



Illinois Department of Financial and Professional Regulation

Division of Professional Regulation

PAT QUINN
Governor

BRENT E. ADAMS
Acting Secretary

DANIEL E. BLUTHARDT
Director
Division of Professional Regulation

Resolution and Recommendation of the Illinois State Medical Disciplinary Board

WHEREAS, on July 14, 2009, the United States Court of Appeals for the Seventh Circuit issued a decision that will dissolve the federal injunction barring enforcement of the Illinois Parental Notice of Abortion Act of 1995. Absent further court action, the Parental Notice of Abortion Act of 1995 will go into effect on August 4, 2009, and physicians who do not comply with the law as of that date will be subject to discipline under the Medical Practice Act. While the Parental Notice of Abortion Act of 1995 was enacted 14 years ago, it has never been enforced. In order to ensure proper compliance with the law and protection of minor women whose medical care and constitutional rights are affected by the Act, the Illinois State Medical Disciplinary Board finds it is necessary to provide Illinois physicians additional time beyond the 21 days afforded under the federal rules to put in place appropriate compliance procedures. Illinois physicians will need to institute new procedures and protocols and to educate staff about the Act's notification requirements and exceptions to ensure compliance with the Act. It is essential that they have sufficient time to institute these new procedures and protocols in order to ensure both compliance with the Act and protection of patients' medical care and constitutional rights. Physicians also need time to familiarize themselves with the Act's judicial bypass process—which permits minors to seek a judicial waiver of the Act's notification requirements—and any procedures adopted by local courts to implement the bypass process, in order to effectively counsel their minor patients about all of their options.

THEREFORE, the Illinois State Medical Disciplinary Board resolves and recommends to the Director of the Division of Professional Regulation, Daniel E. Bluthardt, and the Acting Secretary of the Department of Financial and Professional Regulation, Brent E. Adams, that the following policy be implemented by the Department:

- (a) That for 90 days after the date the federal court dissolves the injunction prohibiting enforcement of the law, or 90 days after August 4, 2009, whichever period is longer, any failure by a physician to provide notice as required by the Parental Notice of Abortion Act of 1995, 750 ILCS 70/1-99, shall not be disciplined as a "willful" failure to provide notice under 750 ILCS 70/40(a) and 225 ILCS 60/22(A)(40); and
- (b) That any physician who, within the 90 day period after the date the federal court dissolves the injunction prohibiting enforcement of the law, or 90 days after August 4, 2009, whichever is later, relies on section (a) of this resolution in not providing notice under the Parental Notice of Abortion Act of 1995, 750 ILCS 70/1-99, shall be deemed to have done so in good faith and shall not be subject to discipline for unprofessional conduct.

(Resolution and Recommendation continued)

DATED THIS 31st DAY OF July, 2009.

CHAIRMAN, Edward P. Rose, M.D.

MEMBER

MEMBER

MEMBER

MEMBER

MEMBER

The foregoing Resolution and Recommendation is adopted in full.

DATED THIS _____ day of _____, 2009.

DEPARTMENT OF FINANCIAL AND PROFESSION
REGULATION the State of Illinois
Brent E. Adams, Acting Secretary, by

DANIEL E. BLUTHARDT
Director, Division of Professional Regulation