

## HEALTH CARE LICENSING ALERT

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### Prior Felony Convictions May No Longer Permanently Prevent Professional Licensure

By ***Christina Kuta***, Associate

A felony conviction can prohibit an individual from obtaining or maintaining a professional license to practice in the health care field. In an effort to minimize the impact of prior felony convictions on a person's ability to obtain professional licensure, the State of Illinois recently enacted a new law (Public Act 099-0886), which amends the Department of Professional Regulation Law (20 ILCS 2105/2105-1 et seq) (the DPR Law). The DPR Law expands the opportunities for individuals with prior felony convictions to practice a health care profession regulated by the Illinois Department of Financial Regulation (IDFPR), while still maintaining safeguards to ensure the safety of patients and health care consumers.

Prior to the DPR Law, the IDFPR would not issue a professional license to, or would permanently revoke the license of, individuals who were convicted of (i) a crime requiring registration as a sex offender; (ii) battery against a patient; or (iii) a forcible felony, defined as "treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnaping, kidnaping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, and any other felony which involves the use or threat of physical force or violence against any individual" (see 720 ILCS 5/2-8).

With enactment of the DPR Law, a forcible felony now will not be a permanent bar to obtaining a professional license, unless the conviction requires registration as a sex offender or relates to involuntary sexual servitude of a minor. For all other forcible felony convictions, an individual can petition the IDFPR for licensure beginning the later of (i) five years since the conviction; or (ii) three years since the individual was released from confinement related to the conviction.

Upon receiving the petition, the IDFPR will review the following factors to determine whether a license should be issued:

1. Seriousness of the offense;
2. Presence of multiple offenses;
3. Prior disciplinary history;
4. Impact of the offense on any injured party;
5. Vulnerability of any injured party;
6. Motive for the offense;
7. Contrition (or the lack of contrition) for the offense;
8. Cooperation (or lack of cooperation) with IDFPR or other investigative authorities;
9. Lack of prior disciplinary action;
10. Restitution to injured parties;
11. Whether the misconduct was self-reported;
12. Any voluntary remedial actions taken or other evidence of rehabilitation; and
13. Date of conviction.

For individuals with past felony convictions, the DPR Law provides an opportunity to practice a health care profession in Illinois. For businesses that employ health care workers in Illinois, the DPR Law means employers can no longer rely on the fact that if someone holds a license, they have no history of felony convictions.

If you would like to discuss how the DPR Law may impact your practice and your legal rights and obligations related to employing health care personnel, please contact any of the listed Roetzel attorneys.

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