Section 10.8 of the Hospital Licensing Act, the total amount of non-economic damages shall not exceed $1,000,000 awarded to all plaintiffs in any civil action arising out of the care.

(2) In a case of an award against a physician and the physician's business or corporate entity and personnel or health care professional, the total amount of non-economic damages shall not exceed $500,000 awarded to all plaintiffs in any civil action arising out of the care.

(3) In awarding damages in a medical malpractice case, the finder of fact shall render verdicts with a specific award of damages for economic loss, if any, and a specific award of damages for non-economic loss, if any.

The trier of fact shall not be informed of the provisions of items (1) and (2) of this subsection (a).

(b) In any medical malpractice action where an individual plaintiff earns less than the annual average weekly wage, as determined by the Illinois Workers' Compensation Commission, at the time the action is filed, any award may include an amount equal to the wage the individual plaintiff earns or the annual average weekly wage.

(c) This Section applies to all causes of action accruing on or after the effective date of this amendatory Act of the 94th General Assembly.

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

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

(a) The providing of, or payment for, medical, surgical, hospital, or rehabilitation services, facilities, or equipment by or on behalf of any person, or the offer to provide, or pay for, any one or more of the foregoing, shall not be construed as an admission of any liability by such person or persons. Testimony, writings, records, reports or information with

respect to the foregoing shall not be admissible in evidence as an admission of any liability in any action of any kind in any court or before any commission, administrative agency, or other tribunal in this State, except at the instance of the person or persons so making any such provision, payment or offer.

(b) Any expression of grief, apology, or explanation provided by a health care provider, including, but not limited to, a statement that the health care provider is "sorry" for the outcome to a patient, the patient's family, or the patient's legal representative about an inadequate or unanticipated treatment or care outcome that is provided within 72 hours of when the provider knew or should have known of the potential cause of such outcome shall not be admissible as evidence in any action of any kind in any court or before any tribunal, board, agency, or person. The disclosure of any such information, whether proper, or improper, shall not waive or have any effect upon its confidentiality or inadmissibility. As used in this Section, a "health care provider" is any hospital, nursing home or other facility, or employee or agent thereof, a physician, or other licensed health care professional. Nothing in this Section precludes the discovery or admissibility of any other facts regarding the patient's treatment or outcome as otherwise permitted by law.

(c) The changes to this Section made by this amendatory Act of the 94th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 82-280.)

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

(Text of Section WITHOUT the changes made by P.A. 89-7, which has been held unconstitutional)

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

standard of care.

(a) Whether the witness is board certified or board eligible, or has completed a residency, in the same or substantially similar medical specialties as the defendant and is otherwise qualified by significant experience with the standard of care, methods, procedures, and treatments relevant to the allegations against the defendant ~~Relationship of the medical specialties of the witness to the medical problem or problems and the type of treatment administered in the case~~;

(b) Whether the witness has devoted a majority ~~substantial portion~~ of his or her work time to the practice of medicine, teaching or University based research in relation to the medical care and type of treatment at issue which gave rise to the medical problem of which the plaintiff complains;

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

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

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

The changes to this Section made by this amendatory Act of the 94th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 84-7.)

Section 340. The Good Samaritan Act is amended by changing Section 30 as follows:

(745 ILCS 49/30)

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

(a) A person licensed under the Medical Practice Act of 1987, a person licensed to practice the treatment of human ailments in any other state or territory of the United States, or a health care professional, including but not limited to an advanced practice nurse, retired physician, physician assistant, nurse, pharmacist, physical therapist, podiatrist, or social worker licensed in this State or any other state or territory of the United States, who, in good faith, provides medical treatment, diagnosis, or advice as a part of the services of an established free medical clinic providing care, including but not limited to home visits, without charge to ~~medically indigent~~ patients which is limited to care that does not require the services of a licensed hospital or ambulatory surgical treatment center and who receives no fee or compensation from that source shall not be liable for civil damages as a result of his or her acts or omissions in providing that medical treatment, except for willful or wanton misconduct.

(b) For purposes of this Section, a "free medical clinic" is an organized community based program providing medical care without charge to individuals ~~unable to pay for it~~, at which the care provided does not include ~~the use of general anesthesia or require~~ an overnight stay in a health-care facility.

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

(d) The immunity from civil damages provided under subsection (a) also applies to physicians, retired physicians, hospitals, and other health care providers that provide further medical treatment, diagnosis, or advice, including but not limited to hospitalization, office visits, and home visits, to

a patient upon referral from an established free medical clinic without fee or compensation.

(d-5) A free medical clinic may receive reimbursement from the Illinois Department of Public Aid, provided any reimbursements shall be used only to pay overhead expenses of operating the free medical clinic and may not be used, in whole or in part, to provide a fee or other compensation to any person licensed under the Medical Practice Act of 1987 or any other health care professional who is receiving an exemption under this Section. Any health care professional receiving an exemption under this Section may not receive any fee or other compensation in connection with any services provided to, or any ownership interest in, the clinic. Medical care shall not include an overnight stay in a health care facility.

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

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

(g) The changes to this Section made by this amendatory Act of the 94th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

ARTICLE 4. SORRY WORKS! PILOT PROGRAM ACT

Section 401. Short title. This Article 4 may be cited as the Sorry Works! Pilot Program Act, and references in this Article to "this Act" mean this Article.

Section 405. Sorry Works! pilot program. The Sorry Works! pilot program is established. During the first year of the program's operation, participation in the program shall be open to one hospital. Hospitals may participate only with the approval of the hospital administration and the hospital's organized medical staff. During the second year of the program's operation, participation in the program shall be open to one additional hospital.

The first participating hospital selected by the committee established under Section 410 shall be located in a county with a population greater than 200,000 that is contiguous with the Mississippi River.

Under the program, participating hospitals and physicians shall promptly acknowledge and apologize for mistakes in patient care and promptly offer fair settlements. Participating hospitals shall encourage patients and families to retain their own legal counsel to ensure that their rights are protected and to help facilitate negotiations for fair settlements. Participating hospitals shall report to the committee their total costs for healing art malpractice verdicts, settlements, and defense litigation for the preceding 5 years to enable the committee to determine average costs for that hospital during that period. The committee shall develop standards and protocols to compare costs for cases handled by traditional means and cases handled under the Sorry Works! protocol.

If the committee determines that the total costs of cases handled under the Sorry Works! protocol by a hospital participating in the program exceed the total costs that would have been incurred if the cases had been handled by traditional means, the hospital may apply for a grant from the Sorry Works! Fund, a special fund that is created in the State Treasury, for an amount, as determined by the committee, by which the total costs exceed the total costs that would have been incurred if the cases had been handled by traditional means; however, the total of all grants from the Fund for cases in any single

participating hospital in any year may not exceed the amount in the Fund or $2,000,000, whichever is less. All grants shall be subject to appropriation. Moneys in the Fund shall consist of funds transferred into the Fund or otherwise made available from any source.

Section 410. Establishment of committee.

(a) A committee is established to develop, oversee, and implement the Sorry Works! pilot program. The committee shall have 9 members, each of whom shall be a voting member. Six members of the committee shall constitute a quorum. The committee shall be comprised as follows:

(1) The President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall each appoint 2 members.

(2) The Secretary of Financial and Professional Regulation or his or her designee.

(b) The committee shall establish criteria for the program, including but not limited to: selection of hospitals, physicians, and insurers to participate in the program; and creation of a subcommittee to review cases from hospitals and determine whether hospitals, physicians, and insurers are entitled to compensation under the program.

(c) The committee shall communicate with hospitals, physicians, and insurers that are interested in participating in the program. The committee shall make final decisions as to which applicants are accepted for the program.

(d) The committee shall report to the Governor and the General Assembly annually.

(e) The committee shall publish data regarding the program.

(f) Committee members shall receive no compensation for the performance of their duties as members, but each member shall be paid necessary expenses while engaged in the performance of those duties.

Section 415. Termination of program.

(a) The program may be terminated at any time if the committee, by a vote of two-thirds of its members, votes to terminate the program.

(b) If the program is not terminated under subsection (a), the program shall terminate after its second year of operation.

Section 495. The State Finance Act is amended by adding Section 5.640 as follows:

(30 ILCS 105/5.640 new)

Sec. 5.640. The Sorry Works! Fund.

ARTICLE 9. MISCELLANEOUS

Section 995. Inseverability. The provisions of this Act are mutually dependent and inseverable. If any provision is held invalid, then this entire Act, including all new and amendatory provisions, is invalid.

Section 999. Effective date. This Act takes effect upon becoming law.