

Legislative Bulletin

Legislative Bulletin 2003-3

August 28, 2003

2003 Spring Session Wrap-up

Over the summer, Governor Rod Blagojevich signed into law several legislative items that ITLA members should be aware of. For a copy of any of these Public Acts or those outlined in earlier Legislative Bulletins, please contact the ITLA office (800-252-8501) or go to the ITLA website at www.iltla.com. Here is a brief summary of each of the new laws.

Public Act 93-492. (Senator Obama, Representative Hamos) Amends the Hospital Licensing Act to provide that after a complaint for healing art malpractice is served upon the hospital or upon its agents or employees, members of the hospital's medical staff who are not actual or alleged agents, employees, or apparent agents of the hospital may not communicate with legal counsel for the hospital or with risk management of the hospital concerning the claim alleged in the complaint for healing art malpractice against the hospital except with the patient's consent or in discovery authorized by the Code of Civil Procedure or the Supreme Court rules.

This Act applies to actions filed on or after January 1, 2004.

Public Act 93-485. (Senator Harmon, Representative Nekritz) Makes two changes to the Illinois Insurance Code.

(1) Under current law, all automobile policies issued in Illinois must provide uninsured-motorist coverage and the disputes about that coverage must be submitted to arbitration. Currently, awards under \$20,000 per injured person and \$40,000 per occurrence are binding, but awards more than \$20,000 are not.

This law increases the binding arbitration levels from \$20,000 to \$50,000 per person and from \$40,000 to \$100,000 per occurrence.

(2) Increases the potential penalty from 25% to 60% of the loss amount at issue and from \$25,000 to \$60,000 for unreasonable and vexatious insurer delay.

This law is effective on January 1, 2004.

Public Act 93-356. (Senator Collins, Representative Brosnahan) Changes the statute of limitations for a prosecution of certain sex offenses committed against a person under 18 years of age from 10 years after the victim attains 18 years of age to 20 years after the victim attains 18 years of age. Provides that an action for damages for personal injury based on childhood sexual abuse must be commenced within 10 years after the limitation period begins to run or within 5 years of the date the person abused discovers or should discover that the act of childhood sexual abuse occurred and that the injury was caused by the childhood sexual abuse, whichever is later (rather than within 2 years of the date the person abused discovers or should discover that the act of childhood sexual abuse occurred and that the

injury was caused by the childhood sexual abuse). Provides that the changes made by the amendatory Act apply to actions pending on the effective date (July 24, 2003) as well as actions commenced on or after that date.

Public Act 93-588. (Senator Cullerton, Representative Joyce) Creates the Drug or Alcohol Impaired Minor Responsibility Act. Provides that a person who is injured by an impaired person under 18 years of age has a right of action for damages against any person (i) who, by selling, giving, or delivering alcoholic liquor or illegal drugs or (ii) who, by permitting consumption of alcoholic liquor or illegal drugs causes or contributes to the impairment of a person under 18 years of age. Provides that an action for damages is barred unless it is commenced within 2 years after it arises.

This act applies only to causes of action that accrue on or after October 1, 2004.

Public Act 93-414. (Senator Cullerton, Representative Currie) Amends the State Lawsuit Immunity Act. Provides that an employee, former employee, or prospective employee of the State who is aggrieved by any conduct or action or inaction of the State that would constitute a violation of the federal Age Discrimination in Employment Act of 1967, the federal Family and Medical Leave Act, the federal Americans with Disabilities Act of 1990, or Title VII of the Civil Rights Act of 1964 may bring a civil action under that Act against the State. Provides that an employee of the State who is aggrieved by any conduct or action or inaction of the State that would constitute a violation of the federal Fair Labor Standards Act of 1938 may bring a civil action under that Act against the State. Provides that the action under these new provisions may be brought in State circuit court or Federal court.

Effective date is January 1, 2004.

Public Act 93-87. (Senator Crotty, Representative McCarthy) This Act makes two changes to the law regarding medical and hospital records. It requires that a health care practitioner or healthcare facility send the records to a patient or the patient's representative within 30 days of receipt of a written request. If the practitioner or facility needs more time to do this, they may take another 30 days to comply if they send the requesting party a written explanation of the delay and the date by which the requested information will be provided. The records must be provided within 60 days.

The new law also requires that a health care practitioner or health care facility provide at least 30 days' notice of the closure of the practice or facility. The notice must include an explanation of how copies of the records may be accessed by patients. The notice may be given by publication in a newspaper of general circulation where the practice or facility is located.

PA 93-87 was effective July 2, 2003.

ILLINOIS TRIAL LAWYERS ASSOCIATION

401 W. Edwards St. • PO Box 5000 • Springfield IL 62705
217/789-0755 • 800/252-8501 • FAX 217/789-0810
E-Mail ILTLA@AOL.COM
Website ILTLA.com

JAMES M. COLLINS

Executive Director

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