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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

The Department of Financial and Professional Regulation is posting these proposed amendments in an effort to make the public aware of possible changes that may have an impact on the profession.

The general public may submit written comments to the Department during the first 45 day public comment period. Any suggested changes will be considered by the Department and the appropriate Board.

These proposed amendments were published in the August 20, 2010 Illinois Register. The 45 day comment period will end October 4, 2010.

Please submit written comments to Craig Cellini as stated in the attached notice.

**THESE PROPOSED CHANGES ARE NOT IN EFFECT AT THIS TIME AND THE ADOPTED RULES MAY DIFFER FROM THOSE ORIGINALLY PUBLISHED.**

- 1) Heading of the Part: Medical Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1285
- 3) 

<u>Section Number:</u>	<u>Proposed Action:</u>
1285.80	Amendment
1285.255	Amendment
- 4) Statutory Authority: Implementing the Medical Practice Act of 1987 [225 ILCS 60] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking first provides a more expansive background check for all endorsement applicants. The proposed amendment allows the Department to request a “CJIS Name Search Request” from the Illinois State Police in order to obtain criminal history information on each applicant. The proposed rulemaking also amends Section 1285.255 regarding Rehabilitation. The new language addresses the Department’s increasing concern for physicians with violent or sexual criminal convictions. The proposed amendment sets forth a framework for permanent revocation of a physician’s license if he or she is convicted of the identified violent crimes or registration under the Sex Offender Registration Act.

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- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives (if applicable): This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 3rd Floor  
Springfield, IL 62786

217/785-0813  
FAX: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: Medical skills are required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2010

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The full text of the Proposed Amendments begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1285

MEDICAL PRACTICE ACT OF 1987

SUBPART A: MEDICAL LICENSING, RENEWAL  
AND RESTORATION PROCEDURE

Section

1285.20	Six Year Post-Secondary Programs of Medical Education
1285.30	Programs of Chiropractic Education
1285.40	Approved Postgraduate Clinical Training Programs
1285.50	Application for Examination
1285.60	Examinations
1285.70	Application for a License on the Basis of Examination
1285.80	Licensure by Endorsement
1285.90	Temporary Licenses
1285.91	Visiting Resident Permits
1285.95	Professional Capacity Standards for Applicants Having Graduated More Than 2 Years Prior to Application
1285.100	Visiting Professor Permits
1285.101	Visiting Physician Permits
1285.105	Chiropractic Physician Preceptorship (Repealed)
1285.110	Continuing Medical Education (CME)
1285.120	Renewals
1285.130	Restoration and Inactive Status
1285.140	Granting Variances

SUBPART B: MEDICAL DISCIPLINARY PROCEEDINGS

Section

1285.200	Medical Disciplinary Board
1285.205	Complaint Committee
1285.210	The Medical Coordinator
1285.215	Complaint Handling Procedure
1285.220	Informal Conferences
1285.225	Consent Orders
1285.230	Summary Suspension

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1285.235	Mandatory Reporting of Impaired Physicians by Health Care Institutions
1285.240	Standards
1285.245	Advertising
1285.250	Monitoring of Probation and Other Discipline and Notification
1285.255	Rehabilitation
1285.260	Fines
1285.265	Subpoena Process of Medical and Hospital Records
1285.270	Inspection of Physical Premises
1285.275	Failing to Furnish Information

SUBPART C: GENERAL INFORMATION

Section	
1285.305	Physician Profiles
1285.310	Public Access to Records and Meetings
1285.320	Response to Hospital Inquiries
1285.330	Rules of Evidence
1285.335	Physician Delegation of Authority
1285.336	Use of Lasers
1285.340	Anesthesia Services in an Office Setting

AUTHORITY: Implementing the Medical Practice Act of 1987 [225 ILCS 60] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 13 Ill. Reg. 483, effective December 29, 1988; emergency amendment at 13 Ill. Reg. 651, effective January 1, 1989, for a maximum of 150 days; emergency expired May 31, 1989; amended at 13 Ill. Reg. 10613, effective June 16, 1989; amended at 13 Ill. Reg. 10925, effective June 21, 1989; emergency amendment at 15 Ill. Reg. 7785, effective April 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 13365, effective September 3, 1991; amended at 15 Ill. Reg. 17724, effective November 26, 1991; amended at 17 Ill. Reg. 17191, effective September 27, 1993; expedited correction at 18 Ill. Reg. 312, effective September 27, 1993; amended at 20 Ill. Reg. 7888, effective May 30, 1996; amended at 22 Ill. Reg. 6985, effective April 6, 1998; amended at 22 Ill. Reg. 10580, effective June 1, 1998; amended at 24 Ill. Reg. 3620, effective February 15, 2000; amended at 24 Ill. Reg. 8348, effective June 5, 2000; amended at 26 Ill. Reg. 7243, effective April 26, 2002; amended at 28 Ill. Reg. 5857, effective March 29, 2004; amended at 29 Ill. Reg. 18823, effective November 4, 2005; amended at 31 Ill. Reg. 14069, effective September 24, 2007; amended at 33 Ill. Reg. 4971, effective March 19, 2009; amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

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SUBPART A: MEDICAL LICENSING, RENEWAL  
AND RESTORATION PROCEDURE

**Section 1285.80 Licensure by Endorsement**

- a) Each applicant currently licensed in another jurisdiction who applies to the Division for a license to practice medicine in all of its branches on the basis of endorsement must cause to be submitted to the Division:
- 1) A signed application, on which all questions have been answered and all programs of medical education attended by the applicant have been identified, including dates of attendance;
  - 2) Proof that the applicant is of good moral character. Proof shall be an indication on the application that the applicant has not engaged in any conduct or activities that would constitute grounds for discipline under Section 22 of the Act. Applications of individuals who answer affirmatively to any question on the personal history portion of the application or who have engaged in activities that would constitute grounds for discipline shall be forwarded to the Enforcement Division of the Division of Professional Regulation for further investigation and action by the Medical Licensing Board as provided in Section 9(B)(4) of the Act;
  - 3) An official transcript of a course of instruction in a college, university or other institution as required by Section 1285.20(a) of this Part;
  - 4) An official transcript and diploma or official transcript and certification of graduation from the medical education program granting the degree that shall be evidence that the applicant has met the minimum medical education requirements of the Act;
  - 5) Certification on forms provided by the Division, that the core clerkship rotations were completed in accordance with Section 1285.20 of this Part and proof of current ECFMG certification as set forth in Section 1285.20(k) for those applicants who are applying under Section 11(A)(2)(a)(i) of the Act;
  - 6) An original, notarized English translation for any document submitted to the Division in a foreign language;

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- 7) Certification of postgraduate clinical training in the United States or Canada;
  - 8) Certification from the jurisdiction of original and current licensure stating:
    - A) The date of issuance of the license; and
    - B) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;
  - 9) The fee required by Section 21 of the Act.
- b) If an applicant for licensure as a physician to practice medicine in all of its branches has a Profile from the Federation Credentials Verification Service of the Federation of State Medical Boards of the United States, Inc., the applicant will be required to submit the following:
- 1) A Profile that includes, but is not limited to, verification of medical education, ECFMG Certification (if applicable), clinical training and complete examination information. The information contained in the applicant's Profile shall be reviewed by the Division in order to determine if the applicant meets the requirements for licensure as set forth in the Act and this Part;
  - 2) A fully completed Illinois medical application, on forms provided by the Division, signed by the applicant, on which all questions have been answered;
  - 3) Proof that the applicant is of good moral character. Proof shall be an indication on the Illinois application that the applicant has not engaged in any conduct or activity that would constitute grounds for discipline under Section 22 of the Act. Applications of individuals who answer affirmatively to any question on the personal history portion of the application or who have engaged in activities that would constitute grounds for discipline shall be forwarded to the Enforcement Division of the Division of Professional Regulation for further investigation and action by the Medical Licensing Board as provided in Section 9(B)(4) of the Act;

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- 4) An official transcript of a course of instruction in a college, university or other institution as required by Section 1285.20(a) of this Part;
  - 5) Individuals applying under Section 11(A)(2)(a)(i) of the Act shall also submit certification, on forms provided by the Division, that the core clerkship rotations were completed in accordance with Section 1285.20 of this Part;
  - 6) A certification from the jurisdiction of original licensure and current licensure stating:
    - A) The date of issuance and status of the license; and
    - B) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;
  - 7) Fees as required by Section 21 of the Act.
- c) In addition to submitting the application required in subsections (a) and (b), each applicant for licensure to practice medicine in all of its branches pursuant to the provisions of Section 19 of the Act upon the basis of having passed a National Board of Medical Examiners Examination prior to January 1, 1964, or having passed a National Board of Examiners for Osteopathic Physicians and Surgeons Examination before June 1, 1973, or having passed the Licentiate of the Medical Council of Canada (LMCC) before May 1, 1970, or having passed the Federation Licensing Examination (FLEX) prior to June 1, 1968, or a State Constructed Examination, shall, subject as hereinafter provided, pass an examination conducted by the Division or its designated testing service to test the clinical competence of the applicant (clinical test). The Division upon recommendation of the Medical Licensing Board has determined that the examination conducted under this Section shall be Component 2 of the FLEX prior to December 31, 1993, USMLE Step 3 after January 1, 1994 or 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.
- 1) To be successful in the Component 2 examination of the FLEX, USMLE Step 3, SPEX or COMSPEX-USA, applicants must receive a minimum score of 75 or the passing score set by the authorized testing entity. In the case of failure on 3 attempts of the Component 2 examination, USMLE Step 3, SPEX or COMSPEX-USA, or any combination thereof, the

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application for licensure on the basis of endorsement shall be denied. The individuals may thereafter submit an application for licensure on the basis of examination and, if qualified, take the entire examination referenced in Section 1285.60(a)(1), (2) and (3) of this Part in accordance with the manner described in that Section.

- 2) The Medical Licensing Board may, in its discretion and in individual cases where the applicable conditions of Section 19 of the Act have been satisfied, make a recommendation to the Director of the Division (Director) for the waiver of the clinical examination requirement herein provided with respect to any such applicant for a license to practice medicine in all of its branches after full consideration of the quality of his/her 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 circumstance or attribute that the Medical Licensing Board accepts as evidence that the applicant has outstanding and proven ability in any branch of medicine.
- d) Each applicant currently licensed in another jurisdiction who applies to the Division for a license in Illinois as a chiropractic physician by endorsement must cause to be sent to the Division:
  - 1) A signed application on which all questions have been answered and all programs of chiropractic education attended by the applicant have been identified, including dates of attendance;
  - 2) An official transcript of the courses of instruction prerequisite to professional training in a college, university or other institution for those applying pursuant to Section 11(B)(2) of the Act;
  - 3) An official transcript and copy of diploma or official transcript and certification of graduation from the medical education program granting the degree; the transcript shall indicate that the applicant has met the minimum chiropractic education requirements of the Act;
  - 4) Proof that the applicant is of good moral character and has not engaged in any conduct or activities which would constitute grounds for discipline under Section 22 of the Act. Applications of individuals who answer

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affirmatively to any question on the personal history portion of the application or who have engaged in activities which would constitute grounds for discipline shall be forwarded to the Enforcement Division of the Division of Professional Regulation for further investigation and action by the Medical Licensing Board as provided in Section 9(B)(4) of the Act;

- 5) Successful completion of Part I, Part II and Part III of the examination administered by the National Board of Chiropractic Examiners.
    - A) The Medical Licensing Board may, in its discretion and in individual cases where the applicable conditions of Section 19 of the Act have not been satisfied, make a recommendation to the Director to require an applicant to successfully complete the Special Purposes Exam for Chiropractors (SPEC) or Part III of the examination administered by the National Board of Chiropractic Examiners;
    - B) The Medical Licensing Board may recommend a waiver of Part III of the examination or the SPEC requirement. In making the recommendation, the Licensing Board shall consider the quality of the chiropractic education and practical experience, including, but not limited to, whether he/she 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 chiropractic and any other circumstance or attribute which the Medical Licensing Board accepts as evidence that the applicant has outstanding and proven ability in chiropractic;
  - 6) Certification from the jurisdiction of original and current licensure stating:
    - A) The date of issuance of the license; and
    - B) Whether the records of the licensing authority contain any record of any disciplinary action taken or pending;
  - 7) The fee required by Section 21 of the Act.
- e) Pursuant to Section 9.7 of the Act, the Division shall check the criminal

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background of each endorsement applicant through the Federation of State Medical Boards or Chiropractic Information Network – Board Action Database (CIN-BAD). In addition, for each endorsement applicant, the Division shall request, via a CJIS Name Search Request from the Illinois State Police, any criminal history information available for the applicant. The Division may request and the applicant shall provide to the Division any and all personal identifiers required in order for the Illinois State Police to process the request. The Division may utilize the information received in any manner consistent with the provisions of the Illinois Medical Practice Act of 1987 this Part.

- f) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or training is questioned by the Division or the Medical Licensing Board because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide information as may be necessary; and/or
  - 2) Appear for an interview before the Licensing Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.
- g) Within 60 days after issuance of the license, the physician shall complete a physician profile in accordance with Section 1285.305.

(Source: Amended at 34 Ill. Reg. \_\_\_\_, effective \_\_\_\_\_)

SUBPART B: MEDICAL DISCIPLINARY PROCEEDINGS

**Section 1285.255 Rehabilitation**

- a) Upon written application to the Disciplinary Board for restoration of a license or certificate, or for any other relief, the Disciplinary Board shall consider, but is not limited to, the following in determining if the person is to be deemed sufficiently rehabilitated to warrant the public trust:
- 1) The seriousness of the offense that resulted in the disciplinary action being considered or being taken;
  - 2) The length of time that elapsed since the disciplinary action was taken;

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- 3) The profession, occupation and outside activities in which the applicant has been involved;
- 4) Any counseling, medical treatment, or other rehabilitative treatment received by the applicant;
- 5) Continuing medical education courses or other types of courses taken to correct the grounds for the disciplinary action being considered or having been taken;
- 6) The results of a clinical competency examination, designated by the Disciplinary Board, and paid for by the petitioner;
- 7) Written reports and oral testimony by peer review committees or other persons relating to the skill, knowledge, honesty, integrity and contriteness of the applicant;
- 8) Restitution to injured parties;
- 9) Future plans of the applicant;
- 10) Involvement of the applicant's family and friends in his or her rehabilitation process;
- 11) A written report of a physical or mental examination given by a physician selected by the Disciplinary Board and paid for by the person being examined;
- 12) Any other information evidencing rehabilitation that would bear upon the applicant's request for relief or restoration of a license;
- 13) Whether the order imposing sanctions was appealed and, if so, whether a reviewing court granted a stay or delay of imposition of the sanction;
- 14) The date and disposition of any other petition for restoration filed since the last sanction was imposed; and
- 15) Whether there has been compliance with any probationary terms imposed.

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- b) The findings of the Disciplinary Board relating to the person's rehabilitation or application for restoration of license or certificate or other relief shall be submitted in written form to the Division for action by the Director.
- c) Restrictions on Classification as Rehabilitated
  - 1) Except as provided in subsection (d), a person convicted of any of the following shall be deemed unable to warrant the public trust and, therefore, shall never be deemed by the Disciplinary Board to be sufficiently rehabilitated:
    - A) against a patient:
      - i) a violent crime;
      - ii) a crime that requires sex offender registration under the Sex Offender Registration Act [730 ILCS 150];
    - B) against any natural person:
      - i) a violent crime resulting in a felony conviction;
      - ii) a felony that requires sex offender registration under the Sex Offender Registration Act.
  - 2) For the purposes of this subsection (c), "violent crime" means any crime in which force or threat of force was used against the victim.
- d) When the basis for suspension or revocation of a license was a criminal conviction and that conviction has been vacated, overturned, or reversed, the licensee may petition the Disciplinary Board to vacate the suspension or revocation.

(Source: Amended at 34 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)