

PART 2

MEDICAL CARE PROFESSIONALS

SUBPART A

PHYSICIANS

CHAPTER 6

**LICENSING AND SCOPE OF PRACTICE; UNAUTHORIZED
PRACTICE OF MEDICINE**

by

Karen K. Harris, J.D.

Karen Harris is Of Counsel in the Health Care Law Practice Group at the law firm of Seyfarth Shaw, LLP. Prior to joining Seyfarth Shaw, Ms. Harris was a visiting professor at Loyola University School of Law's Health Law Institute. She is a member of the American Health Lawyers' Association, the Illinois Association of Health Attorneys and past co-chair of the Chicago Bar Association's Health and Hospital Law Committee.

and

by

Deborah Gordon, J.D., M.B.A.

Deborah Gordon is a Partner at Seyfarth Shaw, LLP and Chair of Seyfarth Shaw's Health Care Law Practice Group. Ms. Gordon is a member of the American Health Lawyers Association, The American Bar Association – Health Law Section, the Illinois Association of Health Attorneys and past co-chair of the Chicago Bar Association's Health and Hospital Law Committee.

Scope of Chapter:

This chapter covers the licensure requirements for physicians under the Illinois Medical Practice Act of 1987. The chapter addresses the general prohibitions against the practice of medicine without a license, what constitutes the unauthorized practice of medicine and the civil remedies and criminal sanctions that can result therefrom. The chapter also explains the scope of the practice of medicine permitted under a license, as well as the license application and renewal processes, including the educational, examination and other requirements. Finally, the role of professional organizations in reporting licensure violations and the liability immunity available for peer review activities is discussed.

Treated Elsewhere:

For Corporate Practice of Medicine, see Chapter 8.

For Fee-Splitting Prohibitions, see Chapter 8.

For Health Care Worker Self Referral Act, see Chapter 8.

Hospital medical staff quality assurance, peer review and credentialing, see Chapter 3

Research References:**Text References:**

Treatise on Health Care Law, Matthew Bender & Company, Inc.

Health Care Law Compliance Manual, Matthew Bender & Company, Inc.

Health Care Law: A Practical Guide, Matthew Bender & Company, Inc.

Annotation References:

Validity, construction, and application of statutes requiring parental notification of or consent to minor's abortion, 77 ALR5th 1.

False Or Fraudulent Statements Or Nondisclosures In Application For Issuance Or Renewal Of License To Practice As Ground

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For Disciplinary Action Against, Or Refusal To License, Medical Practitioner, 32 ALR5th 57

Scope of practice of chiropractic, 16 ALR4th 58.

Licensing and regulation of practice of physical therapy, 8 ALR5th 825.

Midwifery: State Regulation, 59 ALR4th 929.

Wrongful Or Excessive Prescription Of Drugs As Ground For Revocation Or Suspension Of Physician's Or Dentist's License To Practice, 22 ALR4th 668

Regulation Of Practice Of Acupuncture, 17 ALR4th 964.

Acupuncture as illegal practice of medicine, 72 ALR3d 1257.

Practicing Medicine, Surgery, Dentistry, Optometry, Podiatry, Or Other Healing Arts Without License As A Separate Or Continuing Offense, 99 ALR2d 654.

Denial of medical or legal professional license as violating due process, 6 L.Ed.2d 1328.

Periodicals:

For article, "The Scope of a Physician's Medical Practice: Is the Public Adequately Protected by State Medical Licensure, Peer Review, and the National Practitioner Data Bank?" see 14 Ann Health L 329 (2005).

For article, "The Offshoring of American Medicine: Scope, Economic Issues and Legal Liabilities," see 14 Ann Health L 205 (2005)

For article, "State Practice Acts Of Licensed Health Professions: Scope Of Practice," see 8 De Paul J Health Care L 237 (2004).

For article, "Cybersurgery: Innovation Or A Means To Close Community Hospitals And Displace Physicians?" see 20 J Marshall J Computer & Info L 495 (2002).

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For article, “Telemedicine: The Invisible Legal Barriers to the Health Care of the Future,” see 9 Ann Health L 73 (2000).

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For article, “Crossing Borders: The Licensure of Interstate Telemedicine Practitioners,” see 25 J Legis 1 (1999).

For article, “Protecting Physician Whistleblowers Under Illinois and Federal Law,” see 85 Ill B J 328 (1997).

For article, “Legal and Political Issues Facing Telemedicine,” see 5 Ann Health L 61 (1996).

Federal Legislation:

Federal Food, Drug and Cosmetic Act, 21 USCS § 301 et. seq.

State Legislation:

Illinois Ambulatory Surgical Treatment Center Act, 210 ILCS 5/1 et. seq. Illinois Food, Drug and Cosmetic Act, 225 ILCS 60/1 et. seq. Illinois Hospital Licensing Act, 210 ILCS 85/1 et. seq. Illinois Nursing and Advanced Practice Nursing Act, 225 ILCS 65/15-5 et. seq. Illinois Parental Notice of Abortion Act of 1995, 750 ILCS 70/1 et seq. Illinois Pharmacy Practice Act, 225 ILCS 85/1 et. seq. Illinois Physician Assistant Practice Act, 225 ILCS 95/1 et. seq. Illinois Administrative Procedure Act, 5 ILCS 100/1-1 et. seq., and regulations Illinois Medical Practice Act of 1987, 225 ILCS 60/1 et. seq. Illinois regulations implementing the Illinois Medical Practice Act of 1987, 68 Ill Admin Code 1285 et seq.

Auto-Cite®: Cases and annotations referred to in this chapter can be further researched through the Auto-Cite® computer-assisted research service. Use Auto-Cite® to check citations for form, parallel references, prior and later history, and annotation references.

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I. PROHIBITIONS AGAINST THE PRACTICE OF MEDICINE
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CIVIL REMEDIES AND CRIMINAL SANCTIONS

A. ILLINOIS MEDICAL PRACTICE ACT OF 1987

§ 6:01. In general

The Illinois Medical Practice Act of 1987 (the “Act”) regulates the treatment of human ailments in Illinois.¹ Administration of the Act is under the supervision of the Illinois Department of Professional Regulation (“IDPR”), which is authorized to formulate rules and regulations for the administration of the Act.² All final administrative decisions of IDPR are subject to judicial review pursuant to the Illinois Administrative Procedure Act and its rules.³ In particular, IDPR’s rules may be reviewed to determine whether they are fair, reasonable and impartial.⁴

B. PROHIBITION AGAINST PRACTICING WITHOUT A LI-
CENSE

§ 6:02. In general

The Act provides that no person may practice medicine in Illinois without a valid, existing Illinois license.⁵ Any person in Illinois who practices, offers to practice or holds himself or herself out to practice as a physician without being licensed under the Act must, in addition to other remedies provided for under the law, pay a civil penalty to IDPR not to exceed \$5,000 for each offense.⁶

1. 225 ILCS 60/1 et. seq.

2. 225 ILCS 60/10.

3. See Illinois Administrative Review Act, 5 ILCS 100/1-1 et. seq., and regulations.

4. *Chicago College of Osteopathy v Puffer*, 3 Ill App 2d 69, 120 NE2d 672 (1st Dist 1954), *affd* 5 Ill 2d 441, 126 NE2d 26.

5. 225 ILCS 60/3.

6. 225 ILCS 60/3.5(a).

The exceptions to this prohibition against practicing without an Illinois License are that (i) a physician who holds an active license in another state, or (ii) a second year resident enrolled in an accredited residency program may provide medical services to patients in Illinois during a bonafide emergency in immediate preparation for or during interstate transit.⁷ The Act also does not apply to (i) persons in Illinois lawfully carrying on their particular profession or business under any valid, existing laws of the State of Illinois, (ii) persons in Illinois rendering gratuitous services in an emergency (e.g. Good Samaritans), or (iii) persons in Illinois treating human ailments by prayer or spiritual means as an exercise of enjoyment of religious freedom.⁸

☛ *Practice Guide:* States generally have several limited exceptions to the prohibition against the practice of medicine without a license. The most common one is for “Good Samaritans” who provide services in an emergency situation and Illinois has such an exception.

§ 6:03. Practicing without a license generally

In Illinois, practicing medicine, or holding oneself out to the public as a physician, includes engaging in any of the following activities: (i) appearing to the public as being engaged in the diagnosis or treatment of physical or mental ailments or conditions, including, but not limited to, deformities, diseases, disorders, or injuries of human beings; (ii) suggesting, recommending or prescribing any form of treatment for the palliation, relief or cure of any physical or mental ailment or condition of any person with the intention of receiving, either directly or indirectly, a fee, gift or compensation whatsoever; (iii) diagnosing

Such civil penalties must be paid within sixty (60) days after orders imposing such civil penalties are issued. 225 ILCS 60/3.5(c).

7. 225 ILCS 60/3.

8. 225 ILCS 60/4(a).

In Illinois it is a question of fact in each case as to whether a faith healer is legitimately exercising his or her religious freedom or merely using religion as a subterfuge to practice medicine illegally. *People v Shokunbi*, 89 Ill App 2d 53, 232 NE2d 226 (1st Dist 1967).

or attempting to diagnose, operating upon, professing to heal, prescribing for, or otherwise treating any ailment or condition of another; (iv) maintaining an office for examination or treatment of persons afflicted by any ailment or condition; (v) manipulating or adjusting osseous or articular structures; or (vi) attaching the title doctor, physician, surgeon, M.D., D.O., D.C. or any other word or abbreviation to a person's name indicating that he or she is engaged in the treatment of human ailments or conditions as a business.⁹

☛ *Illustration:* An individual charged with practicing medicine without a license under the Act could not successfully contend that proof of a mere isolated instance of treatment did not prove that he was engaged in the “practice of medicine,” since each isolated instance may constitute a complete, separate and distinct violation of the Act.¹⁰

§ 6:04. Telemedicine

A person who engages in the practice of telemedicine within Illinois without an Illinois license to practice medicine also violates the Act and individuals found guilty will be sentenced as provided in the Act.¹¹

☛ *Illustration:* An example of telemedicine is the electronic transmission of an x-ray image taken of a patient in one state to a physician located in another state for the purpose of such physician's diagnosis and interpretation of the x-ray image.

§ 6:05. Practicing medicine by method not covered by license

Any person in Illinois who holds himself or herself out to treat human ailments by any system or method of treatment other than that for which he or she holds a valid license violates the Act and, if found

9. 225 ILCS 60/49.

10. *People v Mattei*, 381 Ill 21, 44 NE2d 576 (1942).

11. 225 ILCS 60/49.5(b), referring to the sentencing provisions in 225 ILCS 60/59. See also § 6:22 regarding Telemedicine in general.

guilty, will be sentenced according to the provisions of the Act.¹² Similarly, any person who treats human ailments by the use of drugs or operative surgery, but only holds a license to treat human ailments without the use of drugs and without operative surgery, violates the Act and, if found guilty, will be sentenced according to the provisions of the Act.¹³

§ 6:06. Holding oneself out by advertisements to treat human ailments

Any person, not licensed in Illinois to practice medicine in all of its branches, who holds himself or herself out by any sign or advertisement, or by a writing of any kind, to treat human ailments without attaching to their name a word or words indicating the system, method or kind of practice which they are licensed to pursue in Illinois within the advertisement, violates the Act and, if found guilty, will be sentenced according to the provisions of the Act.¹⁴

§ 6:07. Promise to cure incurable disease

Additionally, any person in Illinois who obtains a fee, either directly or indirectly, either in money, value, or in the form of a financial profit, either as (i) personal compensation, or (ii) compensation, charge, profit or gain for an employer or any other person or persons, on the representation that they can permanently cure a manifestly incurable condition of sickness, disease or injury of any person, shall be in violation of the Act and, if found guilty, will be sentenced according to the provisions of the Act.¹⁵

§ 6:08. Practicing under an assumed name

A person in Illinois who holds himself or herself out to treat human ailments (i) under a name other than his or her own, or (ii) by impersonation of any physician, violates the Act and, if found guilty,

12. 225 ILCS 60/55, referring to the sentencing provisions in 225 ILCS 60/59.

13. 225 ILCS 60/51, referring to the sentencing provisions in 225 ILCS 60/59.

14. 225 ILCS 60/52, referring to the sentencing provisions in 225 ILCS 60/59.

15. 225 ILCS 60/53, referring to the sentencing provisions in 225 ILCS 60/59.

will be sentenced according to the provisions of the Act.¹⁶ This prohibition against practicing under an assumed name does not prohibit the existence of partnerships, limited liability companies, associations, or corporations.¹⁷

☛ *Practice Guide:* A physician may, however, practice through a properly formed and registered medical or professional corporation, without being deemed to be practicing under an Assumed Name.

§ 6:09. Fraud in the procurement of a license

Any person in Illinois who employs fraud or deception in applying for or securing a license under the Act, or in passing any examination therefore, and any person who employs fraud or misrepresentation in applying for renewal of a license under the Act, or cheating on or attempting to subvert the licensing examinations administered under the Act, violates the Act and, if found guilty, will be sentenced according to the provisions of the Act.¹⁸

§ 6:10. Forgery

In Illinois any person who, in connection with any application or examination before IDPR, files, or attempts to file, with IDPR as their own, the diploma or license of another, will be sentenced as Illinois law prescribes at the time of such offense for forgery.¹⁹

§ 6:11. Perjury

In Illinois, any person who willfully swears or affirms falsely, or makes or files, any affidavit willfully and corruptly, in filing or prosecuting their application in Illinois for a license to practice

16. 225 ILCS 60/54, referring to the sentencing provisions in 225 ILCS 60/59.

17. 225 ILCS 60/22(A)(14).

18. 225 ILCS 60/56, referring to the sentencing provisions in 225 ILCS 60/59.

19. 225 ILCS 60/57.

medicine before IDPR, or in submitting any complaint, evidence or testimony to IDPR under the provisions of the Act, or under any rule or regulation of IDPR, will be sentenced therefore as Illinois law prescribes at the time of such offense for perjury.²⁰

C. CIVIL REMEDIES AND CRIMINAL SANCTIONS

§ 6:12. Cease and desist orders

Whenever IDPR has a reason to believe that any person has practiced medicine without a license, it will issue a letter asking why a cease and desist order should not be entered against such person.²¹ An individual has seven (7) days to respond to IDPR and failure to satisfactorily answer IDPR's inquiry results in a cease and desist order being immediately issued to the individual.²²

§ 6:13. Indictment

In any prosecution for a violation of the Act, the indictment must state an offense under the Act.

☛ *Illustration:* Allegations in an indictment that the defendant had “held herself out to the public as being engaged in the diagnosis or treatment of physical or mental ailments or conditions ... of human beings, to wit: told personnel at [medical center for which she worked] that she was a medical doctor” were sufficient to state a charge for violation of the Act, considering that the indictment also listed the pertinent statute, recited the county of the offense as well as the approximate time period in which it had occurred and identified the defendant's name.²³

In any prosecution for practicing medicine without an Illinois license, the indictment must aver that the accused did not possess the

20. 225 ILCS 60/58.

21. 225 ILCS 60/49.

22. 225 ILCS 60/49.

23. *People v Doneski*, 288 Ill App 3d 1, 223 Ill Dec 277, 679 NE2d 462 (1st Dist 1997).

required license or else it is vulnerable to a motion to quash.²⁴ An indictment for practicing medicine in Illinois without a license need not name the person treated.²⁵

☛ *Practice Guide:* Where an indictment charges that the accused diagnosed a person's ailment and treated and prescribed for that ailment without a license, it is unnecessary to prove that the person actually had an ailment.²⁶

§ 6:14. Evidence

When prosecuting for practicing medicine without a license, after IDPR makes out its case showing acts done in violation of the Act, the burden is on the accused to produce a license if he or she has one.²⁷ Generally, IDPR is required to prove every essential averment of the charge against the defendant and the defendant does not have any burden to disprove any averment or even to make a defense. In prosecutions for doing an act which IDPR prohibits to be done by any person except those who are duly licensed, the negative averment that the defendant had no license, being an averment peculiarly within the knowledge of the defendant, is taken as true unless disproved by the defendant.²⁸

The offense charged must be proved beyond a reasonable doubt in order to sustain a conviction.²⁹

☛ *Illustration:* A conviction for practicing medicine in Illinois without a license will not be sustained where the evidence of IDPR consists solely of testimony of a witness who is an

24. *People v Doneski*, 288 Ill App 3d 1, 223 Ill Dec 277, 679 NE2d 462 (1st Dist 1997); *People v Handzik*, 410 Ill 295, 102 NE2d 340 (1951).

25. *People v Walder*, 317 Ill 524, 148 NE 287 (1925).

26. *People v Reuter*, 320 Ill App 600, 51 NE2d 812 (1943).

27. *People v Paderewski*, 373 Ill 197, 25 NE2d 784 (1940).

28. *People v Handzik*, 410 Ill 295, 102 NE2d 340 (1951).

29. *People v Reuter*, 320 Ill App 600, 51 NE2d 812 (1943).

investigator for IDPR and who had no ailment, but who, by false pretenses, urged and persuaded the accused to do what he or she did.³⁰

D. TRIAL, SENTENCE, PUNISHMENT AND FINES

§ 6:15. Trial

The general rules governing the trial of criminal prosecutions in Illinois apply in prosecutions for violations of the Act.³¹ The general rules have been applied with respect to questions of law and fact³² and instructions.³³

A verdict of conviction may not be directed.³⁴ The credibility of the witnesses is for the jury to determine.³⁵

§ 6:16. Sentence and punishment

Once an individual has been convicted of a violation of the Act, he or she will be sentenced pursuant to the terms of the Act.³⁶ The Act does not, however, explicitly require IDPR to enter any particular findings before imposing a sanction.³⁷

§ 6:17. Disposition of fines

All fines imposed for violations of the Act must be deposited in IDPR's Professional Regulation Evidence Fund.³⁸

30. *People v Beach*, 266 Ill App 272 (1932).

31. *People v Mainard*, 348 Ill App 53, 107 NE2d 878 (1952).

32. *People v De Young*, 309 Ill App 525, 33 NE2d 610 (1941), *affd* 378 Ill 256, 38 NE2d 22.

33. *People v Mainard*, 348 Ill App 53, 107 NE2d 878 (1952) (instructions held properly refused). See also *People v Reuter*, 320 Ill App 600, 51 NE2d 812 (1943) (instructions held proper).

34. *People v Ring*, 275 Ill App 214 (1934)

35. *People v Mainard*, 348 Ill App 53, 107 NE2d 878 (1952).

36. 225 ILCS 60/59.

37. *Siddiqui v Ill. Dep't of Prof'l Regulation*, 307 Ill App 3d 753, 240 Ill Dec 736, 718 NE2d 217 (4th Dist 1999).

38. 225 ILCS 60/60.

§ 6:18. Judicial review

The standard of review applied to appeals from IDPR involving the sanctioning of a professional under its jurisdiction includes deference to IDPR's expertise and experience in protecting the public welfare. IDPR, and not the courts, bears the responsibility to determine the sanctions, necessary to protect the public, for individual cases.³⁹ A disciplinary sanction will be affirmed unless it constitutes an abuse of discretion. An abuse of discretion occurs when IDPR imposes a sanction that is either overly harsh in view of the mitigating circumstances or unrelated to the purpose of the Act.⁴⁰

II. SCOPE OF PRACTICE, APPLICATION AND RENEWAL
PROCESSES, TYPES OF LICENSES

A. SCOPE OF PRACTICE GENERALLY

§ 6:19. In general

Anyone licensed under the Act to practice medicine in Illinois is authorized to practice medicine within the scope of his or her licensure.

§ 6:20. Prescription of drugs

An Illinois medical license allows the holder to purchase and supply to patients such drugs, medicines and/or poisons as appropriate.⁴¹ Although the Illinois Pharmacy Practice Act regulates pharmaceutical sales in Illinois, this law does not, however, apply to, and does not, interfere with, certain specific professions and activities, including the lawful practice of any physician licensed to practice medicine

39. *Ziporyn v Zollar*, 311 Ill App 3d 638, 243 Ill Dec 871, 724 NE2d 180 (1st Dist 1999).

40. *Albazzaz v Illinois Dep't of Prof'l Regulation*, 314 Ill App 3d 97, 247 Ill Dec 14, 731 NE2d 787 (1st Dist 2000). See also *Siddiqui v Ill. Dep't of Prof'l Regulation*, 307 Ill App 3d 753, 240 Ill Dec 736, 718 NE2d 217 (4th Dist 1999).

41. 225 ILCS 60/33.

in all of its branches, dentist, podiatrist, veterinarian, or therapeutically or diagnostically certified optometrist within the scope of his or her licensure.⁴² A person licensed to practice medicine in Illinois may not delegate this authority to purchase or dispense drugs, unless such delegated dispensing functions are under the direct supervision of the physician.⁴³ An Illinois licensee must also maintain a book of prescriptions as required by the Pharmacy Act.⁴⁴ Additionally, when dispensing drugs the licensee must ensure that the label on the box, bottle, vessel or package contains: (a) the date on which such drug or medicine was dispensed, (b) the name of the patient, (c) the last name of the person dispensing such drug or medicine, (d) the directions for use thereof, and (e) the proprietary name or names, or if there are none, the established name or names of the drug or medicine, the dosage and quantity.⁴⁵

☛ *Practice Guide:* These labeling requirements do not apply to a label of the manufacturer that contains the information required by the regulations enacting the Act,⁴⁶ or that is in compliance with the requirements of the Federal Food, Drug and Cosmetic Act⁴⁷ and the Illinois Food, Drug and Cosmetic Act.⁴⁸

§ 6:21. Advertising

Any person licensed under the Act may advertise the availability of professional services in the public media or on the premises where such professional services are rendered.⁴⁹ Advertising as defined under the Act, means solicitation by the licensee by means of handbills, posters, circulars, motion pictures, radio, newspapers, television or in

42. 225 ILCS 85/4.

43. 225 ILCS 60/33.

44. 225 ILCS 60/33.

Pharmacy Act at 225 ILCS 85/1 et. seq.

45. 225 ILCS 60/33.

46. 68 Ill Admin Code 1285 et. seq. (the “Regulations”).

47. 21 USCS § 301 et. seq.

48. 225 ILCS 60/33.

49. 225 ILCS 60/26(1).

any other manner.⁵⁰ Such advertising shall be limited to: (i) publication of the person's name, title, office hours, address and telephone number,⁵¹ (ii) information pertaining to the person's areas of specialization, including appropriate board certification or limitation of professional practice,⁵² (iii) information on usual and customary fees for routine professional services offered, which information shall include, notification that fees may be adjusted due to complications or unforeseen circumstances,⁵³ (iv) announcement of the opening of, change of, absence from or return to business,⁵⁴ (v) announcement of additions to or deletions from professional licensed staff,⁵⁵ and (vi) the issuance of business or appointment cards.⁵⁶

It is, however, unlawful for any person licensed under the Act to use testimonials or claims of superior quality of care to entice the public.⁵⁷ Similarly, it is unlawful to advertise fee comparisons of services with those of other persons licensed in Illinois.⁵⁸ The Act also does not permit advertising professional services which the offeror of such services is not licensed to render. An advertiser can also not use statements which are false, fraudulent, deceptive or misleading or guarantee success, statements which play upon the vanity or fears of the public, or statements which promote or produce unfair competition.⁵⁹ It is also unlawful for a licensee to knowingly advertise that he or she will accept, as payment for services rendered, by assignment from any third party payor, the amount the third party payor covers as payment in full, if the effect is to give the impression of eliminating

50. 225 ILCS 60/27.

51. 225 ILCS 60/26(1)(a).

52. 225 ILCS 60/26(1)(b).

53. 225 ILCS 60/26(1)(c).

54. 225 ILCS 60/26(1)(d).

55. 225 ILCS 60/26(1)(e).

56. 225 ILCS 60/26(1)(f).

57. 225 ILCS 60/26(2).

58. 225 ILCS 60/26(2)

59. 225 ILCS 60/26(3).

the need of payment by the patient of any required deductible or co-payment applicable in the patient's health benefit plan.⁶⁰ Finally, a licensee must include in every advertisement for services his or her title as it appears on his or her license.⁶¹

§ 6:22. Telemedicine

Given the technological advances and changing practice patterns in medicine, the Act specifically acknowledges that the practice of medicine is occurring with increasing frequency across state lines.⁶² In order to protect Illinois residents, the Act states that a person who engages in the practice of telemedicine without an Illinois license to practice medicine has violated the Act.⁶³

Telemedicine, according to the Act, includes, but is not limited to, rendering written or oral opinions concerning diagnosis or treatment of a patient in Illinois by a person located outside of Illinois as a result of transmission of individual patient data by telephonic, electronic or other means of communication from within Illinois.⁶⁴ Telemedicine, according to the Act, does not, however, include (i) periodic consultations between a person licensed under the Act and a person outside Illinois, (ii) a second opinion provided to a person licensed under the Act, or (iii) the diagnosis of or treatment services provided to a patient in Illinois following care or treatment originally provided to the patient in the state in which the provider is licensed to practice medicine.⁶⁵

If IDPR believes that anyone has engaged in telemedicine in Illinois without a license, it will issue a letter asking why an order to cease and desist should not be granted.⁶⁶ An individual has seven (7) days within

60. 225 ILCS 60/27.

61. 225 ILCS 60/26(4).

62. 225 ILCS 60/49.5(a).

63. 225 ILCS 60/49.5(a)

64. 225 ILCS 60/49.5(c).

65. 225 ILCS 60/49.5(c)

66. 225 ILCS 60/49.5(d).

which to file an answer with IDPR and, if the response is deemed insufficient, IDPR may immediately issue a cease and desist order.⁶⁷

§ 6:23. Medical students

Medical students are permitted to practice medicine in Illinois under the direct, on-premises supervision of a physician who is licensed to practice medicine in all of its branches in Illinois and who is a member of the faculty of an accredited medical or osteopathic school.⁶⁸ Chiropractic students are also permitted to practice in Illinois under the direct, on-premises supervision of a physician who is licensed to treat human ailments without the use of drugs and without operative surgery and who is a member of the faculty of an accredited chiropractic college.⁶⁹

§ 6:24. Physician delegation of authority

The Act does not limit the tasks or duties a physician may delegate to a licensed practical nurse, a registered professional nurse, or other allied health care personnel.⁷⁰

Specifically, physicians licensed to practice medicine in Illinois may delegate care and treatment responsibilities to a physician assistant under guidelines in accordance with the requirements of the Physician Assistant Practice Act.⁷¹ In particular, a licensed physician may enter into a supervising physician agreement with no more than two (2) physician assistants at a time.⁷² The supervising physician

67. 225 ILCS 60/49.5(d)

68. 225 ILCS 60/13.

69. 225 ILCS 60/14.

70. 225 ILCS 60/54.5(d).

71. Illinois Physician Assistant Practice Act, 225 ILCS 95/1 et. seq.

For discussion of licensing and practice of physician assistants, see Chapter 12.

72. 225 ILCS 60/54.5(a).

must have access to the medical records of all patients attended by a physician assistant.⁷³

Additionally, a licensed physician may collaborate with an advanced practice nurse in accordance with the requirements of the Illinois Nursing and Advanced Practice Nursing Act (the “Nursing Act”).⁷⁴ Collaboration must be for the purpose of providing medical direction, and no employment relationship is required between the physician and the nurse.⁷⁵ A written collaborative agreement between the parties must be entered into, which conforms to the requirements of the Nursing Act, for the services the collaborating physician generally provides to his or her patients in the normal course of his or her clinical medical practice.⁷⁶ The collaborating physician must have access to the medical records of all patients attended to by an advanced practice nurse.⁷⁷ A physician’s medical direction shall be deemed adequate with respect to collaboration with a certified nurse practitioner, a certified nurse midwife, or a clinical nurse specialist if the collaborating physician:

(1) Participates in the joint formulation and joint approval of orders or guidelines with the advanced practice nurse and periodically reviews such orders and the services provided to patients under such orders in accordance with accepted standards of medical practice and advanced practice nursing practice;

(2) Is on site at least once a month to provide medical direction and consultation; and

(3) Is available through telecommunications for consultation on medical problems, complications or emergencies or patient referrals.⁷⁸

It is important to note that a physician is not deemed liable for the

73. 225 ILCS 60/54.5(c).

74. 225 ILCS 60/54.5(b). See also, Illinois Nursing and Advanced Practice Nursing Act, 225 ILCS 65/15-5 et. seq.

For discussion of nursing practice in Illinois, see Chapter 11.

75. 225 ILCS 60/54.5(b).

76. 225 ILCS 60/54.5(b)

77. 225 ILCS 54.5(c).

78. 225 ILCS 60/54.4(b).

acts or omissions of a physician assistant or advanced practice nurse solely on the basis of having signed a supervision agreement or guidelines or a collaborative agreement, an order, a standing medical order, a standing delegation order, or other order or guideline authorizing a physician assistant or advanced practice nurse to perform acts, unless the physician has reason to believe the physician assistant or advanced practice nurse lacked the competency to perform the act or acts or commits willful or wanton misconduct.⁷⁹

An anesthesiologist or physician licensed to practice medicine in Illinois may also collaborate with a certified registered nurse anesthetist in accordance with the Nursing Act.⁸⁰ Medical direction for a certified registered nurse anesthetist is deemed adequate if:

(1) An anesthesiologist or a physician participates in the joint formulation and joint approval of orders or guidelines and periodically reviews such orders and the services provided patients under such orders; and

(2) For anesthesia services, the anesthesiologist or physician participates through discussion of and agreement with the anesthesia plan and is physically present and available on the premises during the delivery of anesthesia services for diagnosis, consultation, and treatment of emergency medical conditions.⁸¹ Additionally, the anesthesi-

79. 225 ILCS 60/54.5(e).

80. 225 ILCS 60/54.5(b-5). See also Illinois Nursing and Advance Practice Nursing Act, 225 ILCS 65/15-1 et. seq.

For discussion of nursing practice in Illinois, see Chapter 11.

81. 225 ILCS 60/54.5(b-5).

Anesthesia services in a hospital must be conducted in accordance with the Illinois Hospital Licensing Act, 210 ILCS 85/1 et. seq., and anesthesia services in an ambulatory surgical treatment center must comply with the Illinois Ambulatory Surgical Treatment Center Act, 210 ILCS 5/1 et. seq. 225 ILCS 60/54.5(b-5).

For discussion of Illinois Ambulatory Surgical Treatment Center Act, see Chapter 5.

ologist or operating physician must agree with the anesthesia plan prior to the delivery of services.⁸²

B. LICENSING

§ 6:25. Medical Licensing Board

Under the Act, the Illinois Medical Licensing Board (the “Board”) is responsible for the licensure of physicians.⁸³ The Board is composed of seven (7) members, five (5) of whom must be physicians.⁸⁴ Of these five (5) physician members one must be a chiropractor and one (1) must be an osteopathic doctor. Additionally, one (1) of these five (5) members must be a full-time or part-time professor in the clinical department of an Illinois medical school.⁸⁵ Appointed by the Governor, members of the Board serve four (4) year terms for a maximum of two (2) consecutive terms.⁸⁶ Members of the Board are immune from lawsuits based upon any licensing proceedings or other acts that they perform in good faith.⁸⁷

§ 6:26. Application requirements

Each applicant for a license to practice medicine in Illinois must complete an application form issued by IDPR.⁸⁸ Additionally, applicants must supply, to IDPR, evidence (i) of good moral character,⁸⁹ (ii) that he or she has the preliminary and professional education required by the Act,⁹⁰ (iii) is physically, mentally and professionally able to practice medicine with reasonable judgment, skill and safety,⁹¹ and (iv) of the name, location, and kind of professional school, college or

82. 225 ILCS 60/54.5(b-10).

83. 225 ILCS 60/8(A).

84. 225 ILCS 60/8(A).

85. 225 ILCS 60/8(A).

86. 225 ILCS 60/8(B).

87. 225 ILCS 60/8(C).

88. 225 ILCS 60/9(A).

89. 225 ILCS 60/9(B)(1).

90. 225 ILCS 60/9(B)(2).

91. 225 ILCS 60/9(B)(4).

institution the applicant graduated from and the type of medicine the applicant will practice.⁹² An applicant must also provide IDPR with his or her social security number,⁹³ pay the required fee⁹⁴ and pass an examination.⁹⁵ An applicant has three (3) years within which to complete the application process,⁹⁶ and, if the applicant fails to complete the process within such time period, the application will be denied, the application fee forfeited and the applicant will be required to reapply.⁹⁷

☛ *Practice Guide:* In determining physical, mental and professional capacity under the Act, the Board may, upon a showing of possible incapacity, compel an applicant to submit to a mental or physical examination, or both.⁹⁸ Also in determining moral character IDPR may consider whether the applicant has engaged in conduct or activities which would constitute grounds for discipline under the Act and also character endorsements from two (2) or three (3) individuals licensed under the Act.⁹⁹

☛ *Practice Guide:* An individual who has not been actively engaged in the practice of medicine or a student who has not been in a formal program of medical education during the two (2) years immediately preceding his or her application may be

92. 225 ILCS 60/9(C).

93. 225 ILCS 60/9.5.

94. 225 ILCS 60/9(D).

95. 225 ILCS 60/9(E).

96. 225 ILCS 60/9(F).

97. 225 ILCS 60/9(F).

98. 225 ILCS 60/9(B)(4).

Additionally, the Board may condition or restrict any license if appropriate. 225 ILCS 60/9(B)(4).

99. 225 ILCS 60/9(B)(4).

required to complete such additional training or remedial education as the Board may deem necessary.¹

With respect to education, United States and Canadian applicants must demonstrate that they have (i) graduated from a medical or osteopathic college in the United States or Canada, (ii) completed two (2) years of liberal arts education, (iii) completed medical or osteopathic school that has been accredited by IDPR or a not-for-profit accrediting agency, and (iv) completed at least twelve (12) months of clinical training.² Applicants who graduated from medical schools outside the United States or Canada must demonstrate that they have (i) graduated from a medical school in a foreign country and that the degree which they received is recognized by such country for licensure, (ii) completed two (2) years of liberal arts education, (iii) completed at least one hundred thirty-two (132) weeks in a medical or osteopathic school that is approved by IDPR,³ and (iv) completed at least twelve (12) months of clinical training.⁴ If the applicant is a graduate of a medical college outside the United States or Canada, he or she must hold a current certification, at the time of application for licensure or examination, from the Educational Commission for Foreign Medical Graduates (ECFMG).⁵

The Regulations specify that the standards for the six (6) year post-secondary program of medical or osteopathic education are: (i) at least two (2) years of college, university or other institutional study; and (ii) at least two (2) years of study in the basic medical sciences, including, at a minimum, the following subjects: (a) anatomy, (b) biochemistry, (c) physiology, (d) microbiology and immunology, (e) pathology, (f) pharmacology and therapeutics, and (g) preventive

1. 225 ILCS 60/9(B)(4).

2. 225 ILCS 60/11(A)(1)(a).

3. Additionally, the applicant must have completed such training in not less than thirty-five (35) months. 225 ILCS 60/11(A)(1)(b).

4. 225 ILCS 60/11(A)(1)(b).

5. 68 Ill Admin Code 1285.20(j).

medicine.⁶ Additionally, these classes must have been taken as part of a medical school education.⁷ An applicant must also have two (2) years of study in the clinical sciences, during medical school, which include, at a minimum, the following core clerkship rotations: (i) internal medicine, (ii) obstetrics and gynecology, (iii) pediatrics, (iv) psychiatry, and (v) surgery.⁸ These clerkship rotations must have been taken and completed in clinical teaching facilities owned, operated or affiliated with the medical college, which conferred the degree or is under contract with such college.

§ 6:27. Licensure examination

In addition to submitting an application, an applicant must also pass an examination. Illinois medical licensure exams are held at least twice (2) annually.⁹ If an applicant neglects, fails or refuses to take the next available examination offered under the Act, the fee paid by the applicant is forfeited and the application denied.¹⁰

The Illinois Medical licensure examination for physicians includes Steps 1, 2 and 3 of the United States Medical Licensing Examination (USMLE).¹¹ In particular, USMLE Steps 1 and 2 are administered by the National Board of Medical Examiners and the Education Commission for Foreign Medical Graduates (“ECFMG”).¹² USMLE Steps 1 and 2 must be completed before IDPR will administer USMLE Step 3 to an applicant.¹³ The passing score for all parts of the examination

6. 68 Ill Admin Code 1285.20(a) and (b).

7. 68 Ill Admin Code 1285.20(c).

8. 68 Ill Admin Code 1285.20(d).

9. 225 ILCS 60/12.

10. 225 ILCS 60/12.

11. 68 Ill Admin Code 1285.60(a)(3).

USMLE is a joint program of the Federation of State Medical Boards of the United States, Inc. and the National Board of Medical Examiners. 68 Ill Admin Code 1285.60(a)(3).

12. 68 Ill Admin Code 1285.60(a)(3)(A).

13. 68 Ill Admin Code 1285.60(a)(3)(B).

is a minimum of 75 or the passing score set by the authorized testing entity.¹⁴ If an applicant does not receive a passing score on a particular portion of the examination, he or she is only required to retake that portion (or portions) which was not passed.¹⁵ In the event that all three (3) of the USMLE Steps are not successfully completed within seven (7) years after passing the first Step taken, credit for any previously passed Step is forfeited.¹⁶

The licensure examination for chiropractors is the examination administered by the National Board of Chiropractic Examiners and consists of Part I, Part II and Part III.¹⁷ An applicant for a chiropractic license must receive a score of at least 375 on all 3 parts of the examination.¹⁸

If an applicant, whether physician or chiropractor, fails to pass the medical licensure examination within three (3) years after filing an application, the application is denied.¹⁹ In such a situation, an applicant may, however, make a new application for examination, pay the required fee and satisfy the requirements then in existence for a license. Any applicant who has failed the licensure exam in Illinois, or any other state, a total of five (5) times is ineligible to take another examination until he or she has submitted evidence to IDPR of having completed additional professional education.²⁰ Specifically, a physician applicant must submit proof that he or she has completed: (i) a course of clinical training of not less than twelve (12) months in an accredited clinical training program in the United States or Canada,²¹ (ii) a course of study of nine (9) months in length (e.g. one (1) academic year) which includes not less than twenty-five (25) clock hours per week of basic sciences and not less than forty (40) clock

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14. 68 Ill Admin Code 1285.60(a)(5).
 15. 68 Ill Admin Code 1285.60(a)(6).
 16. 68 Ill Admin Code 1285.60(a)(7).
 17. 68 Ill Admin Code 1285.60(b)(1).
 18. 68 Ill Admin Code 1285.60(b)(2).
 19. 225 ILCS 60/12.
 20. 225 ILCS 60/16.
 21. 69 Ill Admin Code 1285.60(a)(8)(A).

hours per week of clinical sciences, or (iii) any other formal professional study or training in an accredited medical college or hospital.²² Similarly, a chiropractic applicant who has failed to pass five (5) times must submit proof that he or she has completed a course of study of nine hundred sixty (960) classroom hours (e.g. one (1) academic year) in an accredited chiropractic program.²³

§ 6:28. Licensure without examination

In IDPR's sole discretion, an individual may be granted a license without an examination if the person is currently licensed to practice medicine in another state or country, so long as the applicant demonstrates (i) good moral character, (ii) the physical, mental and professional capabilities to practice with reasonable judgment, skill and safety, (iii) satisfaction of all of the educational requirements typically required for a license, and (iv) successful passage of a medical licensure exam in another state that is substantially equal to the Illinois medical licensure exam.²⁴ The applicant must also undergo a criminal background check.²⁵

☛ *Practice Guide:* It should be noted that depending upon when an applicant first passed his or her medical licensure examination, he or she may also be required by IDPR to pass a clinical test. This clinical test is either the USMLE Step 3, the Special Purpose Examination (SPEX) or the Comprehensive Osteopathic Medical Special Purpose Examination for the United States of America (COMSPEX-USA), as determined by the Board.²⁶ IDPR may, however, make a recommendation to the Director to waive

22. 68 Ill Admin Code 1285.60(a)(8)(C).

23. 68 Ill Admin Code 1285.60(b)(3).

24. 225 ILCS 60/19.

25. 225 ILCS 60/19.

26. 68 Ill Admin Code 1285.80(c).

this clinical test if the circumstances indicate that it is unnecessary.²⁷

In determining whether or not to issue a license without an examination, IDPR may also consider whether there is authentic or definitive information concerning the quality of the applicant's medical training.²⁸ Specifically, the Board may examine the quality of an individual's medical education and clinical training or practical experience, including, but not limited to, whether the applicant is Board certified in a specialty, has achieved special honors or awards, has had articles published in recognized and reputable journals, has written or participated in the writing of textbooks in medicine and any other circumstances or attributes which the Board accepts as evidence that the applicant has outstanding and proven ability in any branch of medicine.²⁹

§ 6:29. Issuance of license

Once an applicant has completed the application and passed the medical licensure examination, IDPR will, once the required licensure fees have been paid, issue a license to the applicant.

C. TYPES OF LICENSES

§ 6:30. In general

In addition to a permanent non-restricted license, IDPR may also issue: (i) a temporary license, (ii) a limited temporary license, (iii) a visiting professor permit, (iv) a visiting physician permit, or (v) a resident permit.

§ 6:31. Temporary license

Any person who has completed medical or osteopathic school and desires to complete graduate or specialty training in Illinois, may

27. 68 Ill Admin Code 1285.80(c)(2).

28. 68 Ill Admin Code 1285.80(c)(2).

29. 68 Ill Admin Code 1285.80(c)(2) and (d)(5)(B).

apply for a temporary license to practice medicine.³⁰ Application for a temporary license must be made at least sixty (60) days prior to the commencement date of such specialty training.³¹ Additionally, in order to apply for a temporary license the individual must demonstrate (i) good moral character, (ii) that he or she has been accepted or appointed for specialty or residency training by a hospital in Illinois and indicate the beginning and ending dates of such program, (iii) that he or she has or will satisfy the professional educational requirements, except for post-graduate clinical training, and (iv) that he or she is physically, mentally and professionally capable of practicing medicine with reasonable judgment, skill, and safety.³² Temporary licenses are valid for three (3) years, but may be extended up to the maximum period of time required to complete a residency program.³³

☛ *Practice Guide:* IDPR also allows a fourteen (14) day extension of a temporary license without filing an extension application.³⁴

Temporary licenses permit the holder to perform those acts that are prescribed by and incidental to his or her residency training.³⁵ Such licenses do not, however, permit the holder to engage in the practice of medicine in Illinois outside of his or her residency program.³⁶ Thus, when a temporary license is approved, it is mailed to the hospital where the individual is training to be held for safe keeping, and not to the individual.³⁷ If a resident is dismissed or terminates his or her residency program, it is the responsibility of the residency program to

30. 225 ILCS 60/17.

31. 68 Ill Admin Code 1285.90(a).

32. 225 ILCS 60/17(A), (B), (C) and (D).

33. 225 ILCS 60/17.

34. 68 Ill Admin Code 1285.90(j).

35. 68 Ill Admin Code 1285.90(j)

36. 225 ILCS 60/17.

37. 68 Ill Admin Code 1285.90(d).

notify IDPR immediately, and return the temporary license to IDPR along with a written explanation indicating why the resident was dismissed or terminated.³⁸

☛ *Practice Guide:* A temporary license may be transferred from one residency program to another by returning the temporary license and submitting a new application to IDPR which contains a work history and a certificate of acceptance that the resident will be accepted or appointed to a residency position in an approved program. A request for a transfer must also be filed with IDPR at least sixty (60) days prior to the commencement date of the new residency program.³⁹

Any person holding a temporary license to practice medicine, who satisfactorily completes a course of post-graduate clinical training and meets all of the requirements for licensure can apply for a permanent Illinois license to practice medicine.⁴⁰

§ 6:32. Limited temporary license

IDPR may also issue a limited temporary license to practice medicine, which is effective for a period of no more than six (6) months, to individuals who apply and demonstrate that they are enrolled in a post-graduate clinical training program outside of Illinois and that they have been accepted for a limited period of time to perform, under supervision, a portion of the clinical training at a clinical training program in Illinois due to the absence of adequate facilities in such other state.⁴¹

§ 6:33. Visiting professor permit

The Act also provides that a visiting professor can receive a visiting professor permit to practice medicine from IDPR. Specifically, a visiting professor can apply for a permit that will be valid until the

38. 68 Ill Admin Code 1285.90(h).

39. 68 Ill Admin Code 1285.90(i).

40. 225 ILCS 60/11(A)(4).

41. 68 Ill Admin Code 1285.90(l).

earlier of (i) two (2) years, or (ii) until the faculty appointment is terminated.⁴² A visiting professor permit allows a visiting professor to practice medicine in Illinois, in connection with his or her appointment, so long as he or she (i) maintains an equivalent authorization to practice medicine, in his or her native licensing jurisdiction during the period in which the permit is valid, and (ii) has received a faculty appointment to teach in a medical, osteopathic or chiropractic school in Illinois. A visiting professor permit does not, however, permit the visiting professor to practice medicine in Illinois other than in his or her official capacity under the medical school and any affiliated institution at which the visiting professor is providing instruction and for which the medical school has assumed direct responsibility.⁴³

Such a permit must be applied for at least sixty (60) days prior to the commencement date of the faculty appointment.⁴⁴ A statement from the dean of the medical school where the applicant will be employed describing the applicant's qualifications, listing every affiliated institution in which the applicant will be providing instruction as part of the medical school's education program and justifying any clinical activities at each of the institutions listed, is also required.⁴⁵

☛ *Practice Guide:* The Board, in its sole discretion, may also require an interview with the applicant.⁴⁶

A visiting professor permit may only be renewed if the visiting professor has (i) during the initial renewal only, passed a general competency exam, (ii) obtained the required continuing education hours, and (iii) has paid the required fee.⁴⁷ If the visiting professor is

42. 225 ILCS 60/18(A)(2).

43. 225 ILCS 60/18(5).

44. 68 Ill Admin Code 1285.91(a).

45. 225 ILCS 60/18(A)(1)(a), (b) and (c).

46. 225 ILCS 60/18(A)(4).

47. 225 ILCS 60/18(A)(6).

dismissed or otherwise terminates his or her faculty appointment, it is the responsibility of the clinic or facility to immediately notify IDPR and return the visiting professor permit along with a written explanation indicating why the visiting professor was dismissed or terminated.⁴⁸

§ 6:34. Visiting physician permit

IDPR also has the discretion to issue a temporary visiting physician permit, without requiring an examination, if the visiting physician (i) maintains an equivalent authorization to practice medicine in his or her native licensing jurisdiction during the effective period of the Illinois temporary visiting permit, (ii) has an appointment to study, demonstrate or perform a specific subject or technique at an accredited school in Illinois, and (iii) will only perform activities that he or she was appointed to perform.⁴⁹

Such a permit does not permit the visiting physician to practice medicine in Illinois outside of the scope of his or her appointment.⁵⁰ A temporary visiting physician permit is valid for 180 days or until the appointment is completed, whichever occurs first.⁵¹

IDPR may also issue a limited visiting physician permit to an out-of-state physician who has been requested to perform an emergency procedure in Illinois.⁵² Such a permit is valid for five (5) days, however, in extenuating circumstances, it may be extended.⁵³ To obtain a limited visiting physician permit, an individual must submit (i) verification of licensure in another jurisdiction, (ii) a description of the emergency procedure to be performed, (iii) the exact date and location of the procedure, (iv) the name and license number of the sponsoring physician who will be responsible for the applicant, (v) proof from the Illinois hospital that the applicant has approval from

48. 68 Ill Admin Code 1285.91(g).

49. 225 ILCS 60/18(B)(1).

50. 225 ILCS 60/18(B)(1)(d).

51. 225 ILCS 60/18(B)(3).

52. 68 Ill Admin Code 1285.101(j).

53. 68 Ill Admin Code 1285.101(j)(2).

the facility to perform the procedure, (vi) a copy of the individual's curriculum vitae, and (vii) the required fee.⁵⁴

§ 6:35. Visiting resident permit

An individual who has been invited to perform a portion of a post-graduate clinical training program in an Illinois patient care clinic or facility may apply for a visiting resident permit at least sixty (60) days prior to the commencement of such clinical training program.⁵⁵ In particular, the applicant must submit to IDPR (i) proof that the applicant has been invited or appointed to perform a portion of the post-graduate clinical training program in Illinois, (ii) the names and addresses of the patient care clinics or facilities and the commencement date of training and length of appointment, (iii) certification from the post-graduate training program that the applicant has been approved and enrolled, and (iv) proof that the applicant has an equivalent authorization to practice medicine in the applicant's native jurisdiction.⁵⁶ A visiting resident license is valid for one hundred eighty (180) days in Illinois. However, if a visiting resident is dismissed or terminated, the staff of the patient care clinic or facility must immediately notify IDPR and return the visiting resident permit along with a written explanation of why the visiting resident was dismissed or terminated.

D. LICENSE RENEWAL AND CONTINUING EDUCATION

§ 6:36. License renewal

Permanent licenses to practice medicine in Illinois are effective for three (3) years. At least sixty (60) days before a license expires, IDPR sends a renewal application form to all licensees.⁵⁷ Any licensee who has permitted his or her license to lapse or who has had his or her

54. 68 Ill Admin Code 1285.101(j)(1).

55. 68 Ill Admin Code 1285.91(a).

56. 68 Ill Admin Code 1285.91(b).

57. 225 ILCS 60/21(A).

license on inactive status may have such license restored by providing evidence of (i) his or her fitness to have the license renewed or restored, including certification of active practice in another jurisdiction, (ii) proof of meeting the continuing education requirements (“CME”) for one (1) renewal period, and (iii) paying the required renewal or restoration fee.⁵⁸ A license renewal fee is also required and the holder of the license may renew within ninety (90) days after expiration and the renewal will be deemed retroactive to the expiration date. If a licensee does not renew within such ninety (90) day grace period, an additional fee will apply. Practicing or operating with an expired license is considered a violation of the Act.⁵⁹

☛ *Practice Guide:* If the licensee has not maintained an active practice in another jurisdiction satisfactory to IDPR, the Board will evaluate the applicant’s fitness to resume active status and may require completion of a period of evaluated clinical experience and successful completion of a practical examination.⁶⁰

An applicant may also notify IDPR, in writing, that he or she desires to place his or her license on inactive status and thereby be excused from paying renewal fees until he or she notifies IDPR again in writing of his or her desire to resume active status.⁶¹ While an individual’s license is inactive, such individual may not practice medicine in Illinois.⁶² In order to reactivate the license, the individual will, if the license was inactive for less than three (3) years, pay the current renewal fees and fulfill the CME requirements.⁶³ If the license has been inactive for more than three (3) years, the licensee will need to file an application, pay the renewal fees and demonstrate completion of one hundred fifty (150) hours of CME.⁶⁴ Additionally, the

58. 225 ILCS 60/21(B).

59. 68 Ill Admin Code 1285.120(c).

60. 225 ILCS 60/21(B).

61. 225 ILCS 60/21(C).

62. 225 ILCS 60/21(C)

63. 68 Ill Admin Code 1285.130(b).

64. 68 Ill Admin Code 1285.130(c).

applicant will need to submit one of the following: (i) sworn evidence of active practice in another jurisdiction, (ii) an affidavit attesting to military service, (iii) proof of completion of an approved specialty residency program of at least twelve (12) months, (iv) proof of completion evidenced by Certification of Medical Education of a course of study of at least nine hundred sixty (960) classroom hours (e.g. one (1) academic year) which includes no more than twenty-five (25) hours of basic sciences and forty (40) clock hours of clinical sciences, or (v) successful completion of the SPEX or Comprehensive Osteopathic Medical Variable Purpose Examination for the United States of America (COMVEX-USA) with a score of 75 or better.⁶⁵

☛ *Practice Guide:* For a chiropractor, instead of COMVEX-USA, he or she must provide proof of nine hundred sixty (960) classroom hours (academic hours) or the Special Examination of Chiropractic (SPEC) or its equivalent.⁶⁶

§ 6:37. Continuing medical education

Beginning with the July 31, 2002 renewal process and every renewal thereafter, in order to renew a license, each licensee must complete one hundred fifty (150) hours of CME per pre-renewal period.⁶⁷ The pre-renewal period is the thirty-six (36) months preceding July 31st in the year of the renewal.⁶⁸ A renewal applicant is not, however, required to comply with CME requirements for the first renewal of a license.⁶⁹ Additionally, an individual who is licensed in Illinois, but resides in another state or practices in another state must comply with Illinois' CME requirements.

65. 68 Ill Admin Code 1285.130(c).

66. 68 Ill Admin Code 1285.130(c)(6).

67. 68 Ill Admin Code 1285.110(a)(1).

68. 68 Ill Admin Code 1285.110(a)(2).

69. 68 Ill Admin Code 1285.110(a)(4).

One (1) CME hour equals one (1) clock hour.⁷⁰ After completion of the initial CME hour, credit may be given in half ($\frac{1}{2}$) hour increments.⁷¹ CME hours are earned as follows: (i) a minimum of sixty (60) hours of required CME must be obtained in formal CME programs,⁷² and (ii) a maximum of ninety (90) hours of required CME must be obtained in informal CME programs.⁷³

Formal CME programs include: (i) programs conducted or endorsed by hospitals, specialty societies, facilities or other organizations approved to offer CME credit;⁷⁴ (ii) programs offered by medical, chiropractic or osteopathic colleges, schools or education programs either to prepare individuals for licensure pursuant to the provisions of the Act or for post-graduate training;⁷⁵ (iii) programs required for certification or recertification by specialty boards and professional associations;⁷⁶ or (iv) activities which are given by sponsors approved in accordance with the Regulations.⁷⁷

Provided that the licensee documents the dates and a brief description of the activity, informal CME programs include the following activities: (i) consultation with peers and experts concerning patients,⁷⁸ (ii) use of electronic databases in patient care,⁷⁹ (iii) small group discussions,⁸⁰ (iv) teaching health professionals,⁸¹ (v) medical writing,⁸² (vi) teleconferences,⁸³ (vii) preceptorships,⁸⁴ (viii) partici-

70. 68 Ill Admin Code 1285.110(a)(3).

71. 68 Ill Admin Code 1285.110(a)(3)

72. 68 Ill Admin Code 1285.110(b)(1)(A).

73. 68 Ill Admin Code 1285.110(b)(1)(B).

74. 68 Ill Admin Code 1285.110(b)(2)(A).

75. 68 Ill Admin Code 1285.110(b)(2)(B).

76. 68 Ill Admin Code 1285.110(b)(2)(C).

77. 68 Ill Admin Code 1285.110(b)(2)(D).

78. 68 Ill Admin Code 1285.110(b)(3)(A).

79. 68 Ill Admin Code 1285.110(b)(3)(B).

80. 68 Ill Admin Code 1285.110(b)(3)(C).

81. 68 Ill Admin Code 1285.110(b)(3)(D).

82. 68 Ill Admin Code 1285.110(b)(3)(E).

83. 68 Ill Admin Code 1285.110(b)(3)(F).

pating in formal peer review and quality assurance activities,⁸⁵ (ix) preparation of educational exhibits,⁸⁶ or (x) journal reading.⁸⁷

All renewal applicants are required to certify, on their renewal applications, that they have complied with the CME requirements.⁸⁸ IDPR may require additional evidence demonstrating compliance with CME requirements (e.g. certificates of attendance) and it is the responsibility of each applicant to provide such evidence of compliance.⁸⁹ IDPR may conduct random audits to determine compliance with CME requirements.⁹⁰

III. PROFESSIONAL ORGANIZATIONS AND PEER REVIEW IMMUNITY

§ 6:38. Reporting by professional organizations; entities required to report

The chief administrator or executive officer of any health care institution must report to the Illinois Medical Disciplinary Board (the “Disciplinary Board”)⁹¹ when any person’s clinical privileges are terminated or are restricted based on a final determination, that a person has either (i) committed an act or acts which may directly threaten patient care, and not of an administrative nature, or (ii) may be mentally or physically disabled in such a manner as to endanger patients under that person’s care.⁹² The chief administrator or executive officer is also required to report to the Disciplinary Board when a person accepts voluntary termination or restriction of clinical

84. 68 Ill Admin Code 1285.110(b)(3)(G).

85. 68 Ill Admin Code 1285.110(b)(3)(H).

86. 68 Ill Admin Code 1285.110(b)(3)(I).

87. 68 Ill Admin Code 1285.110(b)(3)(J).

88. 68 Ill Admin Code 1285.110(d)(1).

89. 68 Ill Admin Code 1285.110(d)(2).

90. 68 Ill Admin Code 1285.110(d)(4).

91. 225 ILCS 60/7(A).

92. 225 ILCS 60/23(A)(1).

privileges in lieu of a 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.⁹³

The Disciplinary Board, which consists of nine (9) members who are appointed by the Governor and must be residents of the State of Illinois, can have no more than five (5) members of the same political party.⁹⁴ Additionally, five (5) members must be physicians licensed to practice medicine in all of its branches in the State of Illinois, two (2) members must be members of the public and not engaged as providers of health care, one (1) member must be a chiropractor and one (1) member must be an osteopathic doctor.⁹⁵

Additionally, the Disciplinary Board has rules that require reporting of all instances in which a person, who is impaired by reason of age, drug or alcohol abuse or physical or mental impairment, is under supervision and, where appropriate, in a program of rehabilitation.⁹⁶ All such reports are strictly confidential and may only be reviewed by members of the Medical Disciplinary Board. Periodic reports, at least twice annually, are also required on the status of such persons.⁹⁷

Similarly, the President or chief executive officer of any association or society of medical professionals licensed under the Act, must also report when such 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.⁹⁸ Similarly, any physician, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Chiropractic Society, the Illinois Prairie State Chiropractic Society, or any component societies of these

93. 225 ILCS 60/7(A).

94. 225 ILCS 60/7(A).

95. 225 ILCS 60/7(A).

96. 225 ILCS 60/7(A).

97. 225 ILCS 60/7(A).

98. 225 ILCS 60/23(A)(2).

four (4) groups, and any other person, may report to the Disciplinary Board any information that appears to show that a physician is or may be a threat to patient care.⁹⁹

Every insurance company that offers policies of professional liability insurance to persons licensed under the Act, or any other entity which seeks to indemnify the professional liability of a person licensed under the Act, must report to the Disciplinary Board the settlement of any claim or cause of action, or final judgment rendered in any 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.¹

Similarly, the State's Attorney of each county must report to the Medical Disciplinary Board all instances in which a person licensed under the Act, is convicted or found guilty of the commission of any felony.²

☛ *Practice Guide:* The State's Attorney may also report 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 1995.³

Finally, all agencies, boards, commissions, departments or other instrumentalities of the Illinois government must report, to the Disciplinary Board, any instances arising in connection with the operations of such agency in which a person licensed under the Act has either committed an act or acts which may be a violation of the Act or which may constitute unprofessional conduct related directly to patient care or which indicates that a person licensed under the Act

99. 225 ILCS 60/24.

1. 225 ILCS 60/23(A)(3).

2. 225 ILCS 60/23(A)(4).

3. 225 ILCS 60/23(A)(4).

See also the Illinois Parental Notice of Abortion Act of 1995, 750 ILCS 70/1 et seq.

may be mentally or physically disabled in such a manner as to endanger patients under that person's care.⁴

Any reports required must be submitted to the Disciplinary Board within sixty (60) days after a determination that a report is required.⁵ Additionally, all such reports must include: (i) the name, address and telephone number of the person making the report, (ii) the name, address, and telephone number of the person who is the subject of the report, (iii) the name or other means of identification of any patient or patients whose treatment is a subject of the report, however, no medical records may be revealed without the written consent of the patient or patients; (iv) 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; (v) if court action was involved, the identity of the court in which the action was filed, along with the docket number and date of filing of the action, and (vi) any other pertinent information which the reporting party deems necessary.⁶ Additionally, IDPR has the right to inform patients of the right to provide written consent for IDPR to obtain copies of hospital and medical records. Failure to file reports as required under the Act is a Class A misdemeanor and an injunction or temporary restraining order can be brought against any person who has violated the Act.⁷

Any individual or organization acting in good faith, and not in a willful and wanton manner, in complying with the reporting requirements of the Act by providing a report to IDPR, or assisting in the investigation or preparation of such information, or by participating in proceedings of the Disciplinary Board shall not be subject to criminal prosecution or civil damages as a result of such actions.⁸

4. 225 ILCS 60/23(A)(5).

5. 225 ILCS 60/23(B).

6. 225 ILCS 60/23(B).

7. 225 ILCS 60/23(G) and (H).

8. 225 ILCS 60/23(C).

§ 6:39. — Processing of reports

After receipt of any report required under the Act, other than those reports of impaired persons, the Disciplinary Board will notify, in writing, by certified mail, the person who is the subject of the report.⁹ Such notification shall be made within thirty (30) days of receipt by the Disciplinary Board.¹⁰ The notification will explain the person's right to examine the report, and the address where the report is maintained and the telephone number at which the custodian may be reached.¹¹ The person who is the subject of the report may submit a written statement responding, clarifying, adding to or proposing any amendments to the report.¹² Such a statement will become a part of the permanent report and must be received by the Disciplinary Board no later than sixty (60) days after the date the person received notification from the Disciplinary Board.¹³

The Disciplinary Board then reviews the report, along with all of the supporting information and any statement submitted by the person who is the subject of the report.¹⁴ Such a review shall occur as soon as possible, but in no event less than sixty-one (61) days or more than one hundred eighty (180) days after the receipt of the initial report by the Disciplinary Board.¹⁵ Specifically, the Disciplinary Board must make a determination as to whether there are sufficient facts to warrant further investigation or action.¹⁶ The failure to issue such a determination within the required timeframe shall be deemed a

9. 225 ILCS 60/23(E).

10. 225 ILCS 60/23(E).

11. 225 ILCS 60/23(E).

12. 225 ILCS 60/23(E).

13. 225 ILCS 60/23(E).

14. 225 ILCS 60/23(E).

15. 225 ILCS 60/23(E).

16. 225 ILCS 60/23(E).

determination that there were not sufficient facts to warrant further investigation or action.¹⁷

If the Disciplinary Board determines that there were not sufficient facts to warrant further investigation or action, the report shall be accepted and the matter shall be deemed closed and the Director of Professional Regulation notified.¹⁸ The Director of Professional Regulation then has thirty (30) days to accept the Disciplinary Board's decision or to require further investigation by delivering written notice to the Disciplinary Board.¹⁹ The individual or entity who filed the original report and the person who is the subject of the report shall be notified in writing by the Director of Professional Regulation of any final action on the report.²⁰

Additionally, in the event that the Director receives a written statement from the Secretary of Health and Human Services, the Director of Public Aid, or the Director of Public Health that continuation of practice of a person licensed under the Act constitutes an immediate danger to the public, after consultation with the Chief Medical Coordinator or Deputy Medical Coordinator, the Director of Professional Regulation may immediately suspend the license of such person without a hearing.²¹ In instances in which the Director of Professional Regulation immediately suspends a license, a hearing upon such person's license must be convened by the Disciplinary Board within fifteen (15) days after such suspension and completed without appreciable delay.²² Such a hearing is to be held to determine whether to recommend to the Director of Professional Regulation that the person's license be revoked, suspended, placed on probationary status or reinstated, or whether such person should be subject to other disciplinary action.²³ In the hearing, the written communication and

17. 225 ILCS 60/23(E).

18. 225 ILCS 60/23(E).

19. 225 ILCS 60/23(E).

20. 225 ILCS 60/23(E).

21. 225 ILCS 60/25.

22. 225 ILCS 60/25.

23. 225 ILCS 60/25.

any other evidence submitted therewith may be introduced as evidence against such person, provided, however, that the person or their counsel shall have the opportunity to discredit, impeach and submit evidence rebutting such evidence.²⁴

At least once every other month, the Disciplinary Board also prepares a summary report of final actions taken upon disciplinary files maintained by the Disciplinary Board.²⁵ These summary reports are sent by the Disciplinary Board to every health care facility licensed by the Illinois Department of Public Health (“IDPH”), every professional association and society of persons licensed under the Act, the American Medical Association, the American Osteopathic Association, the American Chiropractic Association, all insurers providing professional liability insurance to persons licensed in Illinois under the Act, the Federation of State Medical Licensing Boards and the Illinois Pharmacists Association.²⁶

§ 6:40. Peer review immunity

Illinois law also provides certain protections for physicians who engage in peer review activities.²⁷ In particular, in an effort to encourage peer review by health care providers while serving upon any committee with a proper purpose, any person serving on such committee will not be liable for civil damages as a result of their acts, omissions, decisions or any other conduct in connection with their duties on such committees²⁸ and all proceedings and communications of a peer review or quality assessment and assurance committee shall be privileged and confidential.²⁹

24. 225 ILCS 60/25.

25. 225 ILCS 60/23(F).

26. 225 ILCS 60/23(F).

27. 210 ILCS 85/10.2, 745 ILCS 55/4, and 745 ILCS 55/1.

28. 210 ILCS 85/10.2.

29. 745 ILCS 55/4.

For discussion of the peer review process, see Chapter 3.

☛ *Practice Guide:* The types of committees that are provided protection are medical utilization committees, medical review committees, patient care audit committees, medical care evaluation committees, quality review committees, credentialing committees, peer review committees or any other committee whose purpose, directly or indirectly, is internal quality control or medical study to reduce morbidity or mortality, or for improving patient care or treatment. Such protections are not extended in the event of willful or wanton misconduct.