

2003

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 27 Issue 41
October 10, 2003
Pages 15662-16081

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
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<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Calculation, Assessment and Collection of Periodic Fees
- 2) Code Citation: 38 Ill. Adm. Code 375
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u>
375.30	Amendment
375.34	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 48(3) of the Illinois Banking Act [205 ILCS 5/48(3)], Section 17 of the Foreign Banking Office Act [205 ILCS 645/17], and Section 5-10 of the Corporate Fiduciary Act [205 ILCS 620/5-10].
- 5) A complete Description of the Subjects and Issues Involved: The amendment increases call report fees paid by state banks and foreign banking offices by 27.5%. In addition, the annual fixed fee for state banks will increase from \$2,400 to \$3,060. The variable exam-day fee for corporate fiduciaries will increase from \$350 for each one-half day of examiner work to \$450 for each one-half day of examiner work.
- 6) Will these proposed amendments replace emergency amendments currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments to this Part? No
- 10) Statement of Statewide Policy Objectives: This rule will not affect local government.
- 11) Time, place and manner in which interested persons may comment on this proposed rulemaking:

Jeff Riley
Office of Banks and Real Estate
500 East Monroe Street
Springfield, IL 62701-1509
Telephone: (217) 782-6167
Fax: (217)558-4297

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: The rulemaking applies to banks, foreign banking offices and trust companies regulated by the Office of Banks and Real Estate.
 - B) Reporting, bookkeeping, or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: None, as this was emergency rulemaking.

The full text of the Proposed Amendments is identical to the full text of the Emergency Amendments that begins on page 16024 of this issue of the *Illinois Register*.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Savings and Loan Act of 1985
- 2) Code Citation: 38 Ill. Adm. Code 1000
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1000.130	Amend
1000.141	Amend
1000.142	Amend
- 4) Statutory Authority: Implementing and authorized by Section 7-3 of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3].
- 5) A complete description of the subjects and issues involved: The rulemaking amends and increases Savings and Loan Act examination and supervisory fees a total of 27%. Specifically, the hourly examiner fee increased approximately 27%, from \$55.00 to \$70.00. The supervisory fees are also increased by approximately 27%. The supervisory fee for each branch office is increased from \$450 to 600.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The increased fees are needed to implement the budget for the 2004 State Fiscal Year. OBRE has notified the trade associations of this change, posted the changes on the website, and will notify each savings association affected. The public will be notified through the OBRE website and the news media.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Jeff Riley
Legislative Liaison
Office of Banks and Real Estate
500 E. Monroe Street
Springfield IL 62701
217/782-6167

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

Telefax: 217/558-4297

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses that are Illinois state chartered savings associations will be affected by the license fee increase in this proposed rulemaking.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on a Regulatory Agenda, because: it arises out of legislation introduced and passed in the 2003 Spring Session of the General Assembly

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments which begins on page 16029 of the *Illinois Register*.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Savings Bank Act
- 2) Code Citation: 38 Ill. Adm. Code 1075
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1075.120	Amend
1075.130	Amend
1075.140	Amend
- 4) Statutory Authority: Implementing and authorized by Section 9002 of the Savings Bank Act [205 ILCS 205/9002].
- 5) A complete description of the subjects and issues involved: The rulemaking amends and increases Savings Bank Act examination and supervisory fees a total of 27%. Specifically, the hourly examiner fee increased approximately 27%, from \$55.00 to \$70.00. The supervisory fees are also increasing by approximately 27%. The supervisory fee for each branch office increases from \$450 to \$600.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objective: The increased fees are needed to implement the budget for the 2004 State Fiscal Year. OBRE has notified the trade associations of this change, posted the changes on the website, and will notify each will notify each savings bank affected. The public will be notified through the OBRE website and the news media.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Jeff Riley
Legislative Liaison
Office of Banks and Real Estate
500 E. Monroe Street
Springfield IL 62701

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

217/782-6167

Telefax: 217/558-4297

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small businesses that are Illinois state chartered savings banks will be affected by the license fee increase in this proposed rulemaking.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on a Regulatory Agenda, because it arises out of legislation introduced and passed in the 2003 Spring Session of the General Assembly

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments that begin on page 16043 of this *Illinois Register*.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Real Estate License Act of 2000
- 2) Code Citation: 68 Ill. Adm. Code 1450
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1450.95	Amend
1450.276	Amend
- 4) Statutory Authority: Implementing and authorized by the Real Estate License Act of 2000 [225 ILCS 454].
- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking amends and increases Real Estate License fees. This rulemaking increases, by \$25, the annual renewal and initial application fees for real estate brokers, offices, salespersons, leasing agents, schools, instructors, and course. The rulemaking also clarifies the rule establishing pre-license course final examination requirements.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objective: The increased licensing fees are needed for the the State Fiscal Year 2004 Budget and needs to be accomplished to prevent delays in processing license renewals and initial applications. OBRE will notify the trade associations of this change, post the changes on the website, and will notify each individual licensee through a renewal notice. The public will be notified through OBRE website and the news media.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Jeff Riley
Legislative Liason
Office of Banks and Real Estate
500 E. Monroe Street
Springfield IL 62701

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Small business that are licensed under the Real Estate License Act of 2000 will be affected by the increased license fees in this proposed rulemaking.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: It arises out of legislation introduced and passed in the 2003 Spring Session of the General Assembly.

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

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1450
REAL ESTATE LICENSE ACT OF 2000

SUBPART A: DEFINITIONS

Section
1450.10 Definitions

SUBPART B: LEASING AGENT RULES

Section

1450.15 Leasing Agent General Provisions
1450.20 Leasing Agent Examination Requirement
1450.25 Sponsor Card for Leasing Agents
1450.30 Issuance of Leasing Agent License
1450.35 Termination of Employment of Leasing Agent
1450.40 120 Day Leasing Agent Permit
1450.50 Continuing Education Requirement for Leasing Agents
1450.55 Approved Courses, Schools and Instructors for Leasing Agents

SUBPART C: LICENSING AND EDUCATION

Section

1450.60 Educational Requirements to Obtain a Broker's or Salesperson's License
1450.65 Salesperson and Broker Examinations
1450.70 Applications for Salesperson's and Broker's Licenses by Examination
1450.75 Sponsor Cards for Brokers and Salespersons
1450.80 Branch Offices
1450.85 Corporations, Limited Liability Companies, Partnerships, and Limited Partnerships
1450.90 Assumed Name
1450.95 Fees
1450.100 Nonresident Licensure by Reciprocity
1450.105 Renewals
1450.110 Change of Information
1450.115 Continuing Education

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

1450.120 Rental Finding Services

SUBPART D: COMPENSATION AND BUSINESS PRACTICES

Section

1450.125 Managing Broker Responsibilities
1450.130 Supervision
1450.135 Discrimination
1450.140 Advertising
1450.145 Internet Advertising
1450.150 Office Identification Signs
1450.155 Display of Licenses
1450.160 Employment Agreements
1450.165 Unlicensed Assistants
1450.170 Corporation for Indirect Payment
1450.175 Special Accounts
1450.180 Record Keeping
1450.185 Disclosure of Compensation
1450.190 Disclosure of Licensee Status
1450.195 Brokerage Agreements and Listing Agreements
1450.200 Written Agreements
1450.205 Referral Fees and Affinity Relationships

SUBPART E: AGENCY RELATIONSHIPS

Section

1450.207 Confidentiality
1450.210 Failure to Disclose Information Not Affecting Physical Condition
1450.215 Licensee Serving as a Dual Agent in a Transaction Where a Licensee is a Party to the Transaction

SUBPART F: DISCIPLINE RULES AND PROCEDURES

Section

1450.220 Unprofessional Conduct
1450.225 Suspension or Denial for Failure to Pay Taxes, Child Support or Any Illinois-Guaranteed Student Loan
1450.230 Temporary Suspension
1450.235 Otherwise Discipline
1450.240 Dissolution: Effect of Suspension or Revocation of Sponsoring Brokers or

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	Managing Brokers
1450.245	Inspections and Audits
1450.246	Audits of Special Funds by Outside Auditors
1450.250	Case File Review Committee
1450.255	Hearings
1450.260	Real Estate Recovery Fund
1450.265	Automatic Termination Upon Order to Payout from the Real Estate Recovery Fund
1450.266	Advisory Letters

SUBPART G: PRE-LICENSE AND CONTINUING EDUCATION RULES

Section

1450.270	Definition of Schools and School Branch (Repealed)
1450.275	Pre-License Schools
1450.276	Curriculum for Pre-License Schools
1450.277	Expiration Date and Renewal Period for Pre-License Schools
1450.278	Pre-License Instructors
1450.280	Expiration Date and Renewal Period for Pre-License Instructors
1450.285	Continuing Education Schools
1450.286	Curriculum for Continuing Education Schools and Course Registration Process
1450.287	Expiration Date and Renewal Period for Continuing Education Schools
1450.288	Continuing Education Instructors
1450.290	Expiration Date and Renewal Period for Continuing Education Instructors
1450.295	Distance Education Courses
1450.300	Class Attendance Requirements (Repealed)
1450.305	Recruitment at Test Center
1450.310	Withdrawal of Approval of Schools (Repealed)
1450.315	Discipline of Schools or Instructors

SUBPART H: GRANTING VARIANCES

Section

1450.320	Granting Variances
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SUBPART J: TRANSITION RULES

Section

1450.325	Salesperson Applicants – Transition Provisions
1450.330	Broker Applicants – Transition Provisions

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PROPOSED AMENDMENTS

- 1450.335 Continuing Education – Transition Provisions
 1450.340 Education License Renewals – Transition Provisions

AUTHORITY: Implementing the Real Estate License Act of 2000 [225 ILCS 454] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (General Rules), effective December 4, 1974; Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (School Rules), effective July 29, 1974; amended at 3 Ill. Reg. 885, effective February 2, 1979; amended at 4 Ill. Reg. 195, effective August 12, 1980; amended at 5 Ill. Reg. 5343, effective May 6, 1981; amended at 5 Ill. Reg. 8541, effective August 10, 1981; codified at 5 Ill. Reg. 11064; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2406, effective February 3, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8221, effective July 1, 1982; amended at 9 Ill. Reg. 341, effective January 3, 1985; transferred from Chapter I, 68 Ill. Adm. Code 450 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1450 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2977; amended at 12 Ill. Reg. 8036, effective April 26, 1988; amended at 15 Ill. Reg. 10416, effective July 1, 1991; amended at 16 Ill. Reg. 3204, effective February 14, 1992; emergency amendment at 19 Ill. Reg. 12003, effective August 8, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16623, effective December 1, 1995; amended at 20 Ill. Reg. 6492, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 3602, effective March 7, 1997; amended at 21 Ill. Reg. 8350, effective June 30, 1997; old Part repealed and new Part adopted by emergency rulemaking at 24 Ill. Reg. 704, effective January 1, 2000, for a maximum of 150 days; old Part repealed and new Part adopted at 24 Ill. Reg. 8263, effective May 30, 2000; amended at 27 Ill. Reg. 12018, effective July 9, 2003; amended at 28 Ill. Reg. _____, effective _____.

SUBPART C: LICENSING AND EDUCATION

Section 1450.95 Fees

- a) License of a Leasing Agent.
 - 1) The application fee for an initial leasing agent license shall be ~~\$75~~\$50.
 - 2) The application fee to renew a leasing agent license shall be ~~\$25~~\$50 per

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year.

3) The late renewal fee for leasing agent licenses renewed after the expiration date of the license shall be \$50.

4) The fee for issuing a 120 day leasing agent permit shall be \$25.

b) License of Real Estate Salesperson.

1) The fee for an initial license as a salesperson is ~~\$125-\$100~~. The fee must accompany the application to determine the applicant's fitness to receive a license.

2) The fee for renewal of a salesperson's license which has not expired shall be calculated at the rate of ~~\$50 \$25~~ per year.

3) The fee for the renewal of a salesperson's license which has been expired for not more than 2 years, as provided for in Section 5-55 of the Act, is the sum of all lapsed renewal fees plus \$50.

c) License of Broker.

1) The fee for an initial license as a broker is ~~\$125-\$100~~. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a broker's license which has not expired shall be calculated at the rate of ~~\$75 \$50~~ per year.

3) The fee for the renewal of a broker's license which has been expired for not more than 2 years, as provided for in Section 5-55 of the Act, is the sum of all lapsed renewal fees plus \$50.

d) License of Partnership, Limited Liability Company, or Corporation.

1) The fee for an initial license for a partnership, limited liability company, or corporation is ~~\$125-\$100~~. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a license for a partnership, limited liability

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company, or corporation shall be calculated at the rate of ~~\$75~~ ~~\$50~~ per year.

- 3) The fee for the renewal of a license for a partnership, limited liability company or corporation which has been expired is the sum of all lapsed renewal fees plus \$50.

e) License for Branch Office.

- 1) The fee for an initial license for a branch office is ~~\$125~~ ~~\$100~~. The fee must accompany the application to determine an applicant's fitness to receive a license.
- 2) The fee for the renewal of a branch office license shall be calculated at the rate of ~~\$75~~ ~~\$50~~ per year.
- 3) The fee for the renewal of a branch office license which has been expired is the sum of all lapsed renewal fees plus \$50.

f) Pre-License School, Instructor, and Course Fees.

- 1) The fee for an application for initial approval of a pre-license school is ~~\$1,025~~ ~~\$1,000~~. The fee must accompany the application to determine an applicant's fitness to receive a license.
- 2) The fee for renewal of approval of a pre-license school shall be calculated at the rate of ~~\$525~~ ~~\$500~~ per year.
- 3) The fee for the renewal of approval of a pre-license school which has been expired is the sum of all lapsed renewal fees plus \$50.
- 4) The fee for an application for initial approval of a branch for a pre-license school is ~~\$175~~ ~~\$150~~ per branch. The fee must accompany the application to determine an applicant's fitness to receive approval.
- 5) The fee for renewal of approval of a branch for a pre-license school shall be calculated at the rate of ~~\$125~~ ~~\$100~~ per branch per year.
- 6) The fee for the renewal of approval of a branch for a pre-license school which has been expired is the sum of all lapsed renewal fees plus \$50.

OFFICE OF BANKS AND REAL ESTATE

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- 7) The fee for transferring a branch location shall be \$25 per transfer.
 - 8) The fee for application for initial approval of a pre-license instructor is ~~\$100~~ \$125. The fee must accompany the application to determine the applicant's fitness for approval.
 - 9) The fee for renewal of approval of a pre-license instructor shall be calculated at the rate of ~~\$100~~ \$125 per year.
 - 10) The fee for the renewal of approval of a pre-license instructor which has been expired is the sum of all lapsed renewal fees plus \$50.
 - 11) The fee for application for initial approval of a pre-license course is ~~\$100~~ \$125. The fee must accompany the application for approval.
 - 12) The fee for renewal of approval of a pre-license course shall be calculated at the rate of ~~\$25~~ \$50 per year.
 - 13) The fee for the renewal of approval of a pre-license course which has been expired is the sum of all lapsed renewal fees plus \$50.
- g) Continuing Education School, Instructor, and Course Fees.
- 1) The fee for an application for initial approval as a continuing education (CE) school shall be ~~\$2,000~~ \$2,025. The fee must accompany the application to determine an applicant's fitness for approval.
 - 2) The fee for renewal of approval as a CE school shall be ~~\$2,000~~ \$2,025 per year.
 - 3) The fee for renewal of approval as a CE school which has expired shall be all lapsed renewal fees plus \$50.
 - 4) The fee for an application for initial approval as a CE instructor shall be ~~\$50~~ \$75. The fee must accompany the application to determine an applicant's fitness to receive approval.
 - 5) The fee for renewal of approval as a CE instructor shall be ~~\$50~~ \$75 per year.

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- 6) The fee for the renewal of approval as a CE instructor which has been expired shall be all lapsed renewal fees plus \$50.
 - 7) The fee for an application for initial approval of a CE course shall be ~~\$100~~ \$125. The fee must accompany the application for approval.
 - 8) The fee for renewal of approval of a CE course shall be ~~\$50~~ \$25 per year.
 - 9) The fee for renewal of approval of a CE course which has expired shall be all lapsed renewal fees plus \$50.
- h) General.
- 1) All fees paid pursuant to the Act and this Section are non-refundable.
 - 2) The fee for the issuance of a duplicate license or pocket card, for the issuance of a replacement license or pocket card for a license or pocket card which has been lost or destroyed, for the issuance of a license with a change of name or address other than during the renewal period, or for the issuance of a license with a change of location of business, is \$25.
 - 3) The fee for a certification of a licensee's record for any purpose is \$25.
 - 4) The fee for a wall license showing registration shall be the cost of producing the license.
 - 5) The fee for a roster of persons licensed under the Act or for a list of licensees sponsored by the sponsoring broker shall be the cost of producing the roster.
 - 6) Applicants for an examination as a leasing agent, broker, salesperson, or instructor shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.

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- 7) The fee for requesting a waiver of continuing education requirements pursuant to Section 5-70 of the Act shall be \$25.
- 8) The fee for processing a sponsor card other than at the time of original licensure is \$25.
- 9) The fee for a copy of a transcript of the proceedings under Section 20-60(h) of the Act shall be the cost of a copy of the transcript. A copy of the balance of the record will be provided at OBRE's cost for producing the record.
- 10) The fee for certifying the record referred to in Section 20-75 of the Act is \$1 per page of the record.
- 11) OBRE may charge an administrative fee not to exceed \$500, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1450.250(d)(2).
- 12) Each university, college, community college or school supported by public funds shall be exempt from the school licensure fees provided each university, college, community college or school meets the following criteria:
 - A) the facility is supported by public funds;
 - B) the instructors are considered full-time faculty and are supported by public funds or if the administrator of the real estate school/program/curricula is considered full-time with exclusive responsibility for the administration of the real estate school/program/curricula and is supported by public funds;
 - C) the program, pre-license and/or continuing education, revenues are deposited into the general fund of the university, college, community college or school as are other appropriated public funds; and
 - D) the program, pre-license and/or continuing education, is not a for-profit division of the university, college, community college or school.

OFFICE OF BANKS AND REAL ESTATE

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(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART G: PRE-LICENSE AND CONTINUING EDUCATION RULES

Section 1450.276 Curriculum for Pre-License Schools

- a) Pre-license schools shall offer, at a minimum, the courses provided for in this Section.
- b) The application for licensure as a pre-license school shall include a list of courses to be offered, an outline and course description for each course along with an examination and answer key. Each outline shall make reference to the textbook used and other material related to the course or subject matter, and shall conform to the approved curriculum outlines prepared by OBRE.
- c) Pre-license schools must provide the following courses:
 - 1) Real Estate Transactions shall include a minimum of 45 class hours. The course shall include instruction in real estate law, types of interest and ownership in real estate, home ownership, legal descriptions, titles, liens, taxes, encumbrances, listing, advertising, appraisal, finance, closings, and professional code of ethics. This course shall be mandatory for all salesperson candidates. ~~will be required for those wishing to obtain a salesperson's license.~~
 - 2) Brokerage Administration shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in Illinois real estate law and licensure, listings, title search, forms for closing, contract forms, and the broker-salesperson relationship.
 - 3) Contracts and Conveyances shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in deeds, fixtures, contracts, real estate closings, foreclosure and redemption, land use controls, landlord/tenant relationship, cooperatives and condominiums.
 - 4) Advanced Principles 2000 shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates and shall include agency, disclosure, environmental issues, escrow, license law and other topics approved by the EAC and OBRE.

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- d) Pre-license schools shall provide two or more of the following courses:
- 1) Appraisal shall consist of a minimum of 15 class hours. The course shall include instruction in the appraisal process, real property and value, economic trends, depreciation and land value.
 - 2) Property Management shall consist of a minimum of 15 class hours. The course shall include, but not be limited to, instruction in fundamentals of tenant-management relationship, property modernization, property maintenance, leases, real property insurance, commercial property, industrial property and advertising.
 - 3) Financing shall consist of a minimum of 15 class hours. The course shall include instruction in types of financing, sources of financing, mortgages, mortgage documents, closing a mortgage, interest, liens, foreclosure, real property insurance, mortgage risk, principles of property value for mortgage credit, mortgage analysis and construction loans.
 - 4) Sales and Brokerage shall consist of a minimum of 15 class hours. The course shall include instruction in qualifications and functions of a real estate broker; land utilization; appraisal principles and methods; office organization; selection, training and supervision of salespersons and office personnel; compensation of salesperson listings; prospects; real estate markets; financial control; and government regulations.
 - 5) Farm Property Management shall include a minimum of 15 class hours. The course shall include instruction in inventorying assets, determining method of operation, tenants, budgeting, crop and livestock production, marketing, tax planning and depreciation, government programs and regulations, insurance and ethics.
 - 6) Real Property Insurance shall include a minimum of 15 class hours. The course shall include instruction in risk, functions of insurance, insurance contracts, types and purposes of insurance.
 - 7) Other courses as approved from time to time by OBRE. If additional elective courses are developed, they shall be approved by OBRE prior to implementation. The courses shall be approved upon determination that

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the course is at least 15 clock hours (one clock hour equals 50 minutes) in length and constitutes real estate related material.

- e) Examinations. Each course shall end in a mandatory proctored final examination consisting of at least 50 questions for each 15 classroom hours for which the minimum passing score shall be no less than 75%.
- f) Attendance at all classes is mandatory; however, credit for absences not to exceed 10% of the class hours may be made up by attendance at make-up classes as provided in subsection (g). Missing any class hours after having the opportunity to make up class hours as provided in subsection (g) shall result in failure of the course.
- g) Each school shall provide time and facilities for conducting make-up classes for students who were absent from the regularly scheduled class period.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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- 1) Heading of Part: Managed Care Dental Plans
- 2) Code Citation: 50 Ill. Adm. Code 5425
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
5425.50	Amendment
5425.60	Amendment
5425.70	Amendment
5425.80	Amendment
- 4) Statutory Authority: Implementing and authorized by the Dental Care Patient Protection Act [215 ILCS 109] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- 5) A Complete Description of the Subjects and Issues Involved: The Department has initiated these amendments in order to clarify that managed care dental plan policy form filings are to be filed in compliance with 50 Ill. Adm. Code 916. In addition, the Department is taking this opportunity to remove any ambiguity from the rule concerning the requirements to file when there has been a material modification.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this amendment contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Denise Hamilton
Rules Unit Supervisor
Department of Insurance
320 West Washington

Eve Blackwell-Lewis
Staff Attorney
Department of Insurance
or 320 West Washington

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Springfield, Illinois 62767-0001
(217) 785-8650

Springfield, Illinois 62767-0001
(217) 782-0708

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will not affect small businesses, small municipalities or not for profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: Policy form filings must be made in compliance with 50 Ill. Adm. Code 916.
 - C) Types of professional skills necessary for compliance: Administrative or clerical.
- 13) Regulatory Agenda on which this amendment was summarized: July 2003

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER kkk: HEALTH CARE SERVICE PLANS

PART 5425
MANAGED CARE DENTAL PLANS

Section	
5425.10	Purpose
5425.10	Applicability
5425.30	Definitions
5425.40	Dental Managed Care Advisory Committee
5425.50	Filing and Approval of Summary Description
5425.60	Filing and Approval of Grievance Procedure
5425.70	Filing <u>and Approval</u> of Point of Service Plan Requirements
5425.80	Material Modification to Summary Description, Grievance Procedure or Point of Service Plan
5425.90	Enforcement and Penalties

AUTHORITY: Implementing and authorized by the Dental Care Patient Protection Act [215 ILCS 109] and further authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 25 Ill. Reg. 11869, effective August 31, 2001; amended at 27 Ill. Reg. _____, effective _____.

Section 5425.50 Filing and Approval of Summary Description

Pursuant to Section 143 of the Code aA managed care dental plan shall file a summary description of coverage for approval by the Department, prior to its use, for each plan it establishes, operates, or maintains. The summary description shall contain all terms of coverage required by Section 25 of the Dental Care Patient Protection Act [215 ILCS 109/25]. The initial summary description shall be filed with the annual financial statement by March 1, 2002, pursuant to Section 2-7 of the Health Maintenance Act [215 ILCS 125/2-7], Section 2007 of the Limited Health Service Organization Act [215 ILCS 130/2007], Section 21 of the Voluntary Health Services Act [215 ILCS 165/21], Section 36 of the Dental Service Plan Act [215 ILCS 110/36] and Section 136 of the Code [215 ILCS 5/136]. In addition, each managed care dental plan is required to file a list of all participating dentists for informational purposes in accordance with the filing requirements of 50 Ill. Adm. Code 916~~each year with its annual financial statement~~. Subsequent filings of the summary description will only be required pursuant to

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Section 5425.80 of this Part, if material modifications occur and are to be submitted to the Life, Accident and Health Compliance Unit of the Department in accordance with the filing requirements of 50 Ill. Adm. Code 916.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 5425.60 Filing and Approval of Grievance Procedure

Every managed care dental plan shall submit for the Director's approval, and thereafter maintain, a system for the resolution of grievances pursuant to Section 35(n) of the Act [215 ILCS 109/35(n)]. The initial grievance procedure shall be filed with the annual financial statement by March 1, 2002. Subsequent filings of the grievance procedure will only be required, pursuant to Section 5425.80 of this Part, if material modifications occur and are to be submitted to the Life, Accident and Health Compliance Unit of the Department in accordance with the filing requirements of 50 Ill. Adm. Code 916.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 5425.70 Filing and Approval of Point of Service Plan Requirements

Every managed care dental plan that is required to offer a point of service plan pursuant to the Act, except those plans that are licensed pursuant to Section 1001 of the Limited Health Service Organization Act [215 ILCS 130/1001] shall be required to file a description of its point of service plan for approval to the Life, Accident and Health Compliance Unit of the Department in accordance with the filing requirements of 50 Ill. Adm. Code 916~~with the Department.~~

- a) The filing shall be comprised of:
- 1) A managed care dental plan filing and an indemnity filing. Such filing shall be coordinated by the managed care dental plan. The filing must contain reasonable financial incentives for the point of service member to utilize dental services provided or arranged by the designated managed care dental plan primary care provider and shall include:
 - A) Copies of all policy forms necessary to implement the point of service plan, including the member handbook used to integrate the services provided by the managed care dental plan and the benefits provided by the indemnity carrier; and
 - B) Enrollment application and member identification card disclosing

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- the name of both the managed care dental plan and the indemnity carrier; and
- C) Solicitation material; and
 - D) Copies of all administrative service contracts between the managed care dental plan and indemnity carrier detailing their respective responsibilities and obligations in offering a point of service plan; and
 - E) The managed care dental plan shall include in its rate filing the rate level justification and a demonstration of how the out-of-network indemnity benefits to be provided by the indemnity carrier will impact on the managed care dental plan's rates and underlying utilization assumptions. Such documentation shall be deemed confidential by the Department unless specific authorization for disclosure is given by the managed care dental plan; and
 - F) Written descriptions and illustrative flow charts of how the premium is received and distributed in a timely fashion and how claims will be handled for payment; and
 - G) A comparison of benefits offered by the managed care dental plan and the indemnity carrier.
- 2) Out-of-network claims shall be filed with the managed care dental plan. The managed care dental plan is responsible for coordinating payment of all claims.
 - 3) Covered services rendered by a participating provider without proper authorization shall be covered at the out-of-network benefit level.
 - 4) For purposes of coordination of benefits, the two policies comprising the point of service plan shall be considered one policy.
 - 5) For purposes of conversion and State continuation, when by statute the managed care dental plan must provide these provisions, they shall provide each enrollee who has a point of service plan the right to convert to either a managed care dental plan option or indemnity option. The managed care dental plan may, but is not required to, offer the enrollee the

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right to continue under a point of service plan option. Once the enrollee has chosen an option, the other plan's options will no longer be available. Should the enrollee choose to continue or convert coverage under a point of service plan, the plan shall meet applicable standards for Illinois conversion or continuation requirements. In the event of any inconsistency between these standards, then the most favorable to the enrollee shall apply.

- b) ~~The initial point of service plan shall be filed with the annual financial statement by March 1, 2002.~~ Subsequent filings of the point of service plan procedure will only be required, pursuant to Section 5425.80 of this Part, if material modifications occur and are to be submitted to the Life, Accident and Health Compliance Unit of the Department in accordance with the filing requirements of 50 Ill. Adm. Code 916.
- c) A managed care dental plan licensed pursuant to Section 1001 of the Limited Health Service Organization Act [215 ILCS 130/1001] shall be subject to the point of service requirements contained in Section 3009 of the Limited Health Service Organization Act [215 ILCS 130/3009].

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 5425.80 Material Modifications to Summary Description, Grievance Procedure or Point of Service Plan

A managed care dental plan shall file for approval with the Director, prior to use, any change in the summary description, grievance procedure, or point of service plan ~~originally submitted pursuant to Sections 5425.50, 5425.60 or 5425.70 of this Part, respectively.~~ In addition, each managed care dental plan shall keep current the list of participating dentists required to be filed pursuant to Section 5425.50 of this Part. Any changes or additions to the list shall be filed with the Department for informational purposes within 30 days after such change.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Child Support Enforcement
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
160.5	Amendment
160.60	Amendment
160.61	Amendment
160.71	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendments provide several changes concerning the Department's child support enforcement rules.

A definition of "child" is added by referencing the definition found at Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]. The term "child" means any child under the age of 18 years and any child under the age of 19 years who is still attending high school. The definition of "child" is significant because an order of child support includes a date on which the support obligation terminates. The termination date shall be no earlier than the date on which the child will attain the age of 18 years, or if the child is still attending high school, the termination date shall be no earlier than the child's 19th birthday or high school graduation, whichever date is first.

Proposed provisions are being added to provide a basis for the determination of a support amount when a default support order is necessary. The Department's new standard for determining the costs of raising a child will be calculated by averaging the estimated annual expenditures as reported in a specified publication of the USDA Expenditures on Children and Families Annual Report. The new provisions provide a calculation methodology.

Proposed changes provide that a written statement identifying the place, date and method of delivery, signed by a Department representative, shall be sufficient proof that notice of an administrative support order was served to a client or responsible relative. Also, new text is being added at Section 160.60(f), which mirrors existing text at Section 160.61(e), that describes requirements concerning petitions for release from an administrative support order.

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Other proposed changes allow a one time credit under circumstances in which the responsible relative has made payment directly to the Title IV-D client, and the court or administrative order for support requires child support payments to be made to the Department, the State Disbursement Unit or the Clerk of the Circuit Court.

- 6) Will these amendments replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
160.60	Amendment	July 25, 2003 (27 Ill. Reg. 12016)

- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.
- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217) 524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These

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entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) 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: None

13) Regulatory agenda on which this rulemaking was summarized: July 2003

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

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER f: COLLECTIONS

PART 160
CHILD SUPPORT ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section

- 160.1 Incorporation by Reference
- 160.5 Definitions
- 160.10 Child Support Enforcement Program
- 160.12 Administrative Accountability Process
- 160.15 Application Fee for IV-D Non-TANF Cases
- 160.20 Assignment of Rights to Support
- 160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

- 160.30 Cooperation With Support Enforcement Program
- 160.35 Good Cause for Failure to Cooperate with Support Enforcement
- 160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
- 160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF
CHILD SUPPORT ORDERS

Section

- 160.60 Establishment of Support Obligations
- 160.61 Uncontested and Contested Administrative Paternity and Support Establishment
- 160.62 Cooperation with Paternity Establishment and Continued Eligibility
Demonstration Program (Repealed)
- 160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section

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- 160.70 Enforcement of Support Orders
- 160.71 Credit for Payments Made Directly to the Title IV-D Client
- 160.75 Withholding of Income to Secure Payment of Support
- 160.77 Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies
- 160.80 Amnesty – 20% Charge (Repealed)
- 160.85 Diligent Efforts to Serve Process
- 160.88 State Case Registry

SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

- Section
- 160.90 Earmarking Child Support Payments

SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

- Section
- 160.95 State Disbursement Unit
- 160.100 Distribution of Child Support for TANF Recipients
- 160.110 Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Enforcement Services
- 160.120 Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
- 160.130 Distribution of Intercepted Federal Income Tax Refunds
- 160.132 Distribution of Child Support for Non-TANF Clients
- 160.134 Distribution of Child Support For Interstate Cases
- 160.136 Distribution of Support Collected in IV-E Foster Care Maintenance Cases
- 160.138 Distribution of Child Support for Medical Assistance No Grant Cases

SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

- Section
- 160.140 Statement of Child Support Account Activity

SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

- Section
- 160.150 Department Review of Distribution of Child Support for TANF Recipients
- 160.160 Department Review of Distribution of Child Support for Former AFDC or TANF

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Recipients

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998; emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380, effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days;

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amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 160.5 Definitions

"Assignment of Medical Support" refers to the transfer of support rights to the Department by the acceptance of Medicaid benefits under 42 USC 1396k and Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1].

"Assignment of support" refers to the transfer of support rights to the Department by the acceptance of TANF benefits, pursuant to 42 USC 608(a)(3) and Section 10-1 of the Illinois Public Aid Code [305 ILCS 5/10-1] or the Department of Children and Family Services ("DCFS"), in the case of IV-E foster care, pursuant to 42 USC 671(a)(17) and Section 9.1 of the Children and Family Services Act [20 ILCS 505/9.1].

"Assistance Standard" shall have the meaning ascribed to it in 89 Ill. Adm. Code 111.

"Cancellation" refers to the discontinuance of TANF financial and medical benefits for an assistance unit because of the failure to satisfy the conditions of eligibility under the Title IV-A State Plan.

"Child" shall have the meaning set forth in Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].

"Child support enforcement services" refers to those services provided to establish, enforce and collect support, in accordance with an approved State Plan under Title IV-D of the Social Security Act (42 USC 654).

"Date of Collection" for distribution purposes in all cases refers to the date on which (a) a payor of income withholds an amount from a responsible relative's wages or other income to meet a support obligation when there is a served income withholding notice, (b) the Department of Employment Security withholds an amount from a responsible relative's unemployment insurance benefits ("UIB") to

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meet a support obligation when there is withholding of UIB, (c) a collection as a result of intercept of a federal income tax refund is received by the Department, or (d) in all other instances, a support payment is received by the State Disbursement Unit.

"IV-D account receivable" or "support account" refers to a part of the accounting system in KIDS used to record charges, payments, and account adjustments for a particular account. More than one account may exist for a given caretaker relative and for a given responsible relative. For example, a mother with two children by one father from one marriage, and three children by a second father from another marriage, will have two support accounts if there are two separate support obligations. If children are born in a non-marital relationship, there will be one account per child.

"IV-D program" or "IV-D" refers to the child support program set forth in 42 USC 651 et seq. and this Part.

"IV-E foster care" or "IV-E" refers to the foster care program set forth in 42 USC 670 et seq.

"Initial receipt in the State" for disbursement purposes in all cases refers to the date on which the Department of Employment Security withholds an amount from a responsible relative's unemployment insurance benefits ("UIB") to meet a support obligation, when there is a withholding of UIB, a collection as a result of intercept of a federal income tax refund is received by the Department, or in all other instances, a support payment is received by the State Disbursement Unit.

"Key Information Delivery System" or "KIDS" refers to the data processing system used to process all IV-D cases in Illinois.

"MANG" refers to Medical Assistance No Grant under the Medicaid Program, Title XIX of the Social Security Act (42 USC 1396k), that is medical assistance to families and individuals wherein no cash payment is made.

"Responsible relative" refers to a person who is responsible, or alleged to be responsible, under law for support of a dependent.

"Support case" refers to a case established in the KIDS for the purpose of providing establishment, enforcement and collection services to dependent

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children and their custodial parent, in accordance with the provisions of Title IV-D of the Social Security Act (42 USC 654).

"Support obligation" refers to the duty a non-custodial relative owes to his or her dependents, as set forth in a legally-valid court or administrative order.

"TANF" refers to Temporary Assistance for Needy Families, Title IV-A of the Social Security Act (42 USC 601 et seq.) that is financial and medical assistance available to families with one or more children or on behalf of children in foster care under the guardianship of the Department of Children and Family Services.

"TANF MANG" refers to Medical Assistance No Grant cases in which medical assistance only is available to families with one or more children.

"TANF MANG recipient" refers to a member of a family with one or more children receiving medical assistance only in the current month.

"TANF recipient" refers to a person who is receiving financial and medical assistance under the TANF program in the current month.

"Two business days", for purposes of disbursement of support payments under Subpart F of this Part, shall have the meaning and be qualified in the same manner as in Section 454B of the Social Security Act (42 USC 654b).

"Unreimbursed former AFDC or TANF" refers to the total amount of financial assistance provided to a family unit, in accordance with Title IV-A of the Social Security Act (42 USC 601 et seq.) for which the State and Federal governments have not been reimbursed. The State and Federal governments are limited in the amount of support payments they may retain for "unreimbursed former AFDC or TANF", in accordance with the provisions set forth in Sections 160.100, 160.110 and 160.130 of this Part. The "amount of unreimbursed assistance accrued prior to the former AFDC or TANF cancellation", reported in the Department's "Statements of Child Support Account Activity for Former Recipients" (see Section 160.140), is that limited amount which the Department is entitled to retain.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART C: ESTABLISHMENT AND MODIFICATION OF

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CHILD SUPPORT ORDERS

Section 160.60 Establishment of Support Obligations

a) Definitions

- 1) "FSS" means any Family Support Specialist performing assigned duties, his supervisory staff and any other person assigned responsibility by the Director of the Department.
- 2) "Service" or "Served" means notice given by personal service, certified mail, restricted delivery, return receipt requested, or by any method provided by law for service of summons. (See Sections 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-203 and 2-206].)
- 3) "Support Statutes" means the following:
 - A) Article X of ~~The~~ the Illinois Public Aid Code [305 ILCS 5/Art. X];
 - B) The Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5];
 - C) The Non-Support Punishment Act [750 ILCS 16];
 - D) The Uniform Interstate Family Support Act [750 ILCS 22];
 - E) The Illinois Parentage Act of 1984 [750 ILCS 45]; and
 - F) Any other statute in another state which provides for child support.
- 4) "Retroactive support" means support for a period prior to the date a court or administrative support order is entered.
- 5) "Child's needs" means the cost of raising a child as detailed by either:
 - A) the custodial parent's statement of the associated costs, including, but not limited to, providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care; or

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- B) the Department's standard for the costs of raising a child as calculated by averaging the estimated annual expenditures on a child by husband-wife families for all income levels as reported in Table 1 "Estimated annual expenditures on a child by husband-wife families, overall United States" of the USDA Expenditures on Children and Families Annual Report (United States Center for Nutrition Policy and Promotion, 3101 Park Center Drive, Room 1034, Alexandria, Virginia 22302) (May 2003). This standard takes ~~taking~~ into account average actual costs of providing a child with: food, shelter, clothing, schooling, recreation, transportation and medical care in a manner consistent with health and well being as set forth in this Part.
- C) The formula used to calculate the Department's monthly Standard of Need is: Total Average Expenditures, divided by the number of people in the household, divided by the number of years from birth until the age of majority (18 years of age in Illinois), divided by two (obligation for one parent) equals the monthly support obligation.
- b) Responsible Relative Contact
- 1) Timing and Purpose of Contact
- A) The Department shall contact and interview responsible relatives in Title IV-D cases to establish support obligations, following the IV-D client interview.
- B) The purpose of contact and interview shall be to obtain relevant facts, including income information (for example, paycheck stubs, income tax returns) necessary to determine the financial ability of such relatives for use in obtaining stipulated, consent and other court orders for support and in entering administrative support orders, pursuant to the support statutes.
- 2) At least ten working days in advance of the interview, the Department shall notify each responsible relative contacted of his support obligation, by ordinary mail, which notice shall contain the following:

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- A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is sought or other information identifying such persons, such as a prior court number;
 - C) that the responsible relative has a legal obligation to support the named persons;
 - D) the date, time, place and purpose of the interview and that the responsible relative may be represented by counsel; and
 - E) that the responsible relative should bring specified information regarding his income and resources to the interview.
- 3) The Department shall notify each Title IV-D client of the date, time and place of the responsible relative interview and that the client may attend if he or she chooses.
- c) Determination of Financial Ability
- 1) In cases handled under subsection (d) of this Section, the Family Support Specialist shall determine the amount of child support and enter an administrative support order on the following basis:

Number of Children	Percent of Responsible Relative's Net Income
1	20%
2	25%
3	32%
4	40%
5	45%
6 or more	50%

- A) "Net Income" is the total of all income from all sources, minus the following deductions:
 - i) Federal income tax (properly calculated withholding or estimated payments);

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- ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums;
 - vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
 - ix) Medical expenditures necessary to preserve life or health; and
 - x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.
- B) The deductions in subsections (c)(1)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders which contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- 2) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine the minimum amount of child support as follows:

Number of Children	Percent of Responsible Relative's Net Income
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1	20%
2	25%
3	32%
4	40%
5	45%
6 or more	50%

- A) "Net Income" is the total of all income from all sources, minus the following deductions:
- i) Federal income tax (properly calculated withholding or estimated payments);
 - ii) State income tax (properly calculated withholding or estimated payments);
 - iii) Social Security (FICA payments);
 - iv) Mandatory retirement contributions required by law or as a condition of employment;
 - v) Union dues;
 - vi) Dependent and individual health/hospitalization insurance premiums;
 - vii) Prior obligations of support or maintenance actually paid pursuant to a court order or administrative support order;
 - viii) Expenditures for repayment of debts that represent reasonable and necessary expenses for the production of income;
 - ix) Medical expenditures necessary to preserve life or health; and
 - x) Reasonable expenditures for the benefit of the child and the other parent, exclusive of gifts.

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- B) The deductions in subsections (c)(2)(A)(viii), (ix) and (x) of this Section shall be allowed only for the period that such payments are due. The Department shall enter administrative support orders that contain provisions for an automatic increase in the support obligation upon termination of such payment period.
- C) The above guidelines shall be applied in each case unless the Department finds that application of the guidelines would be inappropriate after considering the best interests of the child in light of evidence including but not limited to one or more of the following relevant factors:
- i) the financial resources and needs of the child;
 - ii) the financial resources and needs of the custodial parent;
 - iii) the standard of living the child would have enjoyed had the marriage not been dissolved, the separation not occurred or the parties married;
 - iv) the physical and emotional condition of the child, and his educational needs; and
 - v) the financial resources and needs of the non-custodial parent.
- D) Each order requiring support that deviates from the guidelines shall state the amount of support that would have been required under the guidelines. The reason or reasons for the variance from the guidelines shall be included in the order.
- 3) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the amount of child support due in accord with Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505].
- 4) All orders for support shall include a provision for the health care coverage of the child. In all cases where health insurance coverage is not being furnished by the responsible relative to a child to be covered by a

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support order, the Department shall enter administrative, or request the court to enter support orders requiring the relative to provide such coverage when a child can be added to an existing insurance policy at reasonable cost or indicating what alternative arrangement for health insurance coverage is being provided. Net income shall be reduced by the cost thereof in determining the minimum amount of support to be ordered.

- 5) When proceeding under subsection (d) of this Section, the Department shall, in any event, notwithstanding other provisions of this subsection (c) and regardless of the amount of the responsible relative's net income, order the responsible relative to pay child support of at least \$10.00 per month.
- 6) In cases where the net income of the responsible relative cannot be determined because of default or any other reason, the Department shall order or request the court to order the responsible relative to pay retroactive support for the prior period in the amount of the child's needs as defined by subsection (a)(5)(A) or (B) of this Section.
- 7) The final order in all cases shall state the support level in dollar amounts.
- 8) If there is no net income because of the unemployment of a responsible relative who resides in Illinois and is not receiving General Assistance in the City of Chicago and has children receiving cash assistance in Illinois, the Department, when proceeding under subsection (d) of this Section, shall order, or, when proceeding under subsection (e) of this Section, shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives. In TANF cases, the Department shall order, when proceeding under subsection (d) of this Section, or, when proceeding under subsection (e) of this Section, shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the responsible relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- 9) The Department shall enter administrative support orders, or request the court to enter support orders, that include a provision requiring the

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responsible relative to notify the Department, within seven days:

- A) of any new address of the responsible relative;
 - B) of the name and address of any new employer or source of income of the responsible relative;
 - C) of any change in the responsible relative's Social Security Number;
 - D) whether the responsible relative has access to health insurance coverage through the employer or other group coverage; and
 - E) if so, the policy name and number and the names of persons covered under the policy.
- 10) The Department shall enter administrative support orders, or request the court to enter support orders, that include a date on which the current support obligation terminates. The termination date shall be no earlier than the date on which the child covered by the order will attain the age of majority or is otherwise emancipated. The order for support shall state that the termination date does not apply to any arrearage that may remain unpaid on that date. The provision of a termination date in the order shall not prevent the order from being modified.
- 11) The Department shall enter administrative support orders, or request the court to enter support orders, that include provisions for retroactive support when appropriate.
- A) In cases handled under subsection (d) of this Section, the Department shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative support order or the date of the married parties' separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock).
 - B) In de novo hearings provided for in subsection (d)(5)(H) of this Section and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall order the period of retroactive support to begin with the later of two years prior to the date of entry of the administrative

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support order or the date of the married parties separation (or the date of birth of the child for whom support is ordered, if the child was born out of wedlock), unless, in cases where the child was born out of wedlock, the hearing officer, after having examined the factors set forth in Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505] decides that another date is more appropriate.

- C) In cases referred for judicial action under subsection (e) of this Section, the Department's legal representative shall ask the court to determine the date retroactive support is to commence in accord with Article X of the Illinois Public Aid Code [305 ILCS 5/Art. X], Sections 510 and 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510 and 505], and Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14].
- d) Administrative Process
 - 1) Use of Administrative Process
 - A) Unless otherwise directed by the Department, the FSS shall establish support obligations of responsible relatives through the administrative process set forth in this subsection (d), in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
 - i) presumed paternity as set forth in Section 5 of the Illinois Parentage Act of 1984 [750 ILCS 45/5] and support is sought from one or both parents;
 - ii) alleged paternity and support is sought from the mother;
 - iii) an administrative paternity order entered under Section 160.61 and support is sought from the man determined to be the child's father, or from the mother, or both;
 - iv) an establishment of parentage in accordance with Section 6 of the Illinois Parentage Act of 1984 [750 ILCS 45/6]; and

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- v) an establishment of parentage under the laws of another state, and support is sought from the child's father, or from the mother, or both.
- B) In addition to those items specified in subsection (b)(2) of this Section, the notice of support obligation shall inform the responsible relative of the following:
- i) that the responsible relative may be required to pay retroactive support as well as current support; and
 - ii) that in its initial determination of child support under subsection (c) of this Section, the Department will only consider factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and
 - iii) that the Department will enter an administrative support order based only on those factors listed in subsections (c)(1)(A)(i) through (x) of this Section; and
 - iv) that in order for the Department to consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and
 - v) that both the client and the responsible relative have a right to request a de novo hearing within 30 days after the mailing or delivery of an administrative support order, at which time a Department hearing officer may consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14], and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/505]; and

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- vi) that unless the client and/or the responsible relative requests a de novo hearing within 30 days after the order's mailing or delivery, the administrative support order will become a final enforceable order of the Department; and
 - vii) that upon failure of the responsible relative to appear for the interview or to provide necessary information to determine net income, an administrative support order may be entered by default or the Department may seek court determination of financial ability based upon the guidelines.
- 2) The FSS shall determine the ability of each responsible relative to provide support in accordance with subsection (c) of this Section when such relative appears in response to the notice of support obligation and provides necessary information to determine net income. An administrative support order shall be entered which shall incorporate the resulting support amount therein. The FSS shall also determine (and incorporate in the administrative support order) the amount of retroactive support the responsible relative shall be required to pay by applying the relative's current net income (unless the relative provides necessary information to determine net income for the prior period) to the support guidelines in accordance with subsection (c) of this Section.
- 3) Failure to Appear
- A) In instances in which the responsible relative fails to appear in response to the notice of support obligation or fails to provide necessary information to determine net income, the FSS shall enter an administrative support order by default, except as provided in subsection (d)(3)(D) of this Section. The terms of the order shall be based upon the needs of the child for whom support is sought, as defined by subsection (a)(5) of this Section. No default order shall be entered when a responsible relative fails to appear at the interview unless the relative shall have been served as provided by law with a notice of support obligation.
 - B) The FSS may issue a subpoena to a responsible relative who fails to appear for interview, or who appears and furnishes income

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information, when the FSS has information from the Title IV-D client, the relative's employer or any other reliable source indicating that:

- i) financial ability, as determined from the guidelines contained in subsection (c) of this Section, exceeds the amount indicated in case of default, as indicated in subsection (d)(3)(A) of this Section; or
 - ii) income exceeds that reported by the relative.
- C) The FSS will not issue a subpoena under subsection (d)(3)(B) of this Section where the information from the Title IV-D client, the responsible relative's employer or other source concerning the relative's financial ability is verified through documentation such as payroll records, paycheck stubs or income tax returns.
- D) In instances in which the relative fails or refuses to accept or fully respond to a Department subpoena issued to him pursuant to subsection (d)(3)(B) of this Section, the FSS may enter a temporary administrative support order by default, in accordance with subsection (d)(3)(A) of this Section, and may then, after investigation and determination of the responsible relative's financial ability to support, utilizing existing State and federal sources (for example, Illinois Department of Employment Security), client statements, employer statements, or the use of the Department's subpoena powers, enter a support order in accord with subsection (c)(1) of this Section.
- 4) The Department shall register, enforce or modify an order entered by a court or administrative body of another state, and make determinations of controlling order where appropriate, in accordance with the provisions of the Uniform Interstate Family Support Act [750 ILCS 22].
- 5) An administrative support order shall include the following:
 - A) the Title IV-D case name and identification number;
 - B) the names and birthdates of the persons for whom support is

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ordered;

- C) the beginning date, amount and frequency of support;
- D) any provision for health insurance coverage ordered under subsection (c)(4) of this Section;
- E) the total retroactive support obligation and the beginning date, amount (which shall not be less than 20 percent of the current support amount) and frequency of payments to be made until the retroactive support obligation is paid in full;
- F) the amount of any arrearage that has accrued under a prior support order and the beginning date, amount (which shall not be less than 20 percent of the support order) and frequency of payments to be made until the arrearage is paid in full;
- G) a provision requiring that support payments be made to the State Disbursement Unit;
- H) a statement informing the client and the responsible relative that they have 30 days from the date of mailing of the administrative support order in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102 and subsection (c)(2) of this Section, except that for orders entered as a result of a decision after a de novo hearing, the statement shall inform the client and the responsible relative that the order is a final administrative decision of the Department and that review is available only in accord with provisions of the Administrative Review Law [735 ILCS 5/Art. III];
- I) except where the order was entered as a result of a decision after a de novo hearing, a statement that the order was based upon the factors listed in subsection (c)(1)(A) of this Section and that in order to have the Department consider other factors listed in subsection (c)(2)(C) of this Section, Section 14(b) of the Illinois Parentage Act of 1984 [750 ILCS 45/14] and Section 505 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS

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5/505], either the responsible relative or the client must request a de novo hearing within 30 days after mailing or delivery of the administrative support order; and

- J) in each administrative support order entered or modified on or after January 1, 2002, a statement that a support obligation required under the order, or any portion of a support obligation required under the order, that becomes due and remains unpaid for 30 days or more shall accrue simple interest at the rate of nine percent per annum.
- 6) Every administrative support order entered on or after July 1, 1997, shall include income withholding provisions based upon and containing the same information as prescribed in Section 160.75. The Department shall also prepare and serve income withholding notices after entry of an administrative support order and effect income withholding in the same manner as prescribed in Section 160.75.
 - 7) The Department shall provide to each client and each responsible relative a copy of each administrative support order entered, no later than 14 days after entry of such order, by:
 - A) delivery at the conclusion of an interview where financial ability to support was determined. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date and method ~~an affidavit~~ of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person.
 - B) regular mail to the party not receiving personal delivery where the relative fails or refuses to accept delivery, where either party does not attend the interview, or the orders are entered by default.
 - 8) In any case where the administrative support process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the administrative support case shall remain in the original county unless a transfer to the other county in which the custodial parent and the non-marital child reside is requested by either party or the Department and the hearing officer

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assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative support process.

- 9) In any case in which an administrative support order is entered to establish and enforce an arrearage only, and the responsible relative's current support obligation has been terminated, the administrative support order shall require the responsible relative to pay a periodic amount equal to the terminated current support amount until the arrearage is paid in full.
- e) Judicial Process
- 1) The Department shall refer Title IV-D cases for court action to establish support obligations of responsible relatives, pursuant to the support statutes (see subsection (a)(3) of this Section) in matters requiring the determination of parentage (except when paternity is to be determined administratively under Section 160.61), when the court has acquired jurisdiction previously and in instances described in subsection (d)(3)(D) of this Section, and as otherwise determined by the Department.
 - 2) The Department shall prepare and transmit pleadings and obtain or affix appropriate signature thereto, which pleadings shall include, but not be limited to, petitions to:
 - A) intervene;
 - B) modify;
 - C) change payment path;
 - D) establish an order for support;
 - E) establish retroactive support;
 - F) establish past-due support;
 - G) establish parentage;
 - H) obtain a rule to show cause;

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- I) enforce judicial and administrative support orders; and
 - J) combinations of the above.
- 3) Department legal representatives shall request that judicial orders for support require payments to be made to the State Disbursement Unit in accordance with Section 10-10.4 of the Illinois Public Aid Code [305 ILCS 5/10-10.4], Section 507.1 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/507.1], Section 320 of the Uniform Interstate Family Support Act [750 ILCS 22/320], Section 21.1 of the Illinois Parentage Act of 1984 [750 ILCS 45/21.1] and Section 25 of the Non-Support Punishment Act [750 ILCS 16/25].
- f) Petitions for Release from Administrative Support Orders – Extraordinary Remedies
- 1) Notwithstanding the statements required by subsections (d)(5)(H) and (d)(5)(I) of this Section, more than 30 days after the entry of an administrative support order under subsection (d) of this Section, a party aggrieved by entry of an administrative order may petition the Department for release from the order on the same grounds as are provided for relief from judgments under Section 2-1401 of the Code of Civil Procedure.
 - 2) Petitions under this subsection (f) must:
 - A) cite a meritorious defense to entry of the order;
 - B) cite the exercise of due diligence in presenting that defense to the Department;
 - C) be filed no later than two years following the entry of the administrative paternity order, except that times listed below shall be excluded in computing the two years:
 - i) time during which the person seeking relief is under legal disability;
 - ii) time during which the person seeking relief is under duress;

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- iii) time during which the ground for relief is concealed from the person seeking relief;
- D) be supported by affidavit or other appropriate showing as to matters not supported by the record.
- 3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent, caretaker or responsible relative by certified mail, return receipt requested, or by any manner provided by law for service of process. The filing of a petition under this subsection (f) does not affect the validity of the administrative order.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 160.61 Uncontested and Contested Administrative Paternity and Support Establishment

- a) Definitions
 - 1) "Combined paternity index" means a statistic, stated as an odds ratio in a report of genetic testing results, giving the likelihood that the man having undergone the testing is the father of the child relative to the chance that the father is another (unrelated random) man from the same racial background.
 - 2) "Genetic testing" means deoxyribonucleic acid (DNA) tests.
 - 3) "Service" or "Served" means notice given by personal service, certified mail, restricted delivery, return receipt requested, or by any method provided by law for service of a summons. (See Sections 2-203 and 2-206 of the Code of Civil Procedure [735 ILCS 5/2-203 and 2-206].)
 - 4) "Non-marital child", as used in this Section and Section 160.62, means a child born out of wedlock for whom paternity has not been established.
 - 5) "Alleged father", as used in this Section and Section 160.62, means a man alleged to be the father of a non-marital child.
 - 6) "Presumed father"; shall have the meaning ascribed to that term in the

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Illinois Parentage Act of 1984 [750 ILCS 45].

- b) Uncontested Administrative Paternity Process
- 1) Except as otherwise determined, the Department shall establish a man's paternity of a child through the administrative process set forth in this Section, in Title IV-D cases, wherein the court has not acquired jurisdiction previously, in matters involving:
 - A) a non-marital child and support is sought from the alleged father;
 - B) a non-marital child who is in the physical custody of the alleged father or a caretaker relative other than the child's mother, and support is sought from the alleged father or from the mother, or both; or
 - C) presumed paternity as set forth in Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)] in which a man other than the presumed father has been alleged to be the child's father, and notice has been provided to the alleged and presumed fathers as set forth in this Section.
 - 2) Contact with Responsible Relatives
 - A) Following the IV-D client interview, the Department shall contact and interview:
 - i) alleged fathers to establish paternity and support obligations; and
 - ii) mothers to establish an alleged father's paternity of a child (where the alleged father or a caretaker relative other than the mother has physical custody of the child) and to establish the support obligation of the alleged father, the mother, or both.
 - B) The purpose of contact and interview shall be to obtain relevant facts, including information concerning the child's paternity and responsible relative income information (for example, paycheck

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stubs, income tax returns) necessary to establish the child's paternity and to determine the responsible relative's financial ability for use in establishing child support obligations.

- 3) At least ten working days in advance of the interview, the Department shall serve upon or provide to the alleged father from whom child support is sought, by ordinary mail, a notice of alleged paternity and support obligation, which notice shall contain the following:
 - A) the Title IV-D case name and identification number;
 - B) the name and birthdate of the non-marital child;
 - C) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the alleged father may be represented by counsel;
 - E) that the alleged father should bring specified information regarding his income and resources to the interview;
 - F) that upon failure of the alleged father to appear for the interview, administrative paternity and support orders may be entered against him by default; and
 - G) that the alleged father may be ordered to pay current support, and retroactive support, and to provide health insurance coverage for the child.

- 4) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of the child, the alleged father has physical custody of the child, and support is sought from the mother. The notice shall contain the following:
 - A) the Title IV-D case name and identification number;

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- B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
 - E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support and retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child.
- 5) At least ten working days in advance of the interview, the Department shall serve upon or provide to the child's mother, by ordinary mail, a notice of alleged paternity and support obligation, when a man has been alleged to be the father of a child, an adult other than a parent of the child has physical custody of the child, and support is sought from the mother and the alleged father. The notice shall contain the following:
- A) the Title IV-D case name and identification number;

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- B) the name and birthdate of the non-marital child;
 - C) that the mother has a legal obligation to support the child;
 - D) the date, time, place and purpose of the interview and that the mother may be represented by counsel;
 - E) that the mother should bring specified information regarding her income and resources to the interview;
 - F) that the mother may be ordered to pay current support; and retroactive support, and to provide health insurance coverage for the child;
 - G) that the alleged father has been identified as the biological father of the child named in the notice, and that if determined to be the child's father he will have a legal obligation to support the child; and
 - H) that upon failure of the mother to appear for the interview, or to provide necessary information to determine net income:
 - i) an administrative support order may be entered against the mother by default or the Department may seek an administrative or court determination of financial ability based upon the guidelines; and
 - ii) the Department may enter an order finding the alleged father to be the father of the child on the basis of genetic testing.
- 6) Where the man alleged to be the father of a child is different from a man presumed to be the father under Section 5(a)(1) and (2) of the Illinois Parentage Act of 1984 [750 ILCS 45/5(a)(1) and (2)], the Department shall send a notice to the presumed father which shall contain the following:
- A) the Title IV-D case name and identification number;

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- B) the child's name and birthdate;
 - C) the name of the child's mother;
 - D) that the man to whom the notice is directed has been identified as the child's presumed father;
 - E) that another man has been alleged to be the child's father, and the name of that alleged father;
 - F) that the Department has scheduled an interview with the alleged father for the purpose of determining the child's paternity, and the date, time and place of the interview (the date of the interview shall not be less than ten working days after the date of the notice to the presumed father);
 - G) that if the presumed father fails to appear at the interview to assert his rights as the presumed father, the Department may enter an administrative order finding the alleged father to be the child's father on the basis of genetic testing, or if the alleged father and the child's mother voluntarily sign an acknowledgment that the alleged father is the father of the child; and
 - H) that counsel may accompany the presumed father to the interview.
- 7) The Department shall notify each Title IV-D client of the date, time and place of the alleged father interview and that the client may attend if the client chooses.
- 8) In cases involving a non-marital child:
- A) The Department shall provide the alleged father and the child's mother an opportunity to establish paternity by voluntarily signing an acknowledgment of paternity (and, in a case in which there is also a presumed father, an opportunity for the mother and the presumed father to sign a denial of paternity), after being provided with information concerning the implications of signing the acknowledgment (and denial), including parental rights and

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responsibilities of child support, retroactive support, health insurance coverage, custody, visitation, the right to obtain and agree to be bound by the results of genetic testing, and the right to deny paternity and obtain a contested hearing.

- B) The Department shall enter and, within 14 days after entry, serve or mail the parties a copy of an administrative paternity order finding the alleged father to be the father of the child in the following circumstances. An acknowledgment of receipt signed by the client or relative or a written statement identifying the place, date, and method ~~an affidavit~~ of delivery signed by the Department's representative shall be sufficient for purposes of notice to that person. The Department shall enter the order where:
- i) the alleged father and the child's mother (and any presumed father) have voluntarily signed an agreement to be bound by the results of genetic testing, and the results of such testing show that the alleged father is not excluded and that the combined paternity index is at least 500 to 1;
 - ii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him in a case in which support is sought from the alleged father, or fails to appear for scheduled genetic testing after signing an agreement to be bound by the results of genetic testing;
 - iii) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where the alleged father has physical custody of the child;
 - iv) the child's mother fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon her in a case where an adult other than a parent of the child has physical custody of the child, the alleged father has voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded,

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- and the combined paternity index is at least 500 to 1;
- v) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him (or fails to appear for genetic testing after agreeing to be bound by the results of genetic testing) in a case where an adult other than a parent of the child has physical custody of the child;
 - vi) the presumed father fails to appear in response to the ~~Department's~~ ~~department's~~ notice to presumed father served upon him, the child's mother, and the alleged father have voluntarily signed an agreement to be bound by the results of genetic testing, the results of genetic testing show that the alleged father is not excluded, and the combined paternity index is at least 500 to 1; or
 - vii) the alleged father fails to appear for interview in response to the Department's notice of alleged paternity and support obligation served upon him, and the presumed father fails to appear in response to the Department's notice to presumed father served upon the presumed father.
- C) The Department shall make a determination that the alleged father is not the father of the child where the results of genetic testing exclude the alleged father.
- 9) An agreement to be bound by the results of genetic testing under subsection (b)(8)(B) of this Section shall not be valid where the mother or alleged father is a minor, unless the parent or guardian of the minor mother or minor alleged father also signs the agreement to be bound by the results of genetic testing, except where the mother or alleged father is either emancipated or head of his or her own household with the child for whom paternity is being determined.
- 10) A party aggrieved by entry of an administrative paternity order, pursuant to subsection (b)(8) of this Section, may have the order vacated if, within 30 days after ~~the authorized mailing or service of being served with~~ the order, the party appears in person at the office to which he or she was

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given notice to appear for an interview pursuant to subsection (b)(3) of this Section and files a written request for relief from the order. The Department shall then proceed with the establishment of paternity under this Section. A party may obtain relief under this subsection (b) only once in any proceeding to establish paternity.

- 11) The child's mother or the alleged father may void the presumption of paternity created by voluntarily signing an acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12] by signing a rescission of paternity and filing it with the Department by the earlier of:
 - A) 60 days after the date the acknowledgment of paternity was signed; or
 - B) the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the mother or the alleged father is a party.
 - 12) If the mother or alleged father signs a rescission of paternity, the Department shall process the case under this subsection (b).
- c) Contested Paternity Hearing Officers
- 1) Except as otherwise directed by the Department or provided for in this Part, cases in which paternity is contested shall be referred to Department hearing officers to administratively determine paternity. The Department shall provide the alleged father (and any presumed father) with notice and opportunity to contest paternity at a hearing to determine the existence of the father and child relationship. The notice and any administrative hearing shall be governed by 89 Ill. Adm. Code 104.200 through 104.295. Any administrative support order shall be established in accordance with Section 160.60.
 - 2) Notice shall be given to all parties in the manner provided for service of a notice of alleged paternity and support obligation under subsections (a) and (b) of this Section or, where necessary, by publication in cases in which the whereabouts of a party or parties are unknown after diligent location efforts by the Department. Where service is by publication, the notice shall be published at least once in each week for three consecutive

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weeks in a newspaper published in the county in which the administrative proceeding is pending. If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining Illinois county having a circulation in the county in which the administrative proceeding is pending. In addition, where service is by publication, the date of the interview stated in the notice shall not be less than 30 days after first publication of the notice.

- 3) The Department shall enter default paternity determinations in contested administrative cases as provided for under subsection (b) of this Section. However, where notice of the administrative proceedings was served on a party by publication under subsection (c)(2) of this Section, a notice of default paternity determination shall be published in the same manner. The notice of default paternity determination shall contain the information required in an administrative paternity order under subsections (d)(1) through (9) of this Section, except that the notice of default paternity determination shall not include the mother's and father's Social Security numbers. The Department shall not proceed to establish paternity administratively under subsection (c) of this Section in those cases wherein the court has acquired jurisdiction previously or the custodial parent claims good cause for failing to cooperate in the establishment of paternity and is found to be exempt from cooperating as set forth in Section 160.35.
 - 4) In any case where the administrative paternity process has been initiated for the custodial parent and the non-marital child, and the custodial parent and the non-marital child move outside the original county, the paternity determination case shall remain in the original county of venue unless a transfer to another county of proper venue is requested by either party and the hearing officer assigned to the original county finds that a change of venue would be equitable and not unduly hamper the administrative paternity process.
- d) An administrative paternity order, whether entered under subsection (b) or (c) of this Section, shall include the following:
- 1) the Title IV-D case name and identification number;
 - 2) the name and birthdate of the child for whom paternity is determined;

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- 3) the alleged father's name and his Social Security number, if known;
 - 4) the mother's name and her Social Security number, if known;
 - 5) a finding that the alleged father is the father of the child, and a statement indicating how paternity was determined (for example, agreement to be bound by the results of genetic testing, default, contested hearing);
 - 6) except in cases in which paternity is administratively determined under subsection (b)(8)(B)(ii), (v) or (viii) of this Section, or in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that each has 30 days after the date of mailing (or delivery at the interview) of the administrative paternity order to petition the Department for release from the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.105;
 - 7) in cases in which paternity is administratively determined by default under subsection (b)(8)(B)(ii), (v) or (viii) of this Section, a statement informing the client and responsible relative of the relief available pursuant to subsection (b)(10) of this Section;
 - 8) a statement that more than 30 days after entry of an administrative paternity order, a party aggrieved by entry of the administrative paternity order may petition the Department for release from the order under the provisions of subsection (e) of this Section; and
 - 9) in cases in which paternity is administratively determined in a contested hearing under subsection (c) of this Section, a statement informing the client and responsible relative that the order is a final and binding administrative decision, and whether the order is reviewable only under the provisions of the Administrative Review Law [735 ILCS 5/Art. III].
- e) Petitions For Release – Extraordinary Remedies
- 1) Notwithstanding the statements required by subsection (d) of this Section, more than 30 days after entry of an administrative paternity order under subsection (b) or (c) of this Section, a party aggrieved by entry of an administrative paternity order may petition the Department for release

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from the order.

- 2) Petitions under this subsection (e) must:
 - A) Cite a meritorious defense to entry of the order.
 - B) Cite the exercise of due diligence in presenting that defense to the Department.
 - C) Be filed no later than two years following the entry of the administrative paternity order, except that times listed below shall be excluded in computing the two years:
 - i) time during which the person seeking relief is under legal disability;
 - ii) time during which the person seeking relief is under duress; and
 - iii) time during which the ground for relief is concealed from the person seeking relief.
 - D) Be supported by affidavit or other appropriate showing as to matters not supported by the record.
 - 3) Notice of the filing of the petition must be given and a copy of the petition must be served on the other parent by certified mail, return receipt requested or by any manner provided by law for service of process. The filing of a petition under this subsection (e) does not affect the validity of the administrative paternity order.
- f) When the paternity of a child has been administratively established under subsection (b) or (c) of this Section, the Department shall enter an administrative support order under the process set forth in Section 160.60.
 - g) In cases in which a final administrative determination of paternity is pending, but there is clear and convincing evidence of paternity based upon the results of genetic testing and upon motion of a party, the Department shall enter a temporary order for support in the manner provided for in Section 160.60.

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- h) The Department shall notify the Department of Public Health of final administrative paternity determinations, voluntary acknowledgments of paternity, denials of paternity and rescissions of paternity.
- i) In cases in which a child's certificate of birth is on file in a state other than Illinois and any of the circumstances stated below occur, the Department shall forward to the other state a copy of the final administrative determination of paternity or the voluntary acknowledgment of paternity (and the presumed father's denial of paternity, if applicable) or the rescission of paternity:
- 1) the Department enters a final administrative determination of paternity; or
 - 2) the paternity of a child is established by voluntary acknowledgment under Section 12 of the Vital Records Act [410 ILCS 535/12]; or
 - 3) the alleged father or the child's mother rescinds a voluntary acknowledgment of paternity under Section 12 of the Vital Records Act [410 ILCS 535/12].
- j) Judicial Process. The Department shall refer Title IV-D cases for judicial action to establish a child's paternity and a responsible relative's support obligation pursuant to the Illinois Parentage Act of 1984 [750 ILCS 45], the Revised Uniform Reciprocal Enforcement of Support Act [750 ILCS 20] or the Uniform Interstate Family Support Act [750 ILCS 22], as appropriate, in matters:
- 1) involving contested paternity, except where the case is appropriate for referral to a Department hearing officer;
 - 2) where the non-marital child was not conceived in Illinois and the alleged father resides in a state other than Illinois;
 - 3) where the court has acquired jurisdiction previously; or
 - 4) where the results of genetic testing show that the alleged father is not excluded and the combined paternity index is less than 500 to 1, except where the case is appropriate for referral to a Department hearing officer under subsection (c) of this Section.

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(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

Section 160.71 Credit for Payments Made Directly to the Title IV-D Client

Where the operative court or administrative order for support requires child support payments to be made to the Department, the State Disbursement Unit, or the Clerk of the Circuit Court, the Department will allow a one time credit to its child support accounts receivable for payments made directly to the Title IV-D client, up to the amount of the past due support owed to the Title IV-D client, when:

- a) a court of competent jurisdiction enters an order requiring credit; or
- b) the following circumstances exist:
 - 1) the order for support was entered in Illinois or, if a foreign order, has been registered in Illinois ~~the case is an intrastate case~~; and
 - 2) a balance of support is owed to the Title IV-D client ~~no payments are owed to the State of Illinois under assignment of support rights~~; and
 - 3) there has been no other instance, after the effective date of this Section, in which the Department credited its child support accounts receivable for payments made by the responsible relative directly to the Title IV-D client; and
 - 4) either:
 - A) the Title IV-D client signs a statement specifying the payments that the client is requesting be credited to the accounts receivable; or
 - B) the responsible relative provides the Department with clear and convincing documentation (such as copies of canceled checks or money order receipts) showing that the payments for which the relative is requesting credit were made and the Department has given the Title IV-D client opportunity to acknowledge or deny receipt of the payments ~~Title IV-D client signs a statement acknowledging receipt of the payments as child support~~.

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(Source: Amended at 28 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Certified Local Health Department Code
- 2) Code Citation: 77 Ill. Adm. Code 600
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>	
600.210	600.110	Amendment
600.410		Amendment
- 4) Statutory Authority: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS 5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-10].
- 5) A Complete Description of the Subjects and Issues Involved: This Part sets forth provisions for Department certification of local health departments that serve counties. Activities required for certification include assessment of a community’s health needs and health status through a systematic needs assessment process (Illinois Project for Local Assessment of Needs (IPLAN)), investigation of the occurrence of adverse health effects, and development of plans and policies to address priority health needs. Personnel requirements for certification include a public health administrator and medical officer. Certifications must be renewed every five years. Draft amendments to Part 600 will automatically extend certifications set to expire in 2004 to the same date in 2005. Waiver requests will not be required for extensions. Local health departments that do not want an extension may petition the Department to maintain their original recertification schedule. The rulemaking also specifies that the Department will implement a staggered certification renewal schedule between 2005 and 2007, in which approximately one-third of local health departments will be reviewed annually. This process will re-establish the certification renewal schedule. Additionally, the draft amendments revise elements of the planning process component relating to development of assessment of organizational capacity. As revised, the process may address the internal capabilities of the local health department to conduct effective public health functions, including authority to operate, community relations, and program management; or the performance of the local public health system in achieving standards related to the ten essential public health services; or an organizational strategic plan developed within the previous five years that assesses strengths, weaknesses, opportunities and threats in the local health jurisdiction.
- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No

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- 8) Does this rulemaking contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not require additional expenditures by units of local government.
- 11) Time, place, and manner in which interested persons may comment on this rulemaking: Interested persons may present their comments concerning these rules by writing to

Peggy Snyder, Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217)782-2043
(e-mail: rules@idph.il.state.us)

within 45 days after this issue of the *Illinois Register*.

- 12) Initial Regulatory Flexibility Analysis:
- A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: This rulemaking will not affect small businesses.
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: None.
- C) Types of Professional Skills Necessary for Compliance: None.
- 13) Regulatory in which this rulemaking was summarized: State reasons for this rulemaking if it was not included in either of the two most recent regulatory agendas: This rulemaking is needed to clarify and update requirements applicable to certified local health departments.

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER h: LOCAL HEALTH DEPARTMENTS

PART 600
CERTIFIED LOCAL HEALTH DEPARTMENT CODE

SUBPART A: GENERAL

Section
600.100 Statement of Purpose
600.110 Definitions

SUBPART B: CERTIFICATION APPLICATION REQUIREMENTS

Section
600.200 Provisional Certification
600.210 Certification

SUBPART C: PERSONNEL REQUIREMENTS

Section
600.300 Executive Officer
600.310 Public Health Administrator
600.320 Medical Health Officer
600.330 Denial of Personnel Application

SUBPART D: PRACTICE STANDARDS

Section
600.400 Public Health Practice Standards
600.410 Requirements for IPLAN or an Equivalent Planning Process

SUBPART E: DUE PROCESS

Section
600.500 Denial, Suspension or Revocation of Certification
600.510 Procedures for Hearings

AUTHORITY: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS

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5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55].

SOURCE: Filed April 17, 1968; emergency amendment at 5 Ill. Reg. 11091, effective October 1, 1981, for a maximum of 150 days; rules repealed, new rules adopted at 6 Ill. Reg. 2716, effective March 1, 1982; codified at 8 Ill. Reg. 18914; amended at 14 Ill. Reg. 840, effective January 1, 1990; new Part adopted by emergency rule at 17 Ill. Reg. 12918, effective July 21, 1993, for a maximum of 150 days; emergency repealer at 17 Ill. Reg. 13115, effective July 21, 1993, for a maximum of 150 days; emergency expired on December 18, 1993; Part repealed, new Part adopted at 18 Ill. Reg. 4276, effective March 1, 1994; amended at 22 Ill. Reg. 14474, effective July 24, 1998; amended at 28 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 600.110 Definitions

For the purposes of this Part, the words and phrases defined herein shall have the following meanings:

"Certification" and "Certified" means certification granted to a local health department that meets the requirements set forth in Section 600.210 and Subparts C and D of this Part and is so designated by the Department.

"Community participation" means involvement by representatives of various community interests and groups. (Agency Note: Examples of such interests or groups are ethnic and racial groups, the medical community, mental health and social service organizations, the cooperative extension service, schools, law enforcement organizations, voluntary organizations, the clergy, the business community, economic development agencies, unions, disabled persons and senior citizens.)

"Contributing factor" means a scientifically established factor that directly affects the level of a risk factor.

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his designee.

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“Essential Public Health Services” means the 10 services that describe the responsibilities of public health systems. A formulation of the processes used in public health to prevent epidemics and injuries, protect against environmental hazards, promote healthy behaviors, respond to disasters, and ensure quality and accessibility of health services, the essential public health services are:

monitor health status to identify community health problems; diagnose and investigate health problems and health hazards in the community;

inform, educate, and empower people about health issues;

mobilize community partnerships to identify and solve health problems;

develop policies and plans that support individual and community health efforts;

enforce laws and regulations that protect health and ensure safety;

link people to needed personal health services and assure the provision of health care when otherwise unavailable;

assure a competent public and personal health care workforce;

evaluate effectiveness, accessibility and quality of personal and population-based health services; and

research for new insights and innovative solutions to health problems.

"Equivalent to IPLAN" means an assessment and planning process approved by the Department which meets the requirements set forth in Section 600.410.

"Healthy People 2000" means National Health Promotion and Disease Prevention Objectives, U.S. Department of Health and Human Services, Public Health Service, DHHS publication number (PHS) 91-50212. Healthy People 2000 contains a national strategy for significantly improving the health of the nation during this decade and contains measurable targets for striving toward health promotion and prevention of injuries and diseases.

"Impact objective" means a goal for the level to which a health problem should be

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reduced. An impact objective is intermediate in length of time and measurable.

"Indirect contributing factor" means a community-specific factor that directly affects the level of the direct contributing factors. These factors can vary greatly from community to community.

"IPLAN" means the Illinois Project for Local Assessment of Needs, a process developed by the Department to meet the requirements set forth in Section 600.410. IPLAN is a series of planning activities conducted within the local health department jurisdiction resulting in the development of an organizational capacity assessment, a community health needs assessment, and a community health plan.

"IPLAN Data System" means a data base developed by the Department that contains the required data sets to measure community health indicators for assessment purposes.

"Legally authorized representative" means the person empowered to act on behalf of the local health department and board of health in such matters as executing contracts, signing applications, and undertaking other major administrative tasks.

"Local health department" means a local governmental agency that administers and assures health-related programs and services within its jurisdiction.

"Mandate" or "Mandated program" means those programs and activities that are statutorily required of local health departments by a legislative body, such as a city council, county board, or the General Assembly.

"Outcome objective" means a goal for the level to which a health problem should be reduced. An outcome objective is long term and measurable.

"Proven intervention strategy" means intervention strategy demonstrated to be effective or used as a national model.

"Provisional Certification" and "Provisionally Certified" means certification granted to a local health department that meets the requirements for Provisional Certification set forth in Section ~~600.200~~600.210 and is so designated by the Department.

"Risk factor" means a scientifically established factor (determinant) that relates

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directly to the level of a health problem. A health problem may have any number of risk factors identified for it.

"Substantial compliance" means meeting the requirements set forth in this Part, except for variations from the strict and literal performance of such requirements which result in insignificant omissions and defects, given the particular circumstances and the incidence and history of such omissions and defects. Omissions and defects that have an adverse impact on public health and safety shall not be considered insignificant and shall be considered substantial noncompliance.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

SUBPART B: CERTIFICATION APPLICATION REQUIREMENTS

Section 600.210 Certification

- a) A Provisionally Certified local health department may apply for Certification.
 - 1) Such application shall be submitted to the Department on forms or in a format provided or prescribed by the Department and shall include a community health needs assessment and a community health plan in accordance with Subpart D of this Part. The application shall be signed by an authorized representative.
 - 2) Upon receipt of a complete application, the Department shall have 60 days to review the application to determine if the applicant meets the personnel requirements set forth in Subpart C of this Part and the practice standards set forth in Subpart D of this Part.
 - A) If the Department determines that the applicant is in substantial compliance with Subparts C and D of this Part, Certification shall be granted by the Department.
 - B) If the Department determines that the applicant is not in substantial compliance with Subparts C and D of this Part, Certification shall be denied and the local health department shall be notified in writing of the denial of Certification. Such notification shall specify the reasons for denial of Certification and shall describe the right of the applicant to request a hearing to appeal the denial of

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Certification, pursuant to Section 600.510.

- b) Certification granted to local health departments that apply pursuant to this Section shall expire five years following the date of Certification.
- 1) All certifications set to expire in 2004 will be extended to the same date in 2005. These extensions will be granted automatically without the need for a waiver request. A petition to maintain the 2004 recertification schedule, however, may be submitted to the Department. The petition shall include the name of the local health department, a request to maintain the original recertification renewal date, and the signature of the public health administrator.
 - 2) For the period between 2005 and 2007, the Department will implement a staggered certification renewal schedule in which approximately one third of local health departments will be reviewed annually. This review schedule will be developed by the Department in consultation with the local health departments. Thereafter, the certification reviews will occur every five years on this staggered schedule.
- c) A Certified local health department may apply for renewal of Certification.
- 1) Such an application shall be made at least 60 days prior to the expiration of the Certification period. An application shall be submitted to the Department on forms or in a format provided or prescribed by the Department and shall include a community health needs assessment and a community health plan in accordance with Subpart D of this Part. The application shall be signed by an authorized representative.
 - 2) Upon completion of a complete application, the Department shall have 60 days to review the application to determine if the applicant is in substantial compliance with the personnel requirements set forth in Subpart C of this Part and the practice standards set forth in Subpart D of this Part.
 - A) If the Department determines that the applicant is in substantial compliance with Subparts C and D of this Part, Certification shall be renewed by the Department for a five-year period.
 - B) If the Department determines that the applicant is not in substantial compliance with Subparts C and D of this Part, renewal of

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Certification shall be denied and the local health department shall be notified in writing of the denial of Certification. Such notification shall specify the reasons for denial of Certification and shall describe the right of the applicant to request a hearing to appeal the denial of Certification renewal, pursuant to Section 600.510.

- d) A Certified local health department that at any time during the period for which the local health department has been granted Certification does not meet all applicable requirements for such Certification due to conditions or circumstances beyond the reasonable control of the local health department may make a written request to the Department for a waiver of the requirements set forth in Subparts C and D of this Part. A waiver will not be required for certification extensions issued under subsection (b) of this Section.
- 1) Conditions or circumstances beyond the reasonable control of the local health department shall include but not be limited to:
 - A) Unanticipated or unavoidable lack of qualified personnel necessary to fulfill applicable requirements; or
 - B) Disease outbreaks, natural disasters, and other unusual circumstances which may threaten the health and safety of residents and which require re-assignment of personnel to protect the health and safety of residents within the local health department's jurisdiction.
 - 2) The Department shall grant a waiver if it determines that the local health department meets the conditions or circumstances specified in subsection (d)(1)(A) and (B) of this Section. The Department shall notify the local health department of its decision within 10 working days after the receipt of the request.
 - A) A waiver shall be granted for a six-month period or until the conditions or circumstances referred to in subsections (d)(1)(A) and (B) of this Section are remedied, whichever is shorter.
 - B) The Department may extend a waiver for two additional six-month periods. All requests for extension of waiver shall be received by the Department at least 15 working days prior to the expiration of

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the waiver period.

- i) The first extension of the waiver shall be made if the Department determines, on the basis of a written explanation from the local health department, that reasonable progress has been made and the local health department can be expected to be in substantial compliance with applicable requirements of Certification on or before the conclusion of the first extended waiver period.
 - ii) The second extension of waiver shall be made if the Department determines, on the basis of a written explanation from the local health department, that reasonable progress has been made and the local health department can be expected to be in substantial compliance with applicable requirements of Certification on or before the conclusion of the second extended waiver period. The explanation shall include documentation of the applicable Certification requirements that are not being met, with the expected dates for completion and the reasons why the local health department was unable to achieve substantial compliance within the first extension period.
- 3) The Department shall review the local health department for substantial compliance with Certification requirements upon the expiration of the waiver period or upon request of the local health department. The Department's review shall include only those certification requirements that are the basis for the waiver.
- A) If the Department, based upon its review, determines that the local health department meets the requirements set forth in Subparts C and D of this Part, the local health department shall be considered in substantial compliance with the requirements of Certification, and no further action shall be taken by the Department.
 - B) If the Department, based upon its review, determines that the local health department does not meet the requirements set forth in Subparts C and D of this Part and the waiver has expired, the Department shall notify the local health department of its option to request an extension of waiver under this Section.

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- C) If the Department, based upon its review, determines that the local health department does not meet the requirements set forth in Subparts C and D of this Part and the local health department's request was submitted prior to the expiration of the waiver period, the waiver shall continue until the end of the six-month period.
- e) The Department may conduct an on-site review of the local health department and such documents necessary to determine substantial compliance with this Section.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

SUBPART D: PRACTICE STANDARDS

Section 600.410 Requirements for IPLAN or an Equivalent Planning Process

- a) IPLAN or a planning process equivalent to IPLAN shall meet the following requirements:
- 1) The process shall involve community participation in the identification of community health problems, priority-setting, and completion of the community health needs assessment and community health plan.
 - 2) Community health indicators contained in the IPLAN Data System provided by the Department for assessment purposes or a similar, equally comprehensive data system developed by the local health department shall be utilized to structure the minimal content of the assessment. A local health department may use in its assessment such additional data available, describing the health of its population including natality, mortality, morbidity and risk factors for illness in its jurisdiction.
 - 3) The process shall result in the setting of priority health needs.
 - 4) The process shall include an analysis of priority problems that shall lead to the establishment of objectives and strategies for intervention.
 - 5) The process shall include board of health adoption of the community health plan.
 - 6) The process for developing an a-self-assessment of ~~the health department's~~ |

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organizational capacity shall address:

- A) the internal capabilities of the local health department to conduct effective public health functions, including an assessment of operational following categories: legal authority, community relations, and counsel; intergovernmental relations; constituency development and education; agency mission and role; data analysis, planning, evaluation and assurance; public policy issues and implementation; budget development and administration; reporting and auditing; personnel administration and staff development; organizational structure and shared resources; and management information systems, and program management; or-
 - B) the performance of the local public health system in achieving standards related to the 10 essential public health services; or
 - C) an organizational strategic plan developed within the previous five year that assesses strengths, weaknesses, opportunities and threats in the local health jurisdiction.
- b) Upon written request of a local health department, the Department shall approve a planning process equivalent to IPLAN if the Department determines that the proposed equivalent planning process complies with the requirements of subsection (a) of this Section. If the local health department is not satisfied with the Department's response to its request made pursuant to this subsection, it may petition the Director to reconsider.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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- 12) Initial Regulatory Flexibility Analysis:
- A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: This rulemaking will not affect small businesses.
 - B) Reporting, Bookkeeping or Other Procedures Required for Compliance: None
 - C) Types of Professional Skills Necessary for Compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking is needed to clarify and update requirements applicable to certified local health departments that receive local health protection grants.

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

DEPARTMENT OF PUBLIC HEALTH

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER h: LOCAL HEALTH DEPARTMENTSPART 615
LOCAL HEALTH PROTECTION GRANT RULES

SUBPART A: GENERAL

Section	
615.100	Definitions
615.110	Incorporated Materials

SUBPART B: ADMINISTRATION OF LOCAL HEALTH PROTECTION GRANTS

Section	
615.200	Eligibility
615.210	Purpose and Distribution of Grant Funds
615.220	Review and Consultation; Plan of Correction
615.230	Waiver of Requirements

SUBPART C: PROGRAM STANDARDS

Section	
615.300	Infectious Diseases
615.310	Food Protection
615.320	Potable Water Supply
615.330	Private Sewage Disposal
615.340	Common Requirements

SUBPART D: DUE PROCESS

Section	
615.400	Denial, Suspension or Revocation of Grant Application or Grant Agreement
615.410	Procedures for Hearings

615.APPENDIX A	Recommended Policies and Procedures for Immunization Clinics (Repealed)
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AUTHORITY: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS

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5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 2310-10 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-10].

SOURCE: Filed October 20, 1977; Part repealed, new Part adopted at 5 Ill. Reg. 1415, effective July 1, 1981; codified at 8 Ill. Reg. 16335; amended at 14 Ill. Reg. 805, effective January 1, 1990; Part repealed, new Part adopted by emergency rules at 17 Ill. Reg. 13002, effective July 21, 1993, for a maximum of 150 days; emergency expired on December 18, 1993; Part repealed, new Part adopted at 18 Ill. Reg. 4320, effective March 1, 1994; emergency amendment at 20 Ill. Reg. 3974, effective February 16, 1996, for a maximum of 150 days; emergency expired on July 15, 1996; amended at 21 Ill. Reg. 2960, effective February 20, 1997; amended at 26 Ill. Reg. 421, effective January 1, 2002; emergency amendment at 26 Ill. Reg. 18051, effective December 6, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. _____, effective October 1, 2003; amended at 28 Ill. Reg. _____, effective _____.

SUBPART C: PROGRAM STANDARDS

Section 615.340 Common Requirements

- a) All activities performed under this Part shall be governed in all respects by the laws of the State of Illinois. Personnel performing the programs described in this Subpart shall meet the applicable requirements of the Medical Practice Act of 1987 [225 ILCS 60]; the Nursing and Advanced Practice Nursing Act [225 ILCS 65]; and the Environmental Health Practitioner Licensing Act [225 ILCS 37].
- b) All local health departments shall maintain a 24-hour notification system that IDPH, hospitals, or members of the general public can contact to promptly reach a staff person to report a suspect or actual public health incident or event. Local health departments must document, at least quarterly, the method used to ensure the operational reliability of this 24-hour notification system. In addition, local health departments shall document and provide to the IDPH Emergency Officer and their IDPH Regional Health Officer the procedure that IDPH, hospitals or members of the general public must utilize to activate this 24-hour notification system.
- c) All local health departments are required to maintain a current, all hazard emergency response/disaster plan for their jurisdiction. "All hazard" includes, but is not limited to, natural, technological and intentionally caused emergency events, including disease outbreaks, bioterrorism, floods, severe weather, environmental and food protection incidents and others. All local health departments shall electronically submit to the Department the plan for their

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jurisdiction. Any and all future amendments to the plan shall be electronically submitted to the Department immediately. All local health departments shall keep a copy of the plan on file in their principal office. The Department will review each plan once at least every three years, or as often as necessary, as part of the local health department's program review process conducted in accordance with Section 615.220. The emergency response/disaster plan will provide a framework for response operations of the local health department or multi-jurisdiction, and will outline specific actions for local response and recovery activities. The plan will provide guidance for the local health department's primary programs to support jurisdiction-wide emergency operations and prescribe, among other items, the availability of personnel and response needs and provisions. The following items are minimum elements of an approved emergency response/disaster plan:

- 1) procedure for 24-hour availability of the local health department to receive information on a significant or potential emergency situation from the general public or a federal, State or local governmental agency;
 - 2) procedure for internal notification ("call-tree") to alert key staff within the local health department of an emergency situation;
 - 3) procedure that details how and when the local health department will contact the local emergency management agency, local law enforcement agency and the Department of an emergency situation;
 - 4) procedure that will outline the rapid mobilization of non-essential staff of the local health department to assist with the emergency situation, including the identification of critical programs administered by the local health department;
 - 5) procedure for the dissemination of information to first responders, local health care providers, hospitals, clinics and pharmacies within the jurisdiction to alert them of a significant or potential emergency situation; and
 - 6) procedure for the implementation of a mass vaccination and prophylaxis and treatment distribution/management of stockpiles of pharmaceuticals in response to a significant or potential communicable disease situation within the jurisdiction.
- d) The local health department shall submit information ~~annually~~ quarterly on forms |

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provided by the Department concerning activities conducted in each program conducted by the local health department. This local health protection grant program statistical information for food protection, potable water supply, and private sewage disposal programs shall include information for a calendar year and annually shall be submitted to the Department by March 1, following December 31 of the year for which information is being reported. The first annual reports will be due by March 1, 2004, for the year ending December 31, 2003. Annual reporting for infectious disease control programs shall be conducted in accordance with Section 615.300.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Continuation of Health Insurance Coverage (CHIC) Program
- 2) Code Citation: 77 Ill. Adm. Code 691
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
691.10 New Section	
691.20	New Section
691.30	New Section
691.40	New Section
691.50	New Section
691.60	New Section
691.70	New Section
691.80	New Section
APPENDIX A	New Section
- 4) Statutory Authority: Authorized by and implementing Section 2d of the Communicable Disease Prevention Act (410 ILCS 315/2d). Implementing Title II of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 USC 300ff, as amended by Public Law 101-381, effective August 18, 1990); amended by Public Law 104-146, effective October 1, 1996; and amended by Public Law 106-345, effective October 1, 2000.
- 5) A Complete Description of the Subjects and Issues Involved: These new rules will specify application, eligibility, and payment provision requirements for the continuation of health insurance coverage program (CHIC), a special insurance premium payment program to assist people with HIV/AIDS who may have had to leave their employment and are offered health insurance coverage through the Consolidated Omnibus Budget Reconciliation Act (COBRA) or have another health insurance plan. This program was originally administered by the Department of Public Aid and was statutorily transferred to the Department of Public Health through Public Act 92-0275 (HB 3126) effective August 7, 2001. The program is funded by a federal grant under the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 USC 300ff, et. seq.).
- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State mandate.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day this notice appears in the *Illinois Register*. Please send written comments on the proposed rulemaking within 45 days after the publication of this issue of the *Illinois Register* to the following address:
- Peggy Snyder, Rules Coordinator
Illinois Department of Public Health
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761-0001
217/782-2043
e-mail: rules@idph.state.il.us
- 12) Initial Regulatory Flexibility Analysis.
- A) Type of small businesses, small municipalities, and nonprofit corporations affected: Under Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75 and 5-30], a small business may present comments in writing to the Department and identify the status as a small-business in those comments.
- B) Reporting, bookkeeping, or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: The rulemaking was not summarized on a regulatory agenda.

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATION

PART 691

CONTINUATION OF HEALTH INSURANCE COVERAGE (CHIC) PROGRAM

Section

691.10	Definitions
691.20	Purpose
691.30	Eligibility Criteria for CHIC Program
691.40	Initial Application and Annual Renewal for Participation in the CHIC Program
691.50	CHIC Payment of Health Insurance Premiums
691.60	Grounds for Dismissal from CHIC Program
691.70	Client Appeal of Adverse Department Decision
691.80	Payment Agent
691.APPENDIX A	2003 Poverty Income Guidelines

AUTHORITY: Authorized by and implementing Section 2d of the Communicable Disease Prevention Act [10 ILCS 315/2d]. Implementing Title II of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 USC 300ff, as amended).

SOURCE: Adopted at 28 Ill. Reg. _____, effective _____.

Section 691.10 Definitions

For the purpose of administering and enforcing this Part, the following terms shall have the meaning indicated:

“Assets” means any of the following:

rental income property;

savings, checking account balance, or other types of bank accounts;

stocks or bonds;

any property owned in addition to the primary residence; or

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a second car or other vehicles.

“Payment agent” means an entity contracted to work with individuals determined by the Department to be eligible for services through the CHIC program, to make payments of health insurance premiums, and to track all activities associated with those payments.

Section 691.20 Purpose

- a) The Continuation of Health Insurance Coverage (CHIC) program is a special insurance premium payment program to assist people with HIV/AIDS who may have had to leave their employment and are offered health insurance coverage through the Consolidated Omnibus Budget Reconciliation Act (COBRA) or have another health insurance plan.
- b) The COBRA of 1985 is a federal law that requires all group health insurance plans with 20 or more employees to allow employees to continue health insurance coverage for 18 months after termination of employment. To maintain this coverage, employees must pay up to 102% of the cost of the premium and apply within 60 days after termination of employment. In some cases the COBRA option may be extended for a maximum of an additional 11 months, during which time the employee must pay up to 105% of the cost of the premium.

Section 691.30 Eligibility Criteria for CHIC Program

To be eligible for participation in the CHIC program, a person must:

- a) Be diagnosed with HIV/AIDS;
- b) Have health insurance;
- c) Be a resident and domiciled in Illinois;
- d) Meet income standards, not to exceed 200% of the poverty guidelines published in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 USC 9902(2) (see Appendix A); and
- e) Meet asset eligibility standards not to exceed \$10,000 in assets.

Section 691.40 Initial Application and Annual Renewal for Participation in the CHIC

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Program

- a) Application and annual renewal for the CHIC program shall be made on a form provided by the Department.
- b) Renewal applications must be received by the Department by the expiration date of the client's current enrollment or the client will be removed from the program.

Section 691.50 CHIC Payment of Health Insurance Premiums

The CHIC program will pay health insurance premiums not to exceed \$300 per month for individuals enrolled in the program; however, with approval from the Department, the CHIC program may pay additional premium amounts not to exceed \$1,500 annually. The CHIC program may pay the additional premium amounts for a family health insurance plan that may include a spouse and children, or where insurance coverage would provide benefits to the insured party that would outweigh the Department's cost of paying the premiums.

Section 691.60 Grounds for Dismissal from CHIC Program

- a) Grounds for denial of application or dismissal from the CHIC program are as follows:
 - 1) submission of false information and documentation on the CHIC initial or renewal application that impacts determination of the client's eligibility for the program; or
 - 2) client's failure to reimburse to the CHIC program the amount of any premium received from an insurer. If funds are recovered from the client by the payment agent, dismissal may be determined not to be necessary.
- b) The Department will issue a written decision concerning:
 - 1) denial of an initial or renewal application within 30 days after the date the Department receives the application; or
 - 2) dismissal of a client participating in the program within 30 days after the date the Department receives notification of violation of subsection (a)(2) of this Section.

Section 691.70 Client Appeal of Adverse Department Decision

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An individual may appeal the Department's decision concerning denial of application or dismissal from the program. Such appeal shall be conducted in accordance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

Section 691.80 Payment Agent

The Department may contract with a payment agent to act as an insurance liaison between the CHIC client and the insurance company or former employer.

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Section 691.APPENDIX A 2003 Poverty Income Guidelines2003 Poverty Income Guidelines
Gross Annual Wages

Size of Family Unit	200% Federal Poverty Level
1	\$17,960
2	\$24,240
3	\$30,520
4	\$36,800
5	\$43,080
6	\$49,360
For each additional child	+\$6,280

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medication
 - 2) Code Citation: 11 Ill. Adm. Code 603
 - 3) Section Number: 603.180 Proposed Action: Amend
 - 4) Statutory Authority: 230 ILCS 5/9(b)
 - 5) A Complete Description of the Subjects and Issues Involved: This rulemaking was proposed by the Standardbred Security Task Force and approved for rulemaking by the IRB on August 12, 2003. This rulemaking increases the penalties for TCO2 positive tests and establishes a post-race quarantine program. The increased penalties will be more in line with other racing jurisdictions.
 - 6) Will these proposed amendments replace any emergency amendments currently in effect?
No
 - 7) Does this rulemaking contain an automatic repeal date? No
 - 8) Do these proposed amendments contain incorporation by reference? No
 - 9) Are there any other proposed amendments pending in this Part? Yes
- | <u>Section Numbers</u> | <u>Proposed Action</u> | <u>Illinois Register Citation</u> |
|------------------------|------------------------|-----------------------------------|
| 603.40 | Amend | 27 Ill. Reg. 9106 |

- 10) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days of this notice, to:

Mickey Ezzo, Illinois Racing Board
100 West Randolph, Suite 11-100
Chicago, Illinois 60601
(312) 814-5017.

- 12) Initial Regulatory Flexibility Analysis:

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- A) Types of small business affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the most recent two regulatory agendas because: It was not anticipated when they were submitted.

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

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603
MEDICATION

Section

603.10	Pre-Race Saliva Tests
603.20	Racing Soundness Exam
603.30	Foreign Substances and Pharmaceutical Aids Banned
603.40	Twenty-four Hour Ban
603.50	Trainer Responsibility
603.55	Prima Facie Evidence
603.60	Permitted Use of Foreign Substances and Threshold Levels
603.70	Furosemide
603.80	Needles, Syringes and Injectables
603.90	Drugs, Chemicals and Prescription Items
603.100	Detention Barn
603.110	Test Samples
603.120	Referee Samples
603.130	Laboratory Findings and Reports
603.140	Distribution of Purses and Retention of Samples
603.150	Post Mortems
603.160	Penalties
603.170	Veterinarian's Records
603.180	Carbon Dioxide Tests

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August 1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. _____, effective _____.

Section 603.180 Carbon Dioxide Tests

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- a) The Board recognizes that an excess level of total carbon dioxide (TCO₂) in the race horse is considered adverse to the best interests of racing and adverse to the best interest of the horse in that such condition alters its normal physiological state. Accordingly, the State Veterinarian may draw blood samples from a horse for the purpose of obtaining a TCO₂ concentration.
- b) Blood samples for TCO₂ shall be drawn pre-race or post-race.
- c) The TCO₂ level in the blood shall not exceed:
 - 1) 39.0 millimoles per liter if the horse is competing on furosemide in accordance with Section 603.70 (Furosemide).
 - 2) 37.0 millimoles per liter if the horse is not competing on furosemide.
- d) In the event a blood sample from a horse contains an amount of TCO₂ that exceeds the levels described in subsection (c), the following penalties shall apply:
 - 1) The first time the laboratory reports an excessive TCO₂ level, the trainer shall be fined ~~\$2,000, not more than \$500~~ and the purse shall be redistributed. and the trainer shall be ordered suspended for at least 60 days but not to exceed 90 days. In addition, the horse shall be subject to "early detention" for a period identical to the length of the trainer's suspension. "Early detention" shall be defined as pre-race guarded quarantine, on the grounds of the organization licensee, beginning no less than 6½ hours prior to the scheduled post time for the first race. The licensed owner or trainer of the horse shall assign a caretaker to attend and provide surveillance until the horse is brought to the paddock or receiving barn.
 - 2) The second time the laboratory reports an excessive TCO₂ level, the trainer shall be ordered suspended for 180~~not more than 30~~ days and/or fined ~~\$5,000 not more than \$1,000~~ and the purse shall be redistributed. In addition, the horse shall be subject to "early detention" for a period of 180 days.
 - 3) For ~~a third or each~~ subsequent report of an excessive TCO₂ level, the trainer shall be ordered suspended for two years and fined ~~subject to a suspension of not longer than 120 days, a fine of \$5,000 not more than \$1,000~~ and the purse shall be redistributed. In addition, the horse shall be

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subject to "early detention" for a period of 180 days.

- 4) The penalties set forth in subsections (d)(2) and (3) must occur within 5 years after the penalties set forth in subsection (d)(1) are levied.
- e) If the levels of TCO₂ are determined to equal or exceed those set forth in subsection (c), and the licensed owner or trainer of that horse contends in writing to the stewards within 24 hours after notification of the results that such levels are physiologically normal for that particular horse, the licensee may, by such writing, request that the horse be held in quarantine. In the event quarantine is requested, the organization licensee shall make guarded quarantine available, for a period of time to be determined by the stewards but in no event more than 72 hours, at the sole expense of the licensee. During any quarantine, the horse shall be re-tested periodically and, although the horse may not race during the quarantine period, it may be exercised and trained at times prescribed by the organization licensee, consistent with the ability to monitor the horse. The horse will only be fed hay, oats and water during the quarantine period. If the stewards are satisfied, on the basis of the evident facts, the quarantine, and the testing of the horse's blood during the quarantine period, that the level of TCO₂ set forth in subsection (c) is physiologically normal for that particular horse, the stewards shall not order the relief set forth in subsection (d) and the horse shall be permitted to compete. In such case, the stewards, in their discretion, may require that the horse re-establish that the TCO₂ level is physiologically normal to it pursuant to the quarantine procedure set forth in this subsection.
- f) The provisions of Section 603.120 (Referee Samples) shall not apply to blood samples drawn for purposes of carbon dioxide testing.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act
- 2) Code Citation: 86 Ill. Adm. Code 530
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
530.101	Amendment
530.110	Amendment
530.125	Amendment
- 4) Statutory Authority: 320 ILCS 25/3.15 (as amended by Public Act 93-0528)
- 5) A Complete Description of the Subjects and Issues Involved:

530.101:

Expands the list of diseases for which pharmaceutical assistance coverage will become available to include multiple sclerosis as a result of Public Act 93-0528 beginning January 1, 2004.

530.110:

Adds a new category of therapeutic drugs for the treatment of multiple sclerosis for which expanded pharmaceutical assistance coverage will become available as a result of Public Act 93-0528 beginning January 1, 2004. Restates long-standing requirement to the effect that a covered prescription drug must be approved by the Food and Drug Administration for the treatment of a specific disease category. Renumbers remaining provisions.

530.125:

Strikes obsolete provisions for pharmacy contracts that were executed and in effect prior to July 1, 2002. Renumbers remaining provisions. Corrects punctuation. Updates terminology to correspond with language used in pharmacy contracts that were executed and in effect on or after July 1, 2002.
- 6) Will this rulemaking replace an emergency rulemaking currently in effect: No
- 7) Does this rulemaking contain an automatic repeal date? No

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- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part: No
- 10) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:
- Karen Alice Kloppe
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-2844
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will affect authorized pharmacies that contract with the Department's claims processing vendor to participate in the Pharmaceutical Assistance Program.
- B) Reporting, bookkeeping or other procedures required for compliance: Authorized pharmacies will need to revise administrative procedures in accordance with this rule and directives from the Department or its claims processing vendor regarding covered prescription drugs used for the treatment of multiple sclerosis.
- C) Types of professional skills necessary for compliance: Staff at authorized pharmacies will need to be able to explain the changes in the Pharmaceutical Assistance Program under Public Act 93-0528 to program beneficiaries and enter covered prescription drugs used for the treatment of multiple sclerosis by program beneficiaries in computerized records.

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- 13) Regulatory Agenda on which this rulemaking was summarized: July 2003 (although amendment of Section 530.101 and Section 530.110 was not referenced because Public Act 93-0528 was enacted after completion of this agenda)

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 530
SENIOR CITIZENS AND DISABLED PERSONS PROPERTY TAX RELIEF AND
PHARMACEUTICAL ASSISTANCE ACT

SUBPART A: PHARMACEUTICAL ASSISTANCE PROGRAM

Section

530.101	Purpose of the Pharmaceutical Assistance Program
530.105	Definitions
530.110	Covered Prescription Drugs
530.115	Eligibility Qualifications
530.116	Fees and Co-payments
530.117	Claim Filing Procedures
530.120	Cards
530.125	Determination of Cost of Covered Prescription Drugs
530.130	Authorized Pharmacy Qualifications
530.135	Assignment and Coordination of Benefits
530.140	Payments to Authorized Pharmacies
530.145	Execution of Contracts
530.150	Limitation on Prescription Size
530.155	Inspection and Disclosure of Records
530.160	Establishment of Liens
530.165	Penalties

SUBPART B: PROPERTY TAX RELIEF PROGRAM ("CIRCUIT BREAKER")

Section

530.201	Purpose of the Property Tax Relief Program
530.205	Definitions
530.210	Claimant Eligibility Qualifications
530.215	Claim Filing Procedures
530.220	Property Tax Grant Determinations
530.225	Penalties

SUBPART C: ELECTRONIC FILING

Section

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

530.301	Electronic Filing Program Via Internet
530.305	Eligible Electronic Documents
530.310	Internet Filer Eligibility Qualifications
530.315	Electronic Applications
530.320	Electronic Signature Code
530.325	Transmission of Electronic Applications
530.330	Transmission Confirmations

AUTHORITY: Implementing the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act [320 ILCS 25] and authorized by Section 2505-200 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-200].

SOURCE: Adopted at 11 Ill. Reg. 20978, effective December 15, 1987; amended at 13 Ill. Reg. 1589, effective January 18, 1989; amended at 17 Ill. Reg. 11566, effective July 8, 1993; amended at 22 Ill. Reg. 19929, effective October 28, 1998; amended at 24 Ill. Reg. 17562, effective November 16, 2000; emergency amendment at 25 Ill. Reg. 8449, effective July 1, 2001, for a maximum of 150 days; emergency amendment modified in response to JCAR objection at 25 Ill. Reg. 12913; emergency expired November 27, 2001; amended at 25 Ill. Reg. 16508, effective December 18, 2001; amended at 26 Ill. Reg. 8437, effective May 24, 2002; emergency amendment at 26 Ill. Reg. 11126, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16981, effective November 7, 2002; amended at 27 Ill. Reg. 2699, effective January 31, 2003; amended at 28 Ill. Reg. _____, effective _____.

SUBPART A: PHARMACEUTICAL ASSISTANCE PROGRAM

Section 530.101 Purpose of the Pharmaceutical Assistance Program

The Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act (Act) [320 ILCS 25] provides for the establishment of a program of pharmaceutical assistance to be administered by the Illinois Department of Revenue. The purpose for this program is to enable low-income senior citizens and disabled persons to afford medication for the treatment of heart disease and its related conditions, diabetes, arthritis; and, beginning January 1, 2001, cancer, Alzheimer's disease, Parkinson's disease, glaucoma, lung disease and smoking related illnesses; and, beginning July 1, 2001, osteoporosis; and beginning January 1, 2004, multiple sclerosis.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 530.110 Covered Prescription Drugs

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- a) Drugs, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987 [225 ILCS 60], physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987 [225 ILCS 95], or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act [225 ILCS 65/Title 15] for treatment of heart disease and its related conditions, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Antihypertensive
 - 2) Antianginal
 - 3) Antiarrhythmic
 - 4) Antihyperlipidemic
 - 5) Beta Blocker
 - 6) Digitalis Glycosides
 - 7) Hypertension/Shock
 - 8) Diuretics
 - 9) Potassium
 - 10) Anticoagulants
- b) Drugs purchased on or after January 1, 1987, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of diabetes, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Insulin
 - 2) Insulin, Syringes & Needles

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- 3) Oral Hypoglycemics
 - 4) Pituitary Hormones
 - 5) Glucose Elevators
- c) Drugs purchased on or after January 1, 1987, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of arthritis, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Hormones/Adrenal Cortical Steroids
 - 2) Analgesics/Antirheumatic
 - 3) Analgesics/Nonopiate Agonists
 - 4) Antiprotozoals
 - 5) Penicillamine
 - 6) Analgesics/Narcotic Antagonists: Gout
 - 7) Oncolytic/Antineoplastic: Antimetabolites
 - 8) Immunosuppressives
- d) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of cancer, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Alkylating Agents

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- 2) Antimetabolites
 - 3) Antimitotic Agents
 - 4) Epipodophyllotoxins
 - 5) Antibiotics
 - 6) Hormones
 - 7) Enzymes
 - 8) Platinum Coordination Complex
 - 9) Anthracenedione
 - 10) Substituted Ureas
 - 11) Methylhydrazine Derivatives
 - 12) Cytoprotective Agents
 - 13) DNA Topoisomerase Inhibitors
 - 14) Biological Response Modifiers
 - 15) Retinoids
 - 16) Monoclonal Antibodies
 - 17) Miscellaneous Antineoplastics
 - 18) Narcotic Agonist Analgesics
 - 19) Narcotic Analgesic Combinations
 - 20) Anticonvulsants
- e) Drugs purchased on or after January 1, 2001, which fall within the following

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categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of Alzheimer's disease, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

- 1) Cholinesterase Inhibitors
 - 2) Antipsychotics
- f) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of Parkinson's disease, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Anticholinergics
 - 2) Amantadine
 - 3) Bromocriptine Mesylate
 - 4) Carbidopa
 - 5) Levodopa
 - 6) Levodopa and Carbidopa
 - 7) Pergolide Mesylate
 - 8) Selegiline Hydrochloride
 - 9) Entacapone
 - 10) Tolcapone
 - 11) Dopaminergics

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- 12) Clonazepam
- g) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, therapeutically certified optometrist licensed pursuant to the Illinois Optometric Practice Act of 1987 [225 ILCS 80/15.1], physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of glaucoma, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Alpha-2 Adrenergic Agonists
 - 2) Sympathomimetics
 - 3) Alpha-Adrenergic Blocking Agents
 - 4) Beta-Adrenergic Blocking Agents
 - 5) Miotics, Direct Acting
 - 6) Miotics, Cholinesterase Inhibitors
 - 7) Carbonic Anhydrase Inhibitors
 - 8) Prostaglandin Agonists
 - 9) Miscellaneous Combinations
- h) Drugs purchased on or after January 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of lung disease and smoking related illnesses, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:

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- 1) Sympathomimetic Bronchodilators
 - 2) Diluents
 - 3) Xanthine Derivatives
 - 4) Anticholinergic Bronchodilators
 - 5) Leukotriene Receptor Antagonists
 - 6) Leukotriene Formation Inhibitors
 - 7) Corticosteroid Respiratory Inhalants
 - 8) Mucolytics
 - 9) Mast Cell Stabilizers
 - 10) Respiratory Enzymes
 - 11) Digestive Enzymes
 - 12) Antiasthmatic Combinations
 - 13) Antituberculosal Agents
 - 14) Zyban
 - 15) Nicotine
- i) Drugs purchased on or after July 1, 2001, which fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of osteoporosis, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
- 1) Bisphosphonates

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- 2) Selective Estrogen Receptor Modulators
- 3) Calcitonin-Salmon
- j) Drugs purchased on or after January 1, 2004 that fall within the following categories and are prescribed by a physician licensed to practice medicine in all of its branches pursuant to the Medical Practice Act of 1987, physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987, or advanced practice nurse licensed pursuant to Title 15 of the Nursing and Advanced Practice Nursing Act for the treatment of multiple sclerosis, qualify for inclusion in the Pharmaceutical Assistance Program as covered prescription drugs:
 - 1) Corticosteroids
 - 2) Immunomodulatory Agents
 - 3) Immunosuppressants
 - 4) Antineoplastics
- k) A covered prescription drug must be approved by the Food and Drug Administration of the federal Department of Health and Human Services for the treatment of a specific disease category.
- l) The specific covered prescription drugs which fall within each category will be listed in a handbook to be prepared and disseminated on the internet Web site of the Department. Updates regarding changes in the categories and specific covered prescription drugs will be made as necessary.

(Source: Amended at 28 Ill. Reg. _____, effective _____)

Section 530.125 Determination of Cost of Covered Prescription Drugs

- a) The Department will pay an authorized pharmacy the reasonable cost of pharmaceutical services that such pharmacy provided to a beneficiary pursuant to a physician's oral or written prescription authorization.
- b) Determination of Reasonable Cost.
 - 1) ~~For contracts executed and in effect prior to July 1, 2002, the Department will determine the reasonable cost of covered prescription drugs for which~~

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~~payment will be made to an authorized pharmacy in an amount equal to:~~

~~A) the lesser of:~~

- ~~i) the Average Wholesale Price (AWP) for the covered prescription drug minus 10%, based on the National Drug Code (NDC) number for the original package size from which such drug was dispensed (AWP is determined by the most recent monthly publication Price Alert, First DataBank, 1111 Bayhill Dr., San Bruno CA 94066, the electronic successor to the Blue Book); or~~
- ~~ii) the Maximum Acquisition Cost (MAC) for the covered prescription drug based on MAC list for this program (MAC is determined by the Department's claims processing vendor); plus~~

~~B) the professional dispensing fee; less~~

~~C) any applicable co-payments, deductibles, and ancillary charges.
[320 ILCS 25/3.16]~~

- ~~2)~~ For contracts executed and in effect on or after July 1, 2002, as subject to periodic review, the Department will determine the rate for the reasonable cost of covered prescription drugs for which payment will be made to an authorized pharmacy in an amount equal to:

~~1A)~~ the lesser of:

- ~~Ai)~~ the Average Wholesale Price (AWP) for the covered prescription drug minus 14%, based on the National Drug Code (NDC) number for the original package size from which such drug was dispensed (AWP is determined by the most current information provided by drug pricing services such as First DataBank or other source nationally recognized in the retail prescription drug industry selected by the Department's claims processing vendor); or
- ~~Bi)~~ the Maximum Allowable Cost (MAC) for the covered prescription drug, based on the MAC list for this program (MAC is determined by the Department's claims processing vendor); or
- ~~Cii)~~ the usual and customary cost for the covered prescription drug; plus

~~2B)~~ the professional dispensing fee; less

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- ~~3C)~~ any applicable co-payments, deductibles, and ancillary charges.
- c) Professional Dispensing Fee.
- ~~1)~~ For contracts executed and in effect prior to July 1, 2002, on an annual basis, the Department shall conduct a survey to determine the professional dispensing fee to be charged by authorized pharmacies.
- ~~A)~~ The survey will consist of a broad rate analysis of other similar private and governmental pharmaceutical assistance programs, including organizations within and outside Illinois. The survey will be conducted as follows:
- ~~i)~~ The Department will contact those other states that have pharmaceutical assistance programs similar to this program and obtain information concerning current dispensing fees as well as information on any plans to modify the fees within the next 12 months.
- ~~ii)~~ The Department will contact private sector businesses with similar programs and obtain fee information from those businesses.
- ~~iii)~~ The Department will contact the Illinois Department of Public Aid and the public aid departments of the surrounding states to obtain fee rates under the various Medicaid programs.
- ~~B)~~ The results of the broad rate analysis will then be evaluated by the Department to determine an appropriate professional dispensing fee for which an authorized pharmacy will be paid. The professional dispensing fee so determined will be used in subsection (b) of this Section to determine reasonable cost.
- ~~C)~~ The professional dispensing fee shall be adjusted as of July 1 of each year in accordance with the results of the survey prescribed in this subsection (c).
- 2) For contracts executed and in effect on or after July 1, 2002, as subject to periodic review, the Department shall determine the professional dispensing fee to be charged by authorized pharmacies. The professional dispensing fee shall be in the amount of \$2.55 per prescription.
- d) Payment.
- 1) Payment to authorized pharmacies will be allowed for covered

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prescription drugs legally marketed in accordance with the rules and regulations of the Food and Drug Administration of the federal Department of Health and Human Services.

- 2) Payment will be at the generic price as provided in subsection (b) unless the following conditions exist:
 - A) an oral prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product for which no generic equivalent is available; or
 - B) a written prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product for which no generic equivalent is available; or
 - C) beginning January 1, 2001, an oral prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product containing one or more ingredients defined as a narrow therapeutic index drug at 21 CFR 320.33 and the prescriber stipulates "brand medically necessary" and that substitution is not permitted; or
 - D) beginning January 1, 2001, a written prescription is filled, refilled, or renewed for a covered prescription drug that is a brand name product containing one or more ingredients defined as a narrow therapeutic index drug at 21 CFR 320.33 and indicates on its face "brand medically necessary" and that substitution is not permitted.
- e) Pharmacy's Cost of On-line Communications. Each authorized pharmacy participating in this program shall pay all costs, charges and fees incurred by the pharmacy that are related to on-line communication and the processing of claims or other information sent to or from the Department or the Department's claims processing vendor.
- f) The reasonable cost of covered prescription drugs available to beneficiaries in this program shall not exceed the cost of such drugs when dispensed to the general public.
- g) In the event that generic equivalents for covered prescription drugs are available at lower cost, the Department shall establish the maximum allowable acquisition

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cost for such covered prescription drugs at the lower generic cost as provided in subsection (b).

(Source: Amended at 28 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Determination of Ammonia Nitrogen Water Quality Based Effluent Limits for Discharges to General Use Waters
- 2) Code Citation: 35 Ill. Adm. Code 355
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
355.101	Amendment
355.103	Amendment
355.201	Amendment
355.203	Amendment
355.205	Amendment
355.209	Amendment
355.301	Repealed
355.303	Repealed
355.305	Repealed
355.307	Repealed
355.309	Repealed
355.311	Repealed
355.313	Repealed
355.315	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 39 of the Illinois Environmental Protection Act [415 ILCS 5/39].
- 5) Effective Date of Amendments: September 25, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this adopted rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments was placed on file in the Illinois EPA's principal office in Springfield prior to publication and is available for public inspection.
- 9) Notice of Proposed Amendments Published in the Illinois Register: January 17, 2003, 27 Ill. Reg. 713 (Issue 03)
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: There are no substantive differences between the proposed and adopted amendments. A few minor typographical changes

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were made as a result of comments by JCAR including deleting the word “repealed” from the Subpart C title line in the Table of Contents during the second notice period. Changes made as a result of JCAR comments following the First Notice period included: deleting a period at end of the Source Note in several places; underlining the word “calculate” in Section 355.201(a); adding strikethrough to the term “~~above~~” in Section 355.203(b) and adding strikethrough to Sections 355.301 through 355.315 to indicate all text that is being repealed.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this part? No
- 15) Summary and Purpose of Amendments: These Amendments are proposed in order to implement changes to the Ammonia Nitrogen Water Quality Standards approved by the Illinois Pollution Control Board (Board) on October 17, 2002 in R02-19. In that rulemaking, the Board updated the acute and chronic ammonia nitrogen water quality standards, added a new sub-chronic water quality standard and repealed the effluent modified waters provisions in Parts 302 and 304.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Deborah J. Williams, Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Ave. East
P.O. Box 19276
Springfield, Illinois 62794-9276
(217) 782-5544

The full text of the adopted amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE C: WATER POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 355

DETERMINATION OF AMMONIA NITROGEN WATER QUALITY
BASED EFFLUENT LIMITS FOR DISCHARGES TO GENERAL USE WATERS

SUBPART A: INTRODUCTION

Section	
355.101	Purpose, Scope and Application
355.103	Definitions

SUBPART B: AMMONIA NITROGEN (as N) WATER
QUALITY STANDARDS AND WQBELs

Section	
355.201	Introduction
355.203	<u>Calculation Conversion of Total Ammonia and Un-ionized Ammonia-Nitrogen Numeric Water Quality Standards Regarding NPDES Permit Limits</u>
355.205	Estimation of Projected Effluent Quality
355.207	Mixing Allowance
355.209	Calculation of Preliminary Effluent Limitation
355.211	Summary of the Results for a Reasonable Potential Analysis and the Determination of Ammonia Nitrogen WQBELs

SUBPART C: EFFLUENT MODIFIED WATERS

Section	
355.301	Introduction (<u>Repealed</u>)
355.303	EMW Application Requirements (<u>Repealed</u>)
355.305	Evaluation of EMW Applications (<u>Repealed</u>)
355.307	Determination of EMW Designation (<u>Repealed</u>)
355.309	Procedures for Delineating an EMW (<u>Repealed</u>)
355.311	Ammonia Nitrogen Decay Equation (<u>Repealed</u>)
355.313	Restrictions Applicable to Discharges with EMWs (<u>Repealed</u>)
355.315	Publication of EMWs (<u>Repealed</u>)

AUTHORITY: Implementing and authorized by Section 39 of the Illinois Environmental

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Protection Act [415 ILCS 5/39].

SOURCE: Adopted at 23 Ill. Reg. 7267, effective June 9, 1999; ; amended at 27 Ill. Reg. 15774, effective September 25, 2003.

SUBPART A: INTRODUCTION

Section 355.101 Purpose, Scope and Application

- a) This Part contains procedures to determine water quality based effluent limits for ammonia nitrogen (as N) (ammonia nitrogen WQBELs) that are necessary to prevent waters of the State from exceeding water quality standards pursuant to 40 CFR 122.44(d)(1) and 35 Ill. Adm. Code 309.141(d)(3). Ammonia nitrogen WQBELs must be sufficient to ensure compliance with the water quality standards for ammonia nitrogen found in the Illinois Pollution Control Board (IPCB) regulations at 35 Ill. Adm. Code 302.202, 302.212, ~~302.213~~ and 304.122.
- b) Ammonia nitrogen WQBELs are applicable to the general use waters of the State.
- c) There shall be an opportunity for compliance with the ammonia nitrogen water quality standards as provided by the IPCB regulations through application of allowed mixing, mixing zones and zones of initial dilution at 35 Ill. Adm. Code 302.102 ~~and 302.213~~.
- d) In addition to water quality based effluent limits, the discharge of ammonia nitrogen from a facility may be limited based on other provisions in the Environmental Protection Act [415 ILCS 5] (Act) and regulations adopted thereunder or the Federal Water Pollution Control Act, 33 USC 1251-1387 (FWPCA) and regulations adopted thereunder.

(Source: Amended at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.103 Definitions

All terms in this Part shall have the meanings set forth in the Environmental Protection Act and in the IPCB regulations under 35 Ill. Adm. Code 301 and 302 except, for purposes of this Part, the following definitions apply:

~~"7Q10" means the average daily flow of the lowest total flow for a seven day~~

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~~period that occurs once in a 10-year period.~~

"AWQMN" or "Ambient Water Quality Monitoring Network" means the network of sampling stations maintained by the Agency and located on streams throughout the State.

"Agency" means the Illinois Environmental Protection Agency.

~~"Ammonia decay" refers to the cumulative effect of nitrification, volatilization, plant uptake, and other processes that reduce the concentration of ammonia nitrogen in waters by natural means.~~

~~"cfs" means cubic feet per second.~~

~~"DAF" means design average flow.~~

"DMR" means discharge monitoring report.

~~"EMW" or "Effluent Modified Water" means those waters or portions of waters that the Agency has determined, pursuant to 35 Ill. Adm. Code 302.213, are not subject to the chronic ammonia nitrogen standards of 35 Ill. Adm. Code 302.212(b).~~

"IPCB" means the Illinois Pollution Control Board.

~~"ISWS" means the Illinois State Water Survey, a part of the Office of Scientific Research and Analysis in the Illinois Department of Natural Resources.~~

"Kjeldahl" means the total of organic nitrogen and ammonia nitrogen.

~~"MGD" means million gallons per day.~~

"NPDES" means National Pollutant Discharge Elimination System.

"PEL" or "Preliminary Effluent Limitation" is an estimate of an allowable discharge concentration taking into consideration allowed mixing or dilution.

"PEQ" or "Projected Effluent Quality" is the maximum contaminant concentration estimated to be discharged by a facility or activity taking into account statistical analysis of the discharge or activity.

"Reasonable Potential Analysis" or "Reasonable Potential to Exceed" means the procedure to predict whether an existing or future discharge may cause or contribute to a violation of water quality standards, criteria or values.

"Summer" means the months of March ~~April~~ through October, inclusive, when early life stages of sensitive organisms are assumed to be present. If early life

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stages of sensitive organisms are present in a water body during other months, these months are included as summer months.

"USEPA" means the United States Environmental Protection Agency.

"USGS" means the United States Geological Survey.

"WQBEL" or "Water Quality Based Effluent Limit" means an NPDES permit limit that ensures that applicable water quality standards and criteria are met in waters where such standards and criteria apply.

"Winter" means the months of November through ~~February~~~~March~~, inclusive, when early life stages of sensitive organisms are assumed to be absent. If early life stages of organisms for a water body exist in any of these months, these months will be considered summer months.

(Source: Amended at 27 Ill. Reg. 15774, effective September 25, 2003)

SUBPART B: AMMONIA NITROGEN (as N) WATER
QUALITY STANDARDS AND WQBELs

Section 355.201 Introduction

The need for an ammonia nitrogen (as N) WQBEL is based on the reasonable potential of a discharge to cause or contribute to a violation of the applicable ammonia nitrogen water quality standard. During the NPDES permit review process, the Agency shall conduct an analysis of the reasonable potential for ammonia to exceed or contribute to excursions above the ammonia nitrogen water quality standard that may occur in the receiving water. This analysis shall be conducted for both acute and chronic water quality standards for periods when early life stages are absent (winter, see 35 Ill. Adm. Code 302.212(b)(2)(B)) and periods when early life stages are present (summer, see 35 Ill. Adm. Code 302.212(b)(2)(A)) ~~ammonia nitrogen water quality standards.~~ The Agency may conduct this analysis for the subchronic standard when daily effluent ammonia samples are collected. The Agency may subdivide summer or winter periods into quarterly or monthly segments with analysis of reasonable potential corresponding to those smaller time segments in individual permit applications.

- a) The first step in the reasonable potential analysis is to ~~calculate compare~~ the Projected Effluent Quality (PEQ), as provided in Section 355.205. The PEQ is then compared, to the total ammonia nitrogen water quality standard ~~as converted to total ammonia nitrogen~~ as provided in Section 355.203. If the PEQ is less than

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or equal to the total ammonia nitrogen water quality standard ~~as converted to total ammonia nitrogen~~ as provided in Section 355.203, then no reasonable potential to exceed the standard exists and no effluent limitation will be established in the permit unless otherwise warranted under subsection (c) of this Section.

- b) If the PEQ exceeds the applicable total ammonia nitrogen water quality standard ~~as converted to total ammonia nitrogen~~ as provided in Section 355.203, the analysis shall proceed to the determination of a mixing allowance second step as provided in Section 355.207.
- c) If the wastewater prior to treatment contains total Kjeldahl nitrogen at levels in which a reasonable potential to exceed total ammonia nitrogen water quality standards ~~as converted to total ammonia nitrogen~~ as provided in Section 355.203 exists, then the discharge of ammonia nitrogen shall be limited in the NPDES permit by an ammonia nitrogen WQBEL. Reasonable potential to exceed water quality standards will be determined consistent with Sections 355.203 through 355.211 of this Part. Even if there appears to be no potential to exceed the water quality standards based on the effluent quality analysis in subsection (a) or (b), an ammonia nitrogen WQBEL shall be established.

(Source: Amended at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.203 Calculation Conversion of Total Ammonia and Un-ionized Ammonia Nitrogen Numeric Water Quality Standards Regarding NPDES Permit Limits

~~The numeric water quality standards for ammonia nitrogen in 35 Ill. Adm. Code 302.212 are established as the un-ionized fraction of the total ammonia nitrogen present, since the un-ionized component more closely relates to the toxicology information utilized in deriving the ammonia nitrogen standard. However, most discharge monitoring data used in deriving a PEQ will be in the form of total ammonia nitrogen. WQBELs will be set as total ammonia nitrogen concentrations. The conversion formula contained in 35 Ill. Adm. Code 302.212 shall be used to estimate the portion of total ammonia nitrogen that exists in the un-ionized condition. The primary variables effecting the equilibrium between ionized and un-ionized fractions are temperature and pH. Temperature and pH affect the numeric total ammonia nitrogen water quality standard. Both stream temperature and pH can be expected to be different than discharge temperature and pH; therefore, the conversion calculation of the water quality standard and permit limits will be based on conditions expected to exist downstream of the discharge.~~

- a) Where receiving stream specific data is available, that data shall be the basis for the selection of temperature and pH values to be used in calculating converting

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total ammonia nitrogen standards upon which an NPDES permit limit will be based. A data collection station downstream of the discharge at or beyond the point where complete mixing has occurred is preferred to un-ionized ammonia nitrogen. When receiving stream specific data is not available, data from the closest representative Agency water quality monitoring station during the most recent five years will be used in this conversion formula. The temperature will be set at the 75th percentile (75 percent of the values are less than) from data collected during the period for which the water quality standard is being calculated. The pH value will be set at the 75th percentile (75 percent of the values are less than) from data collected during the period for which the water quality standard is being calculated~~for determination of both acute and chronic conditions.~~ If the 75th percentile pH value results in a permit limit for chronic exposure conditions (monthly average ammonia permit limit) less than 1.5 mg/L for the summer period limit or 4.0 mg/L for the winter period limit, the values will be recalculated based on a 50th percentile pH value (half the values are less than). The permit limit will then be set at the value derived with a 50th percentile pH as long as that value does not exceed 1.5 mg/L for the summer period months and 4.0 mg/L for the winter period months. If a 50th percentile pH value would allow a higher summer limit than 1.5 mg/L, the limit will be set at 1.5 mg/L. If a 50th percentile pH would allow a higher winter limit than 4.0 mg/L, the winter limit would be set at 4.0 mg/L. Limits based in the subchronic ammonia standard will be 2.5 times the chronic limit established by the above procedure.

1) Unless a different configuration is found by the Agency to be appropriate two permit limits for summer will be calculated separately using pH and temperature data from the following periods:

A) March, April, May, September and October.

B) June, July and August.

2) Unless a different configuration is found by the Agency to be appropriate, permit limits for winter will be calculated using pH and temperature data from November, December, January and February.

- b) When sufficient stream specific information is available with simultaneous measurements of total ammonia, pH, and temperature, a ~~conversion~~ relationship reflecting the dynamic interaction between pH, temperature and ammonia equilibrium may be developed instead of the approach presented in subsection (a) ~~above~~.

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- c) The above calculations allow acute, chronic and subchronic ammonia nitrogen water quality standards to be applied as daily maximum, monthly average and weekly average permit limits, respectively.

(Source: Amended at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.205 Estimation of Projected Effluent Quality

The Projected Effluent Quality (PEQ) is the estimation of the maximum expected effluent concentration. Individual PEQs shall be estimated for all both summer and winter acute, and chronic and subchronic exposure periods.

- a) The PEQ shall be derived from representative facility specific data to reflect a 95 percent confidence level for the 95th percentile value. These data will be presumed to adhere to a lognormal distribution pattern with a coefficient of variation of 0.6 unless the facility's effluent data demonstrates a different distribution pattern. If facility specific data in excess of 10 data values is available, a facility specific coefficient of variation that is the ratio of the standard deviation to the arithmetic average may be calculated. The PEQ is derived as the upper bound of a 95 percent confidence bracket around the 95th percentile value through a multiplier from the following table applied to the maximum value in the data set that has its quality assured consistent with subsection (f) as appropriate for acute and chronic data sets.

$$\text{PEQ} = (\text{maximum data point})(\text{statistical multiplier})$$

Coefficient of Variation

No. of Samples	0.1	0.2	0.3	0.4	0.5	0.6	0.7
1	1.4	1.9	2.6	3.6	4.7	6.2	8.0
2	1.3	1.6	2.0	2.5	3.1	3.8	4.6
3	1.2	1.5	1.8	2.1	2.5	3.0	3.5
4	1.2	1.4	1.7	1.9	2.2	2.6	2.9
5	1.2	1.4	1.6	1.8	2.1	2.3	2.6
6	1.1	1.3	1.5	1.7	1.9	2.1	2.4
7	1.1	1.3	1.4	1.6	1.8	2.0	2.2
8	1.1	1.3	1.4	1.6	1.7	1.9	2.1
9	1.1	1.2	1.4	1.5	1.7	1.8	2.0

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10	1.1	1.2	1.3	1.5	1.6	1.7	1.9
11	1.1	1.2	1.3	1.4	1.6	1.7	1.8
12	1.1	1.2	1.3	1.4	1.5	1.6	1.7
13	1.1	1.2	1.3	1.4	1.5	1.6	1.7
14	1.1	1.2	1.3	1.4	1.4	1.5	1.6
15	1.1	1.2	1.2	1.3	1.4	1.5	1.6
16	1.1	1.1	1.2	1.3	1.4	1.5	1.6
17	1.1	1.1	1.2	1.3	1.4	1.4	1.5
18	1.1	1.1	1.2	1.3	1.3	1.4	1.5
19	1.1	1.1	1.2	1.3	1.3	1.4	1.5
20	1.1	1.1	1.2	1.2	1.3	1.4	1.4
30	1.0	1.1	1.1	1.1	1.2	1.2	1.2
40	1.0	1.0	1.1	1.1	1.1	1.1	1.1
50	1.0	1.0	1.0	1.0	1.0	1.0	1.0
60 or greater	1.0	1.0	1.0	1.0	1.0	1.0	1.0

Coefficient of Variation

No. of Samples	0.8	0.9	1.0	1.1	1.2	1.3
1	10.1	12.6	15.5	18.7	22.3	26.4
2	5.4	6.4	7.4	8.5	9.7	10.9
3	4.0	4.6	5.2	5.8	6.5	7.2
4	3.3	3.7	4.2	4.6	5.0	5.5
5	2.9	3.2	3.6	3.9	4.2	4.5
6	2.6	2.9	3.1	3.4	3.7	3.9
7	2.4	2.6	2.8	3.1	3.3	3.5
8	2.3	2.4	2.6	2.8	3.0	3.2
9	2.1	2.3	2.4	2.6	2.8	2.9
10	2.0	2.2	2.3	2.4	2.6	2.7
11	1.9	2.1	2.2	2.3	2.4	2.5
12	1.9	2.0	2.1	2.2	2.3	2.4
13	1.8	1.9	2.0	2.1	2.2	2.3
14	1.7	1.8	1.9	2.0	2.1	2.2
15	1.7	1.8	1.8	1.9	2.0	2.1
16	1.6	1.7	1.8	1.9	1.9	2.0
17	1.6	1.7	1.7	1.8	1.9	1.9
18	1.6	1.6	1.7	1.7	1.8	1.9
19	1.5	1.6	1.6	1.7	1.8	1.8
20	1.5	1.5	1.6	1.6	1.7	1.7

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30	1.3	1.3	1.3	1.3	1.4	1.4
40	1.1	1.2	1.2	1.2	1.2	1.2
50	1.1	1.1	1.1	1.1	1.1	1.1
60 or greater	1.0	1.0	1.0	1.0	1.0	1.0

- 1) If the PEQ determined in this Section is less than or equal to the applicable acute water quality standard, there is no reasonable potential and no WQBEL will be established in the permit unless otherwise warranted under Section 355.201(c).
 - 2) If the PEQ as determined in this Section exceeds the applicable acute water quality standard but does not exceed the PEL determined through Section 355.209, there is no reasonable potential and no WQBEL will be established unless otherwise warranted under Section 355.201(c).
- b) The Agency shall compare calculated PEQ values derived from monthly average effluent data ~~values~~, when available, with the applicable chronic water quality standard to evaluate the need for monthly average WQBEL using the same method described in subsection (a) of this Section. If a monthly average WQBEL is included in an NPDES permit, the Agency will also include a daily maximum WQBEL to enforce the acute water quality standard.
- c) The Agency shall compare calculated PEQ values derived from the highest weekly average total ammonia effluent data, when available, with the applicable subchronic water quality standards to evaluate the need for a weekly average WQBEL using the same method described in subsection (a) of this Section.
- de) The Agency may apply other scientifically defensible statistical methods for calculating PEQ at the 95 percent upper confidence level for use in the reasonable potential analysis. For new or existing discharges where no prior operating record is available, PEQ shall be estimated based on knowledge of the tributary wastewater characteristics and treatment facility capabilities. For existing sources where the PEQ for the term of the permit cannot be accurately characterized by historical performance data as specified in subsection (a) of this Section due to significant changes in tributary loading, plant operating parameters or other factors affecting treatment efficiency during the term covered by the permit, a PEQ representative of the future permit term may be estimated by analysis of the historical data consistent with subsection (a) with adjustment of the historical value to reflect the change expected from the anticipated loading or operating changes.

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ed) Regardless of the statistical procedure used, if the PEQ for ammonia nitrogen (as N) is less than or equal to the water quality standard, the Agency shall deem the discharge not to have a reasonable potential to exceed and a WQBEL shall not be required unless otherwise required under Section 355.201.

fe) Data Requirements

The derivation of PEQ is based on the effluent quality demonstrated by self-monitoring data as required by the NPDES permit or Agency-generated data, such as effluent sampling or facility-related stream studies. Effluent data used in the derivation of PEQ shall be representative of the concentration and variability of ammonia nitrogen in the discharge anticipated for the applicable period of the NPDES permit. Data shall be collected and analyzed in accordance with USEPA or Agency approved sampling and analytical methods (40 CFR 136). The following criteria shall be followed in data selection:

- 1) the most recent five years of data shall be used unless the Agency determines that an alternative period better represents the time period for which effluent quality is being projected. Such alternative time periods may include, but are not limited to, shorter periods that reflect changed discharge characteristics resulting from changes in manufacturing activities or wastewater treatment systems; and
- 2) data anomalies resulting from collection, analysis or recording errors or atypical plant operating conditions may be eliminated from the data.

(Source: Amended at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.209 Calculation of Preliminary Effluent Limitation

a) The preliminary effluent limitation (PEL) is calculated in a mass balance approach reflecting allowed dilution as referenced in Section 355.207:

$$WQS = [(Q_e)(PEL) + (Q_d)(C_d)] / (Q_e + Q_d)$$

or

$$PEL = [WQS(Q_e + Q_d) - (Q_d)(C_d)] / Q_e$$

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where:

WQS	=	applicable total ammonia nitrogen water quality standard as converted to total ammonia nitrogen pursuant to Section 355.203
Q_e	=	effluent flow rate
Q_d	=	allowed mixing flow rate as determined in accordance with the mixing zone provisions of 35 Ill. Adm. Code 302.212(c)302.102 and implementation procedures adopted thereunder
C_d	=	background ammonia nitrogen (as N) concentration in mixing water

Effluent flow rate shall be selected to coincide with the critical stream flow condition used to quantify allowed dilution. Typically this will be estimated to be the average of the lowest three months average flow rate during the previous year for domestic wastewater sources. For industrial and other wastewater sources where flow rates are not directly correlated to climatic patterns, Q_e will be estimated as the average of the highest three monthly average flow rates. With either approach, Q_e shall be modified when future flows are expected to vary significantly from historical data.

- b) The reasonable potential analysis shall be completed separately for the winter and summer ~~periods seasons~~ and for acute, ~~and~~ chronic ~~and subchronic~~ water quality standards. The Agency may subdivide summer or winter periods into quarterly or monthly segments with analysis of reasonable potential corresponding to those smaller time segments in individual permit applications. WQBELs based on the acute water quality standard shall be expressed as a daily maximum. WQBELs based on the chronic water quality standard shall be expressed as a monthly average. WQBELs based on the subchronic WQS shall be expressed as a weekly average.

(Source: Amended at 27 Ill. Reg. 15774, effective September 25, 2003)

SUBPART C: EFFLUENT MODIFIED WATERS

Section 355.301 Introduction (Repealed)

~~IPCB regulations at 35 Ill. Adm. Code 302.202, 302.212, 302.213, and 304.122 establish provisions for designating waters as EMWs. EMWs are subject to all general use water quality standards except for the chronic ammonia nitrogen water quality standards of 302.212(b). This Section provides for the designation of an EMW wherein the chronic portion of the un-ionized standard is inapplicable. In lieu of the chronic standard, the IPCB has established discharge~~

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~~restrictions at 35 Ill. Adm. Code 304.122(d) for any discharge tributary to an EMW. These restrictions include limits on discharges at 1.5 mg/L total ammonia nitrogen during the April through October summer season and 4.0 mg/L total ammonia nitrogen during November through March as monthly averages. Beyond these monthly average limits, there is also a provision to assure continuation of the existing level of performance and adherence to the nondegradation provision of 35 Ill. Adm. Code 302.105. The criteria for designation of an EMW include two specific provisions: the water body must have the potential to exceed the chronic standard due to a permitted discharge; and the elevated chronic ammonia nitrogen concentration will not adversely impact designated uses of the affected stretch of the water body. EMW status shall be designated in the receiving water body if:~~

- ~~a) aquatic life expected to exist in the receiving waters is known to be tolerant of the projected ammonia nitrogen concentrations resulting from the treatment plant effluent in conjunction with ambient conditions. Determination of the aquatic community expected to inhabit the receiving waters shall be consistent with stream morphology, particularly physical features and hydrologic regimes of the water body;~~
- ~~b) the receiving stream does not exceed the acute water quality standard of 35 Ill. Adm. Code 302.212(b); and~~
- ~~c) the discharger demonstrates a reasonable potential to exceed the chronic ammonia nitrogen standard pursuant to Subpart B of this Part.~~

~~If an EMW cannot be granted, then monthly average effluent limits in the NPDES permit shall be determined from the procedures for establishing ammonia nitrogen WQBELs pursuant to Subpart B of this Part. If necessary, a schedule to attain compliance with these limits shall also be included in the discharger's NPDES permit.~~

(Source: Repealed at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.303 EMW Application Requirements (Repealed)

~~The Agency shall consider designating a portion of the receiving waterbody as an EMW upon receipt of a valid application for an EMW and when the provisions of this Subpart are met:~~

- ~~a) All applicants shall provide:
 - ~~1) the name, address and design average flow of the facility;~~
 - ~~2) all instream ammonia nitrogen, pH and water temperature data collected by or available to the applicant;~~
 - ~~3) a physical description of the receiving stream including information on depth, substrate, instream cover, average width, percent canopy, riffle-pool sequence, stream gradient and other pertinent factors that the discharger wishes to be considered; and~~~~

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- ~~4) any other information concerning the receiving waterbody that the applicant believes is relevant.
Receiving stream information must be collected from the reach anticipated to constitute the requested EMW and continuing downstream for an additional distance comprising 33% of the requested EMW length.~~
- b) ~~Applicants having one or more of the following characteristics shall supply, in addition to the information in subsection (a), information required under subsection (c) below:~~
- ~~1) a DAF larger than 0.25 MGD;~~
 - ~~2) a receiving stream with springs, or other sources of permanent flow constituting 7Q10 flows of greater than zero (excluding the applicant's discharge), upstream or within the reach of the anticipated EMW; or~~
 - ~~3) a discharge location on a receiving stream evaluated under the Agency's Biological Stream Characterization (BSC) program and having received an "A" or "B" rating, provided the discharge is located no more than four stream miles upstream of the furthest upstream BSC monitored site.~~
- e) ~~Dischargers applying for EMW status and having one or more of the characteristics of subsection (b) above must also supply the following information:~~
- ~~1) Stream survey data that assesses ammonia nitrogen impact to the aquatic life of the receiving stream. Generally, data collected within the past five years that are reflective of current loading, stream flow, and physical conditions are preferred. If none of these factors have significantly changed, older data may suffice. However, any additional data concerning the aquatic life community of the receiving stream must be included in the application as it becomes known to the discharger. The Agency may have previously conducted such studies and these may satisfy this requirement; and~~
 - ~~2) Data concerning the presence of sensitive species including threatened and endangered federally or State listed aquatic species, self-sustaining populations of cold water species or species of special significance regarding their sensitivity to ammonia nitrogen. Such data may be available from one or more of the following sources or other local or regional sources:~~
 - ~~A) the Illinois Department of Natural Resources Division of Natural Resources Review & Coordination;~~
 - ~~B) the report "Biologically Significant Illinois Streams", a publication of the INHS (Center for Biological Diversity Technical Report 1992(1)); or~~
 - ~~C) local colleges and universities.~~

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(Source: Repealed at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.305 Evaluation of EMW Applications (Repealed)

~~The Agency shall evaluate EMW applications based on all information provided pursuant to Section 355.303, as well as information available from the Agency's monitoring programs. Additionally, the Agency shall seek and obtain information from other Illinois natural resource agencies. Such information shall include the following:~~

- ~~a) biological studies conducted on the receiving water;~~
- ~~b) ammonia nitrogen, pH, and temperature data from ambient, intensive basin, or facility related stream surveys;~~
- ~~c) ammonia nitrogen, pH and temperature effluent data;~~
- ~~d) physical instream habitat data; or~~
- ~~e) total ammonia nitrogen loading and related information attributed to other sources in the affected reach.~~

(Source: Repealed at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.307 Determination of EMW Designation (Repealed)

~~Upon evaluating the EMW application and any additional information available, the Agency shall determine whether the receiving stream can be designated as an EMW based on the provisions of 35 Ill. Adm. Code 302.213, 304.122, and 355.305. Existing EMW designations are subject to review as to whether requirements for such designations continue to be met at the time of an NPDES permit renewal or modification.~~

- ~~a) If the Agency determines that a receiving stream cannot be designated as an EMW, the Agency shall notify the applicant in writing as to its decision and the basis for that decision.~~
- ~~b) If a receiving stream can be designated as an EMW, the Agency shall issue a public notice that contains:
 - ~~1) determination of the length of the EMW, and~~
 - ~~2) summary of the ecological analysis used in the EMW designation process.~~~~

(Source: Repealed at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.309 Procedures for Delineating an EMW (Repealed)

~~The methodology for determining the length of a water body to be designated as EMW shall be based on the chronic total ammonia nitrogen (as N) water quality standard for winter conditions~~

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~~and a decay coefficient representing colder ambient conditions as indicated in Section 355.311. Winter conditions depict the "worst case" ammonia nitrogen decay rates and are to be used when calculating the reach of a water body to be designated as EMW. This modeling shall be performed in the following manner:~~

- ~~a) Downstream waters shall be subdivided into segments where discharge and stream cross-sectional area are uniform. Segments will typically begin at confluences with other streams or where additional point sources of total ammonia nitrogen (as N) enter the receiving water.~~
- ~~b) The DAF for domestic wastewater treatment plants and the maximum flow for industrial plants and other point sources of ammonia nitrogen (as N) downstream will be used as effluent flow rates in the analysis. A 7Q10 flow rate shall be determined for each segment. Discharge rates under 7Q10 conditions are to be obtained from maps generated by the ISWS unless the Agency has previously approved an alternate 7Q10 discharge rate.~~
- ~~c) The average velocity for each segment shall be derived for 7Q10 discharge conditions. In the absence of field measurements, velocity shall be determined from hydraulic geometry equations derived by the ISWS. These equations are published in the University of Illinois Water Resources Center publication, "WRC Research Report No. 15, Hydraulic Geometry of Illinois Streams" (July 1968), which is hereby incorporated by reference and includes no further editions or amendments. A minimum velocity of 0.2 ft/sec will be used unless field measurements indicate that a different velocity exists during 7Q10 conditions.~~
- ~~d) The chronic water quality standard shall be converted to total ammonia nitrogen (as N) as outlined in Section 355.203.~~
- ~~e) The concentrations of ammonia nitrogen in the effluents shall be the same as the monthly average winter ammonia nitrogen permit limit for the point source. If no monthly average winter ammonia nitrogen permit limit exists, then a value of 4.0 mg/L shall be used.~~
- ~~f) The ammonia nitrogen concentration at the end of each segment shall be calculated using the equations contained in Section 355.311. The point at which the water quality standard will be met shall be the downstream terminus of the EMW. The length of the EMW shall equal the sum of all segment lengths, but in no case shall be less than 100 yards in length.~~
- ~~g) The permittee has the opportunity to submit field measurements to be used in this analysis.~~

(Source: Repealed at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.311 Ammonia Nitrogen Decay Equation (Repealed)

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~~A decay equation shall be used to predict instream ammonia nitrogen concentrations at locations downstream of the outfall, thereby determining the linear extent of the EMW.~~

- a) ~~Modeling of the decay (conversion to nitrite/nitrate) of ammonia nitrogen from a discharge and predicting the levels of ammonia nitrogen at points downstream from the discharge shall follow the decay equation:~~

$$C_{nf} = [(Q_n C_n + Q_{n+1} C_{n+1}) / (Q_{n+1} + Q_n)] \times e^{-kt}$$

~~where the parameters used in the decay equation are defined as follows:~~

- ~~C_{nf} = ammonia nitrogen concentration at the end of segment "n"~~
 ~~t = travel time to point "n" (days)~~
 ~~Q_n = additional flow introduced into segment "n" (cfs) (see Section 355.309(b) for initial segment)~~
 ~~C_n = ammonia nitrogen concentration introduced into segment "n" (monthly average effluent limit for initial segment)~~
 ~~Q_{n+1} = upstream 7Q10 flow rate or flow rate entering segment "n" from previous segment (cfs)~~
 ~~C_{n+1} = upstream ammonia nitrogen concentration entering segment "n" from previous segment~~
 ~~k = first order decay coefficient in determining the natural biological, physical, and chemical degradation of ammonia nitrogen that occurs. The value of "k" may vary as a function of the receiving stream characteristics. In the absence of stream specific data, a representative value shall be selected from studies of streams with similar characteristics and shall be used in calculations as a default value representative of winter ammonia nitrogen decay.~~

- b) ~~Where no upstream flow is available for mixing and no additional sources of ammonia nitrogen are present downstream, the equation reduces to the following:~~

$$C_{nf} = C_n e^{-kt}$$

~~where:~~

- ~~C_{nf} = the applicable winter chronic water quality standard~~
 ~~C_n = monthly average winter effluent limit~~

(Source: Repealed at 27 Ill. Reg. 15774, effective September 25, 2003)

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Section 355.313 Restrictions Applicable to Discharges with EMWs (Repealed)

~~When the Agency issues a publication of a draft NPDES permit designating an EMW, effluent limits for ammonia nitrogen shall be protective of the aquatic community expected to exist in the EMW as provided in 35 Ill. Adm. Code 304.122.~~

- ~~a) In no instance shall these effluent limits exceed 30 day average concentrations of 1.5 mg/L total ammonia nitrogen (as N) during the months of April through October, and 4.0 mg/L total ammonia nitrogen (as N) during the months of November through March.~~
- ~~b) When uses are at risk of impact due to increased concentrations of ammonia nitrogen, more stringent 30 day average effluent limits shall be incorporated.~~
- ~~c) The draft permit shall also include daily maximum effluent limits for total ammonia nitrogen (as N) and these shall be determined by applying the acute water quality standards of 35 Ill. Adm. Code 302.212(b) pursuant to Section 355.203.~~
- ~~d) The Agency shall take final action as to the designation of an EMW concurrent with final NPDES permit issuance.~~

(Source: Repealed at 27 Ill. Reg. 15774, effective September 25, 2003)

Section 355.315 Publication of EMWs (Repealed)

~~The Agency shall compile the number and length of EMWs and report the information in each edition of the Illinois Water Quality Report pursuant to Section 305(b) of the Federal Clean Water Act, as amended, 33 USC 1315(b), and in the Illinois Register on a semi-annual basis.~~

(Source: Repealed at 27 Ill. Reg. 15774, effective September 25, 2003)

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- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3000.100	Amendment
3000.140	Amendment
3000.165	Amendment
3000.200	Amendment
3000.210	Amendment
3000.270	Amendment
3000.272	New
3000.285	New
3000.320	Amendment
3000.600	Amendment
3000.635	Amendment
3000.636	Amendment
3000.640	Amendment
3000.655	Amendment
3000.660	Amendment
3000.661	New
3000.665	Amendment
3000.666	Amendment
3000.667	New
3000.670	Amendment
3000.671	New
3000.756	Amendment
3000.770	Amendment
3000.800	Amendment
3000.1010	Amendment
3000.1050	Amendment
3000.1060	Amendment
- 4) Statutory Authority: Riverboat Gambling Act [230 ILCS 10]
- 5) Effective Date of Amendments: September 29, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these adopted amendments contain incorporations by reference? No

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- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 4, 2003; 27 Ill. Reg. 5640
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Most of the differences between the Proposed and Adopted Rules were technical, organizational or typographical in nature. One substantive change related to the fourth meter requirement, which was authorized to be eliminated and was included in the description of the proposed changes, but was not struck-through in the text. That change has been made to Section 3000.660(b)(10). Also, as a result of industry comments, Vouchers may now be printed with a value up to \$3,000 instead of the \$1,199.99 value proposed. This change does not affect the tax reporting or handling requirements for jackpots. A third change was made to sections relating to the redemption and expiration of Vouchers to clarify when and where they may be redeemed. The word "operatively" was deleted from the definition of Voucher Printer in Section 3000.100 to clarify that existing and new technology would be authorized if it meets all of the regulatory and testing standards deemed appropriate by the Board. In Section 3000.635(d), the rules clarify that Vouchers are used to obtain electronic credit from an Electronic Gaming Device. In Section 3000.600(b)(10), the meter requirements for ticket vouchering systems was clarified. In Section 3000.661(m), the accumulation of fractional amounts was allowed provided that patrons receive the full value of the Voucher in electronic credits, Tokens or both.
- 12) Have all of the changed agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these adopted amendments replace any emergency amendments currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The adopted rules establish a minimum framework for allowing the use of ticket vouchering technology in Electronic Gaming Devices or EGDs (commonly referred to as slot machines) at Illinois' riverboat casinos. Through these Rules, the Board has adopted strict regulatory controls for the issuance, redemption and accounting of Vouchers, which have value and function equivalent to

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United States currency at riverboat casinos. These controls extend to every activity and device related to this technology and strict adherence thereto is required.

Ticket vouchering technology permits EGDs to issue a paper scrip, referred to as a Voucher, at the end of play, similar to how Tokens are issued. The Voucher may then be converted to United States currency at either the cashier cage of a riverboat casino or at a Voucher Validation Terminal. For 120 days after issuance, a Voucher may also be used to place a wager at a different EGD at the same riverboat casino. A Voucher may be redeemed for currency for a period of three years. At no time, however, may a Voucher be used at a different riverboat casino or be acquired except through an EGD. Vouchers must be printed for the correct dollar value due the customer, ranging from \$0.01 to \$3,000.00. When the minimum wager is not evenly divisible by the value listed on a Voucher, the difference in value must be returned to the customer in the form of a new Voucher.

The Voucher System, which includes the Voucher equipped EGDs, printers, and software programs, must be certified by an independent laboratory and approved by the Board's Administrator prior to use. Similarly, the Computer Monitoring System and any Voucher Validation Terminals must also be certified and approved. In addition, the rules specify the minimum integrity, operational and reporting requirements of a Voucher System and mandatory information to be printed on and maintained for each Voucher.

To implement this framework, new definitions are proposed and some definitions are revised or clarified. Requirements for maintaining information in writing or via written lists are eliminated so that information may be maintained in other media. Physical security requirements for the information and media used are listed. Prior notification of agreements relating to this technology is required, as is currently required for most other agreements. Prohibitions currently in place for Tokens and Chips are extended to cover Vouchers so that no owner, director, officer or gaming employee may acquire Vouchers from another person or for another person. Surveillance specifications for areas where Vouchers are printed and redeemed are also specified

In addition, a fourth meter requirement, at Rule 3000.660(b)(10), is eliminated since that meter is no longer needed in order to monitor the activities of an EGD. Also, for those persons who are placed on the IGB's Voluntary Self-Exclusion List, the stipulated sanction for violating the terms of the self-exclusion includes forfeiting all jackpots. Owner licensees are required to not pay any jackpots under \$1,200 to patrons that they know are on the Self-Exclusion List.

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Finally, technical changes were made throughout the Rules to use consistent terminology and to modify other systems or controls affected by these changes.

- 16) Information and questions regarding these adopted amendments should be directed to:

Jeannette P. Tamayo
Interim Administrator
Illinois Gaming Board
160 N. LaSalle, Suite 300-S
Chicago, Illinois 60601
(312)814-4641
FAX (312)814-8798

The full text of the adopted amendments begins on the next page:

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- 3000.1150 Sanctions and Penalties
3000.1155 Transmittal of Record and Recommendation to the Board

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999, for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 29, 2003.

SUBPART A: GENERAL PROVISIONS

Section 3000.100 Definitions

For purposes of this Part the following terms shall have the following meanings:

"Act": The Riverboat Gambling Act ~~: [230 ILCS 10]~~.

"Affiliate": An "Affiliate of", or person "Affiliated with", a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

"Alcoholic Liquors": Includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of

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being consumed as a beverage by a human being.

"Attributed Interest": A direct or indirect interest in a Business Entity deemed to be held by a person not through the person's actual holdings but either through the holdings of the person's relatives or through a third party or parties on behalf of the person pursuant to a plan, arrangement or agreement.

"Bill Validator": Any electro-mechanical device attached either on or into an Electronic Gaming Device which accepts and analyzes the legitimacy of United States currency and/or Vouchers, validates the currency and/or Vouchers, stores the currency and/or Vouchers, and issues Electronic Credits equal to the value of currency and/or Vouchers inserted into the device.

"Board": The Illinois Gaming Board.

"Business Entity": A partnership, incorporated or unincorporated association or group, firm, corporation, limited liability company, partnership for shares, trust, sole proprietorship or other business enterprise.

"Chip": A non-metal or partly metal representative of value, redeemable for cash, and issued and sold by a holder of an Owner's license for use in Gaming other than in Electronic Gaming Devices on such holder's Riverboat or Riverboats.

"Chip Float": The difference between the total face value of Chips received from vendors and the total face value of Chips accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Computer Monitoring System": The gaming related system used to provide on-line, real-time monitoring of Electronic Gaming Devices and data acquisition capability in the format and media approved by the Administrator.

"Dependent": Any individual who received over half of his support in a calendar year from any other individual.

"Electronic Card": A card purchased from a holder of an Owner's license for use on that holder's Riverboat Gaming Operation as a substitute for Tokens in the conduct of gaming on an Electronic Gaming Device.

"Electronic Credit": A value owed to a patron on an Electronic Gaming Device.

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"Electronic Gaming Device": Includes as approved Games under Section 3000.605 Single-Position Reel-Type, Single-Position Single-Game Video and Single-Position Multi-Game Video Electronic Gaming Devices.

"Electronic Gaming Device Drop": The total face value of Tokens or representations of Tokens (including without limitation foreign Tokens and slugs) collected from the drop bucket and United States currency and/or Vouchers collected from the Bill Validator drop box.

"Electronic Gaming Device Win": The Electronic Gaming Device Drop minus hand-paid jackpots minus hopper fills minus Vouchers issued.

"EPROM": An acronym for Erasable, Programmable, Read Only Memory, which is a microprocessor component that stores memory and affects payout percentage and/or contains a random number generator that selects the outcome of a Game on an Electronic Gaming Device.

"Excluded Person": Any person whose name appears on any Exclusion List, or any person whose name does not appear on an Exclusion List, but who is excluded or ejected pursuant to Section 5(c)(12) of the Act or as a result of meeting one or more of the criteria in Section 3000.720 of this Part.

"Exclusion List": A list or lists which contain the identities of persons who are to be excluded or ejected from any licensed Gaming operation in any jurisdiction. The list may include any person whose reputation or conduct is such that his presence within a Riverboat Gaming Operation may, in the opinion of the Board or the Administrator, call into question the honesty or integrity of the Gaming operation or pose a threat to the interests of the State of Illinois.

"Expiration Date": The three-year period, starting on the day of issuance, during which Vouchers may be redeemed for United States currency at a cashier's cage of a Riverboat Gaming Operation.

"Game": A gambling activity which is played for money, property, or anything of value, including without limitation those played with cards, Chips, Tokens, dice, implements, or electronic, electrical, or mechanical devices or machines.

"Gaming": The dealing, operating, carrying on, conducting, maintaining or exposing for play of any Game.

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"Gaming Equipment/Supplies": A machine, mechanism, device, or implement which is integral to the operation of a Game or affects the result of a Game by determining win or loss, including without limitation: electronic, electrical, or mechanical devices or machines; cards or dice; layouts for Live Gaming Devices; any representative of value used with any Game, including without limitation Chips, Tokens, or Electronic Cards; [Voucher Systems](#); [Voucher Printers](#); [Voucher Validation Terminals](#); [Computer Monitoring Systems](#); and hardware and software related to any item described herein.

"Gaming Operations Manager": A person or business entity other than the holder of an Owner's license who has the ultimate responsibility to manage, direct or administer the conducting of Gaming.

"Hand": Either one Game in a series, one deal in a card Game, or the cards held by a player.

"Indirect ~~Interest~~interest": An interest in a Business Entity that is deemed to be held by the holder of an Owner's license not through the holder's actual holdings in the business entity but through the holder's holdings in other business entities.

"Institutional Investor": A "qualified institutional buyer" as defined by Securities and Exchange Commission Rule 144A (17 CFR 230.144A) under the Securities Act of 1933, as amended.

"Internal Control System": Proprietary internal procedures and administration and accounting controls designed by the holder of an Owner's license for the purpose of exercising control over the Riverboat Gaming Operation.

"Junketeer": A person or entity that facilitates a patron's participation in gaming at a Riverboat Gaming Operation and is compensated, not as an employee but as an independent contractor, by that Operation based upon how much the patron actually wagers or loses.

"Key Person": A Person identified by the Board under Section 3000.222 as subject to regulatory approval as a Person able to control, or exercise significant influence over, the management, assets, or operating policies of an owner or supplier licensee.

"Live Gaming Device": Any apparatus, other than an Electronic Gaming Device, upon which Gaming is conducted or which determines an outcome which is the

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object of a wager. This definition includes but is not limited to roulette wheels, keno machines, punchboard tickets and tables with layouts utilized in Games approved by the Board.

"Marketing Agent": A person or entity, other than a junketeer or an employee of a Riverboat Gaming Operation, who is compensated by the Riverboat Gaming Operation in excess of \$100 per patron per trip for identifying and recruiting patrons.

"Non-Alterable Storage Media": An electronic storage medium that contains the program files that operate the game, which medium cannot be altered through the use of the circuitry or programming of the gaming device.

"Non-Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation, but bearing no value designation.

"Notice of Board Action": A Notice of Denial, Restriction, Suspension, Revocation, Nonrenewal, Fine, Exclusion or other action issued by the Board.

"Parent Company": A "parent company" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

"Payout": Winnings earned on a wager.

"Person": "Person" includes both individuals and Business Entities.

"Petitioner": An applicant, licensee, or Excluded Person who requests a hearing upon issuance of a Notice of Board Action.

"Progressive Controller": The hardware and software that controls all communications among the machines within a progressive Electronic Gaming Device link and its associated progressive meter.

"Progressive Jackpot": An award for winning play in a Game, the value of which is determined by the contribution of a portion of each Wager placed into play or the combined amount of several wagers linked to a common jackpot award.

"Redemption Period": The 120-day period during which a Voucher may be used to acquire electronic credits from an Electronic Gaming Device or to obtain

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United States currency from a Voucher Validation Terminal. After their Redemption dates and prior to their Expiration dates, Vouchers may be redeemed for United States currency only at a cashier cage of a Riverboat Gaming Operation.

"Relative": Spouse, parents, grandparents, children, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship, and Dependents.

"Riverboat": A navigable vessel or a permanently moored vessel comprised of one or more barges that are permanently attached to operate as one barge.

"Riverboat Gaming Operation": The owner licensee, Gaming Operations Manager, or, as the context requires, the conducting of Gaming and all related activities, including without limitation the purveying of food, beverages, retail goods and services, and transportation, on a Riverboat and at its Support Facilities.

"Signature": The definitive identity of an individual specific EPROM chip or other non-alterable storage media, determined by electronic analysis and reflective of the EPROM chip's game behavior capability.

"Substantial Owner": A person who has an ownership interest of 25% or more in a Business Entity.

"Supplier": Either a Gaming Operations Manager or a provider of Gaming Equipment, Gaming Equipment maintenance or repair services, security services or lessor of a Riverboat or dock facilities or a provider of any goods or services where payment is calculated by a percentage of a Riverboat Gaming Operation's revenues.

"Support Facility": A place of business which is part of, or operates in conjunction with, a Riverboat Gaming Operation and is owned in whole or in part by a holder of an Owner's or Supplier's license or any of their Key Persons, including without limitation Riverboats, offices, docking facilities, parking facilities, and land-based hotels or restaurants.

"Table Drop": The total amount of cash or cash equivalents contained in the drop box for Chips purchased at a Live Gaming Device.

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"Table Win": The dollar amount won by the holder of an Owner's license through play at a live Game which is the total of the Table Drop plus ending Chip inventory plus credits minus opening Chip inventory minus fills.

"Theoretical Payout Percentage": The percentage of Tokens or Electronic Credits from amounts wagered ~~that~~which will be returned to players by an Electronic Gaming Device.

"Token": A metal representative of value, redeemable for cash only at the issuing Riverboat Gaming Operation, and issued and sold by a holder of an Owner's license for use in Gaming.

"Token Dispenser": Any mechanical or electrical device designed for the purpose of dispensing an amount of Tokens equal to the amount of currency inserted into the device.

"Token Float": The difference between the total face value of Tokens received from vendors and the total face value of Tokens accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Tournament EPROM": A specially designed EPROM with a mode of play that provides for a mathematically demonstrable payout of more than 100 percent.

"Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation and the specific value of the Chip.

"Voucher": A printed paper scrip representing the value in United States currency stated on the face of the scrip that is issued by a Voucher Printer connected to an Electronic Gaming Device at a Riverboat Gaming Operation and which scrip is redeemable for electronic credits or United States currency and is not a coupon or other promotional item.

"Voucher Float": The difference between the total face value of unexpired Vouchers issued by a Riverboat Gaming Operation and the total face value of Vouchers accounted for by the Riverboat Gaming Operation as redeemed or expired.

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"Voucher Printer": A device designed for the purpose of issuing Vouchers at Electronic Gaming Devices at a Riverboat Gaming Operation.

"Voucher System": The hardware and software used to issue and validate Vouchers, record redemptions and account for Vouchers.

"Voucher Validation Terminal": A hard-wired and interfaced device that accepts Vouchers and communicates the Voucher information to the Voucher System for the System to validate the information. If the System confirms that the Voucher is valid, the terminal then stores the Voucher and issues United States currency equal to the value of the Voucher.

"Wager": A sum of money or thing of value risked.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.140 Duty to Disclose Changes in Information

- a) Board licensees and applicants for licenses issued by the Board shall have a continuing duty to disclose promptly any material changes in information provided to the Board. The duty to disclose changes in information shall continue throughout any period of licensure granted by the Board. Board licensees or applicants for licenses must maintain current release of information forms as originally submitted to the Board.
- b) In addition to and without limiting disclosure of changes of information required under subsection (a), licensees and applicants for licensure shall periodically disclose; ~~on forms provided by the Board,~~ changes in or new agreements, whether oral or written, relating to:
 - 1) Lobbying, legal services, financial consulting services, and management consulting services;
 - 2) Accounting, data processing and other financial and administrative services;
 - 3) Construction contracts;
 - 4) Installation, accounting or operation of Voucher Systems;

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- ~~5)~~ Installation, accounting or operation of Computer Monitoring Systems; |
 - ~~6)4)~~ Agreements with or involving Key Persons and relatives of Key Persons; |
 - ~~7)5)~~ Agreements to sell, grant, gift, pledge, hypothecate or otherwise transfer or share an ownership interest or interests in a holder of an Owner's License; and |
 - ~~8)6)~~ Agreements to sell, grant, gift, pledge, hypothecate or otherwise transfer or share stock options, warrants, stock appreciation rights, or agreements in lieu thereof, relating to an ownership interest or interests or benefits of such ownership interest or interests in a holder of an Owner's License. |
- c) The failure to meet the requirements of subsection (a) or (b) may result in discipline up to and including revocation of a license.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.165 Participation in Games by Owners, Directors, Officers, Key Persons or Gaming Employees

No holder of an Owner's license or officer, director, Key Person or Gaming employee thereof shall play or be permitted to play any Game at his facility. No such person shall be permitted to purchase or redeem Chips or Tokens for, acquire or redeem Vouchers for, or acquire Vouchers from, any other person. |

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

SUBPART B: LICENSES

Section 3000.200 Classification of Licenses

The Board may classify an activity to be licensed in addition to, different from, or at a different level than the classifications set forth in this Subpart.

- a) Owner's License. An owner of a Riverboat Gaming Operation is required to hold an Owner's license.
- b) Supplier's License. The following persons or entities are required to hold a Supplier's License:

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- 1) Gaming Operations Manager (individual or entity). All employees of a Gaming Operations Manager who have any duty, authority or function relating directly or indirectly to the Gaming Operation will be required to hold an Occupation License in accordance with subsection (c) of this Section.
 - 2) Supplier of Gaming Equipment/Supplies, including a manufacturer, distributor, wholesaler, or retailer. All manufacturers of Electronic Gaming Devices, Chips, ~~and~~ Tokens, Voucher Systems, Voucher Validation Terminals, Voucher Printers, and Computer Monitoring Systems must be licensed as a Supplier regardless of whether the manufacturer uses an independent distributor or wholesaler to distribute its Equipment/Supplies.
 - 3) Supplier of Gaming Equipment maintenance or repair services.
 - 4) Supplier of security services.
 - 5) Lessors of Riverboat and/or dock facilities.
 - 6) Supplier of any goods or services where payment is calculated by a percentage of a Riverboat Gaming Operation's revenues.
 - 7) Junketeers.
 - 8) Any other purveyor of goods or services to a Riverboat Gaming Operation, as deemed necessary by the Board.
- c) Occupation License. A person employed at a Riverboat Gaming Operation is required to hold an Occupation License. An Occupation licensee may perform any activity included within the licensee's level of Occupation License or any lower level of Occupation License.
- 1) Occupation License, Level 1, includes the following positions, or their equivalent:
 - A) Audit Manager;
 - B) Casino Manager;

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- C) Chief of Security;
 - D) Chief of Surveillance;
 - E) Chief Financial Officer and/or Controller;
 - F) EDP Manager;
 - G) Electronic Gaming Device Manager;
 - H) General Manager; and
 - I) Table Games Manager.
- 2) Occupation License, Level 2. A Gaming or security/surveillance employee not required to hold an Occupation License, Level 1 under subsection (c)(1) of this Section.
 - 3) Occupation License, Level 3. An employee not required to hold an Occupation License, Level 1 or Level 2 under subsections (c)(1) and (c)(2) of this Section.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.210 Fees and Bonds

All fees shall be submitted to the Board in the form of a check or money order made payable to the State of Illinois.

- a) Application Fees. The following application fees must be paid upon the submittal of the application to which they relate:
 - 1) Owner's license: \$50,000.
 - 2) Supplier's License: \$10,000.
 - 3) Occupation License, Level 1: \$1,000.
 - 4) Occupation License, Level 2: \$200.

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- 5) Occupation License, Level 3: \$75.
- b) Increased Application Fee. The application fee of an applicant may be increased to the extent that the cost of the investigation relating to the applicant exceeds the applicant's fee amount provided in subsection (a). Unless otherwise determined by the Administrator, no further action shall be taken with respect to the application until payment of the increased fee is received by the Board.
 - c) License Fees. The following annual license fees are due from Owners and Suppliers upon licensing. The annual Occupation License fees are due upon the first renewal of the license and thereafter upon renewal. If there is cause for an investigation relating to a license, the licensee shall pay the Board for the cost of the investigation.
 - 1) Owner's license: \$25,000 for the first year of operation, \$5,000 for each succeeding year of licensure.
 - 2) Supplier's License: \$5,000.
 - 3) Occupation License, Level 1: \$50.
 - 4) Occupation License, Level 2: \$50.
 - 5) Occupation License, Level 3: \$50.
 - d) Holder of an Owner's license Bond
 - 1) The form of the holder of an Owner's license surety bond required under Section 10 of the Act must be approved by the Administrator prior to its posting.
 - A) The bond shall state that it is exercisable if the licensee fails to comply with the obligations provided under Section 10 of the Act. The bond may provide that the liability of the surety is limited to the extent of the liability of the licensee.
 - B) The bond shall state that in the event it is to be modified or cancelled the surety shall notify the Board in writing at least 30 days prior to the date of such modification or cancellation.

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- C) The bond shall state that it shall run continuously and remain in full force and effect during the period of the licensee's licensure.
- 2) The bond shall be posted with the Board.
- e) Technology Fee. As deemed necessary by the Administrator, an owner or supplier applicant or licensee may be billed directly or be required to reimburse the Board for any expenses, including any third-party expenses, associated with the testing, certification, installation, training, review, or approval of gaming-related technology or technological enhancements to a Riverboat Gaming Operation.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.270 Certification and Registration of Electronic Gaming Devices

- a) The Administrator will review all Electronic Gaming Devices for proper mechanical and electronic functioning. Before certification of an Electronic Gaming Device, the Administrator may employ the services of an independent certification ~~electronics~~-laboratory to evaluate the device.
- b) After completing evaluations of the Electronic Gaming Device, the Administrator may certify the Electronic Gaming Device for registration.
- c) Gaming shall be prohibited with any Electronic Gaming Device which has not been registered with the Board.
- d) The holder of an Owner's License shall not operate in Illinois an Electronic Gaming Device unless the Electronic Gaming Device has an Illinois Gaming Board registration number.
- e) The Supplier of the Electronic Gaming Device, after receiving the appropriate documentation, shall reimburse the Board for any cost incurred in any evaluation process.
- f) The holder of an Owner's License shall not alter the operation of registered Electronic Gaming Devices and shall maintain the Electronic Gaming Devices in a suitable condition. Each holder of an Owner's License shall keep a ~~written~~-list of any repairs made to Electronic Gaming Devices offered for play to the public.

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Repairs include, without limitation, replacement of parts that may affect the Game's outcome or the operation of a Voucher System. The holder of an Owner's License shall make the list available for inspection by the Administrator upon request.

- g) The holder of an Owner's License shall keep a ~~written~~ list of the date of each distribution, the serial number of each Electronic Gaming Device, and the Illinois Gaming Board registration number.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.272 Certification of Voucher Systems

- a) The Administrator will review all Voucher Systems for proper mechanical and electronic functioning. Before certification of a Voucher System, the Administrator may employ the services of an independent certification laboratory to evaluate the system and its components.
- b) After completing evaluations of the Voucher System, the Administrator may certify the Voucher System for use in Riverboat Gaming Operations.
- c) The holder of an Owner's License shall not alter the operation of a certified Voucher System and shall maintain the Voucher System in an operable condition. Each holder of an Owner's License shall keep a list of any repairs made to the Voucher System. Repairs include, without limitation, replacement of parts that may affect the redemption of Vouchers or the operation of a Voucher System. The holder of an Owner's License shall make the list available for inspection by the Administrator upon request.
- d) The holder of an Owner's License, after receiving the appropriate documentation, must reimburse the Board for any cost incurred in any certification or evaluation process.
- e) The use of any Voucher System, including Voucher Validation Terminals, that has not been certified by the Board is prohibited.

(Source: Added at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.285 Certification and Registration of Voucher Validation Terminals

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- a) The Administrator will review all Voucher Validation Terminals for proper mechanical and electronic functioning. Before certification of a Voucher Validation Terminal, the Administrator may employ the services of an independent certification laboratory to evaluate the Terminals.
- b) After completing evaluations of a Voucher Validation Terminal, the Administrator may certify a Voucher Validation Terminal for registration.
- c) Any holder of an Owner's License who possesses any Voucher Validation Terminals shall have a registration tag issued by the Board securely affixed on each device.
- d) Registration tags are not transferable from one Voucher Validation Terminal to another Terminal.
- e) The holder of an Owner's License shall not alter the operation of registered Voucher Validation Terminals and shall maintain each Voucher Validation Terminal in a suitable condition. Each holder of an Owner's License shall keep a list of any repairs made to each Voucher Validation Terminal. Repairs include, without limitation, replacement of parts that may affect the redemption of Vouchers or the operation of a Voucher System. The holder of an Owner's License shall make the list available for inspection by the Administrator upon request.
- f) The holder of an Owner's License shall keep a list of the date of each distribution, the serial number of each Voucher Validation Terminal, and the Illinois Gaming Board registration number.

(Source: Added at 27 Ill. Reg. 15793, effective September 25, 2003)

SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

Section 3000.320 Minimum Standards for Internal Control Systems

- a) Subject to the approval process outlined in Section 3000.310, the Internal Control System shall be updated in a timely manner to reflect changes made by the Owner Licensee in operating procedures, changes required by the Administrator and changes recommended by external or compliance auditors. Each Owner Licensee shall provide copies of its approved Internal Control System and any modifications of that system to the Administrator.

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- b) The Internal Control System shall include a detailed narrative description of the Owner Licensee's Gaming, administrative and accounting procedures, including without limitation separate sections comprehensively describing the specific procedures that the Owner Licensee will follow in meeting the requirements of Section 3000.300. The procedures shall discuss at a minimum, when applicable, the topics listed in subsection (c) of this Section. The Board will provide guidelines to further assist Owner Licensees in meeting the requirements of this Subpart by maintaining and making available to Owner Licensees and applicants its review guidelines entitled Minimum Internal Control Standards (MICS).
- c) The Internal Control System shall address the following topics:
- 1) Submission, Approval, and Amendment of Internal Control System
 - 2) General and Administrative
 - A) General – Organization Chart and Job Duties
 - B) Management Information System (MIS)
 - 3) Sensitive Key Controls
 - A) General – Location and Access
 - B) Sensitive Key Procedures
 - C) Sensitive Key Access List
 - D) Sensitive Key Log
 - E) Broken, Lost or Missing Keys
 - 4) Live Games (Table Games)
 - A) Disposal of Live Gaming Devices, Equipment and Layout
 - B) Table Inventory
 - C) Opening of Gaming Tables

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- D) Shift Change at Gaming Tables
 - E) Closing of Gaming Tables
 - F) Table Fills
 - G) Table Credits
 - H) Accepting Cash at Gaming Tables
 - I) Markers Issued at Gaming Tables
 - J) Cards and Dice Control
 - K) Control over Table Layouts
 - L) Tips and Gratuities
 - M) Statistics
- 5) Rules of the Game – For Each Authorized Game Played
- A) Object of Game and Method of Play
 - B) Physical Characteristics of Gaming Equipment and Table
 - C) Permissible Wagers and Payout Odds
 - D) Inspection Procedures for Gaming Equipment
 - E) Collection of Bets and Payout Procedures
 - F) Dispute Arbitration
 - G) Suspected Cheating Procedures
 - H) Dealer Relief
 - I) Suspected Defective or Malfunctioning Equipment

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- J) For Games Using Cards
 - i) Shuffling Procedures
 - ii) Card Cutting Procedures
 - iii) Dealing and Taking Card Procedures
 - iv) Burning Cards Procedures
- 6) Electronic Gaming Devices (EGDs)
 - A) General – EGD Access and Computer Monitoring Procedures
 - ~~B)~~ Voucher Systems |
 - ~~C)~~ Printer Paper Replacement |
 - ~~D)~~~~B)~~ Hopper Fills |
 - ~~E)~~~~C)~~ Hand-Paid Payouts |
 - ~~F)~~~~D)~~ Other EGD Occurrences |
 - ~~G)~~~~E)~~ Issuance of Markers at EGDs |
 - ~~H)~~~~F)~~ Location, Conversion and Movement of EGDs |
 - ~~I)~~~~G)~~ Resetting/Clearing the Random Access Memory (R.A.M.) |
 - ~~J)~~~~H)~~ Statistics |
- 7) Live Games and EGD Drops and Counts
 - A) Drop Devices, Separate Drop and Count Procedures
 - B) Table Game Drop Box Characteristics
 - C) Emergency Table Game Drop Boxes

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- D) EGD Drop Bucket Characteristics
- E) Bill Validator Drop Box Characteristics
- F) Emergency Bill Validator Drop Boxes
- G) Collection/Transportation of Drop Devices
- H) Soft and Hard Count Rooms Characteristics
- I) Count Standards
- J) Weight Scale Standards (Hard Count)
- K) Counting and Recording Drops
- 8) Casino Cashiering and Credit
 - A) Fills, Credits, Markers, Payouts and Drops
 - B) Location and Functions
 - C) Casino Cage Accountability
 - D) Main Bank/Vault Accountability
 - E) Even Exchanges
 - F) Chip and Token Inventories
 - G) Credit Transactions
 - H) Issuance of Markers
 - I) Redemption and Consolidation of Markers
 - J) Redemption of Vouchers |
 - K) Customer Deposits and Withdrawals |

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- ~~L)K)~~ Check Cashing Privileges |
- ~~M)L)~~ Returned Checks |
- ~~N)M)~~ Other Cash Transactions |
- ~~O)N)~~ Redemption of Gratuities for Non-Gaming Employees |
- ~~P)O)~~ Exchange of Foreign Tokens |
- ~~Q)P)~~ Coupon Redemption and Other Complimentary Distribution Programs |

- 9) Casino Accounting
 - A) Accounting Records
 - B) Controls over Locked Accounting Box
 - C) Storage of Unused Forms
 - D) Signature Records
 - E) Deposit of Admission Tax and Wagering Tax
 - F) Sensitive Key Logs
 - G) Complimentary Services
 - H) Procedures for Monitoring and Reviewing Gaming Operations
 - I) Casino Accounts Receivable
 - J) Monthly Reporting Requirements
- 10) Admissions
 - Admission Procedures and Computation of Admission Tax

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- 11) Currency Transaction Reporting
 - A) Reporting Requirements, Federal and State Regulations, Alternative Systems
 - B) Reportable Transactions
 - C) Obtaining and Verifying Identification
 - D) Logging Cash Transactions
 - E) Circumvention of Currency Transaction Reporting Requirements
 - F) Currency Transaction Reports
 - G) Surveillance Photographs
- 12) Internal Audit
 - A) Independent Internal Audit Department
 - B) Required Internal Audits
 - C) Reporting Guidelines
 - D) Review of Changes to the ICS
- 13) Surveillance
 - A) Independent Surveillance Department
 - B) Surveillance Room Access and Control
 - C) Daily Operations
 - D) Chain of Evidence
- 14) Security
 - A) Security Department

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- B) Notice to Gaming Board
- C) Detailed Procedures for:
 - i) Case Number System/Incident Reports
 - ii) Lost Badges/Temporary Badges
 - iii) Visitor/Vendor Badges
 - iv) Use of Metal Detectors
 - v) Fund Transfer Control
 - vi) Power Failure/Camera Outage
 - vii) Enforcement of Gambling Restrictions/21 Years Old Minimum
 - viii) Firearms Prohibition
 - ix) Alcohol Beverage Control
 - x) Disorderly/Disruptive Patrons
 - xi) Trespass Policy
 - xii) Handling of Emergencies
 - xiii) Eviction Procedures
- 15) Purchasing and Contract Administration
 - A) General – Purchases and Contracts, Leases, Management Contracts, Owners
 - B) Statement of Policy
 - C) Normal Purchasing Transactions

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- D) Capital Expenditures
- E) Related Party Transactions
- 16) Forms
 - A) Forms Index
 - B) General – Forms Requirements
 - C) Signatures
 - D) Control of Forms
 - E) Numbering
 - F) Manual Forms Dispensers
 - G) Voiding Forms
 - H) Forms Description

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

SUBPART F: CONDUCT OF GAMING

Section 3000.600 Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards

- a) Except as provided in ~~subsections subsection~~ (b) and (c) of this Section, Riverboat Gaming Wagers may be made only with Electronic Credits, Tokens or Chips; Tokens or Electronic Cards approved by the Administrator and purchased from a holder of an Owner's license. All Chips, Tokens and Electronic Cards must be approved by the Administrator and purchased from the holder of an Owner's license. Such Chips, Tokens or Electronic Cards may only be used as set forth in the owner licensee's Internal Control System. At the patron's option, Electronic Credits may either be used as a Wager on an Electronic Gaming Device or be withdrawn only in the form of Tokens and/or a Voucher issued from the Electronic Gaming Device.

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- b) Riverboat Gaming Wagers may be made with Electronic Credits acquired through the insertion of a Voucher issued by an Electronic Gaming Device authorized for wagering at a holder of an Owner's license, as set forth in the Owner licensee's Internal Control System.
- 1) Prior to the Redemption Period, such Vouchers may, at the patron's option, be:
- A) used to obtain electronic credits to place a wager in Electronic Gaming Devices registered with the Board;
- B) withdrawn only in the form of Tokens or Vouchers from the Electronic Gaming Device; or
- C) redeemed only for United States currency at a Voucher Validation Terminal or at the cage of a holder of an Owner's license.
- 2) At any time prior to the Expiration Date, Vouchers may be redeemed for United States currency at the cage of a holder of an Owner's license.
- c)b) Riverboat Gaming Wagers may be made with match play coupons issued by the holder of an Owner's license and approved by the Administrator. Such match play coupons may only be used in conjunction with the Wager of a Chip as set forth in the owner licensee's Internal Control System.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.635 Issuance and Use of Tokens and Vouchers for Gaming

- a) No holder of an Owner's ~~license~~License shall issue or cause to be utilized in a Riverboat Gaming Operation any Tokens for Gaming unless such Tokens are approved by the Administrator. In requesting approval of such Tokens, the holder of an Owner's ~~license~~License shall first submit to the Administrator a detailed schematic of its proposed Token which shall show its front, back and edge, its diameter and thickness and any logo, design or wording to be contained thereon, all of which shall be depicted on such schematic as they will appear, both as to size and location, on the actual Token. Once the design schematics are approved by the Administrator, no Token shall be issued or utilized until a sample of such Token is also submitted and approved by the Administrator.

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- b) A holder of an Owner's ~~license~~License may, with the approval of the Administrator, issue metal Tokens designed for Gaming. Such Tokens shall:
- 1) Clearly identify the name and location of the Riverboat Gaming Operation issuing them;
 - 2) Clearly state the face value of the Token;
 - 3) Contain the statement "Not Legal Tender";
 - 4) Not be deceptively similar to any current or past coin of the United States or a foreign country;
 - 5) Be of a size or shape or have other characteristics which will physically prevent their use to activate lawful vending machines or other machines designed to be operated by coins of the United States; and
 - 6) Not be manufactured from a ferromagnetic material or from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core or from a copper based alloy except if the total zinc, nickel, aluminum, magnesium and other alloying metal exceeds 25 percent of the Token's weight.
- c) Tokens approved for issuance by a holder of an Owner's ~~license~~License shall be:
- 1) Issued to a patron upon payment therefor, or in accordance with a complimentary distribution program authorized pursuant to the Act;
 - 2) Capable of insertion into designated Electronic Gaming Devices operated by the holder of an Owner's ~~license~~License for the purpose of activating play;
 - 3) Available as a payout from the hopper of ~~such~~equipped with a Token hopper-Electronic Gaming Devices; and
 - 4) Redeemable by the patron in accordance with the Act.

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- d) A holder of an Owner's license may, with the prior approval of the Administrator, issue Vouchers through approved Voucher Printers in Electronic Gaming Devices. The Vouchers shall:
- 1) Clearly identify the name and location of the Riverboat Gaming Operation issuing them;
 - 2) Clearly identify the specific Electronic Gaming Device issuing them;
 - 3) Contain a unique validation number, which number or code shall be automatically generated by or caused to be generated by the Voucher System and not be alterable by any mechanical, electronic, digital or other means prior to issuance;
 - 4) Clearly state the face value of the Voucher in both words and numbers;
 - 5) Contain a date and time of issuance;
 - 6) Clearly state a 120 day Redemption Period during which the Voucher may be redeemed at an Electronic Gaming Device, Voucher Validation Terminal or cashier cage of a holder of an Owner's license;
 - 7) Be available as a payout from Voucher equipped Electronic Gaming Devices connected to the Voucher System, provided that both the Electronic Gaming Device and the Voucher System are functioning;
 - 8) Be individually printed for face values of not less than \$0.01 and not more than \$3,000;
 - 9) Contain a bar code which shall enable the Voucher System to access and validate the alpha or numeric information contained in subsections (d)(1) through (6) and display the information when the Voucher is redeemed, provided that only numeric information must be displayed on the System;
 - 10) Clearly state that the Voucher may be redeemed for cash at the cashier cage of the holder of an Owner's license for three years from the date of issuance;
 - 11) Clearly state the following: "Vouchers issued by another Riverboat may not be used, exchanged or redeemed at this Riverboat";

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- 12) List the unique validation number on the leading edge of each Voucher issued from a Voucher Printer;
 - 13) Not be deceptively similar to the currency of the United States or a foreign country;
 - 14) Contain at least one anti-counterfeiting measure, such as a unique bar code, which shall appear on one or both sides of the Voucher; and
 - 15) Be promptly redeemable by the patron in accordance with this Part.
- e) Vouchers must be capable of insertion into Voucher equipped Electronic Gaming Devices connected to the Voucher System for the purpose of obtaining Electronic Credits.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.636 Distribution of Coupons for Complimentary Chips, Tokens, Vouchers and Cash

- a) The holder of an Owner's license may, for specified marketing purposes, provide patrons of its Riverboat Gaming Operation coupons redeemable for complimentary Chips, Tokens, or cash with the approval of the Administrator and subject to the following requirements:
 - 1) The processes and procedures for the control, accountability and distribution of coupons for Chips, Tokens, or cash and for the redemption of such coupons are provided for in the holder of an Owner's license's Internal Control System and in conformance with the Internal Control System;
 - 2) The aggregate dollar value of Chips, Tokens, or cash authorized for complimentary purposes is not excessive in light of the specific marketing objectives of the licensee; and
 - 3) Periodic internal audits validate the integrity and accountability of the processes and procedures authorized and required under this Section.
- b) Any provider of goods or services involved in approved coupon distribution

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processes and procedures under this Section may be required under this Part and the Act to be licensed as a Supplier.

- c) The holder of an Owner's license may not use Vouchers as a complimentary item or in any marketing promotion nor issue or cause to be issued Vouchers, except as authorized pursuant to Section 3000.635(d).

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.640 Exchange of Chips, ~~and Tokens~~, and Vouchers

- a) Chips shall be issued to a person only at the request of such person and shall not be given as change in any other transaction. Chips shall only be issued to Riverboat patrons at cashier's cages or at the Live Gaming Devices and shall be redeemed only at a cashier's cage.
- b) Tokens shall only be issued upon the request of a patron from a cashier's cage, Token Dispenser or from employees of the holder of an Owner's ~~license~~License at the Electronic Gaming Device area. Tokens shall be redeemed only at a cashier's cage.
- c) Vouchers shall only be issued by Voucher Printers in Electronic Gaming Devices.
- 1) Prior to their Redemption Dates, Vouchers may be redeemed for:
- A) Electronic Credit at Electronic Gaming Devices, which Credit may then be redeemed as a new Voucher or in Tokens, for EGDs equipped for Tokens; and
- B) United States currency at Voucher Validation Terminals and a cashier cage at the holder of an Owner's license.
- 2) After their Redemption Dates and prior to their Expiration Dates, Vouchers may be redeemed for United States currency only at a cashier cage of the holder of an Owner's license.
- d)e) Chips, ~~or Tokens~~, or Vouchers shall only be redeemed by a holder of an Owner's ~~license~~License from its patrons and shall not be knowingly redeemed from any non-patron source, except where:

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- 1) employees of the holder present for redemption Chips or Tokens as provided in the approved Internal Control System of the holder;
 - 2) another holder of an Owner's License presents for redemption Tokens which have been lawfully received by that holder;
 - 3) subject to approval by the Administrator, a person licensed to conduct Gaming in another jurisdiction presents for redemption Tokens which have been lawfully received by that person; or
 - 4) the prior written approval for the redemption of the Chips or Tokens is obtained in each instance from the Administrator.
- e)d) Each Riverboat shall promptly redeem its own Chips, ~~and~~ Tokens and Vouchers by cash or by check dated the day of such redemption on an account of the Riverboat, as requested by the patron, except when the Chips, ~~and~~ Tokens and Vouchers were obtained or used unlawfully.
- f)e) Each Riverboat may demand the redemption of its Chips, ~~or~~ Tokens or Vouchers from any person in possession of them and ~~that such~~ person shall redeem ~~the said~~ Chips, ~~or~~ Tokens or Vouchers upon presentation by the Riverboat Gaming Operation of an equivalent amount of cash or check dated the same day on an account of ~~by~~ the Riverboat.
- g)f) Each Riverboat shall cause to be posted and remain posted in a prominent place:
- 1) On the front of a cashier's cage a sign that reads as follows: "Gaming Chips, Tokens or Vouchers issued by another Riverboat may not be used, exchanged or redeemed in this Riverboat"; ~~and~~
 - 2) On Electronic Gaming Device Token redemption booths a sign that reads as follows: "Tokens or Vouchers issued by another Riverboat may not be used, exchanged or redeemed in this Riverboat"; ~~and-~~
 - 3) On Voucher Validation Terminals a sign that reads as follows: "Vouchers issued by another Riverboat may not be used, exchanged or redeemed in this Riverboat".

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

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Section 3000.655 Destruction of Chips, ~~and Tokens~~, and Vouchers

- a) Prior to the destruction of Chips the holder of an Owner's ~~license~~License shall notify the Administrator, in writing, of the date and the location at which the destruction will be performed, the denomination, number and amount of Value Chips to be destroyed, the description and number of Non-Value Chips to be destroyed and a detailed explanation of the method of destruction. Unless otherwise authorized by the Administrator the destruction of Chips shall be carried out in the presence of at least ~~two (2)~~ individuals, one of whom shall be an agent of the Board. The denomination, number and amount of Value Chips or, in the case of Non-Value Chips, the description and number so destroyed shall be recorded in the Chip inventory ledger together with the signatures of the individuals carrying out such destruction and the date on which said destruction took place.
- b) The holder of an Owner's ~~license~~License shall submit to the Administrator for approval procedures to record the receipt, inventory, storage and destruction of Gaming Tokens.
- c) The holder of an Owner's license shall submit to the Administrator for approval procedures to record the physical destruction of Vouchers.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.660 Minimum Standards for Electronic Gaming Devices

- a) Electronic Gaming Devices shall pay out a mathematically demonstrable percentage of all amounts Wagered, which must not be less than 80% nor more than 100% unless otherwise approved by the Administrator. Electronic Gaming Devices that may be affected by player skill must meet this standard when using a method of play that will provide the greatest return to the player over a period of continuous play.
- b) Electronic Gaming Devices shall, at a minimum:
- 1) Be controlled by a microprocessor or the equivalent;
 - 2) Be compatible to on-line data monitoring;
 - 3) Contain an EPROM or Non-Alterable Storage Media that has been

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approved by the Administrator subsequent to a review of the EPROM or Non-Alterable Storage Media by an independent laboratory designated by the Administrator;

- 4) Have a separate locked internal enclosure within the device for the circuit board containing the EPROM and for all non-alterable storage media program storage that has an effect on the game's integrity; if using Non-Alterable Storage Media, provide a security device or protocol approved by the Administrator to guarantee program inaccessibility by other than by an approved method and personnel and only in the presence of a Gaming Board agent~~;~~;
- 5) Be able to continue a Game with no data loss after a power failure;
- 6) Have previous and current Game data recall;
- 7) Have a random selection process that must not produce detectable patterns of Game elements or detectable dependency upon any previous Game outcome, the amount Wagered, or upon the style or method of play;
- 8) Clearly display applicable rules of play and the payout schedule;
- 9) Display an accurate representation of each Game outcome. After selection of the Game outcome, the Electronic Gaming Device must not make a variable secondary decision which affects the result shown to the player;
- 10) Have a complete set of nonvolatile meters including amounts wagered, amounts awarded, amounts redeemed, total Vouchers issued, total quantity of Vouchers issued and United States currency, Vouchers, and Tokens In, Tokens Out, Tokens dropped and jackpots paid;
- 11) Make available for random selection at the initiation of each play each possible permutation or combination of Game elements which produce winning or losing Game outcomes; ~~and~~
- 12) Not automatically alter pay-tables or any function of the Electronic Gaming Device based on internal computation of the hold percentage; ~~and~~
- 13) If interfaced with a Voucher System, meet the minimum requirements for a Voucher System as set forth in this Part.

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- c) When an Electronic Gaming Device is unable to drop sufficient Tokens or issue a Voucher in a sufficient amount for payment of jackpots requiring the payment to be made by the Riverboat, jackpot payout tickets must be prepared containing the following information:
- 1) The location of the Electronic Gaming Device;
 - 2) The date;
 - 3) The time of day;
 - 4) The Electronic Gaming Device number;
 - 5) The amount of the jackpot payout in numeric form if the ticket is machine generated, or in written and numeric form if the ticket is prepared manually;
 - 6) The signature of the holder of an Owner's license or Riverboat Gaming Operation employee making the payment; and
 - 7) A signature of at least one other Riverboat Gaming Operation employee attesting to the accuracy of the form.
- d) Electronic Gaming Devices linked to any Progressive Jackpot system shall meet the following specifications:
- 1) The value of a Progressive Jackpot shall be clearly displayed above the interlinked Electronic Gaming Devices, and metered incrementally by a Progressive Controller. Any Electronic Gaming Device that offers a Progressive Jackpot, or that is linked to a Progressive Jackpot, must prominently display a manufacturer-supplied glass indicating either that a Progressive Jackpot is to be paid or indicating the current amount of the jackpot. All Electronic Gaming Devices linked and contributing to a common Progressive Jackpot shall have the same probability of hitting the combination that will award the Progressive Jackpot;
 - 2) A Progressive Jackpot may be transferred to another progressive Electronic Gaming Device at the same location in the event of a device malfunction or replacement, with approval of the Administrator;

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- 3) A holder of an Owner's license may impose a limit on the Progressive Jackpot of Electronic Gaming Devices which are linked to any Progressive Controller;
 - 4) No Progressive Jackpot indicator shall be cancelled or turned back to a lesser amount unless one of the following circumstances occurs:
 - A) The amount shown on the progressive meter is paid to a player as a jackpot;
 - B) It becomes necessary to adjust the progressive meter to prevent the jackpot indicator from displaying an amount greater than the limit imposed by the Riverboat Gaming Operation pursuant to subsection (d)(3) of this Section; and
 - C) It becomes necessary to change the jackpot indicator because of an Electronic Gaming Device malfunction, in which case such malfunction and adjustment must be recorded by appropriate Electronic Gaming Device monitoring on-line data system;
 - 5) A holder of an Owner's license who is liable for payment of a Progressive Jackpot must secure the amount of same by a cash deposit, a performance bond, or a security instrument nationally recognized in the Gaming industry. The Administrator must approve all deposits, bonds, or other instruments, and the security instrument must be secured in a method approved by the Administrator.
- e) The Administrator may approve, for use in a Tournament involving Electronic Gaming Devices, a Tournament EPROM subject to the following requirements:
- 1) The Tournament EPROM has been tested and approved for use as may be required by the Administrator.
 - 2) The installation, use and secure storage of the Tournament EPROM is provided for in the Internal Control System of the Riverboat Gaming Operation.
 - 3) The Tournament EPROM is installed and removed from an Electronic Gaming Device only in the presence of a Board agent.

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- 4) An Electronic Gaming Device is rendered unavailable for wagering or play, except in the conduct of a Tournament, when a Tournament EPROM is installed in the Electronic Gaming Device.
- 5) As applicable, the Administrator has waived or modified the data reporting and monitoring requirements of Section 3000.670 so as to prevent inapplicable Tournament payout information from being used in the calculation of Adjusted Gross Receipts.
- 6) Patrons engaging in a Tournament have been given proper information as to the effect that play with a Tournament EPROM has on the rules of play and the payout information that is posted on Electronic Gaming Devices used in the Tournament.

f) The use of remote access is prohibited.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.661 Minimum Standards for Voucher Systems

A Voucher System shall, at a minimum:

- a) Perform the following minimum functions to control access to the System:
 - 1) Generate daily monitoring logs of user access, security incidents and unusual transactions, and immediately notify or cause to immediately notify the Board and the MIS Department pursuant to the Owner licensee's approved Internal Controls of critical security incidents and unusual transactions;
 - 2) Assign rights and privileges to each user, including:
 - A) allowance for the secure administration of user accounts to provide an adequate separation of duties; and
 - B) adequate password parameters, such as lockout, minimum length, and expiration interval;
 - 3) Use appropriate access protocols to restrict unauthorized users from viewing, changing or deleting critical files and directories;

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- 4) Utilize encryption or password protection or equivalent security for files and directories containing critical or sensitive data. If encryption is not used, users shall be restricted from viewing the contents of such files and directories, which at a minimum shall provide for:
 - A) the effective segregation of duties and responsibilities with regard to the system in the MIS Department; and
 - B) the automatic monitoring and recording by the system of access by any person to such files and directories;
- b) Perform the following minimum functions to control system operations:
 - 1) Validate the identity of those devices from which a transmission is received;
 - 2) Ensure that all data sent through a transmission is completely and accurately received; and
 - 3) Detect the presence of corrupt, or instances of lost, data and, as necessary, reject the transmission;
- c) Perform the following minimum functions to control the integrity of data:
 - 1) Generate or cause to be generated a validation number for each Voucher, either utilizing a unique algorithm, or by such other method approved by the Administrator and the certification laboratory, which method shall prevent the ability to predict the composition of any other validation number generated by the system;
 - 2) Validate the data type and format of all inputs to critical fields and reject any corrupt data;
 - 3) Provide for the automatic and independent recordation of critical data upon issuance of a Voucher and redemption; and
 - 4) Provide for verification of the information contained on a Voucher presented for redemption and for the record of unredeemed Vouchers to a source that separately records and maintains transaction data, or such other

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compensating procedure as approved by the Administrator and the certification laboratory, which procedure shall independently verify the accuracy of the validation number and value prior to redeeming the Voucher;

- d) Perform the following minimum functions to address business continuity:
 - 1) Utilize data redundancy techniques that ensure system data preservation;
 - 2) Utilize environmental controls, such as uninterruptible power supplies, and fireproof and waterproof materials to protect critical data from natural disaster; and
 - 3) Immediately notify or cause to immediately notify the Board pursuant to the Owner licensee's approved Internal Controls and MIS of any malfunction that threatens the integrity of the Voucher System;
- e) Insure that the Voucher System is not capable of issuing or validating a duplicate Voucher on demand;
- f) Insure that if the validation information cannot be sent to the Voucher System, an alternate method of payment is provided:
 - 1) By the Voucher System possessing unique features to identify duplicate Vouchers and prevent fraud by redeeming an unexpired and/or unvalidated Voucher that was previously issued by the EGD; or
 - 2) Pursuant to the Owner licensee's approved Internal Controls;
- g) Insure that once the validation information is stored in the database, the data may not be altered in any way;
- h) Insure that any device that holds Voucher information in its memory shall not allow removal of the information unless it has first transferred that information to the database or other secured components of the Voucher System;
- i) Insure that only designated Vouchers can be issued and redeemed;
- j) Insure that each Voucher System is designed and is operated so as to prevent the use of counterfeit Vouchers, previously redeemed Vouchers, incomplete

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Vouchers if the validation information is missing, expired Vouchers, or Vouchers issued at other Riverboat Gaming Operations and by other holders of an Owner's license;

- k) Insure that remote access is prohibited;
- l) Insure that all Voucher transactions are retained for the prior three years, either on-line or in a media approved by the Administrator and capable of being restored to the Voucher System upon request; and
- m) Insure that Electronic Credits from a Voucher that are not evenly divisible by the minimum wager amount of an Electronic Gaming Device, including the accumulation of fractional amounts from multiple vouchers, are issued to the patron in a Voucher for the full value of the fractional Electronic Credit.

(Source: Added at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.665 Integrity of Electronic Gaming Devices

Electronic Gaming Devices shall, at a minimum:

- a) With the exception of a Bill Validator that is part of the EGD, be~~Be~~ cashless in operation, and as such, must accept only Electronic ~~Credits~~Cards or Tokens as Wagers;
- b) If equipped with a Bill Validator, accept the conversion of the value of cash, Tokens, Vouchers, or Electronic Cards to Electronic Credits for use as Wagers;
- ~~c)~~b) Be electronic in design and operation and not be electro-mechanical or mechanical in operation;
- ~~d)~~e) Not subject a player to physical hazards;
- ~~e)~~d) Contain a surge protector on the line that feeds power to the Electronic Gaming Device. The battery backup or an equivalent for the electronic meters must be capable of maintaining accuracy of all information required for 180 days after power is discontinued from the Electronic Gaming Device. The backup shall be kept within the locked logic board compartment;
- ~~f)~~e) Have an on/off switch that controls the electrical current used in the operation of

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- the Electronic Gaming Device and any associated equipment, including a Voucher Printer, which shall be located in an accessible place within its interior;
- g)Ⓕ Be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;
- h)Ⓖ If capable of accepting or providing tokens, have ~~Have~~ at least one electronic Token acceptor. Token acceptors must be designed to accept designated Tokens and reject others. The Token receiver on an Electronic Gaming Device must be designed to prevent the use of cheating methods such as slugging, stringing, or spooning. All Token acceptors are subject to approval by the Administrator. Tokens accepted but which are inappropriate "token-ins" must be returned to the player by activation of the hopper or credited toward the next play of the Electronic Gaming Device. The Electronic Gaming Device control program must be capable of handling rapidly fed Tokens so that occurrences of inappropriate "token-ins" are prevented;
- i) Have no more than one Voucher Printer;
- j)Ⓕ Not be readily accessible in its internal space of the Electronic Gaming Device when the front door is both closed and locked;
- k)Ⓕ Have logic boards and EPROMS or Non-Alterable Storage Media, in a locked area within the Electronic Gaming Device, sealed with evidence tape. The evidence tape must be affixed by an authorized Board agent and must include the date, signature and I.D. number of the agent. This tape may only be removed in the presence of an authorized Board agent. If using Non-Alterable Storage Media, provide a security device or protocol approved by the Administrator to guarantee program inaccessibility except in the presence of a Gaming Board agent and by a method other than those approved by the Administrator;
- l)Ⓕ If capable of accepting or providing tokens, have ~~Have~~ a Token compartment contained in a locked area within or attached to the Electronic Gaming Device;
- m)Ⓕ Not contain any hardware switches that alter the pay-tables or payout percentages in its operation. Hardware switches may be installed to control graphic routines, speed of play, and sound;
- n)Ⓕ Contain an unremovable identification plate containing the following information, appearing on the exterior of the Electronic Gaming Device and on the Voucher

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Printer located in the Electronic Gaming Device:

- 1) Manufacturer;
 - 2) Serial Number; and
 - 3) Model Number;
- o)m) Contain the rules of play for each Electronic Gaming Device displayed on the face or screen. No rules shall be incomplete, confusing, or misleading. Each Electronic Gaming Device must also display the credits wagered and the credits awarded for the occurrence of each possible winning combination based on the number of credits wagered. All information required by this Section~~subdivision~~ must be kept under glass or another transparent substance and at no time may stickers or other removable items be placed over this information;
- p)n) Have equipment that enables the Electronic Gaming Device to communicate with a Computer Monitoring System ~~central computer system~~ accessible to the Board, using an industry standard protocol data format approved by the Administrator;
- q)q) Be capable of continuing the current Game with all current Game features after a malfunction is cleared. This rule does not apply if an Electronic Gaming Device is rendered totally inoperable. The current Wager and all credits appearing on the screen prior to the malfunction shall be returned to the patron;
- r)r) Have attached a drop bucket housed in a locked compartment separate from any compartment of the Electronic Gaming Device;
- s)s) Be capable of detecting and displaying the following error conditions which an attendant may clear:
- 1) Token-in jam;
 - 2) Token-out jam;
 - 3) Hopper empty or time-out;
 - 4) Program error;
 - 5) Hopper runaway or extra Token paid out;

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- 6) Reverse token-in;
- 7) Reel error; ~~and~~
- 8) Voucher Printer paper jam;
- 9) Voucher Printer low ink, if applicable;
- 10) Voucher Printer low on paper;
- 11) Voucher Printer Paper out/depleted, or comparable message;
- 12) Voucher Printer presentation error, or comparable message indicating that the Voucher Printer is unable to print completely and/or accurately;
- 13) Voucher Printer print failure;
- 14) Voucher Printer not connected/not communicating, or comparable message;
- 15) Voucher System interruption, or comparable message; and
- 16) ~~8)~~ Door open;
- t) ~~s)~~ Use a communication protocol which ensures that erroneous data or signals will not adversely affect the operation of the Electronic Gaming Device;
- u) ~~s)~~ Display an Illinois Gaming Board registration number permanently imprinted, affixed or impressed on the outside of the Electronic Gaming Devices;
- v) ~~t)~~ Have the capacity to display on the front of each Electronic Gaming Device its rules of play, character combinations requiring payouts, and the amount of the related payouts. In addition, the holder of an Owner's License shall display on each Electronic Gaming Device either:
 - 1) A clear description of any merchandise or thing of value offered as a payout, including the cash equivalent value of the merchandise or thing of value offered, the dates the merchandise or thing of value will be offered if the holder of an Owner's License establishes a time limit upon initially

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offering the merchandise or thing of value and the availability or unavailability to the patron of the optional cash equivalent value; or

- 2) The name or a brief description of the merchandise or thing of value offered; provided, however, a sign containing the information specified in subsection (v)(1)subparagraph 1) of this paragraph shall be displayed in a prominent location approved by the Board near the Electronic Gaming Device;
- ~~w)u)~~ Have a mechanical, electrical, or electronic device that automatically precludes a player from operating the Electronic Gaming Device after a jackpot requiring a manual payout and requires an attendant to reactivate the Electronic Gaming Device;:-
- x) Maintain or have an approved device that can maintain a separate bill history of at least the last 10 bills or Vouchers vended;
- y) In the event that an EGD has lost communication with the Voucher System, insure that, when a patron redeems electronic credits, the EGD must:
 - 1) revert to an active hopper device; or
 - 2) lockup and, after reset, result in a hand pay in accordance with procedures approved in the Owner licensee's internal controls; or
 - 3) issue no more than one voucher;
- z) Insure that jackpots that require completion of a W2-G shall cause the EGD to lockup, and after reset, result in a hand pay in accordance with procedures approved in the Owner licensee's internal controls;
- aa) Insure that the EGD is not capable of printing a new Voucher or reprinting a duplicate Voucher on demand;
- bb) Insure that the identification and value of the last 35 Vouchers issued by each Voucher Printer and last 10 Vouchers redeemed at each EGD is recorded and available for display; and
- cc) Insure that the EGD not have any devices, components or other apparatus to accept wagers or issue payouts that are not specifically authorized.

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(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.666 Bill Validator Requirements

- a) Bill Validators shall be limited to accepting:
 - 1) United States currency in denominations of not less than \$1.00 and not more than \$100; and-
 - 2) Vouchers with a value of no less than \$0.01 and no more than \$3,000 in United States currency.
- b) Bill Validators may only accept designated Vouchers.
- c)b) Each bill or Voucher accepted by the Bill Validator shall be registered at its face value as a bill or Voucher vended and this information must ~~interface be provided through a communications interface to a cashier cage area on board the Riverboat, as well as being registered as such~~ with the Riverboat Gaming Operation's centralized, on-line computer monitoring system and Voucher System.
- d)e) All currency and Vouchers accepted and stored within the Bill Validator shall be accessible only to designated Riverboat Gaming Operation personnel via an externally locked compartment door which does not allow for access to the Electronic Gaming Device door.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.667 Integrity of Voucher Systems

Voucher Systems, including Voucher Validation Terminals, shall:

- a) Be approved by the Administrator prior to their use at a Riverboat Gaming Operation;
- b) Be approved by the Administrator prior to any programming changes or upgrades to an approved Voucher System;
- c) Ensure against manipulation, alteration, or change of the approved Voucher System;

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- d) Be operated in such a manner as to cause immediate notification to the Board of any malfunction that affects the integrity of the Voucher System;
- e) Provide for on-line real-time monitoring; and
- f) Be subject to testing by an independent laboratory and review by the Board as deemed necessary or appropriate to ensure the continued integrity of the Voucher System or any of its component parts.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.670 Computer Monitoring Requirements of Electronic Gaming Devices

- a) The holder of an Owner's License must have a computer connected to all Electronic Gaming Devices in the Riverboat to record and monitor the activities of such devices. No Electronic Gaming Device shall be operated unless it is on-line and communicating to a Computer Monitoring System ~~computer monitoring system~~ approved by the Administrator. Such Computer Monitoring System ~~computer monitoring system~~ shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the Administrator.
- b) The Computer Monitor System ~~computer~~ permitted by subsection (a) of this Section shall be designed and operated to automatically perform and report functions relating to Electronic Gaming Device meters, and other exceptional functions and reports in the Riverboat as follows:
 - 1) Record the number and total value of United States currency, Tokens or Vouchers placed in the Electronic Gaming Device for the purpose of activating play;
 - 2) Record the number and total value of Tokens deposited in the drop bucket of the Electronic Gaming Device;
 - 3) Record the number and total value of Tokens automatically paid by the Electronic Gaming Device as the result of a jackpot;
 - 4) Record the number and total value of Tokens to be paid manually as the result of a jackpot;

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- 5) Record the number and total value of Vouchers issued by the Electronic Gaming Device;
- 6) Record the number and total value of Vouchers and currency received by the Electronic Gaming Device;
- 7)5) Have an on-line computer alert, alarm monitoring capability to insure direct scrutiny of any device malfunction, any type of tampering, and any open door to the Electronic Gaming Device, ~~or~~ drop area or Voucher Printer. In addition, any person opening the Electronic Gaming Device or the drop area shall complete the machine entry authorization log including time, date, machine identity and reason for entry;
- 8)6) Be capable of logging in and reporting any revenue transactions not directly monitored by Token meter, such as Tokens placed in the Electronic Gaming Device as a result of a fill, and any Tokens removed from the Electronic Gaming Device in the form of a credit; and
- 9)7) Identify any Electronic Gaming Device taken off-line or placed on-line of the computer monitor system, including date, time, and Electronic Gaming Device identification number.
- c) The holder of an Owner's License shall store, in machine-readable format, all information required by subsection (b) for the period of five years. The holder of an Owner's License shall store all information in a secure area and certify that this information is complete and unaltered. This information shall be available in the format and media approved by the Administrator.
- d) In addition to the requirements of subsection (c), the owner licensee shall store, in machine-readable format and by date, time and type of occurrence, all exceptions or events that result in an Electronic Gaming Device malfunction or tilt for a period of 21 days.
- e) The secured office facilities for the sole accessibility of Board personnel provided in accordance with Section 3000.810 of these rules shall house a dedicated computer monitoring line which provides computer accessibility to Board personnel to review, monitor and record data identical to that specified in this Section.
- f) The use of remote access is prohibited.

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(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.671 Computer Monitoring Requirements of Voucher Systems

- a) A Voucher System shall provide on-line, real-time monitoring and data acquisition capability in the format and media approved by the Administrator.
- b) A Voucher System shall be designed and operated to automatically perform and report functions relating to the issuance, validation, redemption and accounting for Vouchers as follows:
 - 1) Record the validation numbers and value of Vouchers issued by each Electronic Gaming Device;
 - 2) Record the validation numbers and value of Vouchers redeemed in each Electronic Gaming Device for Electronic Credits;
 - 3) Record the validation numbers and value of Vouchers redeemed at locations other than Electronic Gaming Devices;
 - 4) Record the identification and value of each Voucher that is not redeemed prior to its Expiration Date; and
 - 5) Calculate the Voucher Float.
- c) The holder of an Owner's license shall store, in machine-readable format, all information required by subsection (b) for a period of three years. The holder of an Owner's license shall store all information in a secure area and certify that this information is complete, accurate and unaltered. This information shall be available in the format and media approved by the Administrator.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

SUBPART G: EXCLUSION OF PERSONS

Section 3000.756 Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion

- a) A person seeking placement on the Self-Exclusion List shall, at the time of the request to be placed on the List, agree to forfeit all jackpots ~~\$1,200 or over~~, chips

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or tokens in play or in plain view, ~~non-complimentary Pay~~ Vouchers, and electronic credits in his or her possession or control as a sanction for entering the gaming area of a riverboat gaming operation after voluntary placement on the Self-Exclusion List.

- b) Such person shall designate, at the time of his or her request for placement on the Self-Exclusion List, the duly registered charitable or governmental agency on a list of gambling support service and/or treatment providers approved by the Department of Human Services that shall receive a donation of assets listed in ~~subsection~~ ~~Subsection~~ (a), in the future, if and when the self-excluded person enters the gaming area of a riverboat gaming operation.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.770 Duties of Owner Licensees

- a) No licensee shall knowingly allow any person placed on the Self-Exclusion List pursuant to Section 3000.750 to enter the gaming premises of, or engage in gambling at, the riverboat gaming operation. The riverboat gaming operation shall cause the name and address of any person on the Self-Exclusion List to be flagged on all mailing, marketing or promotional lists or databases, except as provided in this Part. No licensee shall knowingly send marketing or promotional materials to any person placed on the Self-Exclusion List.
- b) Owner licensees shall maintain, pursuant to Section 3000.760, a system designed to detect persons on the Self-Exclusion List so as to enforce this Part.
- c) An ~~Owner~~ ~~owner~~ licensee must immediately notify an IGB agent upon making a preliminary determination that a person listed on the Self-Exclusion List has entered the gaming premises of a riverboat gaming operation and remove such person from the gaming area. A licensee must determine as expediently as possible, and to the extent practicable, whether there are any jackpots \$1,200 or over due the self-excluded person and if there are any chips, tokens, ~~Non-complimentary Pay~~ Vouchers or electronic credits in play by the self-excluded person or in plain view in the possession or control of the self-excluded person at the time he or she is apprehended in a gaming area and provide such information to the IGB agent. Owner licensees shall refrain from knowingly paying out jackpots under \$1,200 and from paying out all jackpots in amounts of in excess of \$1,200 or over won by patrons on the Self-Exclusion List because those jackpots are subject to forfeiture.

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- d) The riverboat gaming operation shall cause the name and address of any person on the Self-Exclusion List to be flagged on all check-cashing, credit issuance, and other financial eligibility lists or databases utilized by the riverboat gaming operation for any purposes, except as authorized by this Part. Owner licensees shall not knowingly cash checks for, extend gaming operation credit to, or otherwise assist a person on the Self-Exclusion List to obtain funds for gambling purposes.
- e) Upon ascertaining that a person on the Self-Exclusion List is on the gaming premises, an owner licensee must inventory, in the presence of an IGB agent, and provide a receipt to the self-excluded person for, all jackpots required to be documented \$1,200 or over, chips or tokens in play or in plain view, ~~Non-Complimentary Pay~~ Vouchers, and electronic credits in the possession or control of the self-excluded person.
- f) An owner licensee may, at its discretion, opt to exclude persons on the Self-Exclusion List from the riverboat gaming operation entirely, rather than just its gaming areas.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

SUBPART H: SURVEILLANCE AND SECURITY

Section 3000.800 Required Surveillance Equipment

The holder of an Owner's License shall install in the Riverboat a closed circuit television system in accord with the specifications herein and shall provide access to the system or its signal by the Board. The closed circuit television must meet or exceed the following specifications:

- a) Solid state, black and white cameras, $\frac{2}{3}$, $\frac{1}{2}$, $\frac{1}{3}$ or $\frac{1}{4}$ format, with minimum 400 plus line resolution installed in fixed positions with matrix control and/or with pan, tilt and zoom capabilities, secreted from public and non-surveillance personnel view to effectively and clandestinely monitor in detail, from various vantage points, the following:
- 1) The Gaming conducted at the Electronic Gaming Devices;
 - 2) The master display board and the number or ball selection device for Keno;

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- 3) The count processes conducted in the count rooms;
 - 4) The movement of cash, Chips, drop boxes, tip boxes, Token storage boxes, and drop buckets within the Riverboat and any area of transit of uncounted Tokens, Chips, cash and cash equivalents;
 - 5) Any area where Tokens or Chips can be purchased, Vouchers issued, or Tokens, Chips or Vouchers redeemed, including but not limited to Voucher Validation Terminals and cage cashiers at a holder of an Owner's license;
 - 6) The entrance and exits to the Riverboat and the count rooms;
 - 7) For all live Games regardless of patron or employee position:
 - A) Hands of all Gaming patrons and dealers;
 - B) Tray; and
 - C) Overall layout of the table area capable of capturing clear individual images of Gaming patrons and dealers, inclusive of, without limitation, facial views and the playing surface so that the outcome of each Game may be clearly observed;
 - 8) Such other areas as the Administrator designates;
- b) Individual solid state, color, television cameras, $\frac{2}{3}$, $\frac{1}{2}$, $\frac{1}{3}$ or $\frac{1}{4}$ format, with minimum 320 plus line resolution with matrix and/or pan, tilt and zoom capabilities, secreted from public and non-surveillance personnel view augmented with appropriate color corrected lighting to effectively and clandestinely monitor in detail, from various vantage points, the following:
- 1) Roulette tables, in a manner to clearly observe the Wagers, patrons, and the outcome of each Game;
 - 2) The operations conducted at the fills and credit area of the cashier's cage(s);
- c) All closed circuit cameras equipped with lenses of sufficient magnification to

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allow the operator to clearly distinguish the value of the Chips, Tokens and playing cards;

- d) Video monitors that meet or exceed the resolution requirement for video cameras with solid state circuitry, and time and date insertion capabilities for taping what is being viewed by any camera in the system. Each video monitor screen must measure diagonally at least 12 inches and all controls must be front mounted;
- e) Video printers capable of adjustment and possessing the capability to generate instantaneously, upon command, a clear, color and/or black and white, copy of the image depicted on the videotape recording;
- f) Date and time generators based on a synchronized, central or master clock, recorded on tape and visible on any monitor when recorded;
- g) Wiring to prevent tampering. The system must be supplemented with a back-up gas/diesel generator power source which is automatically engaged in case of a power outage and capable of returning to full power within seven to ten seconds;
- h) An additional uninterrupted power supply system so that time and date generators remain active and accurate, and switching gear memory and video surveillance of all riverboat entrances/exits and cage areas is continuous;
- i) Video switchers capable of both manual and automatic sequential switching for the appropriate cameras;
- j) Videotape recorders capable of producing high quality first generation pictures with a horizontal resolution of a minimum of 240 plus lines non-consumer, industrial grade, and recording on a standard ½ inch, V.H.S. tape with high-speed scanning and flickerless playback capability in real-time (23 to 30 frames per second). Such videotape recorders must possess time and date insertion capabilities for taping what is being viewed by any camera in the system;
- k) Audio capability in the soft count room; and
- l) Adequate lighting in all areas where camera coverage is required. The lighting shall be of sufficient intensity to produce clear videotape and still picture production, and correct color correction where color camera recording is required. The video must demonstrate a clear picture, in existing light under normal operating conditions.

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(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

SUBPART J: ACCOUNTING RECORDS AND PROCEDURES

Section 3000.1010 Accounting Records

The holder of an Owner's license shall keep, in accordance with the retention schedule, and provide to the Board upon request the following records:

- a) The accounting records shall be maintained using a double entry system of accounting with transactions recorded on the accrual basis and supported by detailed and subsidiary records.
- b) The Administrator shall prescribe a uniform chart of accounts including account classifications in order to insure consistency, comparability, and appropriate disclosure of financial information. The prescribed chart of accounts shall be the minimum level of detail to be maintained for each accounting classification by the holder of an Owner's license.
- c) The detailed subsidiary records shall include as a minimum the following:
 - 1) Detailed general ledger accounts identifying all revenue sources, expenses, assets, liabilities and equity for the holder of an Owner's license;
 - 2) Records of all investments, advances, loans and receivable balances, other than patron checks, due the establishment;
 - 3) Record of all loans and other amounts payable by the holder of an Owner's license;
 - 4) Record of all patron checks initially accepted by the holder of an Owner's license, deposited by the owner, returned to the owner as "uncollected" and ultimately written-off as uncollectible by the holder of an Owner's license;
 - 5) Journal entries prepared by the holder of an Owner's license and the independent accountant selected by the Administrator;
 - 6) Tax workpapers used in preparation of any state or federal tax return;

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- 7) Records that identify Table Drop, Table Win and percentage of Table Win to Table Drop for each live table Game and those records accumulated for each type of live table Game, either by shift or other accounting period approved by the Administrator;
 - 8) Records that identify the actual ~~Tokens-in~~tokens-in, ~~Tokens-out~~tokens-out, ~~Vouchers issued~~, ~~Vouchers redeemed~~, Electronic Gaming Device Drop, Electronic Gaming Device Win, Electronic Gaming Device Win to Electronic Gaming Device Drop and Theoretical Payout Percentage for each Electronic Gaming Device on a per day basis or other accounting period approved by the Administrator;
 - 9) Records supporting the accumulation of the costs for complimentary services and items. A complimentary service or item provided to patrons in the normal course of an owner's business shall be recorded at an amount based upon the full retail price normally charged for such service or item;
 - 10) Records that identify the purchase, receipt, and destruction of Gaming Chips and Tokens from all sources;
 - 11) Records required to fully comply with all the federal financial record-keeping requirements as enumerated in 31 CFR 103;
 - 12) Records required by the holder of an Owner's license's Internal Control System;
 - 13) Workpapers supporting the daily reconciliation of cash accountability;
 - 14) Records concerning the acquisition or construction of a proposed or existing Riverboat or Support Facility; and
 - 15) Any other records that the Administrator requires be maintained.
- d) If a holder of an Owner's license fails to maintain the records used by it to calculate the adjusted gross receipts or the number of persons admitted on the riverboat, the Administrator may compute and determine the amount upon the basis of an audit conducted by the Board based upon available information.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

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Section 3000.1050 Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit

- a) Except as otherwise provided in this Section, no holder of an Owner's ~~license~~License shall make any loan, or otherwise provide or allow to any person any credit or advance of anything of value or which represents value to enable any person to take part in Gaming activity. The failure to deposit for collection a negotiable instrument by the next banking day following receipt shall be considered an extension of credit.
- b) A holder of an Owner's ~~license~~License may extend credit to a patron only in the ~~manner~~manner(s) provided in its Internal Control System approved by the Administrator.
- c) The Internal Control System shall provide:
 - 1) Each credit transaction is promptly and accurately recorded in appropriate credit records;
 - 2) Credit may be extended only in a commercially reasonable manner considering the assets, liabilities, prior payment history and income of the patron;
 - 3) Policies and procedures for the authorization and issuance of check cashing privileges which shall ensure that all patrons who cash personal checks over \$500 establish check cashing privileges. These procedures shall include the approval process for establishing these privileges and setting check cashing limits;
 - 4) Only the following checks may be cashed at a casino cage:
 - A) Personal checks;
 - B) Cashier's checks;
 - C) Money orders;
 - D) Credit Card Advance Checks;

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- E) Traveler's checks; and
 - F) Wire transfer service checks.
- d) No credit shall be extended beyond 30 days. In the event that a patron has not paid a debt created under this Section within 30 days, a holder of an Owner's ~~license~~License shall not further extend credit to the patron while such debt is outstanding.
- e) A holder of ~~ana~~ Owner's ~~license~~License shall be liable as an insurer, for all collection activities on the debt of a patron, whether such activities occur in the name of the owner or a third party.
- f) The holder of an Owner's ~~license~~License shall provide to the Administrator a monthly report detailing credit issued and outstanding, collection activities taken and settlements of all disputed checks and disputed credit card charges.
- g) The value of Chips or Tokens issued to a patron upon the extension of credit, the receipt of a check or other instrument or via a complimentary distribution program shall be included in the computation of Gross Receipts.
- h) A holder of an Owner's license may not issue nor cause to be issued a Voucher as a means of extending credit.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

Section 3000.1060 Handling of Cash at Gaming Tables

- a) Each Gaming employee who receives any cash or cash equivalents from a patron in the Gaming area shall promptly place the currency in the drop box.
- b) No cash wagers ~~or Vouchers~~ shall be allowed to be placed at any Gaming table. ~~Cash~~Such cash shall be converted to Chips prior to acceptance of a wager.

(Source: Amended at 27 Ill. Reg. 15793, effective September 25, 2003)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3) Section Number: 300.661 Adopted Action: Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective date of amendment: September 25, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 21, 2003 – 27 Ill. Reg. 4913
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:
 1. In the main source note, the following was added: “emergency amendment at 27 Ill. Reg. 5452, effective March 25, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 5862, effective April 1, 2003.
 2. In Section 300.661(a)(15), “or disabled” was stricken and “or a person with a disability” was added.
 3. In Section 300.661(f), “s” was stricken and “w” was added.
 4. In Section 300.661(l), “*of*” was changed to “after” to reflect text currently on file.
 5. In Section 300.661(o)(1), “compliance with orders of protection” was deleted.
 6. In Section 300.661(p), “, acting . . . implements.” was deleted.
 7. The last sentence in Section 300.661(p) was deleted.

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8. In Section 300.661(o), “Notwithstanding . . . Section.” was deleted; “an” was changed to “An”.
9. In Section 300.661(p), “Notwithstanding . . . Section.” was deleted; “waivers” was changed to “Waivers”.
10. In Section 300.661(p)(1)-(6), “application” was changed to “consideration”.
11. In Section 300.661(p)(1) and (4), “completion . . . imposed.” was deleted.
12. In Section 300.661(p)(2), “completion . . . next” was deleted; “the” was added before “most” in line 635; “date” was added after “conviction”.
13. In Section 300.661(p)(3) and (5), “completion . . . later of” and “or completion . . . conviction” were deleted.
14. In Section 300.661(p)(6), “completion . . . later of the” and “or completion . . . conviction” were deleted; “the” was added before “most”.
15. In Section 300.661(r), “Notwithstanding . . . Section.” was deleted; “waivers” was changed to “Waivers”.
16. In Section 300.661(r), “unless . . . writing” was deleted.
17. In Section 300.661(r)(2), “or” was deleted; “or concealment of a homicidal death” was added; references to 9-2.1, 9-3.1, 9-3.2, and 9-3.3 were added.
18. In Section 300.661(r)(4), “, heinous battery, or infliction of great bodily harm” was added; references to 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 were added.
19. In Section 300.661(r)(5) a reference to “12-14.1” was added.
20. A new subsection (s) was added:
“s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)).”
21. Subsections(s)-(z) was changed to (t)-(aa).

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The following changes were made in response to comments and suggestions of the JCAR:

1. In the Source Note, “emergency expired July 1, 2003;” was added.
2. In Section 300.661(i)(2), “subsection (m) of” was stricken.
3. In Section 300.661(q), “unless the Director of Public Health approves the waiver in writing” was deleted.
4. In Section 300.661(r)(2), line 2, “9-1.2” was added after “9-1”.
5. In Section 300.661(r)(2), line 3, “9-1.2” was added after “9-1”; the first “and” was deleted.
6. In Section 300.661(s), “(Section 40(b) of the Health Care Worker Background Check Act)” was added after the period.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
300.120	Amendment	27 Ill. Reg. 14162; August 29, 2003
300.340	Amendment	27 Ill. Reg. 7579; May 3, 2003

- 15) Summary and purpose of this amendment: Section 300.661 implements provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the

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applicant or employee does not pose a threat to the health or safety of residents. A provision has also been added whereby the Director of Public Health may grant a waiver to an individual who does not meet these thresholds.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

The full text of the adopted amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
300.110	General Requirements
300.120	Application for License
300.130	Licensee
300.140	Issuance of an Initial License for a New Facility
300.150	Issuance of an Initial License Due to a Change of Ownership
300.160	Issuance of a Renewal License
300.163	Alzheimer's Special Care Disclosure
300.165	Criteria for Adverse Licensure Actions
300.170	Denial of Initial License
300.175	Denial of Renewal of License
300.180	Revocation of License
300.190	Experimental Program Conflicting With Requirements
300.200	Inspections, Surveys, Evaluations and Consultation
300.210	Filing an Annual Attested Financial Statement
300.220	Information to Be Made Available to the Public By the Department
300.230	Information to Be Made Available to the Public By the Licensee
300.240	Municipal Licensing
300.250	Ownership Disclosure
300.260	Issuance of Conditional Licenses
300.270	Monitor and Receivership
300.271	Presentation of Findings
300.272	Determination to Issue a Notice of Violation or Administrative Warning
300.274	Determination of the Level of a Violation
300.276	Notice of Violation
300.277	Administrative Warning
300.278	Plans of Correction
300.280	Reports of Correction
300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties
300.286	Determination to Assess Penalties
300.288	Reduction or Waiver of Penalties

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300.290	Quarterly List of Violators (Repealed)
300.300	Alcoholism Treatment Programs In Long-Term Care Facilities
300.310	Department May Survey Facilities Formerly Licensed
300.315	Supported Congregate Living Arrangement Demonstration
300.320	Waivers
300.330	Definitions
300.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
300.510	Administrator

SUBPART C: POLICIES

Section	
300.610	Resident Care Policies
300.615	Determination of Need Screening
300.620	Admission and Discharge Policies
300.630	Contract Between Resident and Facility
300.640	Residents' Advisory Council
300.650	Personnel Policies
300.655	Initial Health Evaluation for Employees
300.660	Nursing Assistants
300.661	Health Care Worker Background Check
300.662	Resident Attendants
300.663	Registry of Certified Nursing Assistants
300.665	Student Interns
300.670	Disaster Preparedness
300.680	Restraints
300.682	Nonemergency Use of Physical Restraints
300.684	Emergency Use of Physical Restraints
300.686	Unnecessary, Psychotropic, and Antipsychotic Drugs
300.690	Serious Incidents and Accidents
300.695	Contacting Local Law Enforcement

SUBPART D: PERSONNEL

Section	
300.810	General
300.820	Categories of Personnel

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- 300.830 Consultation Services
- 300.840 Personnel Policies

SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section

- 300.1010 Medical Care Policies
- 300.1020 Communicable Disease Policies
- 300.1025 Tuberculin Skin Test Procedures
- 300.1030 Medical Emergencies
- 300.1035 Life-Sustaining Treatments
- 300.1040 Behavior Emergencies (Repealed)
- 300.1050 Dental Standards

SUBPART F: NURSING AND PERSONAL CARE

Section

- 300.1210 General Requirements for Nursing and Personal Care
- 300.1220 Supervision of Nursing Services
- 300.1230 Staffing
- 300.1240 Additional Requirements

SUBPART G: RESIDENT CARE SERVICES

Section

- 300.1410 Activity Program
- 300.1420 Specialized Rehabilitation Services
- 300.1430 Work Programs
- 300.1440 Volunteer Program

SUBPART H: MEDICATIONS

Section

- 300.1610 Medication Policies and Procedures
- 300.1620 Compliance with Licensed Prescriber's Orders
- 300.1630 Administration of Medication
- 300.1640 Labeling and Storage of Medications
- 300.1650 Control of Medications

SUBPART I: RESIDENT AND FACILITY RECORDS

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Section

- 300.1810 Resident Record Requirements
- 300.1820 Content of Medical Records
- 300.1830 Records Pertaining to Residents' Property
- 300.1840 Retention and Transfer of Resident Records
- 300.1850 Other Resident Record Requirements
- 300.1860 Staff Responsibility for Medical Records
- 300.1870 Retention of Facility Records
- 300.1880 Other Facility Record Requirements

SUBPART J: FOOD SERVICE

Section

- 300.2010 Director of Food Services
- 300.2020 Dietary Staff in Addition to Director of Food Services
- 300.2030 Hygiene of Dietary Staff
- 300.2040 Diet Orders
- 300.2050 Meal Planning
- 300.2060 Therapeutic Diets (Repealed)
- 300.2070 Scheduling Meals
- 300.2080 Menus and Food Records
- 300.2090 Food Preparation and Service
- 300.2100 Food Handling Sanitation
- 300.2110 Kitchen Equipment, Utensils, and Supplies

SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section

- 300.2210 Maintenance
- 300.2220 Housekeeping
- 300.2230 Laundry Services

SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

- 300.2410 Furnishings
- 300.2420 Equipment and Supplies
- 300.2430 Sterilization of Equipment and Supplies

SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

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Section

300.2610	Codes
300.2620	Water Supply
300.2630	Sewage Disposal
300.2640	Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section

300.2810	Applicability of these Standards
300.2820	Codes and Standards
300.2830	Preparation of Drawings and Specifications
300.2840	Site
300.2850	Administration and Public Areas
300.2860	Nursing Unit
300.2870	Dining, Living, Activities Rooms
300.2880	Therapy and Personal Care
300.2890	Service Departments
300.2900	General Building Requirements
300.2910	Structural
300.2920	Mechanical Systems
300.2930	Plumbing Systems
300.2940	Electrical Systems

SUBPART O: DESIGN AND CONSTRUCTION STANDARDS
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

Section

300.3010	Applicability
300.3020	Codes and Standards
300.3030	Preparation of Drawings and Specifications
300.3040	Site
300.3050	Administration and Public Areas
300.3060	Nursing Unit
300.3070	Living, Dining, Activities Rooms
300.3080	Treatment and Personal Care
300.3090	Service Departments
300.3100	General Building Requirements
300.3110	Structural
300.3120	Mechanical Systems

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- 300.3130 Plumbing Systems
- 300.3140 Electrical Requirements

SUBPART P: RESIDENT'S RIGHTS

- Section
- 300.3210 General
- 300.3220 Medical and Personal Care Program
- 300.3230 Restraints (Repealed)
- 300.3240 Abuse and Neglect
- 300.3250 Communication and Visitation
- 300.3260 Resident's Funds
- 300.3270 Residents' Advisory Council
- 300.3280 Contract With Facility
- 300.3290 Private Right of Action
- 300.3300 Transfer or Discharge
- 300.3310 Complaint Procedures
- 300.3320 Confidentiality
- 300.3330 Facility Implementation

SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

- Section
- 300.3410 Application of Other Sections of These Minimum Standards (Repealed)
- 300.3420 Administrator (Repealed)
- 300.3430 Policies (Repealed)
- 300.3440 Personnel (Repealed)
- 300.3450 Resident Living Services Medical and Dental Care (Repealed)
- 300.3460 Resident Services Program (Repealed)
- 300.3470 Psychological Services (Repealed)
- 300.3480 Social Services (Repealed)
- 300.3490 Recreational and Activities Services (Repealed)
- 300.3500 Individual Treatment Plan (Repealed)
- 300.3510 Health Services (Repealed)
- 300.3520 Medical Services (Repealed)
- 300.3530 Dental Services (Repealed)
- 300.3540 Optometric Services (Repealed)
- 300.3550 Audiometric Services (Repealed)
- 300.3560 Podiatric Services (Repealed)
- 300.3570 Occupational Therapy Services (Repealed)
- 300.3580 Nursing and Personal Care (Repealed)

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- 300.3590 Resident Care Services (Repealed)
- 300.3600 Record Keeping (Repealed)
- 300.3610 Food Service (Repealed)
- 300.3620 Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)
- 300.3630 Design and Construction Standards (New and Existing Facilities) (Repealed)

SUBPART R: DAYCARE PROGRAMS

Section

- 300.3710 Day Care in Long-Term Care Facilities

SUBPART S: PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section

- 300.4000 Applicability of Subpart S
- 300.4010 Comprehensive Assessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4020 Reassessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4030 Individualized Treatment Plan for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4040 General Requirements for Facilities Subject to Subpart S
- 300.4050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart S
- 300.4060 Discharge Plans for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4070 Work Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4080 Community-Based Rehabilitation Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S
- 300.4090 Personnel for Providing Services to Persons with Serious Mental Illness for Facilities Subject to Subpart S

SUBPART T: FACILITIES PARTICIPATING IN ILLINOIS DEPARTMENT OF
PUBLIC AID'S DEMONSTRATION PROGRAM FOR PROVIDING
SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

Section

- 300.6000 Applicability of Subpart T
- 300.6005 Quality Assessment and Improvement for Facilities Subject to Subpart T
- 300.6010 Comprehensive Assessments for Residents of Facilities Subject to Subpart T
- 300.6020 Reassessments for Residents of Facilities Subject to Subpart T

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300.6030	Individualized Treatment Plan for Residents of Facilities Subject to Subpart T
300.6040	General Requirements for Facilities Subject to Subpart T
300.6045	Serious Incidents and Accidents in Facilities Subject to Subpart T
300.6047	Medical Care Policies for Facilities Subject to Subpart T
300.6049	Emergency Use of Restraints for Facilities Subject to Subpart T
300.6050	Psychiatric Rehabilitation Services for Facilities Subject to Subpart T
300.6060	Discharge Plans for Residents of Facilities Subject to Subpart T
300.6070	Work Programs for Residents of Facilities Subject to Subpart T
300.6080	Community-Based Rehabilitation Programs for Residents of Facilities Subject to Subpart T
300.6090	Personnel for Providing Services to Residents of Facilities Subject to Subpart T
300.6095	Training and Continuing Education for Facilities Subject to Subpart T
<u>300</u> .APPENDIX A	Interpretation, Components, and Illustrative Services for Intermediate Care Facilities and Skilled Nursing Facilities (Repealed)
<u>300</u> .APPENDIX B	Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
<u>300</u> .APPENDIX C	Federal Requirements Regarding Patients'/Residents' Rights (Repealed)
<u>300</u> .APPENDIX D	Forms for Day Care in Long-Term Care Facilities
<u>300</u> .APPENDIX E	Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
<u>300</u> .APPENDIX F	Guidelines for the Use of Various Drugs
<u>300</u> .APPENDIX G	Facility Report
<u>300</u> .TABLE A	Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities
<u>300</u> .TABLE B	Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
<u>300</u> .TABLE C	Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
<u>300</u> .TABLE D	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill.

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Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491, effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999; amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective April 1, 2001; amended at 26 Ill. Reg. 3113, effective February 15, 2002; amended at 26 Ill. Reg. 4846, effective April 1, 2002; amended at 26 Ill. Reg. 10523, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2181, effective February 1, 2003, for a maximum of 150 days; emergency expired July 1, 2003; emergency amendment at 27 Ill. Reg. 5452, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5862, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14204, effective August 15, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15855, effective September 25, 2003.

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SUBPART C: POLICIES

Section 300.661 Health Care Worker Background Check

- a) The facility shall not *knowingly hire any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the following offenses* (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));
 - 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));
 - 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));
 - 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
 - 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the

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Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));

- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9) ~~Criminal sexual~~ ~~Sexual~~-assault or ~~criminal~~ sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491));
- 10) Abuse ~~and~~ ~~or~~ gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11) Criminal ~~abuse or~~ neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));

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- 15) Financial exploitation of an elderly ~~or disabled~~ person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));
- 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
- 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501));
- 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
- 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));
- 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));
- 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
- 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat.

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1991, ch. 23, par. 2354));

- 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));
 - 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, ~~or~~ delivery to person under 18, ~~violation by person under 18~~ (Sections 5, 5.1, 5.2, 7, ~~and 9~~ of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or
 - 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407, ~~and 407.1~~ of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- b) The facility shall not *knowingly employ or retain any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to* ~~subsections (m) and (o) of~~ this Section. (Section 25(a) of the Health Care Worker Background Check Act)
 - c) *A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided.* (Section 25(b) of the Act)
 - d) For the purpose of this Section:
 - 1) *"Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.*
 - 2) *"Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant*

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does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.

- 3) *"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.*
- 4) *"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)*
- e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:
 - 1) The employee's assigned job responsibilities as set forth in the employee's job description;
 - 2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and
 - 3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.
- f) *Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (ws) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)*
- g) *The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)*
- h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

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- i) *The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:*
- 1) *That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.*
 - 2) *That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with ~~subsection (m) of~~ this Section.*
 - 3) *That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
 - 4) *That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-~~based based~~ records check pursuant to subsection (k) of this Section.*
 - 5) *That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)*
- j) *A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)*
- k) *An applicant or employee whose non-fingerprint-based UCIA criminal history*

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record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

- l) *A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)*
- m) *An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:*
 - 1) A completed *fingerprint-based UCIA criminal records check* form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of Illinois-State Police); and
 - 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- n) *The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)*
- o) *An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:*
 - 1) *Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and*

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- 2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.
- p)⊕) The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) *The age of the individual at which the crime was committed;*
 - 2) *The circumstances surrounding the crime;*
 - 3) *The length of time since the conviction;*
 - 4) *The applicant's or employee's criminal history since the conviction;*
 - 5) *The applicant's or employee's work history;*
 - 6) *The applicant's or employee's current employment references;*
 - 7) *The applicant's or employee's character references;*
 - 8) *Nurse Aide Registry records; and*
 - 9) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court.* (Section 40(b) of the Health Care Worker Background Check Act)
- q) Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:

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- 1) Single disqualifying misdemeanor conviction – waiver consideration no earlier than one year after the conviction date;
 - 2) Two to three disqualifying misdemeanor convictions – waiver consideration no earlier than three years after the most recent conviction date;
 - 3) More than three disqualifying misdemeanor convictions – waiver consideration no earlier than five years after the most recent conviction date;
 - 4) Single disqualifying felony convictions – waiver consideration no earlier than three years after the conviction date;
 - 5) Two to three disqualifying felony convictions – waiver consideration no earlier than five years after the most recent conviction date;
 - 6) More than three disqualifying felony convictions – waiver consideration no earlier than ten years after the most recent conviction date.
- r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);
 - 3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);
 - 4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);

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- 5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);
 - 6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);
 - 7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
 - 8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
 - 9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);
 - 10) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1]);
 - 11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and
 - 12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]). (Section 40(b) of the Health Care Worker Background Check Act)
- s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)
- ~~t)p~~) *An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or*

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her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

~~u)g)~~ A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

~~v)f)~~ A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

~~w)s)~~ This Section shall not apply to:

- 1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;*
- 2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or*
- 3) *A student in a licensed health care field including, but not limited to, a*

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student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

- ~~x)†~~ An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)
- ~~y)†~~ The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.
- ~~z)†~~ The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)
- ~~aa)†~~ The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 27 Ill. Reg. 15855, effective September 25, 2003)

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- 1) Heading of the Part: Sheltered Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 330
- 3) Section Number: 330.911 Adopted Action: Amended
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective date of Amendment: September 25, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal was Published in Illinois Register: March 21, 2003 – 27 Ill. Reg. 4936
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:
 1. In the main source note, the following was added: “emergency amendments at 27 Ill. Reg. 5473, effective March 25, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 5886, effective April 1, 2003;”.
 2. In Section 330.911(a)(15), “or disabled” was stricken and “or a person with a disability” was added.
 3. In Section 330.911(f), “s” was stricken and “w” was added.
 4. In Section 330.911(l), “*of*” was changed to “after” to reflect text currently on file.
 5. In Section 300.911(m)(1), “Department of” was underlined; “~~Illinois~~” was added.

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6. In Section 330.911(n), "*criminal records check*" was underlined and "~~Criminal Records Check~~" was added.
7. In Section 330.911(o), line 531, "Notwithstanding . . . Section." was deleted; "an" was changed to "An".
8. In Section 330.911(o)(1), ", compliance with orders of protection" was deleted.
9. In Section 330.911(p), ", acting . . . implements" was deleted.
10. The last paragraph in Section 330.911(p) was deleted.
11. In Section 330.911(q) and (r), "Notwithstanding . . . Section." was deleted; "waivers" was changed to "Waivers".
12. In Section 330.911(q), "unless . . . writing" was deleted.
13. In Section 330.911(q)(1)-(6), "application" was changed to "consideration".
14. In Section 330.911(q)(1) and (4), "completion . . . imposed," was deleted.
15. In Section 330.911(q)(2), (3), (5), and (6), "completion . . . of," was deleted.
16. In Section 330.911(q)(2), (3), (5), and (6), "or . . . conviction" was deleted.
17. In Section 330.911(r), "unless . . . writing" was deleted.
18. In Section 330.911(r)(2), "or" was deleted; "," was deleted; ", or concealment of a homicidal death" was added.
19. In Section 330.911(r)(2), references to "9-1.2", "9-2.1" and ", 9-3.1, 9-3.2, and 9-3.3" were added.
20. In Section 330.911(r)(4), ", heinous battery, or infliction of great bodily harm" was added after "battery".
21. In Section 330.911(r)(4), references to 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 were added.
22. In Section 330.911(r)(5), a reference to 12-14.1 was added.

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23. A new subsection (s) was added:

“(s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)).”

24. Subsections (s)-(z) were re-lettered as (t)-(aa).

The following changes were made in response to comments and suggestions of the JCAR:

1. In the Main Source Note, “emergency expired on July 1, 2003;” was added.
2. In Section 330.911(s), “(Section 40(b) of the Health Care Worker Background Check Act)” was added.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
330.120	Amendment	27 Ill. Reg. 14164; August 29, 2003
330.340	Amendment	27 Ill. Reg. 7622; May 3, 2003
330.3040	Amendment	27 Ill. Reg. 7622; May 3, 2003

- 15) Summary and purpose of the amendment: Section 330.911 implements provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or

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employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. A provision has also been added whereby the Director of Public Health may grant a waiver to an individual who does not meet these thresholds.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Peggy Snyder
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

The full text of the adopted amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIESPART 330
SHELTERED CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
330.110	General Requirements
330.120	Application for License
330.130	Licensee
330.140	Issuance of an Initial License For a New Facility
330.150	Issuance of an Initial License Due to a Change of Ownership
330.160	Issuance of a Renewal License
330.163	Alzheimer's Special Care Disclosure
330.165	Criteria for Adverse Licensure Actions
330.170	Denial of Initial License
330.175	Denial of Renewal of License
330.180	Revocation of License
330.190	Experimental Program Conflicting With Requirements
330.200	Inspections, Surveys, Evaluations and Consultation
330.210	Filing an Annual Attested Financial Statement
330.220	Information to be Made Available to the Public By the Department
330.230	Information to be Made Available to the Public By the Licensee
330.240	Municipal Licensing
330.250	Ownership Disclosure
330.260	Issuance of Conditional Licenses
330.270	Monitoring and Receivership
330.271	Presentation of Findings
330.272	Determination to Issue a Notice of Violation or Administrative Warning
330.274	Determination of the Level of a Violation
330.276	Notice of Violation
330.277	Administrative Warning
330.278	Plans of Correction
330.280	Reports of Correction
330.282	Conditions for Assessment of Penalties
330.284	Calculation of Penalties
330.286	Determination to Assess Penalties

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- 330.288 Reduction or Waiver of Penalties
- 330.290 Quarterly List of Violators (Repealed)
- 330.300 Alcoholism Treatment Programs In Long-Term Care Facilities
- 330.310 Department May Survey Facilities Formerly Licensed
- 330.315 Supported Congregate Living Arrangement Demonstration
- 330.320 Waivers
- 330.330 Definitions
- 330.340 Incorporated and Referenced Materials

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<u>330</u> .APPENDIX E	Guidelines for the Use of Various Drugs
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 807, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 933, effective July 28, 1980; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14547, effective November 8, 1982; amended at 6 Ill. Reg. 14681, effective November 15, 1982; amended at 7 Ill. Reg. 1963, effective January 28, 1983; amended at 7 Ill. Reg. 6973, effective May 17, 1983; amended at 7 Ill. Reg. 15825, effective November 15, 1983; amended at 8 Ill. Reg. 15596, effective August 15, 1984; amended at 8 Ill. Reg. 15941, effective August 17, 1984; codified at 8 Ill. Reg. 19790; amended at 8 Ill. Reg. 24241, effective November 28, 1984; amended at 8 Ill. Reg. 24696, effective December 7, 1984; amended at 9 Ill.

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Reg. 2952, effective February 25, 1985; amended at 9 Ill. Reg. 10974, effective July 1, 1985; amended at 11 Ill. Reg. 16879, effective October 1, 1987; amended at 12 Ill. Reg. 1017, effective December 24, 1987; amended at 12 Ill. Reg. 16870, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18939, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6562, effective April 17, 1989; amended at 13 Ill. Reg. 19580, effective December 1, 1989; amended at 14 Ill. Reg. 14928, effective October 1, 1990; amended at 15 Ill. Reg. 516, effective January 1, 1991; amended at 16 Ill. Reg. 651, effective January 1, 1992; amended at 16 Ill. Reg. 14370, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2405, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8000, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15089, effective September 3, 1993; amended at 17 Ill. Reg. 16180, effective January 1, 1994; amended at 17 Ill. Reg. 19258, effective October 26, 1993; amended at 17 Ill. Reg. 19576, effective November 4, 1993; amended at 17 Ill. Reg. 21044, effective November 20, 1993; amended at 18 Ill. Reg. 1475, effective January 14, 1994; amended at 18 Ill. Reg. 15851, effective October 15, 1994; amended at 19 Ill. Reg. 11567, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 552, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 10125, effective July 15, 1996; amended at 20 Ill. Reg. 12160, effective September 10, 1996; amended at 22 Ill. Reg. 4078, effective February 13, 1998; amended at 22 Ill. Reg. 7203, effective April 15, 1998; amended at 22 Ill. Reg. 16594, effective September 18, 1998; amended at 23 Ill. Reg. 1085, effective January 15, 1999; amended at 23 Ill. Reg. 8064, effective July 15, 1999; amended at 24 Ill. Reg. 17304, effective November 1, 2000; amended at 25 Ill. Reg. 4901, effective April 1, 2001; amended at 26 Ill. Reg. 4859, effective April 1, 2002; amended at 26 Ill. Reg. 10559, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2202, effective February 1, 2003, for a maximum of 150 days; emergency expired on July 1, 2003; emergency amendment at 27 Ill. Reg. 5473, effective March 25, 2003, for a maximum of 150 days; emergency expired August 28, 2003; amended at 27 Ill. Reg. 5886, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14218, effective August 15, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15880, effective September 25, 2003.

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Section 330.911 Health Care Worker Background Check

- a) The facility shall not *knowingly hire any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the following offenses* (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):

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- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
- 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));
- 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (~~Sections~~ ~~Section~~ 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
- 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720

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ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));

- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9) ~~Criminal sexual~~ ~~Sexual~~-assault or ~~criminal~~ sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491));
- 10) Abuse ~~and or~~ gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11) Criminal ~~abuse or~~ neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));
- 15) Financial exploitation of an elderly ~~or disabled~~ person ~~or a person with a disability~~ (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38,

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pars. 151 and 277 to 286));

- 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
- 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501));
- 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
- 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));
- 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));
- 23) Armed violence – elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
- 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));
- 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));
- 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on

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school grounds, ~~or~~ delivery to person under 18₂; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or

- 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407₂, and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407₂, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- b) The facility shall not *knowingly employ or retain any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1) to (27) of this Section *unless the applicant, employee or employer obtains a waiver pursuant to ~~subsections (m) and (o)~~ of this Section.* (Section 25(a) of the Health Care Worker Background Check Act)
- c) A facility *shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided.* (Section 25(b) of the Act)
- d) For the purpose of this Section:
- 1) "*Applicant*" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
 - 2) "*Conditional offer of employment*" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.
 - 3) "*Direct care*" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

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- 4) *"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)*
- e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:
- 1) The employee's assigned job responsibilities as set forth in the employee's job description;
 - 2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and
 - 3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.
- f) *Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (ws) of this Section for a position with duties that involve direct care for residents, the employer must initiate or have initiated on its behalf a Uniform Conviction Information Act (UCIA) criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act) If the applicant is on the Department's Nurse Aide Registry in good standing and has had a UCIA criminal history record check within the last 12 months, the employer need not initiate another check.*
- g) *The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)*
- h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.
- i) *The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:*

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- 1) *That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.*
- 2) *That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with ~~subsection (m)~~ of this Section.*
- 3) *That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
- 4) *That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
- 5) *That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)*
- j) *A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)*
- k) *An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA*

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criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

- l) *A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)*
- m) *An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:*
 - 1) *A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of Illinois-State Police); and*
 - 2) *A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.*
- n) *The Department may accept the results of the fingerprint-based UCIA criminal records check ~~Criminal Records Check~~ instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)*
- o) *An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:*
 - 1) *Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and*

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- 2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.
- p)⊕) The Department; *may grant a waiver based on mitigating circumstances, which may include:*
- 1) *The age of the individual at which the crime was committed;*
 - 2) *The circumstances surrounding the crime;*
 - 3) *The length of time since the conviction;*
 - 4) *The applicant's or employee's criminal history since the conviction;*
 - 5) *The applicant's or employee's work history;*
 - 6) *The applicant's or employee's current employment references;*
 - 7) *The applicant's or employee's character references;*
 - 8) *Nurse Aide Registry records; and*
 - 9) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents-; which may include, but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to the court. (Section 40(b) of the Health Care Worker Background Check Act)*
- q) Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:

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- 1) Single disqualifying misdemeanor conviction – waiver consideration no earlier than one year after the conviction date;
 - 2) Two to three disqualifying misdemeanor convictions – waiver consideration no earlier than three years after the most recent conviction date;
 - 3) More than three disqualifying misdemeanor convictions – waiver consideration no earlier than five years after the most recent conviction date;
 - 4) Single disqualifying felony conviction – waiver consideration no earlier than three years after the conviction date;
 - 5) Two to three disqualifying felony convictions – waiver consideration no earlier than five years after the most recent conviction date;
 - 6) More than three disqualifying felony convictions – waiver consideration no earlier than ten years after the most recent conviction date.
- r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);
 - 2) Murder, homicide, manslaughter, or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);
 - 3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);
 - 4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);

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- 5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);
 - 6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);
 - 7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
 - 8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
 - 9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);
 - 10) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1]);
 - 11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and
 - 12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).
- s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)
- ~~t)p~~ *An individual shall not be employed in a direct care position from the time the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint*

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check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

~~u)~~ A facility *is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver.* (Section 40(f) of the Health Care Worker Background Check Act)

~~v)~~ A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report;
or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

~~w)~~ This Section *shall not apply to:*

- 1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;*
- 2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or*

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- 3) *A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)*
- ~~x)†~~ *An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)*
- ~~y)†~~ *The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.*
- ~~z)†~~ *The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)*
- ~~aa)†~~ *The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.*

(Source: Amended at 27 Ill. Reg. 15880, effective September 25, 2003)

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- 1) Heading of the Part: Illinois Veterans Homes Code
- 2) Code Citation: 77 Ill. Adm. Code 340
- 3) Section Number: 340.1377 Adopted Action: Amended
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective date of amendment: September 25, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 9) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal was Published in Illinois Register: March 21, 2003 – 27 Ill. Reg. 4956
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
 1. In the Main Source Note, “amended at 27 Ill. Reg. 5903, effective April 1, 2003;” was added.
 2. In Section 340.1377(a)(15), “or disabled” was stricken and “or a person with a disability” was added.
 3. In Section 340.1377(a)(26), “or” was stricken, the semi-colon was stricken, and “₂” was added.
 4. In Section 340.1377(a)(27), “and” was added after “407” to reflect text currently on file.
 5. In Section 340.1377(f), “s” was stricken and “w” was added.

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6. In Section 340.1377(o), “Notwithstanding . . . Section,” was deleted; “an” was changed to “An”.
7. In Section 340.1377(o)(1), “, compliance . . . protection” was deleted.
8. In Section 340.1377(p), “, acting . . . implements,” was deleted.
9. The last three lines in Section 340.1377(o) were deleted.
10. In Section 340.1377(q), “Notwithstanding . . . Section,” was deleted; “waivers” was changed to “Waivers”.
11. In Section 340.1377(q), “unless . . . writing” was deleted.
12. In Section 340.1377(q)(1), (2), (3), (4), (5), and (6), “application” was changed to “consideration”.
13. In Section 340.1377(q)(1), and (4), “completion . . . imposed,” was deleted.
14. In Section 340.1377(q)(2), (3), (5), and (6), “completion . . . later of” was deleted.
15. In Section 340.1377(q)(2), (3), (5), and (6), “or . . . conviction” was deleted.
16. In Section 340.1377(r), “Notwithstanding . . . Section,” was deleted; “waivers” was changed to “Waivers”.
17. In Section 340.1377(r), “unless . . . writing” was deleted.
18. In Section 340.1377(r)(2), line 1, “or” was deleted; “, or concealment of a homicidal death” was added; “9-1.2” was added; “, 9-2.1,” was added; “and” was deleted; “, 9-3.1, 9-3.2, and 9-3.3” was added; in line 2, “9-1.2” was added; “, 9-2.1,” was added; “and” was deleted; “, 9-3.1, 9-3.2, and 9-3.3” was added.
19. In Section 340.1377(r)(4), line 1, “, heinous battery, or infliction of great bodily harm” was added; “Section” was changed to “Sections”; in lines 2 and 3, the following was added after “12-4”: “, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7”.
20. In Section 340.1377(r)(5), “,” was added after each “13”; each “and” was deleted; “, and 12-14.1” was added after “14”.

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21. A new subsection (s) was added:
“(s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q) or (r), based on mitigating circumstances (see subsection (p)).”

The following changes were made in response to comments and suggestions of the JCAR:

1. In the Main Source Note, “amended at 26 Ill. Reg. 4870, effective April 1, 2002;” was added.
2. In the Main Source Note, “emergency expired July 1, 2003;” was added.
3. In Section 340.1377(b) and (d)(2), “subsection” was changed to “subsections”.
4. In Section 340.1377(f), “criminal history record check” was underlined and “~~Criminal History Record Check~~” was added.
5. In Section 340.1377(g), “Section 15 of the Health Care Worker Background Check Act” was underlined.
6. In Section 340.1377(i)(1), “A” was changed to “a”.
7. In Section 340.1377(i)(2), “subsection (m) of” was stricken.
8. In Section 340.1377(i)(5), “(e) and (f)” was add after “Section 30”.
9. In Section 340.1377(l), “of” was changed to “after” to reflect text currently on file.
10. In Section 340.1377(m)(1), “Department of” was underlined and “~~Illinois~~” was added.
11. In Section 340.1377(r)(4), “of” was added after “Code”.
12. In Section 340.1377(r)(12), “Section” was changed to “Sections”.
13. In Section 340.1377(s), the following was added: “(Section 40(b) of the Health Care Worker Background Check Act)”

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14. In Section 340.1377(b), “*employer*” was underlined and “*employee*” was added.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
340.1010	Amendment	27 Ill. Reg. 7641; May 3, 2003
340.1120	Amendment	27 Ill. Reg. 14166; August 29, 2003

- 15) Summary and purpose of the amendments: Section 340.1377 implements provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. A provision has also been added whereby the Director of Public Health may grant a waiver to an individual who does not meet these thresholds.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Suan Meister
 Division of Legal Services
 Department of Public Health
 535 West Jefferson, Fifth Floor
 Springfield, Illinois 62761
 217/782-2043
 e-mail: rules@idph.state.il.us

The full text of the adopted amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE

SUBPART A: GENERAL PROVISIONS

Section

- 340.1000 Definitions
- 340.1010 Incorporated and Referenced Materials
- 340.1110 General Requirements
- 340.1115 Federal Veterans' Regulations
- 340.1120 Application for License
- 340.1125 Alzheimer's Special Care Disclosure
- 340.1130 Criteria for Adverse Licensure Actions
- 340.1140 Denial of Initial License
- 340.1150 Revocation or Denial of Renewal of License
- 340.1160 Inspections, Surveys, Evaluations, and Consultations
- 340.1170 Presentation of Findings by the Department
- 340.1190 Ownership Disclosure
- 340.1200 Monitor and Receivership
- 340.1210 Determination of a Violation
- 340.1220 Determination of the Level of a Violation
- 340.1230 Plans of Correction and Reports of Correction
- 340.1240 Calculation of Penalties
- 340.1245 Conditions for Assessment of Penalties
- 340.1250 Reduction or Waiver of Penalties
- 340.1255 Supported Congregate Living Arrangement Demonstration
- 340.1260 Waivers

SUBPART B: POLICIES AND FACILITY RECORDS

Section

- 340.1300 Facility Policies
- 340.1310 Admission and Discharge Policies
- 340.1320 Disaster Preparedness
- 340.1330 Serious Incidents and Accidents
- 340.1335 Infection Control

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340.1340	Facility Record Requirements
340.1350	Personnel Policies
340.1360	Initial Health Evaluation for Employees
340.1370	Administrator
340.1375	Personnel Requirements
340.1376	Registry of Certified Nursing Assistants
340.1377	Health Care Worker Background Check
340.1378	Resident Attendants
340.1380	Contacting Local Law Enforcement

SUBPART C: RESIDENT RIGHTS

Section	
340.1400	Implementation of Resident Rights and Facility Responsibilities
340.1410	General
340.1420	Contract Between Resident and Facility
340.1430	Residents' Advisory Council
340.1440	Abuse and Neglect
340.1450	Communication and Visitation
340.1460	Resident's Funds
340.1470	Transfer or Discharge
340.1480	Complaint Procedures
340.1490	Private Right of Action

SUBPART D: HEALTH SERVICES

Section	
340.1500	Medical Care Policies
340.1505	Medical, Nursing and Restorative Services
340.1510	Communicable Disease Policies
340.1520	Tuberculin Skin Test Procedures
340.1530	Physician Services
340.1535	Dental Programs
340.1540	Life-Sustaining Treatments
340.1550	Obstetrical and Gynecological Care
340.1560	Nursing Personnel
340.1570	Personal Care
340.1580	Restraints
340.1590	Nonemergency Use of Physical Restraints
340.1600	Emergency Use of Physical Restraints

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- 340.1610 Unnecessary, Psychotropic, and Antipsychotic Drugs
- 340.1620 Medication Administration (Repealed)
- 340.1630 Self-Administration of Medication (Renumbered)

SUBPART E: MEDICATIONS

Section

- 340.1650 Medication Policies and Procedures
- 340.1655 Compliance with Licensed Prescriber's Orders
- 340.1660 Administration of Medication
- 340.1665 Control of Medication
- 340.1670 Labeling and Storage of Medication
- 340.1675 Self-Administration of Medication

SUBPART F: RESIDENT LIVING SERVICES

Section

- 340.1700 Recreational and Activity Programs
- 340.1710 Social Services
- 340.1720 Work Programs
- 340.1730 Volunteer Program

SUBPART G: RESIDENT RECORDS

Section

- 340.1800 Resident Record Requirements
- 340.1810 Content of Medical Record
- 340.1820 Records Pertaining to Resident's Property
- 340.1830 Retention, Transfer, and Inspection of Records
- 340.1840 Confidentiality of Resident's Records

SUBPART H: FOOD SERVICE

Section

- 340.1900 Food Service Staff
- 340.1910 Diet Orders
- 340.1920 Meal Planning
- 340.1930 Therapeutic Diets (Repealed)
- 340.1940 Menus and Food Records
- 340.1950 Food Preparation and Service

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340.1960 Kitchen Equipment, Utensils and Supplies

SUBPART I: PHYSICAL PLANT SERVICES,
FURNISHINGS, EQUIPMENT AND SUPPLIES

Section

340.2000 Maintenance
340.2010 Water Supply, Sewage Disposal and Plumbing
340.2020 Housekeeping
340.2030 Laundry Services
340.2040 Furnishings
340.2050 Equipment and Supplies

340.TABLE A Heat Index Table/Apparent Temperature

340.TABLE B Guidelines for the Use of Various Drugs

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rule adopted at 18 Ill. Reg. 10391, effective June 21, 1994, for a maximum of 150 days; emergency rule expired November 18, 1994; adopted at 19 Ill. Reg. 5679, effective April 3, 1995; emergency amendment at 20 Ill. Reg. 496, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10045, effective July 15, 1996; amended at 20 Ill. Reg. 12013, effective September 10, 1996; amended at 22 Ill. Reg. 3959, effective February 13, 1998; amended at 22 Ill. Reg. 7162, effective April 15, 1998; amended at 23 Ill. Reg. 1038, effective January 15, 1999; amended at 23 Ill. Reg. 7931, effective July 15, 1999; amended at 24 Ill. Reg. 17225, effective November 1, 2000; amended at 25 Ill. Reg. 4869, effective April 1, 2001; amended at 26 Ill. Reg. 4870, effective April 1, 2002; amended at 26 Ill. Reg. 10589, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2222, effective February 1, 2003, for a maximum of 150 days; emergency expired July 1, 2003; amended at 27 Ill. Reg. 5903, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14230, effective August 15, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15904, effective September 25, 2003.

SUBPART B: POLICIES AND FACILITY RECORDS

Section 340.1377 Health Care Worker Background Check

- a) The facility shall not *knowingly hire any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the following offenses* (Section 25(a) of

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the Health Care Worker Background Check Act [225 ILCS 46/25]):

- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
- 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));
- 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
- 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));

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- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9) ~~Criminal sexual~~ ~~Sexual~~-assault or criminal sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491));
- 10) Abuse and ~~or~~-gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));
- 15) Financial exploitation of an elderly ~~or disabled~~ person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));

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- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));
- 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
- 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501));
- 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
- 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));
- 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));
- 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
- 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));
- 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));

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- 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, ~~or~~ delivery to person under 18, ~~violation by person under 18~~ (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or
- 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- b) The facility shall not *knowingly employ or retain any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to ~~subsections (m) and (o)~~ of this Section.* (Section 25(a) of the Health Care Worker Background Check Act)
- c) *A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.* (Section 25(b) of the Health Care Worker Background Check Act)
- d) For the purpose of this Section:
- 1) *"Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.*
 - 2) *"Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed*

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in subsections (a)(1) to (27) of this Section.

- 3) *"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.*
- 4) *"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)*
- e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination the facility shall consider the following:
 - 1) The employee's assigned job responsibilities as set forth in the employee's job description;
 - 2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions;
 - 3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.
- f) *Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (ws) of this Section for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) ~~criminal history record check-Criminal History Record Check~~. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility *must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant.* (Section 30(c) of the Health Care Worker Background Check Act)*
- g) *The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)*
- h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

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- i) *The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:*
- 1) *That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.*
 - 2) *That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with ~~subsection (m)~~ of this Section.*
 - 3) *That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
 - 4) *That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
 - 5) *That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30 ~~(e)~~ ~~and (f)~~ of the Health Care Worker Background Check Act)*
- j) *A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)*

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- k) *An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)*
- l) *A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)*
- m) *An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:*
- 1) *A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of Illinois-State Police); and*
 - 2) *A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.*
- n) *The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)*
- o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:
- 1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall

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have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and

2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

p)⊕ The Department may grant a waiver based on mitigating circumstances, which may include:

- 1) *The age of the individual at which the crime was committed;*
- 2) *The circumstances surrounding the crime;*
- 3) *The length of time since the conviction;*
- 4) *The applicant's or employee's criminal history since the conviction;*
- 5) *The applicant's or employee's work history;*
- 6) *The applicant's or employee's current employment references;*
- 7) *The applicant's or employee's character references;*
- 8) *Nurse Aide Registry records; and*
- 9) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to a court. (Section 40(b) of the Health Care Worker Background Check Act)*

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- q) Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:
- 1) Single disqualifying misdemeanor conviction – waiver consideration no earlier than one year after the conviction date;
 - 2) Two to three disqualifying misdemeanor convictions – waiver consideration no earlier than three years after the most recent conviction date;
 - 3) More than three disqualifying misdemeanor convictions – waiver consideration no earlier than five years after the most recent conviction date;
 - 4) Single disqualifying felony conviction – waiver consideration no earlier than three years after the conviction date;
 - 5) Two to three disqualifying felony convictions – waiver consideration no earlier than five years after the most recent conviction date;
 - 6) More than three disqualifying felony convictions – waiver consideration no earlier than ten years after the most recent conviction date.
- r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);
 - 2) Murder, homicide, manslaughter, or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);
 - 3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);
 - 4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the

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- Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);
- 5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);
- 6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);
- 7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
- 8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
- 9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);
- 10) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1]);
- 11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and
- 12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).
- s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q) or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)
- t)p) *An individual shall not be employed in a direct care position from the time that the employer employee receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint*

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check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

~~u)~~ A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

~~v)~~ A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report;
or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

~~w)s)~~ This Section shall not apply to:

- 1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;*

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- 2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or*
- 3) *A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)*
- ~~x)†~~ *An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)*
- ~~y)†~~ *The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.*
- ~~z)†~~ *The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)*
- ~~aa)†~~ *The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.*

(Source: Amended at 27 Ill. Reg. 15904, effective September 25, 2003)

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- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) Section Number: 350.681 Adopted Action: Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective date of amendment: September 25, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 10) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal was Published in Illinois Register: March 21, 2003 – 27 Ill. Reg. 4973
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:
 1. In the Main Source Note, “1993” was changed to “1994” in the entry for 17 Ill. Reg. 15056.
 2. In the Main Source Note, “amendments” was changed to “amendment”; “152” was changed to “512” in the entry for 20 Ill. Reg. 152.
 3. In the Main Source Note, the following was added after “May 15, 2001;” : “amended at 26 Ill. Reg. 4878, effective April 1, 2002;”.
 4. In the Main Source Note, the following was added: “emergency amendment at 27 Ill. Reg. 5489, effective March 25, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 5924, effective April 1, 2003;”.

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5. In Section 350.381(a)(15), “or disabled” was stricken and “or a person with a disability” was added.
6. In Section 350.681(f), “s” was stricken and “w” was added.
7. In Section 350.681(f), “year” was changed to “12 months” to reflect text currently on file.
8. In Section 350.681(m)(1), “facility” was underlined and “agency” was added.
9. In Section 350.681(o), “Notwithstanding . . . Section,” was deleted; “an” was changed to “An”.
10. In Section 350.681(o)(1), “, compliance with orders of protection” was deleted.
11. In Section 350.681(p), “, acting . . . implements” was deleted.
12. The last sentence in subsection (p) was deleted.
13. In Section 350.681(q), “Notwithstanding . . . Section,” was deleted; “waivers” was changed to “Waivers”; “unless . . . writing” was deleted.
14. In Section 350.681(q)(1), (2), (3), (4), (5), and (6), “application” was changed to “consideration”.
15. In Section 350.681(q)(1) and (4), “completion . . . imposed,” was deleted.
16. In Section 350.681(q)(2), (3), (5), and (6), “completion . . . later of,” was deleted.
17. In Section 350.681(q)(2), (3), (5), and (6), “or completion . . . conviction” was deleted.
18. In Section 350.681(r), “Notwithstanding . . . Section,” was deleted; “waivers” was changed to “Waivers”; “unless . . . writing” was deleted.
19. In Section 350.681(r)(2), lines 1 and 2, “or” was deleted; “or concealment of a homicidal death” was added; “9-1.2,” was added; “, 9-2.1,” was added; “and” was deleted; “, 9-3.1, 9-3.2, and 9-3.3” was added.

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20. In Section 350.681(r)(4), lines 1 and 2, “, heinous battery, or infliction of great bodily harm” was added; “Section” was changed to “Sections”; “of” was added after “Code”; and “, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7” was added after “12-4”.
21. In Section 350.681(r)(5), lines 2 and 3, each “and” was deleted; “, and 12-14.1” was added.
22. A new subsection (s) was added:
- “s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)”
23. Subsections (s)-(z) were re-lettered as (t)-(aa).

The following changes were made in response to comments and suggestions of the JCAR:

1. In the Main Source Note, the entry for “amended at 17 Ill. Reg. 235, effective February 10, 1993” was moved and placed after the entry for 16 Ill. Reg. 13910.
2. In the Main Source Note, “emergency expired July 1, 2003;” was added after the entry for 27 Ill. Reg. 2238.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
350.120	Amendment	27 Ill. Reg. 14168; August 29, 2003
350.340	Amendment	27 Ill. Reg. 7654; May 3, 2003
350.2620	Amendment	27 Ill. Reg. 7654; May 3, 2003

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15) Summary and purpose of the amendment: Section 350.681 implements provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. A provision has also been added whereby the Director of Public Health may grant a waiver to an individual who does not meet these thresholds.

16) Information and questions regarding this adopted amendment shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

The full text of the adopted amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350

INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section	
350.110	General Requirements
350.120	Application for License
350.130	Licensee
350.140	Issuance of an Initial License for a New Facility
350.150	Issuance of an Initial License Due to a Change of Ownership
350.160	Issuance of a Renewal License
350.165	Criteria for Adverse Licensure Actions
350.170	Denial of Initial License
350.175	Denial of Renewal of License
350.180	Revocation of License
350.190	Experimental Program Conflicting With Requirements
350.200	Inspections, Surveys, Evaluations and Consultation
350.210	Filing an Annual Attested Financial Statement
350.220	Information to Be Made Available to the Public By the Department
350.230	Information to Be Made Available to the Public By the Licensee
350.240	Municipal Licensing
350.250	Ownership Disclosure
350.260	Issuance of Conditional Licenses
350.270	Monitor and Receivership
350.271	Presentation of Findings
350.272	Determination to Issue a Notice of Violation or Administrative Warning
350.274	Determination of the Level of a Violation
350.276	Notice of Violation
350.277	Administrative Warning
350.278	Plans of Correction
350.280	Reports of Correction
350.282	Conditions for Assessment of Penalties
350.284	Calculation of Penalties
350.286	Determination to Assess Penalties
350.288	Reduction or Waiver of Penalties

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350.290	Quarterly List of Violators (Repealed)
350.300	Alcoholism Treatment Programs In Long-Term Care Facilities
350.310	Department May Survey Facilities Formerly Licensed
350.315	Supported Congregate Living Arrangement Demonstration
350.320	Waivers
350.330	Definitions
350.340	Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

Section	
350.510	Administrator

SUBPART C: POLICIES

Section	
350.610	Management Policies
350.620	Resident Care Policies
350.625	Determination of Need Screening
350.630	Admission and Discharge Policies
350.640	Contract Between Resident and Facility
350.650	Residents' Advisory Council
350.660	General Policies
350.670	Personnel Policies
350.675	Initial Health Evaluation for Employees
350.680	Developmental Disabilities Aides
350.681	Health Care Worker Background Check
350.682	Resident Attendants
350.683	Registry of Developmental Disabilities Aides
350.685	Student Interns
350.690	Disaster Preparedness
350.700	Serious Incidents and Accidents
350.750	Contacting Local Law Enforcement

SUBPART D: PERSONNEL

Section	
350.810	Personnel
350.820	Consultation Services
350.830	Personnel Policies (Repealed)

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SUBPART E: RESIDENT LIVING SERVICES

Section

- 350.1010 Service Programs
- 350.1020 Psychological Services
- 350.1030 Social Services
- 350.1040 Speech Pathology and Audiology Services
- 350.1050 Recreational and Activities Services
- 350.1055 Volunteer Program
- 350.1060 Training and Habilitation Services
- 350.1070 Training and Habilitation Staff
- 350.1080 Restraints
- 350.1082 Nonemergency Use of Physical Restraints
- 350.1084 Emergency Use of Physical Restraints
- 350.1086 Unnecessary, Psychotropic, and Antipsychotic Drugs

SUBPART F: HEALTH SERVICES

Section

- 350.1210 Health Services
- 350.1220 Physician Services
- 350.1223 Communicable Disease Policies
- 350.1225 Tuberculin Skin Test Procedures
- 350.1230 Nursing Services
- 350.1235 Life-Sustaining Treatments
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 495, effective March 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1, effective July 28, 1980; amended at 5 Ill. Reg. 1657, effective February 4, 1981; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6453, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 14544, effective November 8, 1982; amended at 6 Ill. Reg. 14675, effective November 15, 1982; amended at 6 Ill. Reg. 15556, effective December 15, 1982; amended at 7 Ill. Reg. 278, effective December 22, 1982; amended at 7 Ill. Reg. 1919 and 1945, effective January 28, 1983; amended at 7 Ill. Reg. 7963, effective July 1, 1983; amended at 7 Ill. Reg. 15817, effective November 15, 1983; amended at 7 Ill. Reg. 16984, effective December 14, 1983; amended at 8 Ill. Reg. 15574 and 15578 and 15581, effective August 15, 1984; amended at 8 Ill. Reg. 15935, effective August 17, 1984; amended at 8 Ill. Reg. 16980, effective September 5, 1984; codified at 8 Ill. Reg. 19806; amended at 8 Ill. Reg. 24214, effective November 29, 1984; amended at 8 Ill. Reg. 24680, effective December 7, 1984; amended at 9 Ill. Reg. 142, effective December 26, 1984; amended at 9 Ill. Reg. 331, effective December 28, 1984; amended at 9 Ill. Reg. 2964, effective February 25, 1985; amended at 9 Ill. Reg. 10876, effective July 1, 1985; amended at 11 Ill. Reg. 14795, effective October 1, 1987; amended at 11 Ill. Reg. 16830, effective October 1, 1987; amended at 12 Ill. Reg. 979, effective December 24, 1987; amended at 12 Ill. Reg. 16838, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18705, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6040, effective April 17, 1989; amended at 13 Ill. Reg. 19451, effective December 1, 1989; amended at 14 Ill. Reg. 14876, effective October 1, 1990; amended at 15 Ill. Reg. 466, effective January 1, 1991; amended at 16 Ill. Reg. 594, effective January 1, 1992; amended at 16 Ill. Reg. 13910, effective September 1, 1992; amended at 17 Ill. Reg. 2351, effective February 10, 1993; emergency amendment at 17 Ill. Reg. 2373, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7948, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; emergency amendment at 17 Ill. Reg. 9105, effective June 7, 1993, for a maximum of 150 days; emergency expired on November 4, 1993; amended at 17 Ill. Reg. 15056, effective September 3, 1993; amended at 17 Ill. Reg. 16153, effective January 1, 1994; amended at 17 Ill. Reg. 19210, effective October 26, 1993; amended at 17 Ill. Reg. 19517, effective November 4, 1993; amended at 17 Ill. Reg. 21017, effective November 20, 1993; amended at 18 Ill. Reg. 1432, effective January 14, 1994; amended at 18 Ill. Reg. 15789, effective October 15, 1994; amended at 19 Ill. Reg. 11481, effective July 29, 1995;

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emergency amendment at 20 Ill. Reg. 512, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10065, effective July 15, 1996; amended at 20 Ill. Reg. 12049, effective September 10, 1996; amended at 21 Ill. Reg. 14990, effective November 15, 1997; amended at 22 Ill. Reg. 4040, effective February 13, 1998; amended at 22 Ill. Reg. 7172, effective April 15, 1998; amended at 22 Ill. Reg. 16557, effective September 18, 1998; amended at 23 Ill. Reg. 1052, effective January 15, 1999; amended at 23 Ill. Reg. 7970, effective July 15, 1999; amended at 24 Ill. Reg. 17254, effective November 1, 2000; amended at 25 Ill. Reg. 4879, effective April 1, 2001; amended at 25 Ill. Reg. 6499, effective May 15, 2001; amended at 26 Ill. Reg. 4878, effective April 1, 2002; amended at 26 Ill. Reg. 10611, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2238, effective February 1, 2003, for a maximum of 150 days; emergency expired July 1, 2003; emergency amendment at 27 Ill. Reg. 5489, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5924, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14237, effective August 15, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15924, effective September 25, 2003.

SUBPART C: POLICIES

Section 350.681 Health Care Worker Background Check

- a) The facility shall not *knowingly hire any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the following offenses* (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):
 - 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));
 - 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat.

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- 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));
 - 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
 - 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));
 - 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
 - 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
 - 9) ~~Criminal sexual~~ ~~Sexual~~-assault or ~~criminal~~ sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491));
 - 10) Abuse ~~and~~ ~~or~~-gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));

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- 11) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));
- 15) Financial exploitation of an elderly or disabled person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));
- 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
- 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501));

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- 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
 - 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238));
 - 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));
 - 23) Armed violence – elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
 - 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));
 - 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53+] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));
 - 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or
 - 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substances Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- b) The facility shall not *knowingly employ or retain any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1) to (27) of this Section *unless the applicant, employee or*

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employer obtains a waiver pursuant to ~~subsections (m) and (o)~~ of this Section.
(Section 25(a) of the Health Care Worker Background Check Act)

- c) *A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.* Section 25(b) of the Act)
- d) For the purpose of this Section:
- 1) *"Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.*
 - 2) *"Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.*
 - 3) *"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.*
 - 4) *"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee.* (Section 15 of the Health Care Worker Background Check Act)
- e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:
- 1) The employee's assigned job responsibilities as set forth in the employee's job description;
 - 2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

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- 3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.
- f) *Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (ws) of this Section for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)*
- g) *The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)*
- h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.
- i) *The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:*
 - 1) *That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.*
 - 2) *That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.*
 - 3) *That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is*

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validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

- 4) *That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
- 5) *That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)*
- j) *A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)*
- k) *An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)*
- l) *A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)*
- m) *An applicant, employee or employer may request a waiver to subsection (a), (b) or*

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(c) of this Section *by submitting the following to the Department within five working days after the receipt of the criminal records report:*

- 1) A completed *fingerprint-based UCIA criminal records check* form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and
 - 2) A certified check, money order or ~~facility agency~~ check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- n) *The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)*
- o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:
- 1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and
 - 2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.
- p)⊕ *The Department may grant a waiver based on mitigating circumstances, which may include:*
- 1) *The age of the individual at which the crime was committed;*
 - 2) *The circumstances surrounding the crime;*
 - 3) *The length of time since the conviction;*
 - 4) *The applicant's or employee's criminal history since the conviction;*
 - 5) *The applicant's or employee's work history;*

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- 6) *The applicant's or employee's current employment references;*
 - 7) *The applicant's or employee's character references;*
 - 8) *Nurse Aide Registry records; and*
- 9) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents-; which may include, but is not limited to, the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to a court. (Section 40(b) of the Health Care Worker Background Check Act)*
- q) Waivers will not be granted to individuals who have not met the following time frames. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section:
- 1) Single disqualifying misdemeanor conviction – waiver consideration no earlier than one year after the conviction date;
 - 2) Two to three disqualifying misdemeanor convictions – waiver consideration no earlier than three years after the most recent conviction date;
 - 3) More than three disqualifying misdemeanor convictions – waiver consideration no earlier than five years after the most recent conviction date;
 - 4) Single disqualifying felony conviction – waiver consideration no earlier than three years after the conviction date;
 - 5) Two to three disqualifying felony convictions – waiver consideration no earlier than five years after the most recent conviction date;

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- 6) More than three disqualifying felony convictions – waiver consideration no earlier than ten years after the most recent conviction date.
- r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:
 - 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);
 - 3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);
 - 4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);
 - 5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14 and 12-14.1]);
 - 6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);
 - 7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
 - 8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
 - 9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);

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- 10) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1]):
- 11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]) and:
- 12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).
- s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)
- t)p) *An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)*
- u)q) *A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)*
- v)r) *A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:*
- 1) certified court records;

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- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

~~w)s)~~ This Section *shall not apply to:*

- 1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;*
- 2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or*
- 3) *A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)*

~~x)t)~~ *An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)*

~~y)u)~~ *The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The*

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facility shall include the individual's Social Security number on the criminal history record check results.

~~z)~~ *The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA. criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)*

~~aa)~~ *The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.*

(Source: Amended at 27 Ill. Reg. 15924, effective September 25, 2003)

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- 1) Heading of the Part: Long-Term Care for Under Age 22 Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 390
- 3) Section Number: 390.681 Adopted Action: Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective date of amendment: September 25, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal was Published in Illinois Register: March 21, 2003 – 27 Ill. Reg. 4995
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the First Notice or public comment period:
 1. In the Main Source Note, “amended at 17 Ill. Reg. 21031, effective November 20, 1993;” was moved to follow “November 4, 1993;”.
 2. In the Main Source Note, “amended at 18 Ill. Reg. 15807, effective October 14, 1994;” was added after “January 14, 1994;”.
 3. In the Main Source Note, the entry for 20 Ill. Reg. 535, “amendments” was changed to “amendment”.
 4. In the Main Source Note, “at” was added after “amended” in the entry for 20 Ill. Reg. 12101.
 5. In the Main Source Note, the following was added: “emergency amendment at 27 Ill. Reg. 5509, effective March 25, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 5947, effective April 1, 2003;”.

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6. In Section 390.681(a)(3), “Kidnaping” was underlined and “~~kidnapping~~” was added.
7. In Section 390.681(a)(5), line 2, “11-19.2” was added after “11-9.1,”.
8. In Section 390.681(a)(15), “or disabled” was stricken and “or a person with a disability” was added.
9. In Section 390.681(a)(21), “48” was underlined and “40” was added.
10. In Section 390.681(a)(27), “Substances” was added and “Substance” was stricken.
11. In Section 390.681(f), “s” was stricken and “w” was added.
12. In Section 390.681(l), “*of*” was changed to “after” to reflect text currently on file.
13. In Section 390.681(m), “subsections” was changed to “subsection”.
14. In Section 390.681(m)(1), “criminal records check” was underlined; “history” was added; “~~Criminal Records Check~~” was added; “Department of” was underlined; “~~Illinois~~” was added.
15. In Section 390.681(n), “(m)” was underlined.
16. In Section 390.681(o), “Notwithstanding . . . Section.” was deleted; “an” was changed to “An”.
17. In Section 390.681(o)(1), “, compliance . . . protection” was deleted.
18. In Section 390.681(p), “, acting . . . implements.” was deleted.
19. The last sentence in subsection (p) was deleted.
20. In Section 390.681(q), “Notwithstanding . . . Section.” was deleted; “waivers” was changed to “Waivers”.
21. In Section 390.681(q)(1)-(6), “application” was changed to “consideration”.
22. In Section 390.681(q)(1) and (4), “completion . . . imposed.” was deleted.

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23. In Section 390.681(q)(2), (3), (5), and (6), “completion . . . later of” was deleted; “or completion . . . conviction” was deleted.
24. In Section 390.681(r), “Notwithstanding . . . Section” was deleted; “waivers” was changed to “Waivers”; “unless . . . writing” was deleted.
25. In Section 390.681(r)(2), “or” was deleted; “or concealment of a homicidal death” was added.
26. In Section 390.681(r)(2), “, 9-1.2,” was added; “, 9-2.1,” was added; “and” was deleted; “, 9-3.1, 9-3.2, and 9-3.3” was added in each line.
27. In Section 390.681(r)(4), “, heinous battery, or infliction of great bodily harm” was added; “Section” was changed to “Sections”; “of” was added.
28. In Section 390.681(r)(4), “, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7” was added in each line.
29. In Section 390.681(r)(5), each “and” was deleted; “, and 12-14.1” was added in each line.
30. A new subsection (s) was added:

“s The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p). (Section 40(b) of the Health Care Worker Background Check Act)”
31. Subsections (s)-(z) were relettered as (t)-(aa).

The following changes were made in response to comments and suggestions of the JCAR:

1. In the Main Source Note, “amended at 26 Ill. Reg. 4890, effective April 1, 2002; amended at 26 Ill. Reg. 10645, effective July 1, 2002;” was added.
2. In the Main Source Note, “emergency expired July 1, 2003;” was added.
3. In Section 390.681(b), “subsections (m) and (o) of” was stricken.
4. In Section 390.681(i)(2), “subsection (m) of” was stricken.

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5. In Section 390.681(m)(2), “facility” was underlined and “agency” was added.
6. In Section 390.681(n), “above” was stricken.

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
390.120	Amendment	27 Ill. Reg. 14170; August 29, 2003
390.340	Amendment	27 Ill. Reg. 767; May 3, 2003

- 15) Summary and purpose of the amendment: Section 390.681 implements provisions of the Health Care Worker Background Check Act. The rules are being amended to make changes in the waiver review process, by which an individual convicted of a “disqualifying” crime receives a waiver from the Department that allows the individual to work in a direct care position in a health care facility. Minimum time frames are being added. Waivers will not be granted to individuals with certain convictions. Requirements that must be met by waiver applicants are being added. The rulemaking also adds examples of “other evidence” demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. A provision has also been added whereby the Director may grant a waiver to an individual who does not meet these thresholds.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

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The full text of the adopted amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390

LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section

390.110	General Requirements
390.120	Application for License
390.130	Licensee
390.140	Issuance of an Initial License for a New Facility
390.150	Issuance of an Initial License Due to a Change of Ownership
390.160	Issuance of a Renewal License
390.165	Criteria for Adverse Licensure Actions
390.170	Denial of Initial License
390.175	Denial of Renewal of License
390.180	Revocation of License
390.190	Experimental Program Conflicting With Requirements
390.200	Inspections, Surveys, Evaluations and Consultation
390.210	Filing an Annual Attested Financial Statement
390.220	Information to be Made Available to the Public by the Department
390.230	Information to Be Made Available to the Public By the Licensee
390.240	Municipal Licensing
390.250	Ownership Disclosure
390.260	Issuance of Conditional Licenses
390.270	Monitor and Receivership
390.271	Presentation of Findings
390.272	Determination to Issue a Notice of Violation or Administrative Warning
390.274	Determination of the Level of a Violation
390.276	Notice of Violation
390.277	Administrative Warning
390.278	Plans of Correction
390.280	Reports of Correction
390.282	Conditions for Assessment of Penalties
390.284	Calculation of Penalties
390.286	Determination to Assess Penalties
390.288	Reduction or Waiver of Penalties
390.290	Quarterly List of Violators (Repealed)

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- 390.300 Alcoholism Treatment Programs in Long-Term Care Facilities
- 390.310 Department May Survey Facilities Formerly Licensed
- 390.315 Supported Congregate Living Arrangement Demonstration
- 390.320 Waivers
- 390.330 Definitions
- 390.340 Incorporated and Referenced Materials

SUBPART B: ADMINISTRATION

- Section
- 390.500 Administrator

SUBPART C: POLICIES

- Section
- 390.610 Management Policies
- 390.620 Resident Care Policies
- 390.630 Admission and Discharge Policies
- 390.640 Contract Between Resident and Facility
- 390.650 Residents' Advisory Council
- 390.660 General Policies
- 390.670 Personnel Policies
- 390.675 Initial Health Evaluation for Employees
- 390.680 Child Care/Habilitation Aides
- 390.681 Health Care Worker Background Check
- 390.682 Resident Attendants
- 390.683 Registry of Child Care/Habilitation Aides
- 390.685 Student Interns
- 390.690 Disaster Preparedness
- 390.700 Serious Incidents and Accidents
- 390.750 Contacting Local Law Enforcement

SUBPART D: PERSONNEL

- Section
- 390.810 General
- 390.820 Categories of Personnel
- 390.830 Consultation Services

SUBPART E: HEALTH AND DEVELOPMENTAL SERVICES

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Section

390.1010	Service Programs
390.1020	Medical Services
390.1025	Life-Sustaining Treatments
390.1030	Physician Services
390.1035	Tuberculin Skin Test Procedures
390.1040	Nursing Services
390.1050	Dental Care Services
390.1060	Physical and Occupational Therapy Services
390.1070	Psychological Services
390.1080	Social Services
390.1090	Speech Pathology and Audiology Services
390.1100	Recreational and Activity Services
390.1110	Educational Services
390.1120	Work Activity and Prevocational Training Services

SUBPART F: RESTRAINTS AND BEHAVIOR MANAGEMENT

Section

390.1310	Restraints
390.1312	Nonemergency Use of Physical Restraints
390.1314	Emergency Use of Physical Restraints
390.1316	Unnecessary, Psychotropic, and Antipsychotic Drugs
390.1320	Behavior Management
390.1330	Behavior Emergencies (Repealed)

SUBPART G: MEDICATIONS

Section

390.1410	Medication Policies and Procedures
390.1420	Compliance with Licensed Prescriber's Orders
390.1430	Administration of Medication
390.1440	Labeling and Storage of Medications
390.1450	Control of Medications

SUBPART H: RESIDENT AND FACILITY RECORDS

Section

390.1610	Resident Record Requirements
390.1620	Content of Medical Records
390.1630	Confidentiality of Resident's Records

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390.1640	Records Pertaining to Residents' Property
390.1650	Retention and Transfer of Resident Records
390.1660	Other Resident Record Requirements
390.1670	Staff Responsibility for Medical Records
390.1680	Retention of Facility Records
390.1690	Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section	
390.1810	Director of Food Services
390.1820	Dietary Staff in Addition to Director of Food Services
390.1830	Hygiene of Dietary Staff
390.1840	Diet Orders
390.1850	Meal Planning
390.1860	Infant and Therapeutic Diets
390.1870	Scheduling Meals
390.1880	Menus and Food Records
390.1890	Food Preparation and Service
390.1900	Preparation of Infant Formula
390.1910	Food Handling Sanitation
390.1920	Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

Section	
390.2010	Maintenance
390.2020	Housekeeping
390.2030	Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section	
390.2210	Furnishings
390.2220	Equipment and Supplies
390.2230	Sterilization of Supplies and Equipment

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section	
390.2410	Codes

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390.2420	Water Supply
390.2430	Sewage Disposal
390.2440	Plumbing

SUBPART M: DESIGN AND CONSTRUCTION STANDARDS FOR NEW FACILITIES

Section	
390.2610	Applicability of these Standards
390.2620	Codes and Standards
390.2630	Preparation of Drawings and Specifications
390.2640	Site
390.2650	Administration and Public Areas
390.2660	Nursing Unit
390.2670	Dining, Play, Activity/Program Rooms
390.2680	Therapy and Personal Care
390.2690	Service Departments
390.2700	General Building Requirements
390.2710	Structural
390.2720	Mechanical Systems
390.2730	Plumbing Systems
390.2740	Electrical Systems

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS
FOR EXISTING FACILITIES

Section	
390.2910	Applicability
390.2920	Codes and Standards
390.2930	Preparation of Drawings and Specifications
390.2940	Site
390.2950	Administration and Public Areas
390.2960	Nursing Unit
390.2970	Play, Dining, Activity/Program Rooms
390.2980	Treatment and Personal Care
390.2990	Service Department
390.3000	General Building Requirements
390.3010	Structural
390.3020	Mechanical Systems
390.3030	Plumbing Systems
390.3040	Electrical Requirements

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SUBPART O: RESIDENT'S RIGHTS

Section	
390.3210	General
390.3220	Medical and Personal Care Program
390.3230	Restraints (Repealed)
390.3240	Abuse and Neglect
390.3250	Communication and Visitation
390.3260	Resident's Funds
390.3270	Residents' Advisory Council
390.3280	Contract With Facility
390.3290	Private Right of Action
390.3300	Transfer or Discharge
390.3310	Complaint Procedures
390.3320	Confidentiality
390.3330	Facility Implementation

SUBPART P: DAY CARE PROGRAMS

Section	
390.3510	Day Care in Long-Term Care Facilities
<u>390.</u> APPENDIX A	Interpretation and Illustrative Services for Long-Term Care Facility for Residents Under 22 Years of Age (Repealed)
<u>390.</u> APPENDIX B	Forms for Day Care In Long-Term Care Facilities
<u>390.</u> APPENDIX C	Guidelines for the Use of Various Drugs
<u>390.</u> TABLE A	Infant Feeding
<u>390.</u> TABLE B	Daily Nutritional Requirements By Age Group
<u>390.</u> TABLE C	Sound Transmissions Limitations
<u>390.</u> TABLE D	Pressure Relationships and Ventilation Rates of Certain Areas for New Long-Term Care Facilities for Persons Under Twenty-Two (22) Years of Age
<u>390.</u> TABLE E	Sprinkler Requirements
<u>390.</u> TABLE F	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Adopted at 6 Ill. Reg. 1658, effective February 1, 1982; emergency amendment at 6 Ill. Reg. 3223, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11622, effective September 14, 1982; amended at 6 Ill. Reg. 14557 and 14560, effective November 8, 1982; amended at 6 Ill. Reg. 14678, effective November 15, 1982; amended at 7

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Ill. Reg. 282, effective December 22, 1982; amended at 7 Ill. Reg. 1927, effective January 28, 1983; amended at 7 Ill. Reg. 8574, effective July 11, 1983; amended at 7 Ill. Reg. 15821, effective November 15, 1983; amended at 7 Ill. Reg. 16988, effective December 14, 1983; amended at 8 Ill. Reg. 15585, 15589, and 15592, effective August 15, 1984; amended at 8 Ill. Reg. 16989, effective September 5, 1984; codified at 8 Ill. Reg. 19823; amended at 8 Ill. Reg. 24159, effective November 29, 1984; amended at 8 Ill. Reg. 24656, effective December 7, 1984; amended at 8 Ill. Reg. 25083, effective December 14, 1984; amended at 9 Ill. Reg. 122, effective December 26, 1984; amended at 9 Ill. Reg. 10785, effective July 1, 1985; amended at 11 Ill. Reg. 16782, effective October 1, 1987; amended at 12 Ill. Reg. 931, effective December 24, 1987; amended at 12 Ill. Reg. 16780, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18243, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 6301, effective April 17, 1989; amended at 13 Ill. Reg. 19521, effective December 1, 1989; amended at 14 Ill. Reg. 14904, effective October 1, 1990; amended at 15 Ill. Reg. 1878, effective January 25, 1991; amended at 16 Ill. Reg. 623, effective January 1, 1992; amended at 16 Ill. Reg. 14329, effective September 3, 1992; emergency amendment at 17 Ill. Reg. 2390, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 7974, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15073, effective September 3, 1993; amended at 17 Ill. Reg. 16167, effective January 1, 1994; amended at 17 Ill. Reg. 19235, effective October 26, 1993; amended at 17 Ill. Reg. 19547, effective November 4, 1993; amended at 17 Ill. Reg. 21031, effective November 20, 1993; amended at 18 Ill. Reg. 1453, effective January 14, 1994; amended at 18 Ill. Reg. 15807, effective October 14, 1994; amended at 19 Ill. Reg. 11525, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 535, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10106, effective July 15, 1996; amended at 20 Ill. Reg. 12101, effective September 10, 1996; amended at 22 Ill. Reg. 4062, effective February 13, 1998; amended at 22 Ill. Reg. 7188, effective April 15, 1998; amended at 22 Ill. Reg. 16576, effective September 18, 1998; amended at 23 Ill. Reg. 1069, effective January 15, 1999; amended at 23 Ill. Reg. 8021, effective July 15, 1999; amended at 24 Ill. Reg. 17283, effective November 1, 2000; amended at 25 Ill. Reg. 4890, effective April 1, 2001; amended at 26 Ill. Reg. 4890, effective April 1, 2002; amended at 26 Ill. Reg. 10645, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2258, effective February 1, 2003, for a maximum of 150 days; emergency expired July 1, 2003; emergency amendment at 27 Ill. Reg. 5509, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5947, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14250, effective August 15, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15949, effective September 25, 2003.

SUBPART C: POLICIES

Section 390.681 Health Care Worker Background Check

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- a) The facility shall not *knowingly hire any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the following offenses* (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985; ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474));
 - 3) ~~Kidnaping~~ **Kidnapping** or child abduction (Sections 10-1, 10-2, 10-5, and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));
 - 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));
 - 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-9.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
 - 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-

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4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));

- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9) ~~Criminal sexual~~ Sexual assault or criminal sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491));
- 10) Abuse ~~and or~~ gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));
- 15) Financial exploitation of an elderly ~~or disabled~~ person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-

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- 1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286));
 - 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2));
 - 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
 - 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501));
 - 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
 - 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. ~~48 40~~ to 53 and 236 to 238));
 - 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g));
 - 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2));
 - 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354));
 - 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720

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ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368));

- 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or deliver to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709)); or
 - 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407, and 407.1 of the Illinois Controlled ~~Substances~~ ~~Substance~~ Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- b) The facility shall not *knowingly employ or retain any individual in a position with duties involving direct care for residents* if that person *has been convicted of committing or attempting to commit one or more of the offenses* listed in subsections (a)(1) to (27) of this Section *unless the applicant, employee or employer obtains a waiver pursuant to* ~~subsections (m) and (o) of~~ this Section. (Section 25(a) of the Health Care Worker Background Check Act)
 - c) A facility *shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.* (Section 25(b) of the Act)
 - d) For the purpose of this Section:
 - 1) "*Applicant*" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
 - 2) "*Conditional offer of employment*" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.

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- 3) *"Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.*
 - 4) *"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)*
- e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination, the facility shall consider the following:
- 1) The employee's assigned job responsibilities as set forth in the employee's job description;
 - 2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and
 - 3) Whether the employee's responsibilities include physical contact with residents, for example to provide therapy or to draw blood.
- f) *Beginning January 1, 1996, when the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (ws) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)*
- g) *The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)*
- h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.
- i) *The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of*

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the following whenever a non-fingerprint-based UCIA criminal history record check is made:

- 1) *That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.*
- 2) *That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with ~~subsection (m)~~ of this Section.*
- 3) *That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
- 4) *That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.*
- 5) *That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)*
- j) *A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)*
- k) *An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may*

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request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

- l) *A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)*
- m) *An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:*
 - 1) A completed fingerprint-based UCIA criminal records check history Criminal Records Check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of Illinois State Police); and
 - 2) A certified check, money order or facility agency check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA Criminal Records Check.
- n) *The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) ~~above~~.*
- o) An application for a waiver shall be denied unless the applicant meets the following requirements and submits documentation thereof with the waiver application:
 - 1) Except in the instance of payment of court-imposed fines or restitution in which the applicant is adhering to a payment schedule, the applicant shall have met all obligations to the court and under terms of parole (i.e., probation has been successfully completed); and
 - 2) The applicant shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense.

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- p)⊕) The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) *The age of the individual at which the crime was committed;*
 - 2) *The circumstances surrounding the crime;*
 - 3) *The length of time since the conviction;*
 - 4) *The applicant's or employee's criminal history since the conviction;*
 - 5) *The applicant's or employee's work history;*
 - 6) *The applicant's or employee's current employment references;*
 - 7) *The applicant's or employee's character references;*
 - 8) *Nurse Aide Registry records; and*
 - 9) *Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents, which may include, but is not limited to the applicant's or employee's participation in a drug/alcohol rehabilitation program and continued involvement in recovery; the applicant's or employee's participation in anger management or domestic violence prevention programs; the applicant's or employee's status on nurse aide registries in other states; the applicant's or employee's criminal history in other states; or the applicant's or employee's successful completion of all outstanding obligations or responsibilities imposed by or to a court. (Section 40(b) of the Health Care Worker Background Check Act)*
- q) Waivers will not be granted to individuals who have not met the following time frames unless the Director of Public Health approves the waiver in writing. "Disqualifying" refers to offenses listed in subsections (a)(1) to (27) of this Section.
- 1) Single disqualifying misdemeanor conviction – waiver consideration no earlier than one year after the conviction date;

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- 2) Two to three disqualifying misdemeanor convictions – waiver consideration no earlier than three years after the most recent conviction date;
 - 3) More than three disqualifying misdemeanor convictions – waiver consideration no earlier than five years after the most recent conviction date;
 - 4) Single disqualifying felony conviction – waiver consideration no earlier than three years after the conviction date;
 - 5) Two to three disqualifying felony convictions – waiver consideration no earlier than five years after the most recent conviction date;
 - 6) More than three disqualifying felony convictions – waiver consideration no earlier than ten years after the most recent conviction date.
- r) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the following offenses:
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2]);
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);
 - 3) Kidnaping or aggravated kidnaping (Sections 10-1 and 10-2 of the Criminal Code of 1961 [720 ILCS 5/10-1 and 10-2]);
 - 4) Aggravated battery, heinous battery, or infliction of great bodily harm (Sections 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7]);
 - 5) Criminal sexual assault or aggravated criminal sexual assault (Sections 12-13, 12-14, and 12-14.1 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, and 12-14.1]);

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- 6) Criminal sexual abuse or aggravated criminal sexual abuse (Sections 12-15 and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-15 and 12-16]);
 - 7) Abuse and gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19]);
 - 8) Criminal abuse or neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21]);
 - 9) Financial exploitation of an elderly person or a person with a disability (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3]);
 - 10) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1]);
 - 11) Armed robbery (Section 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-2]); and
 - 12) Aggravated vehicular hijacking, aggravated robbery (Sections 18-4 and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-4 and 18-5]).
- s) The Director of Public Health may grant a waiver to an individual who does not meet the requirements of subsection (o), (q), or (r), based on mitigating circumstances (see subsection (p)). (Section 40(b) of the Health Care Worker Background Check Act)
- ~~t)p~~ *An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)*
- ~~u)q~~ A facility is not obligated to employ or offer permanent employment to an

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applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

~~v)f)~~ A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

~~w)s)~~ This Section *shall not apply to:*

- 1) *An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;*
- 2) *An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or*
- 3) *A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents.* (Section 20 of the Health Care Worker Background Check Act)

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- ~~x)†~~ *An employer need not initiate an additional criminal background check for an employee if the employer initiated a criminal background check for the employee after January 1, 1996 and prior to January 1, 1998. This subsection applies only to persons employed prior to January 1, 1998. Any person newly employed on or after January 1, 1998 must receive a background check as required by Section 30 of the Health Care Worker Background Check Act. (Section 25.1 of the Health Care Worker Background Check Act)*
- ~~y)†~~ *The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.*
- ~~z)†~~ *The facility shall retain on file for a period of 5 years, records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)*
- ~~aa)†~~ *The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.*

(Source: Amended at 27 Ill. Reg. 15949, effective September 25, 2003)

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- 1) Heading of the Part: Local Health Protection Grant Rules
- 2) Code Citation: 77 Ill. Adm. Code 615
- 3) Section Number: 615.340 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS 5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-10].
- 5) Effective Date of Amendment: October 1, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection:
- 9) Date Notice of proposed rulemaking was published in the Illinois Register: January 31, 2003 (27 Ill. Reg. 1498)
- 10) Has the Joint Committee on Administrative Rules Issued a Statement of Objection to this Rulemaking? No
- 11) Difference Between Proposal and Final Version: In Section 615.340(c), the phrase "Within 15 days after the effective date of this emergency rulemaking" was deleted from language requiring that all local health departments electronically submit to the Department the plan for their jurisdiction.

In addition, various typographical, grammatical and technical changes were made in response to comments from the Joint Committee on Administrative Rules.
- 12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other amendments pending on this Part? No

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15) Summary and purpose of amendment: This rulemaking requires local health departments (LHDs) to develop and maintain a current all hazard emergency response/disaster plan for their jurisdiction. The plans are intended to provide a framework for response operations of the LHD and to outline specific actions for local response and recovery activities. Minimum elements to be included in the plans are specified and include procedures for 24-hour availability of the LHD to receive information on an emergency situation; internal notification of key staff within the LHD; contact between the LHD, local law enforcement and the Department; mobilization of non-essential staff to assist with the emergency situation; dissemination of information to first responders; and implementation of a mass vaccination and distribution/management of the federal stockpile of pharmaceuticals in response to a communicable disease situation in their jurisdiction.

16) Information and questions regarding this adopted amendment shall be directed to:

Susan Meister
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
rules@idph.state.il.us

The full text of the adopted amendment begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER h: LOCAL HEALTH DEPARTMENTS

PART 615
LOCAL HEALTH PROTECTION GRANT RULES

SUBPART A: GENERAL

- Section
- 615.100 Definitions
- 615.110 Incorporated Materials

SUBPART B: ADMINISTRATION OF LOCAL HEALTH PROTECTION GRANTS

- Section
- 615.200 Eligibility
- 615.210 Purpose and Distribution of Grant Funds
- 615.220 Review and Consultation; Plan of Correction
- 615.230 Waiver of Requirements

SUBPART C: PROGRAM STANDARDS

- Section
- 615.300 Infectious Diseases
- 615.310 Food Protection
- 615.320 Potable Water Supply
- 615.330 Private Sewage Disposal
- 615.340 Common Requirements

SUBPART D: DUE PROCESS

- Section
- 615.400 Denial, Suspension or Revocation of Grant Application or Grant Agreement
- 615.410 Procedures for Hearings

APPENDIX A Recommended Policies and Procedures for Immunization Clinics
(Repealed)

AUTHORITY: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS

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5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 2310-15 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-15].

SOURCE: Filed October 20, 1977; Part repealed, new Part adopted at 5 Ill. Reg. 1415, effective July 1, 1981; codified at 8 Ill. Reg. 16335; amended at 14 Ill. Reg. 805, effective January 1, 1990; Part repealed, new Part adopted by emergency rules at 17 Ill. Reg. 13002, effective July 21, 1993, for a maximum of 150 days; emergency expired on December 18, 1993; Part repealed, new Part adopted at 18 Ill. Reg. 4320, effective March 1, 1994; emergency amendment at 20 Ill. Reg. 3974, effective February 16, 1996, for a maximum of 150 days; emergency expired on July 15, 1996; amended at 21 Ill. Reg. 2960, effective February 20, 1997; amended at 26 Ill. Reg. 421, effective January 1, 2002; emergency amendment at 26 Ill. Reg. 18051, effective December 6, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 15973, effective October 1, 2003.

SUBPART C: PROGRAM STANDARDS

Section 615.340 Common Requirements

- a) All activities performed under this Part shall be governed in all respects by the laws of the State of Illinois. Personnel performing the programs described in this Subpart shall meet the applicable requirements of the Medical Practice Act of 1987 [225 ILCS 60]; the Nursing and Advanced Practice Nursing Act [225 ILCS 65]; and the Environmental Health Practitioner Licensing Act [225 ILCS 37].
- b) All local health departments shall maintain a 24-hour notification system that IDPH, hospitals, or members of the general public can contact to promptly reach a staff person to report a suspect or actual public health incident or event. Local health departments must document, at least quarterly, the method used to ensure the operational reliability of this 24-hour notification system. In addition, local health departments shall document and provide to the IDPH Emergency Officer and their IDPH Regional Health Officer the procedure that IDPH, hospitals or members of the general public must utilize to activate this 24-hour notification system.
- c) All local health departments are required to maintain a current, all hazard emergency response/disaster plan for their jurisdiction. "All hazard" includes, but is not limited to, natural, technological and intentionally caused emergency events, including disease outbreaks, bioterrorism, floods, severe weather, environmental and food protection incidents and others. All local health departments shall electronically submit to the Department the plan for their jurisdiction. Any and all future amendments to the plan shall be electronically

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submitted to the Department immediately. All local health departments shall keep a copy of the plan on file in their principal office. The Department will review each plan once at least every three years, or as often as necessary, as part of the local health department's program review process conducted in accordance with Section 615.220. The emergency response/disaster plan will provide a framework for response operations of the local health department or multi-jurisdiction, and will outline specific actions for local response and recovery activities. The plan will provide guidance for the local health department's primary programs to support jurisdiction-wide emergency operations and prescribe, among other items, the availability of personnel and response needs and provisions. The following items are minimum elements of an approved emergency response/disaster plan:

- 1) procedure for 24-hour availability of the local health department to receive information on a significant or potential emergency situation from the general public or a federal, State or local governmental agency;
 - 2) procedure for internal notification ("call-tree") to alert key staff within the local health department of an emergency situation;
 - 3) procedure that details how and when the local health department will contact the local emergency management agency, local law enforcement agency and the Department of an emergency situation;
 - 4) procedure that will outline the rapid mobilization of non-essential staff of the local health department to assist with the emergency situation, including the identification of critical programs administered by the local health department;
 - 5) procedure for the dissemination of information to first responders, local health care providers, hospitals, clinics and pharmacies within the jurisdiction to alert them of a significant or potential emergency situation; and
 - 6) procedure for the implementation of a mass vaccination and prophylaxis and treatment distribution/management of stockpiles of pharmaceuticals in response to a significant or potential communicable disease situation within the jurisdiction.
- de) The local health department shall submit information quarterly on forms provided by the Department concerning activities conducted in each program conducted by

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the local health department.

(Source: Amended at 27 Ill. Reg. 15973, effective October 1, 2003)

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- 1) Heading of the Part: Grade A Pasteurized Milk and Milk Products Act
- 2) Code Citation: 77 Ill. Adm. Code 775
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
775.10	Amendment
775.20	Amendment
775.40	Amendment
775.50	Amendment
775.60	Amendment
775.70	Amendment
775.100	Amendment
775.110	Amendment
775.120	Amendment
775.130	Amendment
775.140	Amendment
775.150	Amendment
- 4) Statutory Authority: Authorized by and implementing the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].
- 5) Effective date of amendments: October 1, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of proposed rulemaking was published in the *Illinois Register*: May 2, 2003 (27 Ill. Reg. 7700)
- 10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version:

In the Table of Contents, the heading of repealed section 775.1 was added to reflect text currently on file.

In the main source note for the Part, September 1, 2001 was changed to September 25, 2001.

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In Section 775.10 in the definition of "milk hauler-sampler", the following language currently on file was added: "*and transports bulk raw milk for pasteurization from a dairy farm to a receiving station, transfer station, or milk plant.* (Section 3(b)(16)(A) of the Act)."

In Section 775.60(a), the citation to "(Ill. Rev. Stat. 1991, ch. 127, par. 1010-65(d))" was stricken and replaced with "[5 ILCS 100/10-65]". ~~(Ill. Rev. Stat. 1991, ch. 127, par. 1010-65(d))(Ill. Rev. Stat. 1991, ch. 127, par. 1010-65(d))(Ill. Rev. Stat. 1991, ch. 127, par. 1010-65(d))(Ill. Rev. Stat. 1991, ch. 127, par. 1010-65(d))~~

In addition, various typographical, grammatical and technical changes were made in response to comments from the Joint Committee on Administrative Rules.

- 12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of amendments: This rulemaking updates references to several documents that are incorporated by reference in the Grade A Pasteurized Milk and Milk Products rules. Documents that are being updated include the Grade A Pasteurized Milk Ordinance (PMO), Methods of Making Sanitation Ratings of Milk Supplies (MMSR), and Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration (FDA) Program for Certification of Interstate Milk Shippers, all published by the FDA. References to federal regulations, including 21 CFR 131.110 (milk content standard) and 21 CFR 556 (Tolerances for Residues of New Animal Drugs in Food) are being updated to reflect the 2001 editions. Federal regulations entitled "Tolerances and Exemptions to Tolerances for Pesticide Chemicals in Food" (40 CFR 180) are being referenced in the rulemaking. Definitions that are being amended to reflect revised standards include: "dairy farm", "milk", and "milk product". The rulemaking eliminates an obsolete reference to repealed Department rules and to a revised section of the PMO concerning minimum qualifications for local health department personnel. The rulemaking changes the term "milk hauler" to "milk hauler-sampler" and removes a requirement for milk hauler-sampler permit applicants to submit a new application if the permit examination is not completed within 12 months after application is made. The method for determining the violative level for added water in milk is revised to a level of

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3% added water in either raw or pasteurized milk. Federal action levels of pesticides, herbicides, or mycotoxins are referenced in addition to existing action levels in the rules. The amendments also add back the labels for “PCB” and “Heptachlor Epoxide” action levels, which were incorrectly omitted in an earlier rulemaking.

- 16) Information and Questions Regarding these adopted amendments shall be directed to:

Susan Meister
Division of Legal Services
535 West Jefferson
Springfield, Illinois 62761
(217) 782-2043
rules@idph.state.il.us

The full text of the adopted amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICSPART 775
GRADE A PASTEURIZED MILK AND MILK PRODUCTS

Section

775.1	Minimum Regulations (Renumbered)
775.10	Definitions
775.20	Incorporated Materials
775.30	Minimum Requirements
775.40	Local Government Implementation
775.50	Permits
775.60	Suspension of Permits
775.70	Inspections and Investigations
775.80	Approval of Construction Plans
775.90	Administrative Hearings
775.100	Milk Hauler-Samplers Haulers Examination
775.110	Milk Tank Trucks
775.120	Cleaning and Sanitizing Procedures
775.130	Action Levels levels for Added Water in Milk
775.140	Pesticide, Herbicide and Mycotoxin Residue Control Program
775.150	Drug Residue Control Program

AUTHORITY: Authorized by and implementing the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].

SOURCE: Adopted and codified at 8 Ill. Reg. 4190, effective March 16, 1984; amended at 11 Ill. Reg. 1464, effective February 1, 1987; amended at 12 Ill. Reg. 17925, effective December 1, 1988; amended at 17 Ill. Reg. 14015, effective August 15, 1993; amended at 19 Ill. Reg. 12271, effective August 10, 1995; amended at 22 Ill. Reg. 20633, effective November 10, 1998; amended at 25 Ill. Reg. 11904, effective September 1, 2001; amended at 25 Ill. Reg. 12629, effective September 25, 2001; amended at 27 Ill. Reg. 15979, effective October 1, 2003.

Section 775.10 Definitions

In addition to the definitions contained in Section 1 of the Grade A Pasteurized Milk Ordinance and Grade A Condensed and Dry Milk Products and Dry Whey Supplement, the following definitions shall apply:

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"Act" means the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].

"Bulk milk pickup tank" means the tank, and those *appurtenances necessary for its use, used by a milk hauler-sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station.* (Section 3(b)(16) of the Act)

"Clarification" means an operational procedure that removes sediment from milk.

"*Cleaning and sanitizing facility*" means any place, premise or establishment where milk tank trucks are cleaned and sanitized. (Section 3(b)(15) of the Act)

"Cultured dairy products" means milk and milk products that have been soured after pasteurization using harmless lactic-acid producing bacteria, food grade phosphoric acid, lactic acid, citric acid or hydrochloric acid, with or without rennet and/or other safe suitable milk-clotting enzymes.

"Dairy farm" means any place or premise where one or more cows, ~~or~~ goats or sheep are kept, and from which a part or all of the milk or milk products are provided, sold or offered for sale to a milk plant, transfer station, or receiving station. (Section 3(b)(1) of the Act)

"Department" means the Illinois Department of Public Health. (Section 3(b)(7) of the Act)

"Director" means the Director of the Illinois Department of Public Health. (Section 3(b)(8) of the Act)

"Down stream" means after the automatic milk flow safety device.

"Embargo or hold for investigation" means a detention or seizure designed to deny the use of milk or milk products which may be unwholesome or to prohibit the use of equipment which may result in contaminated or unwholesome milk or dairy products. (Section 3(b)(9) of the Act)

"Enforcing agency" means the Illinois Department of Public Health or a unit of local government electing to administer and enforce the Act as provided for in the Act. (Section 3(b)(12) of the Act)

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"Field representative" means a person qualified and trained in the sanitary methods of production and handling of milk as set forth in this Part, and generally employed by a processing or manufacturing plant for the purpose of doing quality control work.

"Grade A" means that milk and milk products are produced and processed in accordance with the latest United States Public Health Service – Food and Drug Administration Grade A Pasturized Milk Ordinance as may be amended. The term Grade A is applicable to "dairy farm", "milk hauler-sampler", "milk plant", "milk product", "receiving station", "transfer station", "bulk milk pickup tank", and "certified pasteurizer sealer" whenever used in the Act. (Section 3(a) of the Act)

"High temperature short time flow-diversion device" or "H.T.S.T." means an automatic milk-flow safety device that controls the flow of milk in relation to the temperature of the milk or heating medium and/or pressure, vacuum, or other auxiliary equipment.

"Imminent hazard to the public health" means any hazard to the public health when the evidence is sufficient to show that a product or practice, posing or contributing to a significant threat of danger to health, creates or may create a public health situation that should be corrected immediately to prevent injury and that should not be permitted to continue while a hearing or other formal proceeding is being held. (Section 3(b)(10) of the Act)

"Milk" means the milk of cows, ~~or~~ goats or sheep and includes skim milk and cream. (Section 3(b)(2) of the Act)

"Milkfat and Nonfat Solid Content Standards" means the standards set forth in 21 CFR 131.110 (20014999). (See Section 775.20.)

"Milk hauler-sampler" means a person who is qualified and trained for the grading and sampling of raw milk in accordance with federal and State quality standards and procedures (Section 3(b)(14) of the Act) and transports bulk raw milk for pasteurization from a dairy farm to a receiving station, transfer station, or milk plant. (Section 3(b)(16)(A) of the Act)

"Milk product" means any product including cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light

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cream, sour cream, acidified ~~sour-light~~ cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, nonfat (skim)-skim milk, reduced fat or lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured reduced fat or lowfat milk or nonfat (skim) skim-milk, cottage cheese (including dry curd, reduced fat, and lowfat-lowfat, and nonfat), yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified reduced fat or lowfat milk, or nonfat (skim) skim milk, low-sodium milk, low-sodium reduced fat lowfat milk, low-sodium nonfat (skim) skim-milk, lactose-reduced milk, lactose-reduced reduced fat or lowfat milk, lactose-reduced nonfat (skim) skim-milk, aseptically processed and packaged milk and milk products, and milk, reduced fat, lowfat milk or nonfat (skim) skim-milk with added safe and suitable microbial organisms and any other milk product made by the addition or subtraction of milkfat or addition of safe and suitable optional ingredients for protein, vitamin or mineral fortification of milk products defined in this Section. (Section 3(b)(4) of the Act)

"Milk tank truck" is the term used to describe both a bulk or milk pickup tanker and a milk transport tank.

"Milk transport tank" means a vehicle, including the truck and tank used ~~by a milk hauler~~ to transport bulk shipments of milk from a transfer station, receiving station or milk plant to another transfer station, receiving station or milk plant.

"PMO" means the Grade A Pasteurized Milk Ordinance incorporated by reference. (See Section 775.20.)

"Permit" means a document awarded to a person for compliance with the provisions of and under conditions set forth in the Act and this Part. (Section 3(b)(13) of the Act)

"Person" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, the State of Illinois, or any political subdivision or Department thereof, or any other entity. (Section 3(b)(11) of the Act)

"Quality assurance program" means the Milk and Dairy Beef Quality Assurance Program, Boeckman, Steve and Carlson, Keith R., Agri-Education Inc., Stratford, Iowa 50249 or equivalent program as determined by the Department.

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"Receiving station" means any place, premise, or establishment where raw milk is received, collected, handled, stored or cooled and prepared for further transporting. (Section 3(b)(5) of the Act)

"Separation" means an operational procedure that removes butterfat from milk.

"Transfer station" means any place, premise, or establishment where milk or milk products are transferred directly from one milk tank to another. (Section 3(b)(6) of the Act)

"Violative drug residue" means a drug residue at or above the tolerance and/or safe levels as set forth in 21 CFR 556 (~~2001~~1999) and Appendix N of the PMO.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.20 Incorporated Materials

- a) The following regulations and statutes are incorporated or referenced in this Part:
 - 1) Federal government publications:
 - A) The Grade A Pasteurized Milk Ordinance (PMO), and Appendices A through P (except Sections 16 and 17) Recommendations of the United States Public Health Service/Food and Drug Administration, ~~2001~~1999 Revision (Publication 229). In addition, the jurisdiction name, left blank in Sections 1, 2, 3, 5, and 11 of the PMO, for the purposes of this Part, shall mean the State of Illinois; and the regulatory agency referred to in Section 1 shall mean the Illinois Department of Public Health. (See Section 775.30(a).)
 - B) The Grade A Condensed and Dry Milk Ordinance, 1995 Revision, Part II and Appendices A through N (Grade A Condensed and Dry Milk Products and Condensed and Dry Whey – Supplement I to the Grade A Pasteurized Milk Ordinance, 1995 Recommendations). (See Section 775.30(b).)
 - C) Evaluation of Milk Laboratories (1995 Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration.

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- D) Methods of Making Sanitation Ratings of Milk Supplies (~~2001+999~~ Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration.
- E) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers (~~2001+999~~ Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration.
- 2) Private and professional standards:
- A) The Standard Methods for the Examination of Dairy Products (16th Edition, 1992, American Public Health Association, 1015 – 18th Street, N.W., Washington, D.C. 20036). (See Section 775.70(b).)
- B) Official Methods of Analysis of the Association of Official Analytical Chemists (16th Edition, 1996, Association of Official Analytical Chemists, P.O. Box 540, Ben Franklin Station, Washington, D.C. 20044). (See Section 775.70(b).)
- 3) Federal regulations:
- A) 21 CFR 131.110 (~~2001+999~~). (See Section 775.10, the definition of "milkfat and nonfat solid content standards".)
- B) 21 CFR 556 (~~2001+999~~). (See Section 775.10, the definition of "violative drug residue".)
- ~~C) 40 CFR 180 (2001). (See Section 775.140(a)(1).)~~
- 4) State of Illinois rules and statutes:
- A) Illinois Plumbing Code – 77 Ill. Adm. Code 890, Illinois Department of Public Health. (See Section 775.30(c)(4).)
- ~~B) Minimum Qualifications for Public Health Personnel Employed by Full-time Local Health Departments – 77 Ill. Adm. Code 600.700 to 600.740, Illinois Department of Public Health. (See Section 775.740.)~~

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~~BE~~) Rules of Practice and Procedure in Administrative Hearings – 77 Ill. Adm. Code 100, Illinois Department of Public Health. (See Section 775.90.)

~~CD~~) The Veterinary Medicine and Surgery Practice Act of 1994 [225 ILCS 115].

- b) All incorporations by reference refer to the materials on the date specified and do not include any additions or deletions subsequent to the date specified.
- c) All citations to federal regulations in this Part concern the specified regulation in the ~~2001~~1999 Code of Federal Regulations, unless another date is specified.
- d) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield, Illinois 62761.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.40 Local Government Implementation

If a unit of local government with a population of 1,000,000 or more adopts its own ordinance, then the unit of local government must comply with this Part. ~~and the Department's rules entitled "Minimum Qualifications for Public Health Personnel Employed by Full-Time Local Health Departments concerning Environmental Health Personnel (77 Ill. Adm. Code 600.700 to 600.740)" (See Section 775.20). In addition, surveillance officers must be certified by the federal Food and Drug Administration as required by Section 6 of the PMO.~~

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.50 Permits

No person may establish, maintain, conduct, or operated a dairy farm, milk plant, receiving station, transfer station, or cleaning and sanitizing facility to process or haul milk or milk products or bring in and distribute pasteurized milk or milk products from another state without a permit from the Department. (Section 5 of the Act)

- a) A permit shall be granted to and renewed for persons, who maintain, conduct, or operated a milk plant, receiving station, transfer station, and cleaning and

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sanitizing facilities, within the State of Illinois by the Department upon completion of an inspection which establishes compliance with the Act and this Part and upon payment of the fee required by Section 5.1 of the Act. Milk plants which maintain cleaning and sanitizing facilities on the same site as the plant do not have to obtain a separate permit for such facilities.

- b) A permit shall be granted to and renewed for persons who bring into and distribute pasteurized milk or milk products from another state which has rules, regulations or requirements that provide for clean, sanitary and safe handling and processing of pasteurized milk and milk products to ensure protection equivalent to that provided by this Part upon receipt of an inspection report which establishes compliance with the State's Rules, Regulations or Requirements and upon payment of the fee required by Section 5.1 of the Act.
- c) An original permit shall be granted to a milk hauler-sampler when the following conditions are met:
- 1) An inspection establishes that the milk hauler-sampler's hauler's equipment is in compliance with the provisions of the Act and this Part,
 - 2) The milk hauler-sampler has successfully completed an examination administered by the Department, and
 - 3) The milk hauler-sampler has paid the fee required by Section 5.1 of the Act.
- d) A renewal permit shall be granted to a milk hauler-sampler when an inspection establishes that the milk hauler-sampler's equipment and sampling procedures are in compliance with the provisions of the Act and this Part and upon payment of the fee required by Section 5.1 of the Act.
- ed) Farm Permits
- 1) An original dairy farm permit is necessary when a farm does not presently hold a permit, a change of ownership occurs and only the farm owner's name was on the permit, and when a change of tenant occurs and only the former tenant's name was on the permit.
 - 2) An original dairy farm permit shall be granted to a dairy farm upon the completion of an inspection which established compliance with the Act

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and this Part. The inspection includes procedures for the establishment of a quality record. The quality record is established by the results of four samples taken at a rate of not more than two per week and on separate days within a three week period.

- e) ~~A renewal permit shall be granted to a Milk Hauler or when an inspection establishes that the hauler's equipment and sampling procedures are in compliance with the provisions of the Act and this Part and upon payment of the fee required by Section 5.1 of the Act.~~

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.60 Suspension of Permits

The Department shall suspend permits in accordance with the provisions of Sections 3,5 and 6 of the PMO and the following:

- a) All suspensions, except summary suspensions, shall be proceeded by the notice and opportunity for a hearing in accordance with Section 775.90 of this Part. All summary suspensions shall be based upon violations of the Act, the PMO or this Part which constitute a finding that the public interest, safety or welfare imperatively requires such action in accordance with Section 10-65(d) of the Illinois Administrative Procedure Act [~~Ill. Rev. Stat. 1991, ch. 127, par. 1010-65(d)~~ 5 ILCS 100/10-65]. In addition, all summary suspensions shall be followed by notice and an opportunity for a hearing in accordance with 775.90 of this Part.
- b) If a dairy farm, milk hauler-~~sampler~~, receiving and transferring station, cleaning and sanitizing facility or milk plant receives two suspensions in six months, an informal conference will be held to discuss corrective measures. If the violations resulting in the most recent suspension are not corrected after this conference, administrative hearing proceeding will be initiated pursuant to Section 775.90 of this Part.
- c) When successive inspections pursuant to Section 5 of the PMO disclose violations of the same requirement that directly reflect on the health of the public such as unclean equipment and improper temperature requirements the suspension policy in Section 5 shall be enforced.
- d) The suspension policies in the PMO may be waived as determined by the inspector's professional judgement dependent upon the amount of time required

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for the permit holder to make the necessary corrections, the reasonableness of requiring corrections prior to the next inspection and the potential for a health hazard created by the violation.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.70 Inspections and Investigations

- a) The Department shall inspect and investigate complaints concerning *dairy farms, milk plants, cleaning and sanitizing facilities, receiving stations, transfer stations, milk ~~hauler-samplers~~ haulers, or milk tank trucks ~~vehicles~~ used to transport milk and milk products under its jurisdiction, for the purpose of determining compliance with the Act and this Part. (Section 10 of ~~the this~~ Act.)*
- b) When conducting inspections pursuant to Section 5 of the PMO, the Department will utilize the Standard Methods for the Examination of Dairy Products and Official Methods of Analysis of the Association of Official Analytical Chemists. (See Section 775.20.)
- c) *Written notice of all violations shall be given to the dairy farm, milk plant, cleaning and sanitizing facility, receiving or transfer station, ~~milk or hauler~~ hauler-sampler or milk tank truck owner/operator* after any inspection or investigation. (Section 10 of the Act.)

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.100 Milk ~~Hauler-Samplers~~ Haulers Examination

The milk ~~hauler-samplers~~ haulers examination consists of both a written and practical section. The written section concerns the following topics: the standards for determining the acceptability of milk, sampling procedures, measurement procedures, care of equipment, collection procedures on the farm and information required on "weight tickets" and "cleaning-sanitizing tags". The practical section concerns the following topics: the proper design of equipment for complete protection of the product, construction and repair standards which facilitate thorough cleaning, effective bactericidal treatment and sampling procedures. Each applicant who fails to attain a minimum 70% passing score on the examination shall submit a new application. ~~Each applicant who fails to take the examination within twelve (12) months of submission of the application and fee must submit a new application and fee to be eligible to take the examination.~~ Examinations shall be administered by the Department upon request.

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(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.110 Milk Tank Trucks

- a) A milk tank truck may only be used to transport the following products which are intended for and suitable for human consumption:
- 1) Milk
 - 2) Raw Milk
 - 3) Milk Products
 - 4) Whey and Whey Products
 - 5) Potable Water
 - 6) Liquid Sweeteners
 - 7) Fruit Juices and Drinks
 - 8) Liquified Chocolate and Coca Products
 - 9) Liquid Pasteurized Eggs and Egg Products
 - 10) Vinegar
 - 11) Food Colorings
 - 12) Vegetable Oils
- b) A milk tank truck must be *cleaned and sanitized prior to the introduction of the milk* or milk products according to ~~Section part II, section~~ 7, items 1p, 2p (climatic and operating conditions), 3p (climatic and operating conditions) 4p, 6p, 7p, 8p, 9p, 10p, 11p, 12p, 14p, 15p, 20p, 22p and Appendix Ff of the PMO. (Section 14.1(b) of the Act.)
- c) *Each milk tank truck used to haul milk* must have a log maintained by the owner of the truck. This log must consist of the following:

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- 1) *The date or dates of each trip taken by the milk tank truck;*
- 2) *The name of the substance hauled by the milk tank truck;*
- 3) *The date the milk tank truck was cleaned and sanitized;*
- 4) *The location where the milk tank truck was cleaned and sanitized;*
- 5) *Such other information deemed necessary by the Department to enforce this Act.*
- 6) *The log for a tank milk truck shall be available upon request.*

(Section 14.1(e) of this Act.)

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.120 Cleaning and Sanitizing Procedures

Milk ~~tank~~Tank trucks used to haul Grade A milk and milk products must be cleaned and sanitized in accordance with Part II, Section 7, items 10r and 11r or item 12p and Appendix F of the PMO. ~~A Contrary to Part II, Section 7 item 12p of the PMO, a~~ cleaning and sanitizing tag shall be attached to all milk tank trucks used to haul Grade A Milk and Milk Products. In addition, the tag must reflect the name of substance hauled in the milk tank truck prior to being cleaned and sanitized.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.130 Action Levels ~~levels~~ for Added Water in Milk

The presence of added water in raw or pasteurized milk constitutes adulteration. The violative level for presence of added water in either raw or pasteurized milk is equal to or higher than 3% when converted from ~~indicated by~~ a milk cryoscope reading on the of ~~-.524~~ Hortvet or ~~-.507~~ Centigrade scale or higher when tested in accordance with the 16th edition of the Standard Methods for the Examination of Dairy Products. After two occurrences of adulterated milk within a six-month period, the plant or producer will be required to show cause and reason for the addition of water. After a third occurrence, the Department will institute administrative proceedings to revoke the plant or producer's permit.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

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Section 775.140 Pesticide, Herbicide and Mycotoxin Residue Control Program

- a) The following describes the Department's Pesticide, Herbicide and Mycotoxin residue control program for Grade A raw milk under Section 6, of the PMO.
- 1) If the analysis of a sample from a ~~milk~~bulk tank truck shows a level of any of the pesticides, herbicide or mycotoxin above the action levels contained in subsection (b) of this Section or of action levels published in federal regulations at 40 CFR 180 for other pesticides, herbicides, or mycotoxins, then an individual sample is collected from each producer's milk that was in the milk tank truck to determine which producer or producers have created or contributed to the problem.
 - 2) When the individual resampling is complete and the test indicates high pesticide, herbicide or mycotoxin residue levels equal to or above action level another sample will be taken within 15 days to determine whether this adulteration is continual or has been a one time situation.
 - 3) If the second sample under subsection (a)(2) of this Section shows an action level equal to or greater than those contained in subsection (b) of this Section, then all of the producer's milk will be removed from the market and not offered for sale for human consumption until an official sample test shows the residue falls below the action level.
 - 4) The milk supply will then be provisionally reinstated for human use and samples will be taken on a monthly basis. Should the next sample be above action level, the milk will again be removed from the market and not offered for sale for human consumption.
 - 5) When two consecutive monthly samples are below the action level, the producer's supply shall be fully reinstated.
- b) The following Action levels have been established for the Pesticide, Herbicide or Mycotoxin Residue Control Program (PPM=parts per million; PPB=parts per billion):
- 1) Aldrin – 0.3 PPM
 - 2) Dieldrin – 0.3 PPM

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- 3) Endrin – 0.3 PPM
- 4) Lindane – 0.3 PPM
- 5) Heptachlor or Heptachlor Epoxide – the action level for either Heptachlor Epoxide or both combined is 0.1 PPM
- 6) PCB – 1.5 PPM
- 7) Aflatoxin – 0.5 PPB
- 8) D.D.T. – 1.25 PPM

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 775.150 Drug Residue Control Program

- a) Equipment used to administer drugs and medicines shall not be cleaned in the wash vats and shall be stored so as not to contaminate the milk or milk contact surfaces of equipment.
- b) Drugs and medicines shall be stored in such a manner that they cannot contaminate the milk or milk product contact surface of the equipment, containers or utensils. Such products shall be properly labeled to include:
 - 1) The name and address of the manufacturer or distributor (for O.T.C. medicines and drugs), or veterinary practitioner dispensing the product (for Rx and Extra-Label use medicines and drugs);
 - 2) Directions for use, and prescribed holding times;
 - 3) Cautionary statements, if needed; and
 - 4) Active ingredients in the drug product.
- c) Unapproved and/or improperly labeled drugs and medicines shall not be used to treat dairy animals and shall not be stored in the milkhouse, milking barn, stable or parlor. Drugs and medicines intended for treatment of non-lactating dairy animals shall be segregated from those drugs and medicines used for lactating

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- animals. (Separate shelves in cabinets, refrigerators, or other storage facilities satisfy this item.)
- d) Topical antiseptics, wound dressings (unless intended for direct injection into the teat), vaccines and other biologics, and dosage ~~form from~~ vitamins and/or mineral products are exempt from labeling and storage requirements except when it is determined that they are stored in such a manner that they may contaminate the milk or milk product surfaces of containers or utensils.
- e) The following describes the Department's Drug residue control program for Grade A raw milk under Section 6 of the PMO.
- 1) If the analysis of a sample from a bulk milk pickup tanker or milk received directly from the farm bulk tank shows any drug residue at or above the tolerances and/or safe levels of drug residues as established by Appendix N of the PMO, then the individual sample collected from each producer's milk that was in the bulk milk pickup tanker is tested to determine which producer or producers have created or contributed to the drug residue.
 - 2) When the individual sample testing is complete and the tests indicate a violative drug residue, the producer's or producers' Grade A permit will be summarily suspended. Another sample will be taken from milk produced after corrections have been made to determine whether this adulteration is continual. For the third occurrence of a drug residue in any 12 month period the Department shall initiate administrative procedures pursuant to revocation of the producer's permit.
 - 3) If the resample shows no violative drug residue, the suspended Grade A permit will be conditionally reinstated for up to 30 days. The producer and a licensed veterinarian must complete a quality assurance (QA) program, within the 30 day conditional reinstatement of the Grade A permit.
 - 4) When the field representative has transmitted to the Department a copy of the quality assurance program completion certificate, signed by the producer and a licensed veterinarian, the producer's Grade A permit shall be fully reinstated.
- f) The following describes the penalty procedures for the Department's drug residue control program for Grade A raw milk.

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- 1) These procedures shall be followed when individual sample testing for drug residues has been completed, test results indicate a violative drug residue, and the producer's or producers' Grade A permit is summarily suspended in accordance with subsection (e) of this Section. The producer or producers shall submit to the Department an equivalent penalty to the 96 hour period following the violative shipment for the second and third occurrences in any 12 month period. The equivalent penalty for the second and third occurrences shall be \$4.00 per hundred weight of the milk produced during the 96 hours following the violative shipment. The penalty shall be paid to the Department by the first buyer of the milk, by the last day of the month immediately following the violation. Following the third occurrence of a drug residue violation in any 12 month period, the Department shall initiate administrative procedures, pursuant to Section 775.90, to permanently revoke the producer's permit.
 - 2) The producer's Grade A permit will be conditionally reinstated for up to 30 days when a subsequent sample of the producer's milk does not contain a violative drug residue. The producer and a licensed veterinarian must complete a quality assurance (QA) program within the 30 day conditional reinstatement of the Grade A permit.
 - 3) When the field representative has transmitted to the Department a copy of the quality assurance program completion certificate signed by the producer and a licensed veterinarian, the producer's Grade A permit shall be fully reinstated.
- g) All monies collected through the drug residue control program and deposited in the Food and Drug Safety Fund will be dedicated to drug residue prevention efforts, producer education and providing information in the prevention of drug residues.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

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- 1) Heading of the Part: Surface Source Water Treatment Code
- 2) Code Citation: 77 Ill. Adm. Code 930
- 3)
- | | <u>Section Numbers:</u> | <u>Adopted</u> |
|--------------------|-------------------------|----------------|
| | <u>Action:</u> | |
| 930.5 | | Amendment |
| 930.10 | | Amendment |
| 930.15 | | Amendment |
| 930.20 | | Amendment |
| 930.30 | | Amendment |
| 930.40 | | Amendment |
| 930.ILLUSTRATION A | Amendment | |
| 930.ILLUSTRATION B | Amendment | |
| 930.TABLE A | New Section | |
| 930.TABLE B | New Section | |
| 930.EXHIBIT A | Repealer | |
- 4) Statutory Authority: Authorized by and implementing Section 9 of the Groundwater Protection Act [415 ILCS 55/9]. Implementing and authorized by the Private Disposal Licensing Act [225 ILCS 225].
- 5) Effective date of amendments: October 1, 2003
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Date notice of proposed rulemaking was published in the *Illinois Register*: October 4, 2002 (26 Ill. Reg. 14546)
- 10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking: No

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- 11) Difference between proposal and final version: Various typographical, grammatical and technical changes were made in response to comments from the Joint Committee on Administrative Rules.
- 12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of rulemaking:

Section 905.15. Adopts the most current National Sanitation Foundation (NSF) standard for the testing and evaluation of aerobic treatment systems.

Section 905.20. Clarifies the manner in which wastes must be handled when floor drains collect wastes in areas where vehicles are stored or maintained.

Section 905.30. Approves various chamber systems and the raised filter bed for installation as acceptable private sewage disposal systems.

Section 905.40. Allows additional design flexibility in providing access openings to two compartment septic tanks.

Section 905.60. Establishes design requirements for the installation of chamber systems.

Section 905.95. Adds a new section which establishes design and installation requirements for the Illinois Raised Filter Bed.

Section 905.96. Adds a new section which establishes design and installation requirements for Peat Filter Systems.

Section 905.100. Adopts the current NSF standard for the testing and evaluation of aerobic treatment systems.

Section 905.170. Clarifies the requirements for the land application of septage and revises language to be consistent with USEPA land application requirements.

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Section 905.205. Allows criteria for the issuance of administrative fines, to implement Public Act 92-353, effective August 15, 2001 (House Bill 1695) allows the Department to impose an administrative fine against any person who violates the Act or Code.

Section 905.Appendix A, Illustration I, Exhibit D. Specifies spacing of the distribution lines for chamber systems.

Section 905.Appendix A, Illustration I, Exhibit E. Establishes sizing requirements for the design of chamber systems.

Section 905.Appendix A, Illustration J, Exhibit C. Provides a plan view for the typical installation of chamber systems.

Section 905. Appendix A, Illustration J, Exhibit D. Provides a section view for the typical installation of chamber systems.

Section 905.Appendix A, Illustration X, Exhibit A. Establishes a table with sizing requirements for the installation and design of the Illinois Raised Filter Bed.

Section 905.Appendix A, Illustration X, Exhibit B. Provides a section view of a typical Illinois Raised Filter Bed Aeration Tank.

Section 905.Appendix A, Illustration X, Exhibit C. Provides a cross section side view of the Illinois Raised Filter Bed Installation.

Section 905.Appendix A, Illustration X, Exhibit D. Provides a cross section end view of the Illinois Raised Filter Bed Installation.

Section 905.Appendix A, Illustration X, Exhibit E. Provides sizing requirements for Illinois Raised Filter Beds using soils investigation information.

16) Information and questions regarding these Adopted Amendments shall be directed to:

Susan Meister
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
rules@idph.state.il.us

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The full text of the adopted amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
 CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
 SUBCHAPTER r: WATER AND SEWAGE

PART 930
 SURFACE SOURCE WATER TREATMENT CODE

Section

930.5	Applicability
930.10	Definitions
930.15	Incorporated Materials
930.20	Treatment Plant
930.30	Treatment Plant Operation
930.40	<u>Treatment Plant Filter</u> Maintenance
930.ILLUSTRATION A	<u>Slow Sand Filter</u> Water Treatment Plant
930.ILLUSTRATION B	Filter Valving
930. <u>TABLE A</u>	<u>Approved Materials for Water Service Pipe</u>
930. <u>TABLE B</u>	<u>Daily Water Requirements</u>
930.EXHIBIT A	Daily Water Requirements (<u>Repealed</u>)

AUTHORITY: Implementing and authorized by Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55/9].

SOURCE: Adopted at 10 Ill. Reg. 11116, effective July 1, 1986; amended at 27 Ill. Reg. 15998, effective October 1, 2003.

Section 930.5 Applicability

The rules of this Part are promulgated by the Illinois Department of Public Health to implement Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55]"AN ACT in relation to public health" (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 22 et seq.). These rules apply to private, semi-private and non-community public water systems supplies obtaining water obtained from a surface source of water and not regulated by the Illinois Environmental Protection Act (Ill. Rev. Stat. 1985, ch. 111 1/2, par. 1001 et seq.) or Illinois Environmental Protection Agency.

(Source: Amended at 27 Ill. Reg. 15998, effective October 1, 2003)

Section 930.10 Definitions

"Approved Certification Agency" means an organization that has been accredited

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by the American National Standards Institute and found to meet the requirements specified in ANSI Z 34.1 (1993), Third Party Certification Program to evaluate drinking water treatment units for compliance with ANSI/NSF Standard 42, ANSI/NSF Standard 53 and ANSI/NSF Standard 55.

"Effective size" means the size of screen opening where 90 percent by weight of a sample of filter media is retained on the screen and 10 percent passes through the screen.

"Intake" means a pipe or other means to withdraw raw water from the surface source.

"Non-Community Water System" means a public water system which is not a community water system, and has at least 15 service connections used by nonresidents, or regularly serves 25 or more nonresident individuals daily for at least 60 days per year.

~~"Pond" means a natural or artificially constructed reservoir used to store water from streams or the surface of the ground.~~

"Private Water System" means a water system that serves an owner-occupied single family residence or dwelling.

"Public Water ~~System~~Supply" means a system for the provision to the public of pip~~ed~~ water for human consumption, if the system has at least 15 service connections or serves an average of at least 25 individuals daily at least 60 days per year. The term Public Water System includes: any collection, treatment, storage and distribution facilities under control of the operator of ~~the such~~ system and used primarily in connection with ~~the such~~ system; and any collection or pretreatment storage facilities not under such control ~~that which~~ are used primarily in connection with ~~the such~~ system.

"Semi-Private Water ~~System~~Supply" means a water supply which is not a public water ~~system~~supply, yet which serves a segment of the public other than an owner-occupied single family residence or dwelling.

"Surface source" means a supply of water which is taken from a reservoir (e.g, pond, lake, or stream).

"Uniformity coefficient" means a number obtained by dividing that size of sand in millimeters of which 60 percent by weight is smaller, by that size of sand in

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millimeters of which 10 percent by weight is smaller.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 930.15 Incorporated Materials

- a) The following regulations and materials are incorporated or referenced in this Part:
- 1) Illinois Plumbing Code
(77 Ill. Adm. Code 890)
Illinois Department of Public Health
 - 2) Illinois Water Well Construction Code
(77 Ill. Adm. Code 920)
Illinois Department of Public Health
 - 3) Drinking Water Systems
(77 Ill. Adm. Code 900)
Illinois Department of Public Health
 - 4) Standard Methods for the Examination of Water and Waste ~~water~~Water
(~~1995~~ 1978 Edition – American Public Health Association, 1015 ~~15~~18th
Street, N.W., Washington, D.C. 2000~~536~~)
 - 5) ANSI/NSF Standard 42, Drinking Water Treatment Units – Aesthetic
Effects (1997) Published by:
NSF International
P.O. Box 130140
Ann Arbor, Michigan 48113-0140
Referenced in Section 930.20
 - 6) ANSI/NSF Standard 53, Drinking Water Treatment Units – Health Effects
(1997) Published by:
NSF International

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P.O. Box 130140

Ann Arbor, Michigan 48113-0140

Referenced in Section 930.20

7) ANSI/NSF Standard 55, Ultraviolet Microbiological Water Treatment Systems (1991) Published by:

NSF International

P.O. Box 130140

Ann Arbor, Michigan 48113-0140

Referenced in Section 930.20

8) ANSI Z 34.1 (1993), Third Party Certification Program

American National Standards Institute
11 West 42nd Street

New York NY 10036

- b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 930.20 Treatment Plant

A ~~non-community~~public water ~~systems~~supply, ~~or~~ semi-private water ~~system~~, or a private water ~~system~~ supply which obtains water from a surface source, shall treat water by utilizing a water treatment plant with either slow sand filtration or cartridge filtration, and disinfection. ~~The treatment plant shall include the following principal units:~~

- a) General

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- 1) Raw Water Quality. The turbidity of the source water shall not exceed 50 nephelometric turbidity units. Cartridge filtration shall not be used to treat water obtained from rivers.
 - 2) Intake. A means must be provided to withdraw raw water from the surface source. Intakes shall not incorporate a submerged sand and gravel filter. The intake must be located at a point of deepest water in the pond and must be capable of being raised or lowered for cleaning. A coarse meshed screen with openings not greater than ¼ inch shall be placed over the end of the intake pipe to prevent entrance of fish, dead leaves, and other debris. The intake pipe must be constructed such that it is flexible, will not break when raised, and shall be approved for use as potable water piping in accordance with the Illinois Plumbing Code (77 Ill. Adm. Code 890, Section 890.Appendix A Plumbing Materials, Equipment, Use Restrictions and Applicable Standards) or Table A Approved Materials for Water Service Pipe of this Part-Exhibit G, Table D). The intake pipe must be kept below any ice, it must be buried in a trench through shallow water, and it must be placed below the frost line at all points.
- b) Slow Sand Filtration. The treatment plant shall include the following principal units.
- 1) Raw Water Pump. A pump shall be required to deliver water from the intake to the filter at a rate which is greater than the filtration rate. The pump must be self-priming or so installed that it will not lose its prime.
 - A)1) The pump shall be driven by an electric motor, controlled by a sensing system on top of the filter, and set to start and stop the raw water pump automatically. The system shall be set to allow 10 inch-12 inch fluctuation in the water level in the filter to prevent frequent cycling of the pump.
 - B)2) The raw water pump will not be required when the elevation of the filter is below the elevation of the intake pipe. Elevation difference between the pond and the filter must be sufficient to produce the flow rate needed at times of low pond water levels in accordance with the rates set forth in Section 930.30 of this Part. There must be no possibility of flooding the treatment plant by high water which may occur below the pond.

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- 2)e) Filter Sand. The filter must be designed so that the raw water flows downward by gravity through the filter media.
- A)1) Filter ~~Sand~~Media. The filter media shall be a layer of sand at least three feet in depth. The sand shall have an effective size of .25-.35 mm with an ideal size of .30 mm and a uniformity coefficient of 1.4-1.8 with an ideal uniformity coefficient of 1.6. The sand shall be supported by a bed of gravel one foot in depth. A perforated pipe must be installed at the bottom of the filter which will allow water to flow to a water storage tank.
- B)2) Filtration Rate. The maximum permissible filtration rate shall be 2 gallons per minute for each 25 square feet of sand surface area. The amount of water needed per day shall be calculated using ~~Table B Attachment A The filter must be large enough to produce the daily requirement of water in not more than 12 hours.~~
- C)3) Construction. The filter must be constructed of concrete or a material which will not corrode or deteriorate and the walls and bottom shall be watertight. Examples of materials which will corrode or deteriorate include wood, tin, or steel. The minimum height of the filter shall be 8 feet in order to provide for a 3 foot depth of water above the sand, and a minimum of 1 foot from water level to the top of the filter during operation.
- D)4) Underdrain Pipe. A perforated underdrain pipe, 1¼ inches inside diameter or larger, shall be installed horizontally at 2 inches above the bottom of the filter tank. One end of the pipe shall be capped within the filter to prevent the entrance of gravel. The other end shall pass through the filter wall, and a valve shall be installed to regulate the flow of water leaving the filter. See Illustration A. ~~Forty~~ 40-50 holes in the underdrain pipe shall be drilled in 2 rows at a 90° angle to each other on the bottom side of the pipe. The holes shall be ¼ inch in diameter and shall be uniformly spaced. One separate underdrain pipe shall be installed for each 75 square feet of filter area.
- E)5) Gravel. Clean, washed gravel shall be placed in three graded layers in the filter, the coarsest gravel being on the bottom. The bottom layer shall be placed to a depth of 6 inches, and shall

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consist of stones $\frac{1}{2}$ - $\frac{3}{4}$ inches in diameter. The top of the pipe shall be 2 inches below the top of this layer. The second or middle layer shall be 3 inches in depth and shall consist of stones $\frac{1}{4}$ - $\frac{1}{2}$ inches in diameter. The third or top layer shall be 3 inches in depth and consist of stones $\frac{1}{8}$ - $\frac{1}{4}$ inches in diameter.

~~F)6)~~ Filter Valves. The piping which carries the water from the filter is to be valved as shown in Illustration B. The filter to waste pipe shall discharge at least 6 inches above the floor drain to permit checking the clarity of the filtered water and to measure the flow rate of filtered water. The floor drain shall not be located over the ~~clear~~ filtered water storage tank well nor shall any portion of the waste drain piping pass through any part of the water storage tank. The filtered water shall be stored in the storage tank and a float valve shall be installed at the end of the filtered water pipe within the storage tank to shut off the flow when the tank is filled to approximately 6 inches from the top. (See Illustration A for exact location.) Solenoid valves controlled by a float switch may also be used. A manhole shall be installed in the top of the storage tank. The manhole shall have a raised curb and be provided with a cover of the overhanging type. The float valve is to be located to one side of the manhole so that it may be reached for any adjustment, without entering the storage tank. The floor drain which receives filtered water and discharges to waste shall discharge at ground level, at least 15 feet horizontally and downgrade from the plant and above any floodwater level. This drain shall not be connected to any other drain or sewer.

~~G)7)~~ Filtered Water Storage Tank. A watertight and pollution-proof reservoir must be provided to receive the filtered water. Its capacity shall be at least equal to the amount of water which will be used in one day. This amount is obtained by using Table B-Exhibit A. The top of the storage tank shall not be higher than the bottom of the filter, and shall not be located where it can be subject to flooding. Sources of pollution shall not be located closer to buried water storage tanks than indicated in Section 920.50 of the Illinois Water Well Construction Code (77 Ill. Adm. Code 920.50).

~~8) Disinfection System. A disinfection system is required.~~

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- A) ~~Disinfection may be accomplished with calcium or sodium hypochlorites or gas chlorine or other disinfecting agents approved by the Department. Proposals for the use of disinfecting agents other than those specifically listed above must be approved by the Department prior to preparation of final plans and specifications. The Department will grant approval when all available information establishes that the chemical to be used as a disinfecting agent meets the following conditions: the residual levels created by the use of the chemical will not jeopardize the health of the user of the water, testing procedures for residual elements are recognized in "Standard Methods for the Examination of Water and Wastewater" (1978 Edition American Public Health Association) (see Section 930.15) and the chemical will destroy bacteria in the water supply.~~
- B) ~~Chlorination Equipment. The Chlorinator shall be designed to provide a free chlorine residual of at least two milligrams per liter in the water after contact time of at least 30 minutes at flow rates as indicated in Exhibit A. The equipment shall be of such design that it will operate accurately over the desired feeding range. Where flow is uniform, actuation of a constant volume feeder by the pump circuit is required. Where flow is variable, automatic flow proportioning is required.~~
- C) ~~Contact Time and Point of Application. A minimum free chlorine residual of at least 0.1 milligram per liter shall be maintained at distant points in the water distribution system. Chlorine shall be applied after the filter and prior to the filtered water storage tank.~~
- D) ~~Testing Equipment. Chlorine residual test equipment capable of measuring free chlorine residual shall be provided and shall be capable of measuring residuals to the nearest 0.1 mg/l in the range below 0.5 mg/l, to the nearest 0.3 mg/l between 0.5 and 1.0 mg/l, and to the nearest 0.5 mg/l between 1.0 mg/l and 2.0 mg/l.~~
- E) ~~Hypochlorinator. Positive displacement pumps shall be provided to inject hypochlorite solution. The pump shall be of variable flow type and shall be of sufficient capacity to feed the required amount of disinfectant. If calcium hypochlorite is used, the concentration of calcium hypochlorite in the solution shall not exceed 5 percent.~~

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~~The solution container shall have a minimum capacity equal to the volume of solution required per day. The hypochlorinator shall be electrically interconnected with the raw water feed pump so that both will start and stop together.~~

~~F) Gas Chlorinators. Any gas chlorination system shall meet the requirements of Section 900.40(n)(5) of the rules for Drinking Water Systems (77 Ill. Adm. Code 900.40(n)(5)).~~

~~H)9) Filtered Water Pump and Pressure Tank. An electrically driven pump shall be provided to remove water from the storage tank. The water distribution system shall be designed to maintain a minimum positive pressure of 20 pounds per square inch (p.s.i.) in all parts of the system at all times. Water pipe shall conform to applicable specifications and standards of the Illinois Plumbing Code (77 Ill. Adm. Code 890, Section 890.1150) for the type of pipe to be used.~~

~~I)10) Filter Building. A building or structure shall be provided to enclose the filter and pumps. If the system is to be operated through the winter months, heating must be provided to prevent freezing.~~

c) Cartridge Filtration. The treatment plant shall include the following principal units.

1) Raw Water Pump. The pump shall be driven by an electric motor and be controlled by a pressure switch set to turn on the pump at a pressure of no less than 20 pounds per square inch. The pump shall be protected against excessive cycling by the installation of a hydropneumatic tank. The volume of water that can be drawn from the hydropneumatic tank between pump cycles shall be at least equal to the volume of water pumped in 30 seconds. The hydropneumatic tank shall be installed upstream of the filters and disinfection system.

2) Particulate Reduction Filter. Particulate reduction shall be accomplished using a filter certified to comply with ANSI/NSF Standard 42 – Drinking Water Treatment units – Aesthetic Effects, for particulate reduction, class I or II and be listed as such by an approved certification agency. The design flow rate in the particular application in which the filter is utilized

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shall not exceed the rated service flow rate for which the filter was certified. An official certification label from the certifying agency shall be permanently affixed to the filter. When treating turbid waters, an additional filter may be needed prior to the particulate reduction filter.

- 3) Turbidity Reduction and Cyst Reduction. Turbidity reduction and cyst reduction shall be accomplished utilizing either separate filters for each process or one filter for both processes. The turbidity and cyst reduction filters shall be located downstream of the particulate reduction filter.
 - A) Turbidity Reduction Filter. Turbidity reduction shall be accomplished using a filter certified to comply with ANSI/NSF Standard 53 – Drinking Water Treatment units – Health Effects, for turbidity reduction and be listed as such by an approved certification agency. The design flow rate in the particular application in which the filter is utilized shall not exceed the rated service flow rate for which the filter was certified. An official certification label from the certifying agency shall be permanently affixed to the filter.
 - B) Cyst Reduction Filter. Cyst reduction shall be accomplished using a filter certified to comply with ANSI/NSF Standard 53 – Drinking Water Treatment units – Health Effects, for cyst reduction and be listed as such by an approved certification agency. The design flow rate in the particular application in which the filter is utilized shall not exceed the rated service flow rate for which the filter was certified. An official certification label from the certifying agency shall be permanently affixed to the filter.
 - 4) Flow Control. A flow control valve and a flow rate meter shall be installed downstream of the filters. The flow rate meter shall have a range which will permit the measurement of the rated service flow rate for the filters, and shall have an accuracy of $\pm 10\%$ over the full scale.
- d) Disinfection.
- 1) A disinfection system shall be installed with calcium or sodium hypochlorites or gas chlorine or other disinfecting agents approved by the Department. Proposals for the use of disinfecting agents other than those specifically listed in this Section must be approved by the Department

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prior to preparation of final plans and specifications. The Department will grant approval when all available information establishes that the chemical to be used as a disinfecting agent meets the following conditions: the residual levels created by the use of the chemical will not jeopardize the health of the user of the water, testing procedures for residual elements are recognized in "Standard Methods for the Examination of Water and Wastewater" (1995 Edition – American Public Health Association) (see Section 930.15) and the chemical will destroy bacteria in the water supply. Ultraviolet disinfection may only be used in water treatment plants utilizing cartridge filtration.

2) Chlorination. Disinfection using chlorine shall include feeding equipment, a retention tank and testing equipment.

A) Chlorination Equipment. The chlorinator shall be designed to provide a free chlorine residual of at least two milligrams per liter (mg/l) in the water. The equipment shall be designed so that it will operate accurately over the desired feeding range. Where flow is uniform, actuation of a constant volume feeder by the pump circuit is required. Where flow is variable, automatic flow proportioning is required.

i) Hypochlorinator. Positive displacement pumps shall be provided to inject hypochlorite solution. The pump shall be of variable flow type and shall be of sufficient capacity to feed the required amount of disinfectant. If calcium hypochlorite is used, the concentration of calcium hypochlorite in the solution shall not exceed 5 percent. The solution container shall have a minimum capacity equal to the volume of solution required per day. The chlorine pump shall be controlled by a float switch located in the filtered water storage tank. Chlorine shall be pumped whenever water is flowing into the storage tank.

ii) Gas Chlorinators. Any gas chlorination system shall meet the requirements of Section 900.40(n)(5) of the Drinking Water Systems Code (77 Ill. Adm. Code 900.40(n)(5)).

B) Contact Time and Point of Application. Chlorine shall be applied after the filter and prior to the filtered water storage tank, and in a

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manner that will provide a free chlorine residual of at least 2 milligrams per liter in the water after thorough mixing and a contact time of at least 30 minutes at maximum flow rates. The pipe carrying water from the filter shall terminate at or above the water surface of the storage tank. Water shall be withdrawn from a solid pipe at a point not more than 3 inches above the bottom of the water storage tank.

C) Testing Equipment. Chlorine residual test equipment capable of measuring free chlorine residual shall be provided and shall be capable of measuring residuals to the nearest 0.1 mg/L in the range below 0.5 mg/L, to the nearest 0.3 mg/L between 0.5 and 1.0 mg/L, and to the nearest 0.5 mg/L between 1.0 mg/L and 2.0 mg/L.

3) Ultraviolet Disinfection. Where ultraviolet disinfection is used, it shall be accomplished using an ultraviolet disinfection system certified to comply with ANSI/NSF Standard 55 – Ultraviolet Microbiological Water Treatment Systems – Class A Systems. The design flow rate for the ultraviolet disinfection equipment shall be at least equal to the rated service flow rate for any of the filters. The ultraviolet disinfection equipment shall be installed downstream of the filters.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 930.30 Treatment Plant Operation

a) Slow sand filtration plants shall comply with the following.

- 1) Disinfection of Storage Tank. The walls and bottom of the storage tank must be free of dirt and debris prior to operation. The side and bottom must then be washed with a chlorine solution of 100 parts per million.
- 2)b) Prior to operation, the filter must be disinfected with a solution of 100 parts per million. The effluent valve is to be closed, and this solution must remain in the filter for at least 24 hours.
- 3)e) Before water is allowed to flow to the filter, a clean piece of wood, fiberglass or a metal plate 2 feet square must be placed on the surface of the sand in order to prevent the initial water from disturbing the sand. After the filter has reached operating level, the plate must be removed.

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- ~~4)d)~~ Filtration Rate. The filtration rate shall not exceed 2 gallons per minute for each 25 square feet of sand filter area.
- b) Cartridge filtration treatment plants shall comply with the following.
- 1) The flow rate shall not exceed the maximum design flow rate for any of the filters or disinfection system.
 - 2) The water pressure shall be maintained at 20 pounds per square inch or greater downstream of the treatment plant.
- c) Disinfection shall comply with the following.
- 1) If chlorine disinfection is used, a minimum free chlorine residual of at least 0.2 mg/L shall be maintained at distant points in the water distribution system and a minimum free chlorine residual of 0.4 mg/L shall be maintained in the water storage tank.
 - 2) If ultraviolet disinfection is used, the ultraviolet disinfection equipment shall be kept in continuous operation 24 hours per day.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

Section 930.40 Treatment Plant Filter Maintenance

- a) Slow sand filtration treatment plants shall be maintained as follows:
- 1) Cleaning. Whenever the design flow can no longer be achieved the filter must be cleaned. In order to clean the filter, the water level must be lowered to 2 to 3 inches below the top of the sand. The filter must not be drained. The accumulated mud and slime along with ½ inch of the top of the sand surface must be removed.
 - 2)b) Proper Filter Depth. After 6 inches of sand has been removed due to repeated cleaning, additional sand which shall comply with the design criteria specified in Section 930.20(c) must be added so the filter is restored to the original depth of 3 feet.

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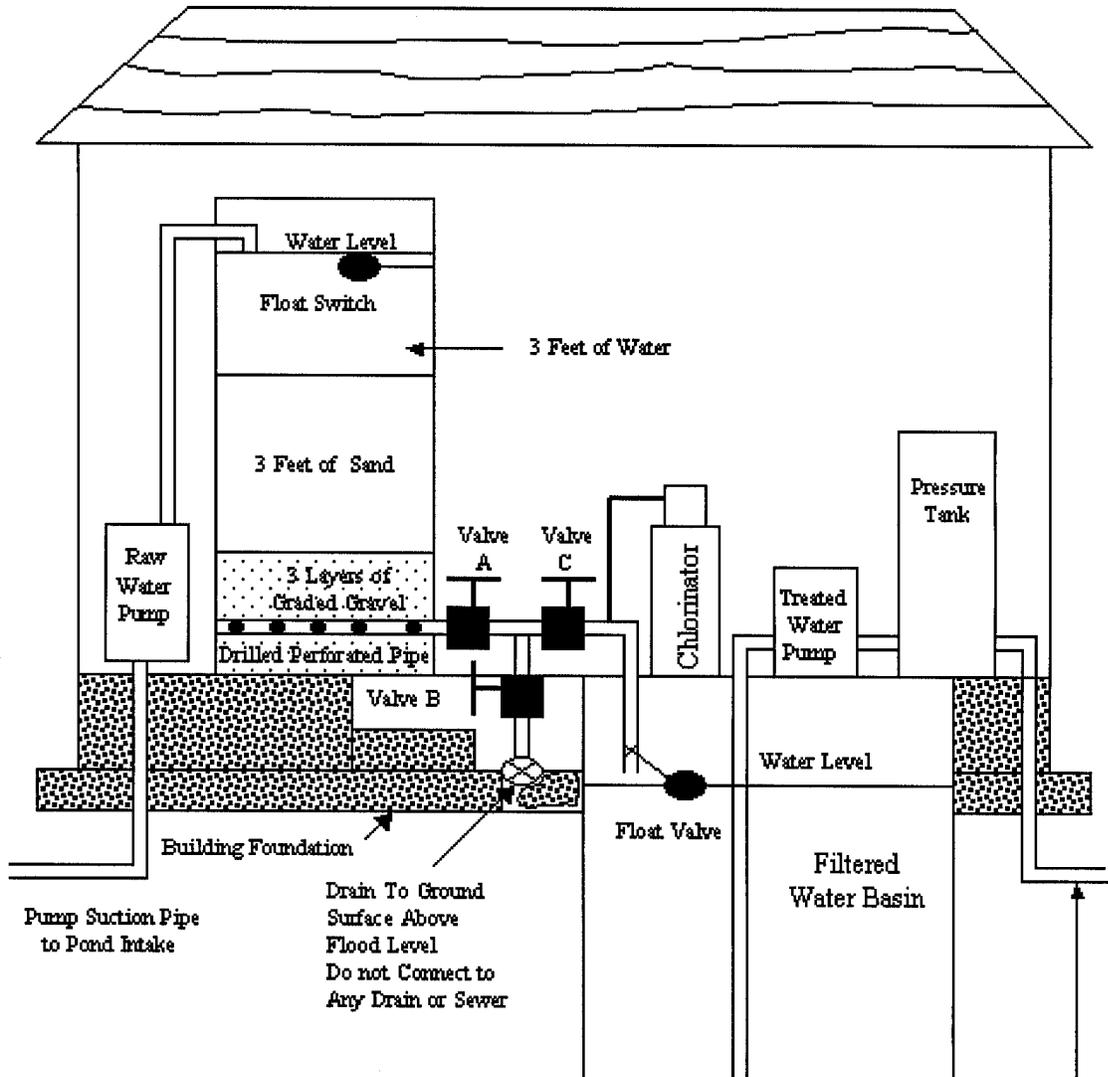
- b) Cartridge filtration treatment plants shall be maintained as follows:
- 1) Cartridge filters shall be cleaned or replaced according to the manufacturer's recommendation.
 - 2) Replacement cartridges shall be equal to the original equipment.
- c) Ultraviolet disinfection equipment shall be maintained as follows:
- 1) The ultraviolet equipment lamp shall be cleaned or replaced when the equipment has a lamp intensity failure. The lamp shall be replaced when the equipment has a lamp failure.
 - 2) The ultraviolet lamp shall be replaced at intervals specified by the manufacturer, but no less often than annually.
 - 3) Replacement ultraviolet equipment lamps shall be equal to the original equipment.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

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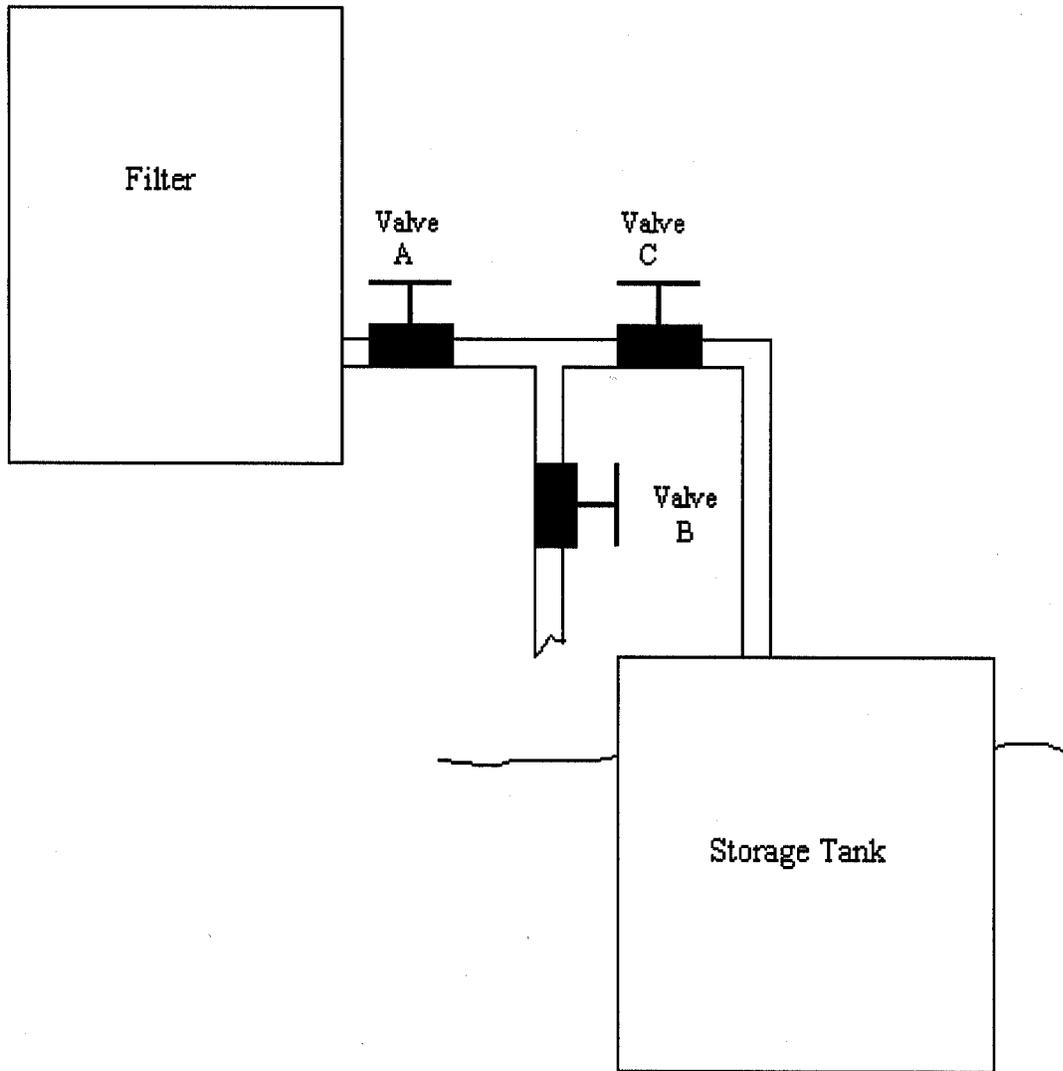
Section 930. ILLUSTRATION A **Slow Sand Filter** Water Treatment Plant



(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

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Section 930.ILLUSTRATION B Filter Valving



(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

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Section 930.TABLE A Approved Materials for Water Service Pipe

	<u>Material</u>	<u>Standard</u>
1)	<u>Acrylonitrile Butadiene Styrene (ABS) Pipe</u>	<u>ASTM D 1527-1988</u>
	<u>Joints</u>	<u>ASTM D 2282-1988</u>
	<u>Solvent Cement⁽¹⁾</u>	<u>ASTM D 2235-1988</u>
2)	<u>Brass Pipe</u>	<u>ASTM B 43-1988</u>
3)	<u>Cast Iron (ductile iron)</u> <u>Water Pipe</u>	<u>ASTM A 377-1984</u>
4)	<u>Chlorinated Polyvinyl Chloride (CPVC) Pipe</u>	<u>ASTM D 2846-1988</u>
	<u>Joints</u>	<u>ASTM F 441-1988</u>
	<u>Solvent Cement (orange)⁽¹⁾</u>	<u>ASTM F 442-1988</u>
		<u>ASTM D 2846-1988</u>
		<u>ASTM F 493-1988</u>
5)	<u>Copper/Copper Alloy Pipe</u>	<u>ASTM B 42-1988</u>
		<u>ASTM B 302-1988</u>
6)	<u>Copper/Copper Alloy Tubing</u>	<u>ASTM B 88-1988</u>
7)	<u>Polyethylene (PE) Pipe</u>	<u>ASTM D 2239-1988</u>
8)	<u>Polyethylene (PE) Tubing</u>	<u>ASTM D 2737-1988</u>
9)	<u>Polyvinyl Chloride (PVC) Pipe</u>	<u>ASTM D 1785-1988</u>
	<u>Joints</u>	<u>ASTM D 2241-1988</u>
	<u>Primer</u>	<u>ASTM D 2672-1988</u>
	<u>Solvent Cement⁽¹⁾</u>	<u>ASTM D 2855-1983</u>
		<u>ASTM F 656-1988</u>
		<u>ASTM D 2564-1988</u>

⁽¹⁾ Solvent cement must be handled in accordance with ASTM F 402-1988.

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

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Section 930.TABLE B Daily Water Requirements

TYPE OF ESTABLISHMENT

FARM HOME:

<u>Each person.....</u>	<u>50 gals.</u>	<u>Each hog.....</u>	<u>5 gals.</u>
<u>Each beef cow.....</u>	<u>15 gals.</u>	<u>Each sheep.....</u>	<u>3 gals.</u>
<u>Each milk cow.....</u>	<u>35 gals.*</u>	<u>Each 100 chickens.....</u>	<u>10 gals.</u>

Multiply the total in gallons by 365 to obtain the estimated water need for a year. Add to this any irrigation or other sizable needs, such as spraying of large orchards.

*Includes allowance for dairy barn and milk house sanitation.

PERMANENT DWELLINGS:

GALLONS PER PERSON PER DAY

<u>Apartments – multiple family</u>	<u>75</u>
<u>Boarding Houses</u>	<u>50</u>
<u>Additional per non-resident border</u>	<u>10</u>
<u>Boarding Schools</u>	<u>100</u>
<u>Residential Institutions (per bed)</u>	<u>125</u>
<u>Single Family Homes and Condominiums</u>	<u>100</u>
<u>Mobile Home Parks (per space)</u>	<u>250</u>
<u>Rooming Houses</u>	<u>40</u>

TRAVEL AND RECREATIONAL FACILITIES:

<u>Airports (per passenger)</u>	<u>5</u>
<u>Campgrounds with flush toilets and showers (per space)</u>	<u>20</u>
<u>Campgrounds with flush toilets, no showers (per space)</u>	<u>15</u>
<u>Cottages and small dwellings with single occupancy</u>	<u>75</u>
<u>Country Clubs (per member present)</u>	<u>25</u>
<u>Day Camps (children – no meals)</u>	<u>25</u>
<u>Highway Rest Areas</u>	<u>5</u>
<u>Hotels and Motels (per bed space)</u>	<u>50</u>
<u>Picnic Parks with flush toilets</u>	<u>5</u>

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<u>Places of Public Assembly</u>	<u>5</u>
<u>Swimming Pools, Bathing Beaches and Bathhouses (bather load as defined in 77 Ill. Adm. Code 820.10)</u>	<u>10</u>
<u>Theaters</u>	
<u>Movie (per auditorium seat)</u>	<u>5</u>
<u>Drive-In (per car space)</u>	<u>10</u>
<u>Travel Trailer Park with water and sewer hookups (per space)</u>	<u>30</u>
<u>Travel Trailer Park without water and sewer hookups (per space)</u>	<u>10</u>
 <u>COMMERCIAL, INDUSTRIAL AND MISCELLANEOUS:</u>	
 <u>Churches</u>	 <u>5</u>
<u>Construction Camps or Sites</u>	<u>50</u>
<u>Factories (gallons per person per shift, exclusive of industrial needs)</u>	<u>35</u>
<u>Hospital (per bed space)</u>	<u>250</u>
<u>Laundries – self-service (gallons per wash, i.e., per customer)</u>	<u>50</u>
<u>Offices and other day workers</u>	<u>15</u>
<u>Restaurants (per meal)</u>	<u>10</u>
<u>Additional for bars and cocktail lounges</u>	<u>2</u>
<u>Schools without gyms, cafeterias or showers</u>	<u>15</u>
<u>Schools with gyms, cafeterias and showers</u>	<u>25</u>
<u>Schools with cafeterias, but without gyms and showers</u>	<u>20</u>
<u>Service stations (per vehicle served)</u>	<u>5</u>
<u>Shopping Centers (per 1000 ft.² floor area)</u>	<u>250</u>
<u>Stores (per toilet room)</u>	<u>400</u>

(Source: Amended at 27 Ill. Reg. 15979, effective October 1, 2003)

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NOTICE OF ADOPTED AMENDMENTS

Section 930. EXHIBIT A Daily Water Requirements (Repealed)

TYPE OF ESTABLISHMENT

FARM HOME:

~~Each person 50 gals. Each hog 5 gals.~~

~~Multiply the daily total in gallons by 365 to obtain the estimated water need for a year. Add to this any irrigation or other sizable needs, such as spraying of large orchards.~~

~~*Includes allowance for dairy barn and milk house sanitation.~~

PERMANENT DWELLINGS:	PER PERSON PER DAY	(unless otherwise noted)
— multiple family Houses	75 50	
	-additional per non-resident boarder	10
Schools	100	
Institutions (per bed)	125	
Family Homes and Condominiums	100	
Home Parks (per space)	250	
Houses	40	

TRAVEL AND RECREATIONAL FACILITIES:

	Airports (per passenger)	5
with flush toilets and showers (per space)	20	
with flush toilets, no showers (per space)	15	
and small dwellings with single occupancy	75	
Clubs (per member present)	25	

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Camps (children—no meals)	25	
Rest Areas	5	
and Motels (per bed space)	50	
Parks with flush toilets	5	
of Public Assembly	5	
Pools, Bathing Beaches and Bathhouses	(bather load as defined in 77 Ill. Adm. Code 820.10)	10
	Movie (per auditorium seat)	5
	Drive-in (per car space)	10
	Travel Trailer Park with water and sewer	30
Trailer Park with water and sewer hookups	(per space)	30
Trailer Park without water and sewer hookups	(per space)	10
COMMERCIAL, INDUSTRIAL AND MISCELLANEOUS:		
	Churches	5
Camps or Sites	50	
(gallons per person per shift,	exclusive of industrial needs)	35
(per bed space)	250	
—self-service	(gallons per wash, 50 i.e., per customer)	
and other day workers	15	
(per meal)	10	
	—additional for bars and cocktail	2

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without gyms, cafeterias or showers	15	lounges	
with gyms, cafeterias, and showers	25		
with cafeterias, but without gyms and showers	20		
stations (per vehicle served)	5		
Centers (per 1000 ft.2 floor area)	250		
(per toilet room)	400		

(Source: Repealed at 27 Ill. Reg. 15979, effective October 1, 2003)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Calculation, Assessment and Collection of Periodic Fees
- 2) Code Citation: 38 Ill. Adm. Code 375
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u>
375.30	Amendment
375.34	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 48(3) of the Illinois Banking Act [205 ILCS 5/48(3)], Section 17 of the Foreign Banking Office Act [205 ILCS 645/17], and Section 5-10 of the Corporate Fiduciary Act [205 ILCS 620/5-10].
- 5) Effective Date of Amendments: September 29, 2003
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: The amendment is not set to expire before the end of the 150-day period.
- 7) Date filed with the Index Department: September 29, 2003
- 8) A copy of the emergency amendments is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The amendment must become effective on an emergency basis in order for the fee changes to be reflected on the September 30, 2003 billing cycle and to meet the revenue needs of the FY04 budget. The failure to include the fee changes for the September 30 billing cycle will result in the required amount of revenue not being raised. The respective trade associations have been advised of the need for this rule and copies of the rule will be placed on the Office of Banks and Real Estate web site for our stakeholders to review. A notice will be sent to each bank and trust company under the Commissioner's jurisdiction advising them of the changes as well.
- 10) A complete Description of the Subjects and Issues Involved: The amendment increases call report fees and electronic data processing fees paid by state banks and foreign banking offices by 27.5%. In addition, the annual fixed fee for state banks will increase from \$2,400 to \$3,060. The variable exam-day fee for corporate fiduciaries will increase from \$350 for each one-half day of examiner work to \$450 for each one-half day of examiner work.
- 11) Are there any proposed amendments to this Part pending? No

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

- 12) Statement of Statewide Policy Objectives: This rule will not affect local government.
- 13) Information and questions regarding this emergency amendment shall be directed to:

Jeff Riley
Office of Banks and Real Estate
500 East Monroe Street
Springfield, IL 62701-1509
Telephone: (217) 782-6167
Fax: (217)558-4297

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

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 375

CALCULATION, ASSESSMENT AND COLLECTION OF PERIODIC FEES

Section

- 375.10 Purpose
375.20 Definitions
375.30 Call Report Fees

EMERGENCY

- 375.31 Electronic Data Processing Fee
375.32 Assessment of 3, 4, or 5 Rated State Banks
375.33 Foreign Banking Office Minimum Quarterly Fee
375.34 Corporate Fiduciary Regulatory Fees

EMERGENCY

- 375.36 Foreign Bank Representative Office Regulatory Fees
375.40 Calculation of Call Report and Electronic Data Processing Fees for Resulting State Banks
375.41 Calculation of Corporate Fiduciary Regulatory Fees for Resulting Corporate Fiduciaries
375.50 Assessment of Accrued Fees Against a Converting or Merging State Bank
375.51 Assessment of Accrued Fees Against a Corporate Fiduciary
375.60 Credits and Additional Assessments Not Applicable to Resulting National Banks
375.70 Payment by Electronic Transfer or Automatic Debit

AUTHORITY: Implementing Section 48(3) of the Illinois Banking Act [205 ILCS 5/48(3)], Section 17 of the Foreign Banking Office Act [205 ILCS 645/17], Sections 4 and 8 of the Foreign Bank Representative Office Act [205 ILCS 650/4 and 8], and Section 5-10 of the Corporate Fiduciary Act [205 ILCS 620/5-10] and authorized by Section 48(3) of the Illinois Banking Act [205 ILCS 5/48(3)], Section 17 of the Foreign Banking Office Act [205 ILCS 645/17], Sections 4 and 8 of the Foreign Bank Representative Office Act [205 ILCS 650/4 and 8], and Section 5-1 of the Corporate Fiduciary Act [205 ILCS 620/5-1].

SOURCE: Adopted at 21 Ill. Reg. 8375, effective June 29, 1997; amended at 24 Ill. Reg. 225, effective December 31, 1999; amended at 27 Ill. Reg. 487, effective December 27, 2002; emergency amendment at 27 Ill. Reg. 16024, effective September 29, 2003, for a maximum of 150 days.

Section 375.30 Call Report Fees

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

EMERGENCY

Each state bank shall pay to the Commissioner a Call Report Fee which shall be paid in quarterly installments equal to one-fourth of the sum of the annual fixed fee of ~~\$3,060~~~~\$2,400~~, plus a variable fee based on the assets shown on the quarterly statement of condition delivered to the Commissioner in accordance with Section 47 of the Illinois Banking Act [205 ILCS 5/47] for the preceding quarter according to the following schedule:

~~21.675¢~~~~17¢~~ per \$1,000 of the first \$5,000,000 of total assets;

~~20.4¢~~~~16¢~~ per \$1,000 of the next \$20,000,000 of total assets;

~~7.85¢~~~~14¢~~ per \$1,000 of the next \$75,000,000 of total assets;

~~12.1125¢~~~~9.5¢~~ per \$1,000 of the next \$400,000,000 of total assets;

~~9.5625¢~~~~7.5¢~~ per \$1,000 of the next \$500,000,000 of total assets;

~~7.0125¢~~~~5.5¢~~ per \$1,000 of the next \$19,000,000,000 of total assets;

~~2.55¢~~~~2¢~~ per \$1,000 of the next \$30,000,000,000 of total assets;

~~1.275¢~~~~1¢~~ per \$1,000 of the next \$50,000,000,000 of total assets; and

~~.6375¢~~~~.5¢~~ per \$1,000 of all assets in excess of \$100,000,000,000 of the state bank.

The Call Report Fee shall be calculated by the Commissioner and billed to state banks for remittance at the time of the quarterly statements of condition provided for in Section 47 of the Act.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 16024, effective September 29, 2003, for a maximum of 150 days)

Section 375.34 Corporate Fiduciary Regulatory Fees**EMERGENCY**

- a) Each corporate fiduciary shall pay to the Commissioner a Corporate Fiduciary Regulatory Fee that shall be paid in quarterly installments equal to one-fourth of the sum of an annual fixed fee plus a variable exam-day fee.

OFFICE OF BANKS AND REAL ESTATE

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- b) The annual fixed fee shall be \$200 for a trust department and for individuals or partnerships that possess a certificate of authority to accept and execute trusts. The annual fixed fee for a trust company shall be \$500. The variable exam-day fee shall be calculated at the rate of ~~\$450~~~~\$350~~ for each one-half examiner-day of work expended by the Commissioner's examination personnel in performing the most recent statutorily required examination of the corporate fiduciary, subject to a minimum one-day charge.
- c) The Corporate Fiduciary Regulatory Fee shall be calculated by the Commissioner and billed to the corporate fiduciaries on the last day of each calendar quarter, with payment due within 30 calendar days after the billing date.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 16024, effective September 29, 2003 for a maximum of 150 days)

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Illinois Savings and Loan Act of 1985
- 2) Code Citation: 38 Ill. Adm. Code 1000
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
1000.130	Amend
1000.141	Amend
1000.142	Amend
- 4) Statutory Authority: Implementing and authorized by Section 7-3 the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3].
- 5) Effective Date of Rule: September 29, 2003
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it expires: N/A
- 7) Date Filed with the Index Department: September 29, 2003
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The increased fees are needed to implement the budget for the 2004 State Fiscal Year. OBRE has notified the trade associations of this change, posted the changes on the website, and will notify each association affected. The public will be notified through the OBRE website and the news media.
- 10) A complete description of the subjects and issues involved: The rulemaking amends and increases Savings and Loan Act examination and supervisory fees a total of 27%. Specifically, the hourly examiner fee increased approximately 27%, from \$55.00 to \$70.00. The supervisory fees are also increased by approximately 27%. The supervisory fee for each branch office is increased from \$450 to \$600.
- 11) Are there any proposed rulemakings pending on this Part? Yes
- 12) Statement of Statewide Policy Objectives: The increased fees are needed to implement the budget for the 2004 State Fiscal Year.
- 13) Information and questions regarding this rulemaking shall be directed to:

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

Jeff Riley
Legislative Liaison
Office of Banks and Real Estate
500 E. Monroe Street
Springfield IL 62701
217/782-6167
Telefax: 217/558-4297

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

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: OFFICE OF BANKS AND REAL ESTATEPART 1000
ILLINOIS SAVINGS AND LOAN ACT OF 1985

SUBPART A: FEES

Section

1000.110	Filings
1000.120	Conditions
1000.130	Examination Fees
<u>EMERGENCY</u>	
1000.140	Annual Supervisory Fees (Repealed)
1000.141	Supervisory Fees
<u>EMERGENCY</u>	
1000.142	Adjusted Supervisory Fees
<u>EMERGENCY</u>	
1000.143	Special Assessment (Emergency Expired)
1000.150	Manner of Payment
1000.151	Special Credit (Repealed)
1000.160	Withdrawal of Applications or Other Filings

SUBPART B: DEFINITIONS

Section

1000.205	Introduction
1000.210	Association
1000.220	Commissioner
1000.230	Single Family Dwelling
1000.240	Unsafe
1000.250	Mobile Home
1000.260	Mobile Home Chattel Paper
1000.270	Person
1000.280	Proposed Borrower
1000.290	Redlining

SUBPART C: REPORTS

Section

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

1000.310 Contracts (Repealed)

SUBPART D: OPERATIONS

Section

1000.410 Permanent Reserve Shares
1000.420 Dividend Advertising
1000.430 Maintenance of Records
1000.440 Business Plan

SUBPART E: APPRAISALS

Section

1000.510 Appraisals

SUBPART F: INVESTMENTS

Section

1000.610 Prudent Person Rule
1000.615 Investment Underwriting Practices
1000.620 Discrimination and Redlining Prohibited
1000.630 Loans Secured by Real Estate
1000.640 Construction Loans
1000.650 College Loans (Repealed)
1000.660 Mobile Home Financing
1000.665 Other Loans
1000.670 Collateral Loans (Repealed)
1000.675 Investment Parity (Repealed)
1000.680 Unsecured Loans (Repealed)
1000.690 Sale of Loans and Participations (Repealed)
1000.700 Insider Loan Rates (Repealed)
1000.710 Reverse Mortgage Loans
1000.720 Repurchase Agreements

SUBPART G: BONUS PLANS

Section

1000.810 Bonus Plans

SUBPART H: NOTICE TO COMMISSIONER

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

Section

1000.910 Corrective Action

SUBPART I: SERVICE CORPORATIONS

Section

1000.1010 Requirements
1000.1020 Approval by the Commissioner
1000.1030 Lending Limitations
1000.1040 Investments by Service Corporations
1000.1050 Ownership of Capital Stock of Service Corporation
1000.1060 Prohibited Transactions
1000.1070 Disclosure to Service Corporation
1000.1080 Reporting Requirements
1000.1090 Audit Requirements

SUBPART J: RELOCATIONS AND BRANCHING

Section

1000.1110 General
1000.1120 Application
1000.1130 Request for Preliminary Determination
1000.1140 Amendment of Application (Repealed)
1000.1150 Public Notice and Inspection
1000.1160 Protest
1000.1170 Oral Argument
1000.1180 Application for and Maintenance of Branch Office after Conversion,
Consolidation, Purchase of Assets or Merger
1000.1190 Redesignation of Offices
1000.1200 Termination of Operation and/or Closing of a Branch Office
1000.1210 Agency Offices
1000.1220 Remote Drive-In and/or Remote Pedestrian Facilities

SUBPART K: CAPITAL NOTES AND DEBENTURES

Section

1000.1310 Approval
1000.1320 Conversion to Stock
1000.1330 Priority of Claim

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF EMERGENCY AMENDMENTS

1000.1340 Effect on Reserve Requirements

SUBPART L: THIRD-PARTY PAYMENT ACCOUNTS

Section

1000.1410 General
1000.1420 Depositors
1000.1430 Rate of Interest
1000.1440 Overdraft Privilege
1000.1450 Charges and Fees
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AUTHORITY: Implementing and authorized by Section 7-3(b)(2) of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-3(b)(2)] and Section 5-35 of the Illinois Administrative Procedure Act [5 ILCS 100/5-35].

SOURCE: Filed and effective January 18, 1974; amended at 2 Ill. Reg. 44, p. 179, effective October 30, 1978; emergency amendment at 2 Ill. Reg. 45, p. 169, effective November 1, 1978, for a maximum of 150 days; amended at 3 Ill. Reg. 5, p. 883, effective January 29, 1979; amended at 3 Ill. Reg. 11, p. 163, effective March 12, 1979; amended at 3 Ill. Reg. 19, p. 22, effective May 12, 1979; emergency amendment at 3 Ill. Reg. 39, p. 230, effective September 17, 1979, for a maximum of 150 days; emergency amendment at 4 Ill. Reg. 8, p. 207, effective February 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 30, p. 1241, effective July 14, 1980; emergency amendment at 5 Ill. Reg. 2524, effective February 19, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 7124, effective June 24, 1981; amended at 5 Ill. Reg. 7125, effective June 24, 1981; amended at 5 Ill. Reg. 11377, effective October 14, 1981; amended at 6 Ill. Reg. 3175, effective March 4, 1982; amended at 6 Ill. Reg. 4218, effective April 6, 1982; amended at 6 Ill. Reg. 4219, effective April 6, 1982; amended at 6 Ill. Reg. 4227, effective April 6, 1982; amended at 6 Ill. Reg. 7141, effective June 1, 1982; amended at 7 Ill. Reg. 1993, effective January 28, 1983; codified at 7 Ill. Reg. 13669; amended at 8 Ill. Reg. 8630, effective June 1, 1984; amended at 8 Ill. Reg. 15066, effective August 7, 1984; emergency amendment at 9 Ill. Reg. 17437, effective October 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 4946, effective March 11, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 14290, effective August 20, 1986; amended at 10 Ill. Reg. 19781, effective November 6, 1986; amended at 11 Ill. Reg. 20648, effective December 2, 1987; emergency amended at 11 Ill. Reg. 20672, effective December 3, 1987, for a maximum of 150 days; emergency amendments at 12 Ill. Reg. 8106, effective April 20, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 15165, effective September 13, 1988; amended at 13 Ill. Reg. 8927, effective May 26, 1989; amended at 16 Ill. Reg. 4881, effective March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 March 17, 1992; transferred from Chapter III, 38 Ill. Adm. Code 400 (Commissioner of Savings and Loan Associations) to Chapter VIII, 38 Ill. Adm. Code 1000 (Commissioner of Savings and Residential Finance) pursuant to Savings

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Bank Act [205 ILCS 1003] at 17 Ill. Reg. 4464; recodified from Chapter III, Commissioner of Savings and Residential Finance, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6707, effective March 30, 1998; amended at 24 Ill. Reg. 53, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 19312, effective December 15, 2000, for a maximum of 150 days; emergency repealed at 25 Ill. Reg. 3694, effective January 30, 2001, in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1856; amended at 25 Ill. Reg. 6152, effective May 17, 2001; amended at 26 Ill. Reg. 13471, effective September 13, 2002; emergency amendment at 27 Ill. Reg. 16029, effective September 29, 2003, for a maximum of 150 days.

SUBPART A: FEES

Section 1000.130 Examination Fees**EMERGENCY**

- a) Time expended in the conduct of any examination of the affairs of any association or service corporation pursuant to the provisions of Section 7-5(a) of the Illinois Savings and Loan Act of 1985 [205 ILCS 105/7-5(a)] or applicable service corporation undertakings, respectively, shall be billed by the Commissioner at a rate of ~~\$70~~~~\$55~~ per examiner hour. Such fee shall be billed within 45 days following completion of the respective examination.
- b) When out-of-state travel occurs in the conduct of any examination, the association or service corporation will be billed for expenses incurred in the performance of duties. Billings for such expense shall not exceed amounts authorized pursuant to the travel regulations of the Department of Central Management Services/Governor's Travel Control Board set forth at 80 Ill. Adm. Code 2800. In the situation where examination procedures are performed at out-of-state locations, the examination fee of ~~\$70~~~~\$55~~ per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate of ~~\$70~~~~\$55~~ per hour.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 16029, effective September 29, 2003, for a maximum of 150 days)

Section 1000.141 Supervisory Fees**EMERGENCY**

- a) The Commissioner shall receive, and there shall be paid to the Commissioner by each association and each service corporation operating under the provisions of

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the Illinois Savings and Loan Act of 1985, a fixed fee of ~~\$600~~\$450, plus a variable fee based on the total assets of each association and each service corporation as shown on the financial report filed with the Commissioner for the reporting period of the prior calendar year ended December 31 according to the following schedule:

~~33.01¢~~25¢ per \$1,000 of the first \$2,000,000 of total assets,

~~29.71¢~~22¢ per \$1,000 of the next \$3,000,000 of total assets,

~~26.41¢~~20¢ per \$1,000 of the next \$5,000,000 of total assets,

~~23.11¢~~17¢ per \$1,000 of the next \$15,000,000 of total assets,

~~19.81¢~~15¢ per \$1,000 of the next \$25,000,000 of total assets,

~~16.51¢~~12¢ per \$1,000 of the next \$50,000,000 of total assets,

~~14.15¢~~10¢ per \$1,000 of the next \$400,000,000 of total assets,

~~9.9¢~~7¢ per \$1,000 of the next \$500,000,000 of total assets, and

~~6.6¢~~5¢ per \$1,000 of all total assets in excess of \$1,000,000,000 of such association or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the Association, the owned assets may be consolidated with the assets of the Association for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle (Mortgage Backed Securities, Real Estate Mortgage Income Certificates, and other securitized debt instruments), the Commissioner shall waive that portion of the fee attributed to the finance subsidiary.

- b) The Commissioner shall receive and there shall be paid to the Commissioner by each association a fee of ~~\$600~~\$450 for each approved branch office or facility office established under the provisions of Subpart J of this Part. The determination of such fees shall be made annually as of the close of business of the prior calendar year ended December 31.
- c) One fourth of the sum of the supervisory fee so determined shall be remitted as

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billed by the Commissioner. Such fees shall be for the respective current year. Fees payable for the third and fourth calendar quarters of 2003 shall be recalculated using total assets as of December 31, 2002, and the amended fees provided in subsections (a) and (b) of this Section. One fourth of the sum of the supervisory fee determined based on the amended fee schedule shall be remitted as billed for the third and fourth calendar quarters of 2003.

- d) Subject to the requirements of subsection (c) of this Section, for the third and fourth quarters of 2003, supervisorySupervisory fees shall be determined by the Commissioner following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any such fees billed at a later date.
- e) In the event the state charter is converted or otherwise surrendered during the course of the year, the Commissioner shall determine the supervisory fee based on the total assets of the Association as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the Commissioner in the event an Association elects to liquidate. In determining whether to set another measurement date, the Commissioner shall consider the following elements: whether the association is undergoing a planned liquidation (where an association elects to not continue operations), or, the association has transferred significant assets (more than 1/2 of 1% of the total assets at the previous measurement date).

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 16029, effective September 29, 2003, for a maximum of 150 days)

Section 1000.142 Adjusted Supervisory Fees

- a) The Commissioner shall receive and there shall be paid to the Commissioner an additional fee as an adjustment to the supervisory fee specified in Section 1000.141 of this Subpart, to be based upon the difference between the total assets of each association and each service corporation as shown by its financial report filed with the Commissioner for the reporting period of the calendar year ended December 31 on which the supervisory fee was based, and the total assets of each association and each service corporation as shown by its financial report filed with the Commissioner for the reporting period of the calendar year ended December 31 in which the quarterly payments referred to in Section 1000.141 of this Subpart are made according to the following schedule:

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~~33.01¢~~~~25¢~~ per \$1,000 of the first \$2,000,000 of total assets,

~~29.71¢~~~~22¢~~ per \$1,000 of the next \$3,000,000 of total assets,

~~26.41¢~~~~20¢~~ per \$1,000 of the next \$5,000,000 of total assets,

~~23.11¢~~~~17¢~~ per \$1,000 of the next \$15,000,000 of total assets,

~~19.81¢~~~~15¢~~ per \$1,000 of the next \$25,000,000 of total assets,

~~16.51¢~~~~12¢~~ per \$1,000 of the next \$50,000,000 of total assets,

~~14.15¢~~~~10¢~~ per \$1,000 of the next \$400,000,000 of total assets,

~~9.9¢~~~~7¢~~ per \$1,000 of the next \$500,000,000 of total assets, and

~~6.6¢~~~~5¢~~ per \$1,000 of all total assets in excess of \$1,000,000,000 of such association or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the Association, the owned assets may be consolidated with the assets of the Association for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the Commissioner shall waive that portion of the fee attributed to the finance subsidiary.

- b) Adjusted supervisory fees shall be remitted as billed by the Commissioner. In the event the total assets of each association and each service corporation as reported on the earlier financial report are more than the total assets as reported on the later annual report the Commissioner shall credit the next quarterly remittance of the supervisory fee in the same proportion.
- c) In the event the state charter is converted or otherwise surrendered during the course of the year, the Commissioner shall determine the supervisory fee based on the total assets of the Association as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the Commissioner in the event an Association elects to liquidate. In determining whether to set another measurement date, the Commissioner shall consider the following elements: whether the association is undergoing a planned liquidation (where an association elects to not continue

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operations), or, the association has transferred significant assets (more than ½ of 1% of the total assets at the previous measurement date).

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 16029, effective September 29, 2003, for a maximum of 150 days)

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- 1) Heading of the Part: Savings Bank Act
- 2) Code Citation: 38 Ill. Adm. Code 1075
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
1075.120	Amend
1075.130	Amend
1075.140	Amend
- 4) Statutory Authority: Implementing and authorized by Section 9002 the Savings Bank Act [205 ILCS 205/9002].
- 5) Effective Date of Rule: September 29, 2003
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it expires: N/A
- 7) Date Filed with the Index Department: September 29, 2003
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The increased fees are needed to implement the budget for the 2004 State Fiscal Year. OBRE has notified the trade associations of this change, posted the changes on the website, and will notify each savings bank affected. The public will be notified through the OBRE website and the news media.
- 10) A complete description of the subjects and issues involved: The rulemaking amends and increases Savings Bank Act examination and supervisory fees a total of 27%. Specifically, the hourly examiner fee increased approximately 27%, from \$55.00 to \$70.00. The supervisory fees are also increasing by approximately 27%. The supervisory fee for each branch office increases from \$450 to 600.
- 11) Are there any proposed rulemakings pending on this Part? Yes
- 12) Statement of Statewide Policy Objectives: The increased fees are needed to implement the budget for the 2004 State Fiscal Year.
- 13) Information and questions regarding this rulemaking shall be directed to:

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NOTICE OF EMERGENCY AMENDMENTS

Jeff Riley
Legislative Liaison
Office of Banks and Real Estate
500 E. Monroe Street
Springfield IL 62701
217/782-6167
Telefax: 217/558-4297

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: OFFICE OF BANKS AND REAL ESTATE

PART 1075
SAVINGS BANK ACT

SUBPART A: FILINGS

Section

- 1075.100 Filings
- 1075.110 Conditions
- 1075.120 Examination Fees

EMERGENCY

- 1075.130 Supervisory Fees

EMERGENCY

- 1075.140 Adjusted Supervisory Fees

EMERGENCY

- 1075.141 Special Credit (Repealed)
- 1075.150 Withdrawal of Applications or Other Filings

SUBPART B: DEFINITIONS

Section

- 1075.200 Definitions

SUBPART C: REPORTS

Section

- 1075.300 Contracts
- 1075.310 Financial Reports

SUBPART D: OPERATIONS

Section

- 1075.400 Capital Stock (Repealed)
- 1075.410 Minimum Capital Requirement
- 1075.415 Conflicting Federal Powers, Law and Regulations
- 1075.420 Advertising
- 1075.430 Maintenance of Records
- 1075.440 Business Plan

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1075.450	Excess Insurance
1075.455	Vacancies in the Board of Directors
1075.460	Bond of Officers, Directors, Employees and Agents
1075.465	Indemnification of Officers, Directors, Employees and Agents
1075.470	Deceptively Similar Names
1075.480	Manner of Display of Annual Meeting Notice
1075.490	Procedures for Exercise of Dissenters Rights

SUBPART E: INVESTMENTS

Section	
1075.500	Prudent Person Rule
1075.505	Investment Underwriting Practice
1075.510	Discrimination and Redlining
1075.515	Loans Secured by Real Estate
1075.520	Construction Loans
1075.525	Mobile Home Financing (Repealed)
1075.530	Overdraft Loans
1075.535	Education Loans
1075.540	Vehicle/Automobile Loans
1075.545	Home Equity Loans
1075.550	Letter of Credit
1075.555	Other Investments
1075.560	Commercial Paper
1075.565	Financial Futures
1075.570	Financial Options
1075.575	Finance Leasing
1075.580	Suretyship
1075.585	Asset Reserves
1075.590	Asset Composition Test

SUBPART F: SERVICE CORPORATION AND OPERATING SUBSIDIARIES

Section	
1075.600	Requirements
1075.610	Approval by the Commissioner
1075.620	Investment Limitations
1075.630	Investments by Service Corporations
1075.640	Ownership of Capital Stock of Service Corporation
1075.650	Prohibited Transactions

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- 1075.660 Disclosure to Service Corporation
- 1075.670 Reporting Requirements
- 1075.680 Audit Requirements

SUBPART G: RELOCATIONS AND BRANCHING

Section

- 1075.700 General
- 1075.705 Application
- 1075.710 Request for Preliminary Determination
- 1075.715 Public Notice and Inspection
- 1075.720 Protest
- 1075.725 Oral Argument
- 1075.730 Application for the Maintenance of Branch Office after Conversion, Consolidation, Purchase of Assets or Merger
- 1075.735 Redesignation of Offices
- 1075.740 Termination of Operation and/or Closing of a Branch Office
- 1075.745 Agency Offices
- 1075.750 Remote Drive-In and/or Remote Pedestrian Facilities

SUBPART H: CAPITAL NOTES AND DEBENTURES

Section

- 1075.800 Approval
- 1075.810 Conversion to Stock
- 1075.820 Priority of Claim

SUBPART I: ADMINISTRATIVE HEARING PROCEDURES

Section

- 1075.900 Applicability
- 1075.905 Definitions
- 1075.910 Early Neutral Evaluation
- 1075.915 Conference Adjudicative Hearing
- 1075.920 Filing
- 1075.925 Form of Documents
- 1075.930 Computation of Time
- 1075.935 Appearances
- 1075.940 Notice of Hearing
- 1075.945 Service of the Notice of Hearing

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1075.950	Motion and Answer
1075.955	Consolidation and Severance of Matters – Additional Parties
1075.960	Intervention
1075.965	Postponement or Continuance of Hearing
1075.970	Authority of Hearing Officer
1075.975	Bias or Disqualification of Hearing Officer
1075.980	Prehearing Conferences
1075.985	Discovery
1075.990	Subpoenas
1075.995	Conduct of the Hearing
1075.1000	Default
1075.1005	Evidence
1075.1010	Official Notice
1075.1015	Hostile Witnesses
1075.1020	Transcription of Proceedings
1075.1025	Briefs
1075.1030	Hearing Officer's Findings, Opinions and Recommendations
1075.1035	Order of the Commissioner
1075.1040	Rehearings
1075.1045	Existing Statutory or Agency Procedures and Practices
1075.1050	Costs of Hearing
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SUBPART J: SAVINGS BANK HOLDING COMPANIES

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1075.1100	Applicability
1075.1105	Definitions
1075.1110	Mutual Holding Company Reorganizations
1075.1111	Subsidiary Holding Company
1075.1115	Prohibition Against Approval of Certain Applications for Reorganization
1075.1120	Contents of Reorganization Plans
1075.1125	Capital Stock (Repealed)
1075.1130	Charter (Repealed)
1075.1135	Control (Repealed)
1075.1140	Eligible Account Holder (Repealed)
1075.1145	Eligibility Record Date (Repealed)
1075.1150	Employee (Repealed)
1075.1155	Equity Security (Repealed)
1075.1160	Insured Institution (Repealed)

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1075.1165	Member (Repealed)
1075.1170	Net Worth (Repealed)
1075.1175	Officer (Repealed)
1075.1180	Person (Repealed)
1075.1185	Qualifying Deposit (Repealed)
1075.1190	Sale (Repealed)
1075.1195	Security (Repealed)
1075.1200	Source Documents (Repealed)
1075.1205	Subsidiary (Repealed)
1075.1210	Liquidation Account and Proxies
1075.1215	Mutual Holding Company Ceasing to be a Depository Institution
1075.1220	Directors of a Mutual Holding Company
1075.1225	Stock Issuance Plan
1075.1230	Stock of a Subsidiary of a Mutual Holding Company
1075.1235	Stock Subsidiary Formation
1075.1240	Net Worth Maintenance Agreement (Repealed)
1075.1245	Members' Rights
1075.1250	Investment
1075.1255	Notice Requirement/Corrective Action
1075.1260	Insider Abuses
1075.1265	Determination of the Qualification and Condition of an Out-of-State Acquisition
1075.1270	Acquisition and Disposal of Subsidiaries
1075.1275	Dividend Limitations and Waivers
1075.1280	Officers and Directors List
1075.1285	Access to Books and Records
1075.1290	Annual Audit Requirements
1075.1295	Maintenance of Records
1075.1300	Notice of Appointment of Independent Accountants
1075.1305	Holding Company Filing Fees (Repealed)
1075.1310	Holding Company Supervisory Fees
1075.1315	Examination Fees
1075.1320	Conditions
1075.1325	Manner of Payment
1075.1330	Conversion of Mutual Holding Companies

SUBPART K: CONVERSION OF AN EXISTING DEPOSITORY INSTITUTION
INTO AN ILLINOIS SAVINGS BANK

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1075.1400	Scope of Rules

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1075.1405	Definitions
1075.1410	General Rules for Conversion Plan
1075.1415	Adopting and Filing of a Conversion Plan (Repealed)
1075.1420	Conversion Plan Requirements (Repealed)
1075.1425	Vote by Shareholders and Members (Repealed)
1075.1430	Issuance of Certificate of Approval
1075.1435	Final Approval of the Conversion
1075.1440	Powers of Resulting Savings Bank
1075.1445	Obligations of Resulting Savings Bank
1075.1450	Directors of Resulting Savings Bank

SUBPART L: SUPERVISION

Section

1075.1500	Sale of Offices, Facilities and Equipment
1075.1510	Purchase of Offices (Repealed)
1075.1520	Bridge Charters
1075.1530	Unsafe and Unsound Practices
1075.1540	Failure to Comply with Report of Examination
1075.1550	Publication

SUBPART M: REMOVALS, SUSPENSIONS AND INDUSTRYWIDE PROHIBITION

Section

1075.1600	Scope
1075.1610	Notice of Intention and Answer
1075.1620	Removal and Prohibition by Order
1075.1630	Suspension by Notice
1075.1640	Industry wide Prohibition
1075.1650	Unauthorized Participation of Convicted Individual

SUBPART N: ACQUISITION OF CONTROL OF A SAVINGS BANK

Section

1075.1700	Acquisition of Control of a Savings Bank
1075.1710	Anti-Takeover Provisions

SUBPART O: CONVERSION OF MUTUAL SAVINGS BANK
TO CAPITAL STOCK SAVINGS BANK

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- 1075.1800 Subpart Exclusive – Prohibition on Conversion Without Approval – Waiver of Requirements
- 1075.1805 Forms
- 1075.1810 Request of Noncompliance Requirements (Repealed)
- 1075.1815 Definitions
- 1075.1820 Prohibition on Approval of Certain Applications for Conversion
- 1075.1825 Requirements of Plan of Conversion
- 1075.1830 Issuance of Capital Stock – Price
- 1075.1835 Stock Purchase Subscription Rights – Eligible Account Holders
- 1075.1840 Stock Purchase Subscription Rights Received by Officers, Directors, and their Associates – Subordination
- 1075.1845 Supplemental Share Purchase Subscription Rights – Supplemental Eligible Account Holder – Conditions
- 1075.1850 Voting Members Who Are Not Eligible Account Holders
- 1075.1855 Sale of Shares Not Sold in Subscription Offering – Methods – Conditions
- 1075.1860 Uniform Sales Price of Shares Required – Application to Specify Arrangements on Sale of Shares Not Sold in Subscription Offering
- 1075.1865 Savings Account Holder to Receive Withdrawable Savings Account(s) – Amount
- 1075.1870 Liquidation Account – Establishment and Maintenance Required
- 1075.1875 Establishment of Eligibility Record Date Required
- 1075.1880 Voting Rights
- 1075.1885 Amendment and Termination of Plan of Conversion
- 1075.1890 Restriction on Sale of Shares of Stock by Directors and Officers
- 1075.1895 Conditions on Shares of Stock Subject to Restriction on Sale
- 1075.1900 Registration of Securities – Marketing of Securities – Listing of Shares on Securities Exchange or NASDAQ Quotation System
- 1075.1905 Reasonable Expenses Required
- 1075.1910 Employee Stock Benefit Plan – Priority
- 1075.1915 Employee Stock Benefit Plan – Contributions
- 1075.1920 Plan of Conversion – Prohibited Provisions
- 1075.1925 Optional Provisions in Plan of Conversion
- 1075.1930 Approval of Other Provisions
- 1075.1935 Amount of Qualifying Deposit of Eligible Account Holder or Supplemental Eligible Account Holder
- 1075.1940 Liquidation Account – Establishment Required – Amount – Function
- 1075.1945 Liquidation Account – Maintenance Required – Subaccounts
- 1075.1950 Liquidation Account – Distribution Upon Complete Liquidation
- 1075.1955 Liquidation Account – Determination of Subaccount Balances
- 1075.1960 Reduction of Subaccount Balance

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- 1075.1965 Converted Savings Bank Prohibited from Repurchasing its Stock Without Approval
- 1075.1970 Limitation on Cash Dividends
- 1075.1975 Dividends on Preferred Stock
- 1075.1980 Prohibitions on Offer, Sale, or Purchase of Securities
- 1075.1985 Acquisitions of Control of a Converted Savings Bank
- 1075.1990 Articles of Incorporation - Restrictions Permitted
- 1075.1995 Confidentiality of Consideration to Convert – Remedial Measures for Breach
- 1075.2000 Public Statement Authorized
- 1075.2005 Adoption of Plan of Conversion – Notice to and Inspection by Account Holders – Statement and Letter – Press Release Authorized
- 1075.2010 Statement, Letter and Press Release – Content Permitted
- 1075.2015 Statement, Letter and Press Release – Contents Prohibited – Inquiries
- 1075.2020 Notices of Filing of Application – Requests for Subscription Offering Circular
- 1075.2025 Filing of Notice and Affidavit of Publication Required
- 1075.2030 Application Available for Public Inspection – Confidential Information
- 1075.2035 Solicitation of Proxies; Proxy Statements
- 1075.2040 Vote by Members
- 1075.2045 Offers and Sales of Securities – Prohibitions
- 1075.2050 Distribution of Offering Circulars Authorized
- 1075.2055 Preliminary Offering Circular for Subscription Offering – Estimated Subscription Price Range Required
- 1075.2060 Review of Price Information by Commissioner
- 1075.2065 Underwriting Commission
- 1075.2070 Consideration of Pricing Information by Commissioner – Guidelines
- 1075.2075 Submission of Information by Applicant
- 1075.2080 Subscription Offering – Distribution of Order Forms for the Purchase of Shares
- 1075.2085 Order Forms – Final Offering Circular and Detailed Instructions
- 1075.2090 Subscription Price
- 1075.2095 Order Form – Contents
- 1075.2100 Order Form – Additional Provision Authorized – Payment by Withdrawal
- 1075.2105 Time Period for Completion of Sale of all Shares of Capital Stock
- 1075.2110 Continuity of Corporate Existence
- 1075.2115 Application to Furnish Information
- 1075.2120 Additional Filing Requirements
- 1075.2125 Availability for Conferences in Advance of Filing of Application – Refusal of Prefiling Review
- 1075.2130 Appeal from Refusal to Approve Application
- 1075.2135 Postconversion Reports
- 1075.2140 Certain Agreement to Transfer and Transfers of Ownership in Rights or Securities

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- Prohibited
- 1075.2145 Certain Offers and Announcements on Securities Prohibited
 - 1075.2150 Certain Offers and Acquisitions Prohibited
 - 1075.2155 Definitions – Certain Transfers, Offers and Acquisitions Prohibited
 - 1075.2160 Amendments to Charter Required in Application – Articles of Incorporation – Filing of Certificate Required – Contents – Issuance and Filing of Authorization Certificate
 - 1075.2165 Conversion Incident to Acquisition by Savings Bank Holding Company or Merger or Consolidation with Savings Bank Holding Company Subsidiary – Restriction on Sale of Shares of Stock by Directors and Officers
 - 1075.2170 Sale of Control in Connection with the Conversion of a Mutual Savings Bank to Capital Stock Savings Bank – Undercapitalized Mutual Savings Bank
 - 1075.2175 Conversion of a Savings Bank in Connection with the Formation of a Holding Company
 - 1075.2200 Application – Application Requirements
 - 1075.2210 Application – Filing the Application and Fees
 - 1075.2220 Application – Preparing the Application
 - 1075.2230 Application – Application Contents
 - 1075.2240 Application – Application Exhibits
 - 1075.2300 Proxy Statement – Information Required in Conversion Proxy Statement
 - 1075.2310 Proxy Statement – Notice of Meeting
 - 1075.2320 Proxy Statement – Revocability of Proxy
 - 1075.2330 Proxy Statement – Persons Making the Solicitations
 - 1075.2340 Proxy Statement – Voting Rights and Vote Required for Approval
 - 1075.2350 Proxy Statement – Directors and Executive Officers
 - 1075.2360 Proxy Statement – Management Remuneration
 - 1075.2370 Proxy Statement – Business of the Applicant
 - 1075.2380 Proxy Statement – Description of the Plan of Conversion
 - 1075.2390 Proxy Statement – Description of Capital Stock
 - 1075.2400 Proxy Statement – Capitalization
 - 1075.2410 Proxy Statement – Use of New Capital
 - 1075.2420 Proxy Statement – New Charter, Bylaws, or Other Documents
 - 1075.2430 Proxy Statement – Other Matters
 - 1075.2440 Proxy Statement – Financial Statements
 - 1075.2450 Proxy Statement – Consents of Experts and Reports
 - 1075.2460 Proxy Statement – Attachments
 - 1075.2500 Offering Circular
 - 1075.2510 Offering Circular – Certain Manner of Presentation of Required Information Prohibited
 - 1075.2520 Offering Circular – Certain Named Persons – Filing of Written Consent Required

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- 1075.2530 Offering Circular – Information Required
- 1075.2540 Offering Circular – Additional Current Information Required
- 1075.2550 Offering Circular – Statement Required in Offering Circulars
- 1075.2560 Offering Circular – Preliminary Offering Circular
- 1075.2570 Offering Circular – Information with Respect to Exercise of Subscription Rights
- 1075.2580 Offering Circular – Information with Respect to Public Offering or Direct Community Offering

SUBPART P: HIGH RISK HOME LOANS

Section

- 1075.3000 Definitions
- 1075.3100 Ability to Repay
- 1075.3150 Verification of Ability to Pay Loan
- 1075.3200 Fraudulent or Deceptive Practices
- 1075.3225 Prepayment Penalty
- 1075.3250 Pre-paid Insurance Products and Warranties
- 1075.3300 Refinancing Prohibited in Certain Cases
- 1075.3325 Balloon Payments
- 1075.3350 Financing of Certain Points and Fees
- 1075.3400 Payments to Contractors
- 1075.3450 Negative Amortization
- 1075.3500 Negative Equity
- 1075.3550 Counseling Prior to Perfecting Foreclosure Proceedings
- 1075.3600 Mortgage Awareness Program
- 1075.3650 Report of Default and Foreclosure Rates on Conventional Loans
- 1075.3700 Commissioner's Review and Analysis
- 1075.3750 Third Party Review of High Risk Home Loans

1075.APPENDIX A Estimated Monthly Income and Expenses Worksheet

1075.APPENDIX B Mortgage Ratio Worksheet

AUTHORITY: Implementing and authorized by the Savings Bank Act [205 ILCS 205].

SOURCE: Emergency Rules adopted at 14 Ill. Reg. 15029, effective September 4, 1990, for a maximum of 150 days; adopted at 15 Ill. Reg. 1916, effective January 25, 1991; amended at 16 Ill. Reg. 4891, effective March 16, 1992; amended at 17 Ill. Reg. 8894, effective June 7, 1993; expedited correction at 17 Ill. Reg. 18223, effective June 7, 1993; emergency amendment adopted at 18 Ill. Reg. 7016, effective April 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 15094, effective September 26, 1994; emergency amendment at 19 Ill. Reg. 10277,

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effective June 29, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15474, effective October 31, 1995; recodified from Chapter VIII, Commissioner of Savings and Residential Finance, to Chapter II, Office of Banks and Real Estate, pursuant to PA 89-508, at 20 Ill. Reg. 12645; amended at 22 Ill. Reg. 6719, effective March 30, 1998; amended at 24 Ill. Reg. 73, effective January 1, 2000; emergency amendment at 24 Ill. Reg. 6986, effective April 24, 2000, for a maximum of 150 days; emergency expired on September 20, 2000; amended at 24 Ill. Reg. 15026, effective September 26, 2000; emergency amendment at 24 Ill. Reg. 19331, effective December 15, 2000, for a maximum of 150 days; emergency amendment repealed at 25 Ill. Reg. 3698, effective January 30, 2001, in response to an objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 1858; amended at 25 Ill. Reg. 6197, effective May 17, 2001; amended at 26 Ill. Reg. 13483, effective September 13, 2002; emergency amendment at 27 Ill. Reg. 16043, effective September 29, 2003, for a maximum of 150 days.

SUBPART A: FILINGS

Section 1075.120 Examination Fees**EMERGENCY**

- a) Time expended in the conduct of any examination of the affairs of any savings bank or service corporation pursuant to Section 9004 of The Act or applicable service corporation undertakings, respectively, shall be billed by the Commissioner at a rate of ~~\$70 \$55.00~~ per examiner hour. Such fee shall be billed within forty-five (45) days following completion of the respective examination.
- b) When out-of-state travel occurs in the conduct of any examination, the savings bank or service corporation will be billed for expenses incurred in the performance of duties. Billings for such expense shall not exceed amounts authorized pursuant to the travel regulations of the Department of Central Management Services/Governor's Travel Control Board (80 Ill. Adm. Code 2800). In the situation where examination procedures are performed at out-of-state locations, the examination fee of ~~\$70 \$55.00~~ per hour plus travel, lodging and per diem shall be assessed. Additionally, travel time shall be billed at the examination rate of ~~\$70 \$55.00~~ per hour.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 16043, effective September 29, 2003, for a maximum of 150 days)

Section 1075.130 Supervisory Fees**EMERGENCY**

- a) The Commissioner shall receive, and there shall be paid to the Commissioner by

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each savings bank and each service corporation operating under the Act, a fixed fee of ~~\$600-\$450~~, plus a variable fee based on the total assets of each savings bank and each service corporation as shown on the financial report filed with the Commissioner for the reporting period of the prior calendar year ended December 31, 1999 and every year thereafter according to ~~the~~ following schedule:

~~28.82¢ 22¢~~ per \$1,000 of the first \$2,000,000 of total assets,

~~26.2¢ 20¢~~ per \$1,000 of the next \$3,000,000 of total assets,

~~23.58¢ 18¢~~ per \$1,000 of the next \$5,000,000 of total assets,

~~19.65¢ 15¢~~ per \$1,000 of the next \$15,000,000 of total assets,

~~17.03¢ 13¢~~ per \$1,000 of the next \$25,000,000 of total assets,

~~14.41¢ 11¢~~ per \$1,000 of the next \$50,000,000 of total assets,

~~11.79¢ 9¢~~ per \$1,000 of the next \$400,000,000 of total assets,

~~7.86¢ 6¢~~ per \$1,000 of the next \$500,000,000 of total assets, and

~~5.24¢ 4¢~~ per \$1,000 of all total assets in excess of \$1,000,000,000 of such savings bank or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle (Mortgage Backed Securities, Real Estate Mortgage Income Certificates, and other securitized debt instruments), the Commissioner shall waive that portion of the fee attributed to the finance subsidiary.

- b) The Commissioner shall receive and there shall be paid to the Commissioner by each savings bank a fee of ~~\$600 \$450~~ for each approved branch office or facility office established under Subpart G of this Part. The determination of such fees shall be made annually as of the close of business of the prior calendar year ended December 31.
- c) One fourth of the sum of the supervisory fee so determined shall be remitted as

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billed by the Commissioner. Such fees shall be for the respective current year. Fees payable for the third and fourth calendar quarters of 2003 shall be recalculated using total assets as of December 31, 2002, and the amended fees provided in subsections (a) and (b) of this Section. One fourth of the sum of the supervisory fee determined based on the amended fee schedule shall be remitted as billed for the third and fourth calendar quarters of 2003.

- d) Subject to the requirements of subsection (c) of this Section for the third and fourth quarters of 2003, supervisory ~~Supervisory~~ fees shall be determined by the Commissioner following the close of the respective calendar year; however, the dates of billings shall not prejudice the validity of an invoice for any such fees billed at a later date.
- e) In the event the state charter is converted or otherwise surrendered during the year, the Commissioner shall determine the supervisory fee based on the total assets of the savings bank as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the Commissioner in the event a savings bank elects to liquidate. In determining whether to set another measurement date, the Commissioner shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations), or, the savings bank has transferred significant assets (more than ½ of 1 percent of the total assets at the previous measurement date).
- f) The Commissioner may waive part of the first annual supervisory fee specified under subsection (a) above, for a savings and loan association that has paid the fee for conversion to federal charter as required under the rules promulgated pursuant to the Illinois Savings and Loan Act of 1985 (38 Ill. Adm. Code 400.110(b)). Such waiver, if any is granted, shall be in accordance with the following schedule:
- 1) for conversions that were completed less than twelve months but greater than six months before the issuance of a savings bank charter, 25 percent may be waived; and
 - 2) for conversions that were completed less than six months before the issuance of a savings bank charter, 50 percent may be waived.

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 16043, effective September 29, 2003, for a maximum of 150 days)

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Section 1075.140 Adjusted Supervisory Fees**EMERGENCY**

- a) The Commissioner shall receive and there shall be paid to the Commissioner an additional fee as an adjustment to the supervisory fee specified in Section 1075.130 of this Part, to be based upon the difference between the total assets of each savings bank and each service corporation as shown by its financial report filed with the Commissioner for the reporting period of the calendar year ended December 31 on which the supervisory fee was based, and the total assets of each savings bank and each service corporation as shown by its financial report filed with the Commissioner for the reporting period of the calendar year ended December 31 in which the quarterly payments referred to in Section 1075.130 of this Part are made according to the following schedule:

~~28.82¢~~ ~~22¢~~ per \$1,000 of the first \$2,000,000 of total assets,

~~26.2¢~~ ~~20¢~~ per \$1,000 of the next \$3,000,000 of total assets,

~~23.58¢~~ ~~18¢~~ per \$1,000 of the next \$5,000,000 of total assets,

~~19.65¢~~ ~~15¢~~ per \$1,000 of the next \$15,000,000 of total assets,

~~17.03¢~~ ~~13¢~~ per \$1,000 of the next \$25,000,000 of total assets,

~~14.41¢~~ ~~11¢~~ per \$1,000 of the next \$50,000,000 of total assets,

~~11.79¢~~ ~~9¢~~ per \$1,000 of the next \$400,000,000 of total assets,

~~7.86¢~~ ~~6¢~~ per \$1,000 of the next \$500,000,000 of total assets, and

~~5.24¢~~ ~~4¢~~ per \$1,000 of all total assets in excess of \$1,000,000,000 of such savings bank or service corporation.

In the situation where service corporations and/or finance subsidiaries are owned by the savings bank, the owned assets may be consolidated with the assets of the savings bank for calculation of this fee. If the finance subsidiary is not active and is in the form of a Collateralized Mortgage Obligation or a similar vehicle, the Commissioner shall waive that portion of the fee attributed to the finance subsidiary.

- b) Adjusted supervisory fees shall be remitted as billed by the Commissioner. In the

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event the total assets of each savings bank and each service corporation as reported on the earlier financial report are more than the total assets as reported on the later annual report, the Commissioner shall credit the next quarterly remittance of the supervisory fee in the same proportion.

- c) In the event the state charter is converted or otherwise surrendered during the year, the Commissioner shall determine the supervisory fee based on the total assets of the savings bank as of the month-end immediately preceding the cancellation of the state charter, except that the measurement date may be another date at the discretion of the Commissioner in the event a savings bank elects to liquidate. In determining whether to set another measurement date, the Commissioner shall consider the following elements: whether the savings bank is undergoing a planned liquidation (where a savings bank elects to not continue operations); or, the savings bank has transferred significant assets (more than ½ of 1 percent of the total assets at the previous measurement date).

(Source: Amended by emergency rulemaking at 27 Ill. Reg. 16043, effective September 29, 2003, for a maximum of 150 days)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF CORRECTIONS TO NOTICE ONLY

- 1) Heading of the Part: Professional Counselor and Clinical Professional Counselor Licensing Act
- 2) Code Citation: 68 Ill. Adm. Code 1375
- 3) Date Adoption Published in Illinois Register: October 3, 2003, at 27 Ill. Reg. 15483
- 4) The Information being corrected is as follows: In No.11, “Difference(s) between proposal and final version”, it should have been noted that the effective date for curriculum changes contained in Sections 1375.30(a)(3), 1375.50(c), 1375.70(a)(2) and 1375.160(a)(3) has been delayed from January 1, 2004 to January 1, 2005.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SCHEDULED MEETING:

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
October 14, 2003

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Register* submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting and items from the list can be postponed to future meetings.

If members of the public wish to express their views with respect to a rulemaking, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@legis.state.il.us
Phone: 217/785-2254*

RULEMAKINGS CURRENTLY BEFORE JCAR**PROPOSED RULEMAKINGS**Carnival-Amusement Safety Board

1. Carnival and Amusement Ride Inspection Law (56 Ill. Adm. Code 6000)
 - First Notice Published: 27 Ill. Reg. 12219 – 8/1/03
 - Expiration of Second Notice: 11/6/03

Central Management Services

2. Pay Plan (80 Ill. Adm. Code 310)
 - First Notice Published: 27 Ill. Reg. 8570 – 5/30/03
 - Expiration of Second Notice: 10/22/03

JOINT COMMITTEE ON ADMINISTRATIVE RULES

3. Travel (80 Ill. Adm. Code 2800)
 - First Notice Published: 27 Ill. Reg. 10148 – 7/11/03
 - Expiration of Second Notice: 10/31/03

Children and Family Services

4. Services Delivered by the Department (89 Ill. Adm. Code 302)
 - First Notice Published: 27 Ill. Reg. 1804 – 2/7/03
 - Expiration of Second Notice: 11/10/03

Commerce Commission

5. Standards of Service for Local Exchange Telecommunication Carriers (83 Ill. Adm. Code 730)
 - First Notice Published: 26 Ill. Reg. 16652 – 11/15/02
 - Expiration of Second Notice: 11/17/03
6. Customer Credits (83 Ill. Adm. Code 732)
 - First Notice Published: 27 Ill. Reg. 9685 – 7/7/03
 - Expiration of Second Notice: 10/26/03

Education

7. Certification (23 Ill. Adm. Code 25)
 - First Notice Published: 27 Ill. Reg. 10150 – 7/11/03
 - Expiration of Second Notice: 11/2/03

Human Services

8. Child Care (89 Ill. Adm. Code 50)
 - First Notice Published: 27 Ill. Reg. 10176 – 7/11/03
 - Expiration of Second Notice: 11/7/03
9. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
 - First Notice Published: 27 Ill. Reg. 9360 – 6/20/03
 - Expiration of Second Notice: 11/7/03
10. General Assistance (89 Ill. Adm. Code 114)
 - First Notice Published: 27 Ill. Reg. 9377 – 6/20/03
 - Expiration of Second Notice: 11/7/03
11. Food Stamps (89 Ill. Adm. Code 121)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

- First Notice Published: 27 Ill. Reg. 9389 – 6/20/03
- Expiration of Second Notice: 11/7/03

12. Public Use of DHS Facilities (89 Ill. Adm. Code 546)
- First Notice Published: 27 Ill. Reg. 9773 – 7/7/03
 - Expiration of Second Notice: 11/2/03

Natural Resources

13. The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710)
- First Notice Published: 27 Ill. Reg. 12235 – 8/1/03
 - Expiration of Second Notice: 11/2/03

Pollution Control Board

14. Permits (35 Ill. Adm. Code 602)
- First Notice Published: 27 Ill. Reg. 9895 – 7/7/03
 - Expiration of Second Notice: 10/26/03

Public Aid

15. Reimbursement for Nursing Costs for Geriatric Facilities (89 Ill. Adm. Code 147)
- First Notice Published: 27 Ill. Reg. 8658 – 5/30/03
 - Expiration of Second Notice: 11/9/03

Public Health

16. Community-Based Residential Rehabilitation Center Demonstration Program Code (77 Ill. Adm. Code 220)
- First Notice Published: 27 Ill. Reg. 7591 – 5/2/03
 - Expiration of Second Notice: 10/17/03

Secretary of State

17. Public Library Construction Grants (23 Ill. Adm. Code 3060)
- First Notice Published: 27 Ill. Reg. 10681 – 7/18/03
 - Expiration of Second Notice: 10/23/03

EMERGENCY AND PEREMPTORY RULEMAKINGSAgriculture

JOINT COMMITTEE ON ADMINISTRATIVE RULES

18. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125) (Emergency)
-Notice Published: 27 Ill. Reg. 14197 – 8/29/03
19. Meat and Poultry Inspection Act (8 Ill. Adm. Code 125) (Peremptory)
-Notice Published: 27 Ill. Reg. 15172 – 9/26/03

Banks and Real Estate

20. Real Estate Appraiser Licensing (68 Ill. Adm. Code 1455) (Emergency)
-Notice Published: 27 Ill. Reg. 14653 – 9/12/03

Commerce Commission

21. Procedures for Gas, Electric, Water and Sanitary Sewer Utilities Governing Eligibility for Service, Deposits, Payment Practices and Discontinuance of Service (83 Ill. Adm. Code 280) (Emergency)
-Notice Published: 27 Ill. Reg. 14955 – 9/26/03

Commerce and Economic Opportunity

22. Low Income Home Energy Assistance Program (47 Ill. Adm. Code 100) (Emergency)
-Notice Published: 27 Ill. Reg. 14838 – 9/19/03

Human Services

23. Food Stamps (89 Ill. Adm. Code 121) (Peremptory)
-Notice Published: 27 Ill. Reg. 15604 – 10/3/03

Labor Relations Board

24. General Procedures (80 Ill. Adm. Code 1200) (Emergency)
-Notice Published: 27 Ill. Reg. 15557 – 10/3/03
25. Representation Proceedings (80 Ill. Adm. Code 1210) (Emergency)
-Notice Published: 27 Ill. Reg. 15563 – 10/3/03

Public Health

26. Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300) (Emergency)
-Notice Published: 27 Ill. Reg. 14204 – 8/29/03

JOINT COMMITTEE ON ADMINISTRATIVE RULES

27. Sheltered Care Facilities Code (77 Ill. Adm. Code 330) (Emergency)
-Notice Published: 27 Ill. Reg. 14218 – 8/29/03
28. Illinois Veterans' Homes Code (77 Ill. Adm. Code 340) (Emergency)
-Notice Published: 27 Ill. Reg. 14230 – 8/29/03
29. Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350) (Emergency)
-Notice Published: 27 Ill. Reg. 14237 – 8/29/03
30. Long-Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390) (Emergency)
-Notice Published: 27 Ill. Reg. 14250 – 8/29/03

Revenue

31. Amnesty Regulations (86 Ill. Adm. Code 521) (Emergency)
-Notice Published: 27 Ill. Reg. 15161 – 9/26/03

Secretary of State

32. Illinois Safety Responsibility Law (92 Ill. Adm. Code 1070) (Emergency)
-Notice Published: 27 Ill. Reg. 14361 – 9/5/03

State Fire Marshal

33. Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120) (Emergency)
-Notice Published: 27 Ill. Reg. 14855 – 9/19/03

Student Assistance Commission

34. Illinois Future Teacher Corps (IFTC) Program (23 Ill. Adm. Code 2764) (Emergency)
-Notice Published: 27 Ill. Reg. 14860 – 9/19/03

EXEMPT RULEMAKINGSPollution Control Board

35. Sewer Discharge Criteria (35 Ill. Adm. Code 307)
-Proposed Date: 27 Ill. Reg. 9835 - 7/7/03
-Adopted Date: 9/26/03
36. Pretreatment Programs (35 Ill. Adm. Code 310)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

-Proposed Date: 27 Ill. Reg. 9875 - 7/7/03

-Adopted Date: 9/26/03

AGENCY RESPONSES

Central Management Services

37. Travel (80 Ill. Adm. Code 2800; 27 Ill. Reg 10476)

Public Aid

38. Medical Payment (89 Ill. Adm. Code 140; 27 Ill. Reg. 4470)

State Fire Marshal

39. Petroleum Equipment Contactors Licensing (41 Ill. Adm. Code 172; 27 Ill. Reg. 9740)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of September 23, 2003 through September 29, 2003 and have been scheduled for review by the Committee at its October 14, 2003 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
11/6/03	<u>Carnival-Amusement Safety Board</u> , Carnival and Amusement Ride Inspection Law (56 Ill. Adm. Code 6000)	8/1/03 27 Ill. Reg. 12219	10/14/03
11/7/03	<u>Department of Human Services</u> , Child Care (89 Ill. Adm. Code 50)	7/11/03 27 Ill. Reg. 10176	10/14/03
11/7/03	<u>Department of Human Services</u> , Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)	6/20/03 27 Ill. Reg. 9360	10/14/03
11/7/03	<u>Department of Human Services</u> , General Assistance (89 Ill. Adm. Code 114)	6/20/03 27 Ill. Reg. 9377	10/14/03
11/7/03	<u>Department of Human Services</u> , Food Stamps (89 Ill. Adm. Code 121)	6/20/03 27 Ill. Reg. 9389	10/14/03
11/9/03	<u>Department of Public Aid</u> , Reimbursement for Nursing Costs for Geriatric Facilities (89 Ill. Adm. Code 147)	5/30/03 27 Ill. Reg. 8658	10/14/03

PROCLAMATIONS

2003-242**October 2003 as National SIDS Awareness Month**

- WHEREAS, Sudden Infant Death Syndrome, more commonly referred to as SIDS, claims the lives of approximately 2,500 babies in the United States each year; and*
- WHEREAS, First Candle/SIDS Alliance is an organization that exists to promote infant health and survival through advocacy, education, and research between the prenatal period and two years of age; and*
- WHEREAS, despite First Candle/SIDS Alliance's "Back To Sleep" campaign, which reduced SIDS rates by 42%, SIDS remains the number one cause of death for infants one month of age and older; and*
- WHEREAS, in October 2003, Jewel Osco will partner with First Candle/SIDS Alliance to bring awareness, provide information, and educate new mothers to help prevent SIDS, by providing Jewel Osco customers with information about SIDS and the opportunity to speak with volunteers about various ways of preventing SIDS:*

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2003 as **NATIONAL SIDS AWARENESS MONTH** in Illinois, and encourage all citizens to be cognizant of the various dangers that cause this tragic occurrence.*

Issued by the Governor September 20, 2003

Filed by the Secretary of State September 23, 2003

2003-243**National Hunting And Fishing Day**

- WHEREAS, since 1971, the fourth Saturday of September has been recognized across the nation as National Hunting and Fishing Day; and*
- WHEREAS, a major goal of National Hunting and Fishing Day is to promote awareness of the important role that outdoorsmen and outdoorswomen play in conservation and improving our natural resources; and*
- WHEREAS, to date, outdoorsmen and outdoorswomen have contributed approximately \$23 billion in the form of licensing fees, contributions and taxes, as well as countless numbers of volunteer hours, towards wildlife conservation programs; and*

PROCLAMATIONS

WHEREAS, on Saturday, September 27, 2003, thousands of individuals will commemorate National Hunting and Fishing Day in both northern and southern Illinois; and

WHEREAS, southern Illinois' commemoration of this day has been the largest in the country in recent years, attracting over 35,000 people last year; and

WHEREAS, both celebrations are family-oriented, offering numerous hands-on activities for all to enjoy:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 27, 2003 as **NATIONAL HUNTING AND FISHING DAY** in Illinois, and encourage all citizens to recognize the positive impact that outdoorsmen and outdoorswomen have had on this state.*

Issued by the Governor September 20, 2003

Filed by the Secretary of State September 23, 2003

2003-244**October 20-24, 2003 as National Business Women's Week**

WHEREAS, working women currently account for 66 million members of the nation's work force, while women-owned businesses account for 28 percent of all U.S. businesses and generate \$1.15 trillion in sales; and

WHEREAS, Business and Professional Women/USA, a group that exists to achieve equity for all women in the workplace through advocacy, education and information, was founded in 1919 and currently serves over 30,000 members through more than 1,600 local organizations across the nation; and

WHEREAS, Business and Professional Women/IL has over 1,100 members in 60 local organizations across the state; and

WHEREAS, since 1928, Business and Professional Women/USA has sponsored National Business Women's Week for the purposes of recognizing and honoring the achievements of working women throughout history; and

WHEREAS, this year marks the 75th anniversary of Business Women's Week, a truly remarkable milestone for an event that has witnessed numerous achievements in women's rights throughout its existence:

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*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 20 – 24, 2003 as **NATIONAL BUSINESS WOMEN'S WEEK** in Illinois, and encourage all citizens to work towards equality for men and women in the workplace.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-245**October 29, 2003 as Paralegal/Illinois Paralegal Association Day**

WHEREAS, the Illinois Paralegal Association, one of the oldest and largest statewide organizations representing paralegals, will be celebrating its 31st Anniversary this year; and

WHEREAS, paralegals have made significant strides towards the recognition of their profession as an integral part of the legal community through their diligent work in ensuring the continuous improvement to the practice of law; and

WHEREAS, paralegals perform numerous legal tasks under the direct supervision of attorneys, resulting in greater access to legal services and a reduction of costs to the public; and

WHEREAS, in order to meet the increasingly complex legal needs of our country, the skilled work of paralegals will continue to be a vital part of the legal profession:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 29, 2003 as **PARALEGAL/ILLINOIS PARALEGAL ASSOCIATION DAY** in Illinois.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-246**November 2003 as Lung Cancer Awareness Month**

WHEREAS, the Alliance for Lung Cancer Advocacy, Support and Education, the nation's only organization solely dedicated to helping build lung cancer awareness, has declared November as Lung Cancer Awareness Month; and

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WHEREAS, since its inception, Lung Cancer Awareness Month, about to begin its fourth year, has been endorsed by over twenty major health organizations, numerous states and individuals across the country, as well as local, state and national groups; and

WHEREAS, lung cancer, the leading cause of death linked to cancer in the United States, will claim the lives of more than 150,000 Americans this year and, in addition, 17,000 will be diagnosed with the disease despite having never smoked a cigarette; and

WHEREAS, the devastating effects of lung cancer on both victims and their families can be avoided with early detection, which increases the rate of survival of lung cancer to almost 85 percent and is achieved largely through education:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 2003 as **LUNG CANCER AWARENESS MONTH** in Illinois, and encourage all citizens to educate themselves and others about the causes, symptoms and effects of this disease.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-247**October 19-25, 2003 as Principals' Week**

WHEREAS, as the recognized educational leader of a school, the Principal has a vision and sets goals for the institution, the faculty, and the students; and

WHEREAS, the Illinois Principals Association, representing over 4,000 members, is an organization whose mission is to promote and support the improvement of education through effective educational leadership; and

WHEREAS, the Illinois Principals Association firmly believes that the education of our youth is the highest priority of our nation; and

WHEREAS, the Illinois Principals Association, affiliated with the National Association of Elementary School Principals and the National Association of Secondary School Principals, will host their annual conference from October 19 – 21, 2003:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 19 – 25, 2003 to be **PRINCIPALS' WEEK** and October 24, 2003 as **PRINCIPAL***

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APPRECIATION DAY in Illinois, and encourage all citizens, especially students and their families, to recognize the hard work and dedication put forth by their principals every day.

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-248**October 19-25, 2003 as Illinois' Safe Schools Week**

WHEREAS, incidents of school violence such as those which occurred at Columbine High School in Littleton, Colorado on April 20, 1999, have drawn national attention to the importance of preventing violence in our schools; and

WHEREAS, the National School Safety Center (NSSC) serves as an advocate for safe, secure and peaceful schools worldwide, and as a catalyst for the prevention of school crime and violence; and

WHEREAS, the NSSC has reported that since the 1999-2000 school year, there have been over 30 school associated deaths in the United States, and over the past ten years, there have been at least ten such deaths in Illinois; and

WHEREAS, each year, the NSSC observes AMERICA'S SAFE SCHOOLS WEEK during the third full week of October for the purposes of ensuring that our nation's schools are safe, secure and productive:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 19 – 25, 2003 as **ILLINOIS' SAFE SCHOOLS WEEK** in Illinois, and encourage all citizens to be cognizant of the positive steps that have been taken towards the elimination of violence in our schools.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-249**October 12-18, 2003 as Earth Science Week**

WHEREAS, the American Geological Institute is a nonprofit federation of 40 scientific and professional associations that represent more than 100,000 geologists, geophysicists, and other earth scientists; and

WHEREAS, in 1998, the American Geological Institute launched Earth Science Week to help celebrate the Institution's 50th anniversary, to give students and

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citizens new opportunities to discover Earth sciences, to encourage stewardship of the Earth, and to highlight the important contributions that Earth and environmental sciences make to society; and

WHEREAS, this year marks the 6th Anniversary of Earth Science Week and the American Geological Institute will celebrate with the theme “Eyes on Planet Earth: Monitoring Our Changing World;” and

WHEREAS, the “Eyes on Planet Earth” theme focuses on the important work performed every day by geoscientists throughout the world, who use observations and measurements from instruments in space, under water, and on the ground to constantly evaluate the Earth’s present state, make predictions about how it will change, and assess the effects of the changes on life and society; and

WHEREAS, this year’s celebration will feature four national contests designed to inspire all citizens to get involved in Earth Science Week:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 12 – 18, 2003 as **EARTH SCIENCE WEEK** in Illinois.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-250**October 13-19, 2003 as National Brachial Plexus Week**

WHEREAS, the brachial plexus is a network of nerves that conducts signals from the spine to the shoulder, arm, and hand; and

WHEREAS, brachial plexus injuries, caused by damage to those nerves, can occur at anytime; and

WHEREAS, brachial plexus injuries often occur during the birthing process, affecting between two and five of every 1,000 newborns, and

WHEREAS, more children suffer from brachial plexus injuries sustained at birth than Down Syndrome or Muscular Dystrophy, yet information on this disability is not as readily obtained as the aforementioned disorders; and

WHEREAS, the Chicago Brachial Plexus Injury Support Group, Inc., a group dedicated to educating and promoting awareness with parents, teachers,

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physicians, and the community about the treatment and prevention of brachial plexus injury, is planning a week of activities to promote awareness of the disorder:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 13 – October 19, 2003 as **NATIONAL BRACHIAL PLEXUS WEEK** in Illinois, and ask Illinois citizens to take this opportunity to obtain information on brachial plexus injuries and how they can be prevented.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-251**October 5-11, 2003 as School Bus Safety Week**

WHEREAS, there are almost 24 million students nationwide who use a school bus for their transportation to and from school, while in Illinois, there are approximately one million students who use this form of transportation; and

WHEREAS, the National Highway Traffic Safety Administration reports that there are between 8,500 and 12,000 school bus accidents annually, with 4 percent of those accidents resulting in serious injuries to children, and an average of 11 of those children fatally injured; and

WHEREAS, *the National Highway Traffic Safety Administration additionally reports that 15 children are fatally injured each year as pedestrians in the loading and unloading zones around school buses; and*

WHEREAS, *School Bus Safety Week initiatives will increase drivers' awareness of the safety issues associated with school buses, and increase student alertness so that they are more conscious of drivers in their vicinity:*

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 5 – 11, 2003 as **SCHOOL BUS SAFETY WEEK** in Illinois, and encourage all citizens to be extra vigilant around school buses now and throughout the year.*

Issued by the Governor August 25, 2003

Filed by the Secretary of State September 24, 2003

2003-252**October 2003 as National Physical Therapy Month**

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WHEREAS, physical inactivity contributes to 300,000 preventable deaths each year in the United States, but nearly 40 percent of American adults report they are not physically active at all; and

WHEREAS, well over 50 percent of adults in the United States are obese, while the number of overweight children and teens have doubled in the past two decades; and

WHEREAS, by achieving a healthy and active lifestyle at a young age, the risks for osteoporosis, obesity, heart disease, and Type 2 Diabetes are greatly reduced as you get older; and

WHEREAS, physical therapists remind parents and educators that sustained physical activity is critical to children achieving cardiovascular fitness, as well as building bone mass and strength; and

WHEREAS, physical therapists stand behind the recommendations of the U.S. Surgeon General and Centers for Disease Control that children need 60 minutes of moderate physical exercise most days and that children from pre-kindergarten to twelfth grade should participate in physical education classes every day in school; and

WHEREAS, each October, physical therapists across the state take time to celebrate their accomplishments and to educate the public about their profession:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2003 as **NATIONAL PHYSICAL THERAPY MONTH** in Illinois, and encourage all citizens to recognize the benefits of achieving a healthy, active lifestyle at an early age.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-253

October 2, 2003 as Mahatma Gandhi Day

WHEREAS, Mahatma Gandhi was able to secure India's independence from Great Britain through an entirely non-violent campaign that has inspired generations; and

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WHEREAS, Mahatma Gandhi's message of non-violence continued after independence as he fasted to the point of near death to end the violent conflicts and encourage religious tolerance between the Hindus and the Muslims; and

WHEREAS, the non-violent methods used by Mahatma Gandhi have profoundly influenced some of the world's greatest leaders, including America's most influential civil rights leader, Martin Luther King, Jr.; and

WHEREAS, Mahatma Gandhi was born on October 2, 1869, and that day has traditionally been recognized in India as Mahatma Gandhi Day:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 2, 2003 as **MAHATMA GANDHI DAY** in Illinois, and encourage all citizens to recognize the inherent worth in his non-violent message.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-254**October 6-10, 2003 as International Hispanic/Latino Mental Health Week**

WHEREAS, according to the U.S. Census Bureau, the Hispanic population is the largest minority group in the U.S, accounting for 38.8 million citizens nationwide and 1.5 million in Illinois; and

WHEREAS, in response to a lack of resources and information available for Spanish speaking residents suffering from mental health problems and substance abuse, an International Hispanic/Latino Mental Health Week campaign was created in 1993; and

WHEREAS, among other things, the campaign strives to increase awareness of the mental health and substance abuse treatment needs of Hispanics/Latinos, to increase access to bicultural and bilingual treatment of Hispanics/Latinos, and to increase the competence in the treatment of Hispanics/Latinos through lectures and workshops; and

WHEREAS, disparities in mental health care for Hispanics/Latinos are often caused by language differences, racism, and discrimination, and, in addition, more than 50 percent of the Hispanic/Latino population in Illinois is uninsured and in need of information on programs and activities that this campaign will address:

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*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 6 – 10, 2003 as **INTERNATIONAL HISPANIC/LATINO MENTAL HEALTH WEEK** in Illinois, and encourage all citizens to recognize the important work of the campaign to improve the overall quality of mental health services to the Hispanic/Latino community.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-255**November 18, 2003 as Prematurity Awareness Day**

WHEREAS, the national office of the March of Dimes, an organization dedicated to funding cutting edge research and innovative programs to save babies from birth defects, premature birth and low birth weight, has declared Tuesday, November 18, 2003 to be Prematurity Awareness Day; and

WHEREAS, there are currently more than 20,000 preterm births in Illinois in an average year, which constitutes more than 10 percent of all babies born in our state and an increase of nearly 7 percent in the last ten years; and

WHEREAS, preterm birth has become the leading cause of death for children in their first year of life in the United States; and

WHEREAS, the March of Dimes launched a \$75 million, five-year campaign in January 2003, aimed at increasing awareness and reducing the number of preterm births by 15 percent:

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 18, 2003 as **PREMATURITY AWARENESS DAY** in Illinois.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-256**November 2003 as School Psychologists Month**

WHEREAS, school psychologists have specialized training in both psychology and education and team with educators, parents and other mental health professionals to ensure that every child learns in a safe, healthy and supportive environment; and

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- WHEREAS, school psychologists have demonstrated their ability to meet the varying needs of students through a wide range of approaches such as consultation, assessment, intervention, prevention and education; and*
- WHEREAS, in addition to assisting students on a day-to-day basis, school psychologists also facilitate research to generate new knowledge about learning and behavior and evaluate the effectiveness of current academic programs; and*
- WHEREAS, the Illinois School Psychologists Association, an affiliate of the National Association of School Psychologists, is a not-for-profit professional association representing school psychologists in the state of Illinois and will be honoring school psychologists throughout the month of November:*

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim November 2003 as **SCHOOL PSYCHOLOGISTS MONTH** in Illinois, and commend school psychologists on their dedication to furthering the education of our children.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-257**October 10, 2003 as Illinois Maternal and Child Health Coalition Day**

- WHEREAS, the Illinois Maternal and Child Health Coalition is a statewide group dedicated to improving the health of women, children and families; and*
- WHEREAS, the activities of the Coalition address and support the fundamental principles of equity, social justice and fair access to care; and*
- WHEREAS, the Coalition has worked to increase the number of children enrolled in KidCare from 35,000 to over 222,000 children and pregnant women through its Covering Kids and Families Illinois Initiative; and*
- WHEREAS, the Coalition has worked to increase the number of school health centers from 35 to 43 through its Illinois Coalition for School Health Centers Project; and*
- WHEREAS, the Coalition has worked to raise the childhood immunization rate from 35 percent to over 70 percent through its Chicago Areas Immunization Campaign Initiative; and*

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WHEREAS, *the Coalition works to educate health care providers and the public about preventing premature and low-birth weight babies through its Prematurity Project; and*

WHEREAS, *October 10, 2003 is the 15th Anniversary Benefit for the Coalition:*

*THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 10, 2003 as **ILLINOIS MATERNAL AND CHILD HEALTH COALITION DAY**, and encourage all citizens to support the efforts of the Coalition as they continue working to improve the quality of life for women, children and families throughout Illinois.*

Issued by the Governor September 23, 2003

Filed by the Secretary of State September 24, 2003

2003-258**September 28, 2003 as Ron Santo Day**

WHEREAS, *Ron Santo made his major-league debut on June 26, 1960, played for the Chicago Cubs from 1960-1973, and for the White Sox in 1974; and*

WHEREAS, *Santo's best overall season was in 1964, when he hit .313, with 30 homeruns, 114 RBI, and a league-leading 13 triples; and*

WHEREAS, *in 1966, Santo enjoyed a 28-game hitting streak, and in 1967, he set a record (since broken) with 393 assists at third base; and*

WHEREAS, *Santo won five Gold Gloves, was selected as a National League All-Star nine times, and cracked 337 home runs during his legendary career with the Cubs; and*

WHEREAS, *Santo is currently in his 14th season as a Chicago Cubs broadcaster on WGN Radio; and*

WHEREAS, *Ron has been bestowed several honors throughout his life and career, including being inducted into the Seattle Hall of Fame, the Italian Hall of Fame, and the Chicago Sports Hall of Fame. In 1992, he was a member of the inaugural Cubs Walk of Fame, and in 1999, he was named to the Cubs All-Century team; and*

WHEREAS, *Ron has suffered from diabetes since the age of 18, and his circulation problems eventually forced the amputation of the lower half of his right leg in 2001, and the lower half of his left leg in 2002; and*

WHEREAS, *Ron is a member of the Board of Directors of the Juvenile Diabetes Research Foundation... his 24th annual Ron Santo Walk for the Cure walk-a-thon raised over \$4 million for diabetes research in 2002; and*

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WHEREAS, in 2002, Ron was named the Juvenile Diabetes Research Foundation's 2002 Person-of-the-Year; and

WHEREAS, on September 28, 2003, with proud baseball fans from across the nation looking on, the Chicago Cubs will honor Ron Santo by retiring the uniform number 10 that he wore during his career:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 28, 2003 as RON SANTO DAY in Illinois, and congratulate Ron and his family on this very special and momentous occasion.

Issued by the Governor September 28, 2003
Filed by the Secretary of State September 24, 2003

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

**NOTICE OF FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987**

Pursuant to Section 4-5(h) of the Residential Mortgage License Act of 1987 ("the Act") [205 ILCS 635/4-5 (h)], notice is hereby given that the Commissioner of the Office of Banks and Real Estate of the State of Illinois has issued a fine of \$1,300 against Marquis Financial & Associates, Inc., License No. 6210 of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective September 3, 2003.