**Section 1130.130 Chaperone Orders**

a) Within 5 days after receiving notice from a prosecuting attorney that a licensed health care worker has been charged with any offense for which the sentence includes registration as a sex offender; a criminal battery against a patient, including any offense based on sexual conduct or sexual penetration, in the course of patient care or treatment; or a forcible felony, the Department shall forward a chaperone order to the licensed health care worker that requires the worker to immediately cease professional practice and not to resume practice with patient encounters until authorized to do so by the Department pursuant to an approved plan of compliance.

b) A licensed health care worker subject to a chaperone order pursuant to Section 2105-165(c) of the Code shall submit to the Department a written plan of compliance within 5 days after receipt of the chaperone order. The plan of compliance shall include, at a minimum, the following:

1) The number of proposed chaperones;

2) The names, mailing address, email address, telephone number and license number of each proposed chaperone;

3) The days, times, and locations where the licensed health care worker subject to a chaperone order will practice;

4) The scheduled days, hours and practice locations for each chaperone proposed to be utilized; and

5) The method to be used to document the presence of a chaperone during all patient encounters. The presence of a chaperone shall be shown by:

A) Maintaining a schedule of the dates, times and locations each chaperone works and having the designated chaperone initial or make a notation in each patient chart every time the patient is seen by the licensed health care worker subject to a chaperone order; or

B) Maintaining a chaperone log listing each patient seen by the licensed health care worker subject to a chaperone order and signed by both that health care worker and the approved chaperone after each patient encounter.

c) A proposed chaperone shall be a licensed health care worker in good standing and shall be subject to the approval of the Department.

d) The written plan of compliance shall be sent to the Department's Probation Compliance Unit at the address included in the chaperone order.

e) No licensed health care worker subject to a chaperone order shall have any patient encounters until the Department has approved his or her written plan of compliance. After approval of the written plan of compliance, the licensed health care worker subject to a chaperone order shall notify the Department in writing if the licensure status of any approved chaperone changes or if a chaperone can no longer serve for any reason. A chaperone approved by the Department shall automatically become ineligible to serve as a chaperone if his or her license is disciplined by the Department, expires or changes to a status that does not permit active practice. The licensed health care worker subject to a chaperone order shall provide, in writing to the Department, the name, mailing address, email address, telephone number and license number of any replacement or additional proposed chaperone, including the scheduled days, hours and practice location for any replacement or additional chaperone proposed to be utilized. No person may act as chaperone until approved by the Department. No licensed health care worker subject to a chaperone order and acting under an approved written plan of compliance shall have any patient encounters without the presence of an approved chaperone. Failure to comply with all requirements of the approved written plan of compliance shall be prima facie evidence of practice without a chaperone.

f) The chaperone shall provide written notice of the chaperone order, by using the form provided in Appendix A or by using his or her own form that is substantially similar to the form in Appendix A, to each of the licensed health care worker's patients at the time of the patient's first visit following the effective date of the chaperone order. A copy of the notice shall be signed by the patient and the chaperone and maintained in the patient's file. The chaperone shall also provide a copy of the signed notice to the patient.

g) A pharmacist subject to a chaperone order shall not be required to include in the written plan of compliance methods of documenting the presence of a chaperone as specified in subsection (b)(5) and notice to patients as specified in subsection (f). In place of these requirements, the pharmacist shall include in the written plan of compliance that the presence of a chaperone while the pharmacist is on duty at a pharmacy shall be shown by maintaining a written schedule of the dates, times and locations each chaperone works and having the designated chaperone verify by signature his or her presence for the dates, times and locations stated.

h) Any health care worker subject to a chaperone order may submit a request to the Director for a waiver of any of the requirements of subsections (b) and (f) to allow for the creation of an individually tailored written plan of compliance that achieves the objectives of the Code and this Part.

i) The Department may conduct random inspections and audits to determine compliance with the chaperone order and the written plan of compliance. A licensed health care worker subject to a chaperone order and any approved chaperones shall cooperate with any inspection or audit.

j) If the Secretary finds that evidence in his or her possession indicates that a licensed health care worker subject to a chaperone order has failed to comply with the chaperone order, failed to file a written plan of compliance, or failed to follow the terms of the written plan of compliance, he or she may temporarily suspend without hearing the license of the health care worker until completion of the criminal proceedings. In instances in which the Secretary temporarily suspends a license under this Section, a hearing upon that person's license must be commenced within 15 days after the suspension has occurred and shall be completed without appreciable delay. The Secretary shall appoint an Illinois licensed attorney to serve as hearing officer in those hearings. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendation to the Secretary. The burden of proof rests with the Department in hearings conducted under this Section, and a recommendation that the license shall remain temporarily suspended shall be made by the hearing officer when the Department establishes by clear and convincing evidence that the licensed health care worker subject to a chaperone order has failed to comply with the chaperone order, failed to file a written plan of compliance, or failed to follow the terms of the written plan of compliance. No temporary suspension shall be stayed during the pendency of any hearing.

k) Any information collected by the Department to investigate compliance with the requirements of this Section shall be maintained by the Department for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials or regulatory agencies or persons who have an appropriate regulatory interest, as determined by the Secretary. The Department shall have access to any records created by any person in compliance with the requirements of this Section or with a written plan of compliance. However, except for the purposes of the Department, these records shall be accorded the same confidentiality as required by the professional licensing Act governing the particular health care worker or as otherwise provided by law.

l) In the event that a licensed health care worker subject to a chaperone order or under a temporary suspension pursuant to this Part shall be subsequently charged with any additional offenses that would independently subject the licensed health care worker to the provisions of this Part, the existing chaperone order or temporary suspension order shall remain in effect until all pending charges are resolved by the Circuit Court.

(Source: Added at 37 Ill. Reg. 1192, effective February 1, 2013)