**Section 1285.265 Subpoena Process of Medical and Hospital Records**

a) Upon a showing by the Division that probable cause exists that a violation of one or more of the grounds for discipline listed in Section 22 of the Act has occurred or is occurring, the Disciplinary Board shall subpoena the medical and hospital records of individual patients of any physician licensed under the Act. Probable cause exists upon a showing that there is a reasonable basis for believing that a violation has occurred or is occurring.

1) A request for subpoena of individual medical and hospital records shall:

A) Be in writing;

B) Be signed by the Medical Coordinator or Deputy Medical Coordinator;

C) State one or more grounds for discipline alleged to be violated;

D) Identify with reasonable specificity the records requested; and

E) Include an affidavit of a person having knowledge of facts upon which the request is based.

2) A subpoena for individual medical and hospital records shall:

A) Be served within reasonable business hours;

B) Require an individual to safeguard the confidentiality of individual patients by removing any information that would identify individual patients by name and by encoding the records for use by authorized persons; and

C) Direct that an inventory of all records produced and a copy of encoding information be left with the caretaker of the records.

b) The Division or Disciplinary Board may, pursuant to Section 23 of the Act, subpoena copies of hospital and medical records in mandatory report cases filed with the Division pursuant to Section 22(A)(34), (35) and (36) and Section 23 of the Act when the patient or legal representative has failed to provide written consent to the Division to obtain copies of the hospital and medical records and the mandatory report alleges death or permanent bodily injury. Permanent bodily injury is defined as a bodily injury that causes serious disfigurement or protracted loss or impairment of the function of any bodily member or organ that, according to every reasonable probability, will continue throughout the remainder of one's life.

1) The request for subpoena shall:

A) Be in writing;

B) Be signed by the Medical Coordinator or Deputy Medical Coordinator;

C) State that the mandatory report alleges death or permanent bodily injury;

D) Identify with reasonable specificity the records requested; and

E) Include an affidavit that the patient or legal representative would not consent to release records.

2) The subpoena shall:

A) Be served within reasonable business hours;

B) Require an individual to safeguard the confidentiality of individual patients by removing any information that would identify individual patients by name and by encoding the records for use by authorized persons; and

C) Direct that an inventory of all records produced and a copy of encoding information be left with the caretaker of the records.

(Source: Amended at 29 Ill. Reg. 18823, effective November 4, 2005)