

# 2004

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: State Toll Highway Rules
- 2) Code Citation: 92 Ill. Adm. Code 2520
- 3) Section Number: 2520.403                      Proposed Action:  
Amend
- 4) Statutory Authority: 605 ILCS 10/10(a)
- 5) A complete description of the subjects and issues involved: The proposed rule changes are to reduce speed limits at barrier toll plaza approaches.
- 6) Will this proposed amendment replace any emergency rule currently 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
- 10) Statement of Statewide Policy Objectives: These speed limit changes are being made in the interest of public safety in effort to protect the Tollway's employees and its patrons. The proposed changes do not create or enlarge a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed amendment may submit written comments within 45 days after the publication of this notice in the *Illinois Register* to:

Mr. Thomas Bamonte  
General Counsel  
The Illinois State Toll Highway Authority  
2700 Ogden Avenue  
Downers Grove, Illinois 60515

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

- 12) Initial Regulatory Flexibility Analysis:

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF PROPOSED AMENDMENT

- 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 which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The necessity for this rulemaking was unforeseen.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment published in this issue of the *Illinois Register* on page \_\_\_\_.

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Numbers: 120.80                      Proposed Action: 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: This proposed rulemaking prohibits medical assistance recipients who have been identified by the Department under the Recipient Restriction Program (RRP) from participation in Managed Care Organizations (MCOs). The RRP identifies recipients who unnecessarily utilize medical services. Such persons are then restricted to a Department selected primary care provider and/or primary care pharmacy for a minimum of four full quarters. Since MCO participants are not restricted to specific providers, recipients in MCOs who are selected for restriction under the RRP must be prohibited from enrolling in an MCO, and those who are already enrolled in an MCO must be disenrolled.
- 6) Will this rulemaking 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? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Sections</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
120.14	New Section	May 14, 2004 (28 Ill. Reg. 6962)
120.378	New Section	April 2, 2004 (28 Ill. Reg. 5606)
120.379	Amendment	April 2, 2004 (28 Ill. Reg. 5606)
120.387	Amendment	April 2, 2004 (28 Ill. Reg. 5606)
120.530	New Section	February 27, 2004 (28 Ill. Reg. 3685)
120.540	New Section	April 30, 2004 (28 Ill. Reg. 6573)
- 10) Statement of Statewide Policy Objective: 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

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

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 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: January 2004

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

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES  
CHAPTER I: DEPARTMENT OF PUBLIC AID  
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 120  
MEDICAL ASSISTANCE PROGRAMS

## SUBPART A: GENERAL PROVISIONS

## Section

120.1 Incorporation by Reference

## SUBPART B: ASSISTANCE STANDARDS

## Section

120.10 Eligibility For Medical Assistance  
120.11 MANG(P) Eligibility  
120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women  
120.20 MANG(AABD) Income Standard  
120.30 MANG(C) Income Standard  
120.31 MANG(P) Income Standard  
120.32 KidCare Parent Coverage Waiver Eligibility and Income Standard  
120.40 Exceptions To Use Of MANG Income Standard  
120.50 AMI Income Standard (Repealed)

## SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

## Section

120.60 Cases Other Than Long Term Care, Pregnant Women and Certain Children  
120.61 Cases in Intermediate Care, Skilled Nursing Care and DMHDD –  
MANG(AABD) and All Other Licensed Medical Facilities  
120.62 Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.  
Code 140.643  
120.63 Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings  
120.64 MANG(P) Cases  
120.65 Department of Mental Health and Developmental Disabilities (DMHDD)  
Licensed Community – Integrated Living Arrangements

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

## SUBPART D: MEDICARE PREMIUMS

## Section

- 120.70 Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
- 120.72 Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
- 120.73 Eligibility for Medicaid Payment of Medicare Part B Premiums as a Specified Low-Income Medicare Beneficiary (SLIB)
- 120.74 Qualified Medicare Beneficiary (QMB) Income Standard
- 120.75 Specified Low-Income Medicare Beneficiary (SLIB) Income Standards
- 120.76 Hospital Insurance Benefits (HIB)

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

## Section

- 120.80 Recipient Restriction Program

## SUBPART F: MIGRANT MEDICAL PROGRAM

## Section

- 120.90 Migrant Medical Program (Repealed)
- 120.91 Income Standards (Repealed)

## SUBPART G: AID TO THE MEDICALLY INDIGENT

## Section

- 120.200 Elimination Of Aid To The Medically Indigent
- 120.208 Client Cooperation (Repealed)
- 120.210 Citizenship (Repealed)
- 120.211 Residence (Repealed)
- 120.212 Age (Repealed)
- 120.215 Relationship (Repealed)
- 120.216 Living Arrangement (Repealed)
- 120.217 Supplemental Payments (Repealed)
- 120.218 Institutional Status (Repealed)
- 120.224 Foster Care Program (Repealed)
- 120.225 Social Security Numbers (Repealed)
- 120.230 Unearned Income (Repealed)
- 120.235 Exempt Unearned Income (Repealed)
- 120.236 Education Benefits (Repealed)
- 120.240 Unearned Income In-Kind (Repealed)

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## NOTICE OF PROPOSED AMENDMENT

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120.250	Lump Sum Payments and Income Tax Refunds (Repealed)
120.255	Protected Income (Repealed)
120.260	Earned Income (Repealed)
120.261	Budgeting Earned Income (Repealed)
120.262	Exempt Earned Income (Repealed)
120.270	Recognized Employment Expenses (Repealed)
120.271	Income From Work/Study/Training Program (Repealed)
120.272	Earned Income From Self-Employment (Repealed)
120.273	Earned Income From Roomer and Boarder (Repealed)
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120.283	Deferral of Consideration of Assets (Repealed)
120.284	Spend-down of Assets (AMI) (Repealed)
120.285	Property Transfers (Repealed)
120.290	Persons Who May Be Included in the Assistance Unit (Repealed)
120.295	Payment Levels for AMI (Repealed)

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- 120.386 Property Transfers Occurring On or Before August 10, 1993

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- 120.387 Property Transfers Occurring On or After August 11, 1993  
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120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project  
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AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Filed effective December 30, 1977; preemptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; preemptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; preemptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; preemptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; preemptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985;

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective

## DEPARTMENT OF PUBLIC AID

## NOTICE OF PROPOSED AMENDMENT

September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

## DEPARTMENT OF PUBLIC AID

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**Section 120.80 Recipient Restriction Program**

- a) The Recipient Restriction Program (RRP) shall identify recipients who unnecessarily utilize medical services. When the Department determines, on the basis of statistical norms and the medical ~~judgment~~~~judgement~~ of physicians and/or pharmacologists, that a Medicaid recipient has received medical services that are not medically necessary based on the recipient's diagnoses and/or medical condition or conditions or in such a manner as to constitute an abuse of medical privileges, the decision to restrict a recipient to a Primary Care Provider and/or Primary Care Pharmacy will be made. RRP applies to all medical assistance programs administered by the Department.
- b) Primary and Secondary Sources of Recipient Identification
  - 1) The primary source of recipient identification shall be the Surveillance and Utilization Review Subsystem (SURS) of the Medicaid Management Information System (MMIS). On a quarterly basis, SURS analyzes the entire Medicaid population, determines medical usage per recipient and will identify recipients with usages in excess of the quarterly established norm of recipients in the same category of assistance and like demographic areas.
  - 2) Secondary sources of identification shall be incoming referrals, such as referrals from medical providers, law enforcement officials or members of the general public. All referrals shall be reviewed and analyzed. Recipients found to have loaned or altered their medical cards for the purpose of obtaining medical benefits for which they or other persons are not legitimately entitled; falsely represented medical coverage; found in possession of blank or forged prescription pads; or who knowingly assisted providers in rendering excessive services or defrauding the Medical Assistance Program shall be restricted.
- c) Once a recipient is identified, medical usage based on diagnoses and/or medical condition for the nine months preceding identification shall be reviewed. Medical Assistance Consultants, licensed physicians and/or pharmacologists will determine if the recipient should be restricted due to the medical services received being not medically necessary. The Department shall initially designate, without regard to choice, a Primary Care Provider and/or Primary Care Pharmacy ~~or Health Maintenance Organization (HMO)~~. The Department's designation shall

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remain in effect for the entire period of the restriction unless the recipient changes this designation pursuant to subsection (f) of this Section. Each recipient to be restricted will be notified in writing. This notice will also contain a statement relating to the medical necessity of services consistent with the findings of the professional consultants; a statement advising the recipient of his or her right to appeal; and a toll-free number to call for information.

- d) Department Designated Primary Care Provider and/or Primary Care Pharmacy ~~or HMO~~
- 1) The Department will select one provider and/or one pharmacy ~~or HMO~~ in reasonable geographical proximity to the recipient's home to serve as the recipient's Primary Care Provider and/or Primary Care Pharmacy ~~or HMO~~.
  - 2) The primary care physician shall be a medical doctor or doctor of osteopathy, licensed to practice medicine in all its branches, or a clinic enrolled to provide primary care; a properly registered Medicaid provider in good standing with the Department per the physician registration; enrolled to provide physician services with the Department; and willing to serve as the primary care provider.
- e) Types of Services Provided or Authorized
- 1) Once restricted, the Recipient Eligibility Verification (REV) system shall display information regarding the Primary Care Provider and/or Primary Care Pharmacy ~~or HMO~~. REV will also display information that emergency services will not be restricted. If restricted to a Primary Care Provider, the Primary Care Provider must provide or authorize the following non-emergency ambulatory care services for the restricted recipient before the Department will render payment for the services:
    - A) Clinic
    - B) Laboratory
    - C) Outpatient Hospital
    - D) Pharmacy
    - E) Physician

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- 2) The Primary Care Pharmacy ~~or HMO~~ must supply all prescriptions. Authorization to obtain non-emergency prescriptions from any other source will only be approved in such instances when a specific item is not part of the Primary Care Pharmacy's ~~or HMO's~~ inventory and cannot be acquired through the Primary Care Pharmacy ~~or HMO~~.
  - 3) Other covered services may be provided by a qualified provider in the Department's Medical Program.
- f) Changing the Designated Primary Care Provider and/or Primary Care Pharmacy ~~or HMO~~
- 1) The recipient may change the Department's initial designation of a Primary Care Provider ~~or~~; Primary Care Pharmacy ~~or Health Maintenance Organization~~ once without cause. The request for change must be submitted to the Department in writing. The Department, by notice, shall inform the recipient how to request a change in Primary Care Provider ~~or~~; Primary Care Pharmacy ~~or HMO~~.
  - 2) The recipient may change his or her designated provider for cause if one of the following circumstances is verified:
    - A) Change of recipient's residence from the geographic area of the Primary Care Provider ~~or~~; Primary Care Pharmacy ~~or HMO~~;
    - B) Change in the recipient's medical condition which the Primary Care Provider is unable to treat or refer to another provider;
    - C) Death of the Primary Care Provider;
    - D) Disenrollment of the Primary Care Provider and/or Primary Care Pharmacy ~~or HMO~~ from the Medical Assistance Program; and
    - E) Notice from the Primary Care Provider and/or Primary Care Pharmacy ~~or HMO~~ that they will no longer serve as the Primary Care Provider.
  - 3) The Department will notify the recipient in writing if the Primary Care Provider and/or Primary Care Pharmacy ~~or HMO~~ has disenrolled as a

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provider of Medicaid services or if the provider notifies the Department of their unwillingness to continue to serve as the recipient's Primary Care Provider.

- 4) Changes in designated Primary Care Provider and/or Primary Care Pharmacy ~~or HMO~~ shall be processed effective with the earliest possible date reflected on the eligibility file.
- 5) For the provider ~~or~~ pharmacy ~~or HMO~~, the Department will determine if the requested change meets the criteria in subsection (d) of this Section.

## g) Length of Restriction

- 1) Once recipients are restricted they remain in restriction for a minimum of four full quarters. If restricted recipients transfer to a different assistance unit, the restriction will be processed to follow the recipient. If a restricted recipient becomes inactive and is subsequently reactivated, the restriction will be reactivated until such time as four full quarters have elapsed.
- 2) Reevaluation of the Recipient's Medical Usage
  - A) When a recipient has had his or her medical card restricted for four full quarters, the Department shall reevaluate the recipient's medical usage to determine whether the recipient continues to receive medical services that are not medically necessary. The Department shall evaluate each case not later than eighteen months after the effective date of restriction. If the recipient is still receiving medical services that are not medically necessary, the restriction shall be continued for an additional period of eight full quarters. This additional period of eight full quarters shall begin with the first month immediately following the end of the first four full quarter restriction period. If the recipient no longer is receiving medical services that are not medically necessary, the restriction shall be discontinued. A "quarter", for purposes of this Section, shall be defined as one of the following three-month periods of time: January-March, April-June, July-September or October-December.
  - B) If necessary to determine if medical services that are not medically necessary are still being received, the Department shall obtain a

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complete copy of the recipient's medical record from the Primary Care Provider. The medical record will be reviewed by the Medical Assistant Consultant with a final determination by a licensed physician and/or pharmacologist to determine if the medical services received were medically necessary.

- C) If the decision is to release the recipient from restriction, such release will be processed effective with the earliest possible date reflected on the eligibility file.
  - D) If the services are determined to be medically unnecessary, the recipient will be notified in writing of the continued restriction. The Department may designate a different Primary Care Physician ~~and/or; Primary Care Pharmacy-or Health Maintenance Organization.~~ The criteria in subsection (d) of this Section shall apply. This notice will also contain a statement relating to the medical necessity of services consistent with the findings of the professional consultants; a statement advising the recipient of ~~his or her~~ right to appeal; and a toll-free number to call for information.
- 3) If the restriction is continued, a review will be conducted in accordance with subsection (g)(2) of this Section, subsequent to the additional eight quarter period.
  - 4) A recipient who has been restricted under this Section, is released and then is restricted under this Section a subsequent time, shall be restricted for a period of eight full quarters. Subsequent to this eight quarter period, a review will be conducted in accordance with subsection (g)(2) of this Section.
- h) Recipients have the right to appeal inclusion in the program. (See 89 Ill. Adm. Code 102.80 ~~through~~ 102.84.)
  - i) Any recipient in the RRP is not permitted to enroll in a Managed Care Organization (MCO).
  - j) Any recipient designated by the Department for restriction in the RRP who is, at that time, enrolled in an MCO will be disenrolled from the MCO upon the RRP designation.

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NOTICE OF PROPOSED AMENDMENT

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Real Estate Transfer Tax
- 2) Code Citation: 86 Ill. Adm. Code 120
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
120.5	Amendment
120.10	Amendment
120.20	Amendment
- 4) Statutory Authority: 35 ILCS 200/Art. 31 as amended by Public Act 93-0657 (effective June 1, 2004)
- 5) A Complete Description of the Subjects and Issues Involved:

## Section 120.5:

Language is added to explain changes in the reporting requirements for taxable and exempt transactions plus the use of the new Form PTAX-203-B under the Real Estate Transfer Tax Law as a result of Public Act 93-0657. The State transfer tax will now be imposed on the privilege of transferring either title to real estate or a beneficial interest in real property located in Illinois, regardless of whether a document is recorded. Payment will be required at the time of recordation or within three business days after a transfer is effected.

## Section 120.10:

Obsolete or redundant information is stricken and language is added to clarify procedures for revenue stamp sales to counties.

## Section 120.20:

Language is added to provide legal and technical interpretations regarding taxable and exempt transactions. Information is included to explain the new concept relating to the aggregation of related transfers for the purpose of determining whether there has been a transfer of a controlling interest in a real estate entity (a type of beneficial interest transfer now taxable under the Real Estate Transfer Tax Law as a result of Public Act 93-0657). A series of examples is provided addressing common issues relating to the reporting of full actual consideration for real estate or a beneficial interest in real property and calculating the applicable state transfer tax.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 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 incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: 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 rulemaking may submit them in writing by no later than 45 days after publication of this notice to:
- Karen Alice Kloppe  
Associate Counsel – Property Taxes  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-2844
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any person or entity that transfers title to real estate or a beneficial interest in real property located in Illinois
- B) Reporting, bookkeeping or other procedures required for compliance: A taxpayer must complete a transfer declaration and any required supplemental information and submit it to the recorder in the county where the property is located.
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was summarized, in part, on the Regulatory Agenda of the Department for January 2004.

DEPARTMENT OF REVENUE

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The full text of the Proposed Amendments is identical to the text of the Emergency Amendments on page \_\_\_\_\_ of this issue of the *Illinois Register*.

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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Community Care Program
- 2) Code Citation: 89 Ill. Adm. Code 240
- 3) Section Numbers:                      Adopted Action:  
240.810                                      Amendment  
240.920                                      Amendment  
240.950                                      Amendmment
- 4) Statutory Authority: 20 ILCS 105/4.01(11) and 4.02
- 5) Effective Date of Amendments: May 21, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 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 the Illinois Register: January 9, 2004, 28 Ill. Reg. 470
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version: The Department mistakenly proposed language in this rulemaking that had been adopted in a previous rulemaking, effective November 25, 2002. This language appears in this rulemaking, but it is not underlined because it is not new text being added by this adopted rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes; only minor clerical, nonsubstantive changes have been made.
- 13) Will these amendments replace an emergency rule currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The rules were amended in response to the Governor's directive that the asset level for eligibility in the Community Care Program be revised from \$10,000 to \$12,500. The maximum allowable asset level of \$10,000 had not

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been adjusted since the inception of the Community Care Program. The adjustment to \$12,500 will allow more individuals who are not able to afford private care to be eligible for in-home services.

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

Heidi E. Dodd  
Department on Aging  
421 E. Capitol Avenue  
Springfield, IL 62701

(217)785-3346

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

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TITLE 89: SOCIAL SERVICES  
CHAPTER II: DEPARTMENT ON AGING

PART 240  
COMMUNITY CARE PROGRAM

SUBPART A: GENERAL PROGRAM PROVISIONS

Section	
240.100	Community Care Program
240.110	Department Prerogative
240.120	Services Provided
240.130	Maintenance of Effort
240.140	Program Limitations
240.150	Completed Applications Prior to August 1, 1982 (Repealed)
240.160	Definitions

SUBPART B: SERVICE DEFINITIONS

Section	
240.210	Homemaker Service
240.220	Chore-Housekeeping Service (Repealed)
240.230	Adult Day Service
240.240	Information and Referral
240.250	Demonstration/Research Projects
240.260	Case Management Service
240.270	Alternative Provider
240.280	Individual Provider

SUBPART C: RIGHTS AND RESPONSIBILITIES

Section	
240.300	Applicant/Client Rights and Responsibilities
240.310	Right to Apply
240.320	Nondiscrimination
240.330	Freedom of Choice
240.340	Confidentiality/Safeguarding of Case Information
240.350	Applicant/Client/Authorized Representative Cooperation
240.360	Reporting Changes
240.370	Voluntary Repayment

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SUBPART D: APPEALS

Section	
240.400	Appeals and Fair Hearings
240.405	Representation
240.410	When the Appeal May Be Filed
240.415	What May Be Appealed
240.420	Group Appeals
240.425	Informal Review
240.430	Informal Review Findings
240.435	Withdrawing an Appeal
240.436	Cancelling an Appeal
240.440	Examining Department Records
240.445	Hearing Officer
240.450	The Hearing
240.451	Conduct of Hearing
240.455	Continuance of the Hearing
240.460	Postponement
240.465	Dismissal Due to Non-Appearance
240.470	Rescheduling the Appeal Hearing
240.475	Recommendations of Hearing Officer
240.480	The Appeal Decision
240.485	Reviewing the Official Report of the Hearing

SUBPART E: APPLICATION

Section	
240.510	Application for Community Care Program
240.520	Who May Make Application
240.530	Date of Application
240.540	Statement to be Included on Application

SUBPART F: ELIGIBILITY

Section	
240.600	Eligibility Requirements
240.610	Establishing Eligibility
240.620	Home Visit
240.630	Determination of Eligibility

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240.640	Eligibility Decision
240.650	Continuous Eligibility
240.655	Frequency of Redeterminations
240.660	Extension of Time Limit

## SUBPART G: NON-FINANCIAL REQUIREMENTS

Section	
240.710	Age
240.715	Determination of Need
240.720	Clients Prior to Effective Date of This Section (Repealed)
240.725	Clients After Effective Date of This Section (Repealed)
240.726	Emergency Budget Act Reduction (Repealed)
240.727	Minimum Score Requirements
240.728	Maximum Payment Levels for Homemaker Service
240.729	Maximum Payment Levels for Adult Day Care Service
240.730	Plan of Care
240.735	Supplemental Information
240.740	Assessment of Need
240.750	Citizenship
240.755	Residence
240.760	Furnishing of Social Security Number

## SUBPART H: FINANCIAL REQUIREMENTS

Section	
240.800	Financial Factors
240.810	Assets
240.815	Exempt Assets
240.820	Asset Transfers
240.825	Income
240.830	Unearned Income Exemptions
240.835	Earned Income
240.840	Potential Retirement, Disability and Other Benefits
240.845	Family
240.850	Monthly Average Income
240.855	Applicant/Client Expense for Care
240.860	Change in Income
240.865	Application For Medical Assistance (Medicaid)
240.870	Determination of Applicant/Client Monthly Expense for Care

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240.875 Client Responsibility

## SUBPART I: DISPOSITION OF DETERMINATION

## Section

240.905 Prohibition of Institutionalized Individuals From Receiving Community Care  
Program Services

240.910 Written Notification

240.915 Service Provision

240.920 Reasons for Denial

240.925 Frequency of Redeterminations (Renumbered)

240.930 Suspension of Services

240.935 Discontinuance of Services to Clients

240.940 Penalty Payments

240.945 Notification

240.950 Reasons for Termination

240.955 Reasons for Reduction or Change

## SUBPART J: SPECIAL SERVICES

## Section

240.1010 Nursing Facility Screening

240.1020 Interim Services

240.1040 Intense Service Provision

240.1050 Temporary Service Increase

## SUBPART K: TRANSFERS

## Section

240.1110 Individual Transfer Request – Vendor to Vendor – No Change in Service

240.1120 Individual Transfer Request – Vendor to Vendor – With Change in Service

240.1130 Individual Transfers – Case Coordination Unit to Case Coordination Unit

240.1140 Transfer of Pending Applications

240.1150 Interagency Transfers

240.1160 Temporary Transfers – Case Coordination Unit to Case Coordination Unit

240.1170 Caseload Transfer – Vendor to Vendor

240.1180 Caseload Transfer – Case Coordination Unit to Case Coordination Unit

## SUBPART L: ADMINISTRATIVE SERVICE CONTRACT

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Section  
240.1210 Administrative Service Contract

## SUBPART M: CASE COORDINATION UNITS AND PROVIDERS

Section  
240.1310 Standard Contractual Requirements for Case Coordination Units and Providers  
240.1320 Vendor or Case Coordination Unit Fraud/Illegal or Criminal Acts  
240.1330 General Vendor and CCU Responsibilities (Repealed)  
240.1396 Payment for Services (Repealed)  
240.1397 Purchases and Contracts (Repealed)  
240.1398 Safeguarding Case Information (Repealed)  
240.1399 Suspension/Termination of a Vendor or Case Coordination Unit (CCU)

## SUBPART N: CASE COORDINATION UNITS

Section  
240.1400 Community Care Program Case Management  
240.1410 Case Coordination Unit Administrative Minimum Standards  
240.1420 Case Coordination Unit Responsibilities  
240.1430 Case Management Staff Positions, Qualifications and Responsibilities  
240.1440 Training Requirements For Case Management Supervisors and Case Managers

## SUBPART O: PROVIDERS

Section  
240.1510 Provider Administrative Minimum Standards  
240.1520 Provider Responsibilities  
240.1530 General Homemaker Staffing Requirements  
240.1535 Homemaker Staff Positions, Qualifications and Responsibilities  
240.1540 General Chore-Housekeeping Staffing Requirements (Repealed)  
240.1545 Chore-Housekeeping Staff Positions, Qualifications and Responsibilities (Repealed)  
240.1550 Standard Requirements for Adult Day Service Providers  
240.1555 General Adult Day Service Staffing Requirements  
240.1560 Adult Day Service Staff  
240.1565 Adult Day Service Satellite Sites  
240.1570 Service Availability Expansion  
240.1575 Adult Day Care Site Relocation  
240.1580 Standards for Alternative Providers

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240.1590 Standard Requirements for Individual Provider Services

## SUBPART P: PROVIDER PROCUREMENT

## Section

240.1600 Provider Contract  
240.1605 Procuring Provider Services  
240.1610 Procurement Cycle for Provider Services (Repealed)  
240.1620 Issuance of Provider Proposal and Guidelines  
240.1625 Content of Provider Proposal and Guidelines  
240.1630 Criteria for Number of Provider Contracts Awarded  
240.1635 Evaluation of Provider Proposals  
240.1640 Determination and Notification of Provider Awards  
240.1645 Objection to Procurement Action Determination  
240.1650 Classification, Identification and Receipt of Provider Service Violations  
240.1655 Method of Identification of Provider Service Violations (Repealed)  
240.1660 Provider Performance Reviews  
240.1661 Provider and Case Coordination Unit Right to Appeal  
240.1665 Contract Actions for Failure to Comply with Community Care Program Requirements

## SUBPART Q: CASE COORDINATION UNIT PROCUREMENT

## Section

240.1710 Procurement Cycle For Case Management Services  
240.1720 Case Coordination Unit Performance Review

## SUBPART R: ADVISORY COMMITTEE

## Section

240.1800 Community Care Program Advisory Committee  
240.1850 Technical Rate Review Advisory Committee (Repealed)

## SUBPART S: PROVIDER RATES

## Section

240.1910 Establishment of Fixed Unit Rates  
240.1920 Contract Specific Variations  
240.1930 Fixed Unit Rate of Reimbursement for Homemaker Service  
240.1940 Fixed Unit Rates of Reimbursement for Adult Day Service and Transportation

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- 240.1950 Adult Day Care Fixed Unit Reimbursement Rates  
240.1960 Case Management Fixed Unit Reimbursement Rates

## SUBPART T: FINANCIAL REPORTING

## Section

- 240.2020 Financial Reporting of Homemaker Service  
240.2030 Unallowable Costs for Homemaker Service  
240.2040 Minimum Direct Service Worker Costs for Homemaker Service  
240.2050 Cost Categories for Homemaker Service

AUTHORITY: Implementing Section 4.02 and authorized by Section 4.01(11) of the Illinois Act on the Aging [20 ILCS 105/4.02 and 4.01(11)].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 1, p. 67, effective December 20, 1979, for a maximum of 150 days; adopted at 4 Ill. Reg. 17, p. 151, effective April 25, 1980; amended at 4 Ill. Reg. 43, p. 86, effective October 15, 1980; emergency amendment at 5 Ill. Reg. 1900, effective February 18, 1981, for a maximum of 150 days; amended at 5 Ill. Reg. 12090, effective October 26, 1981; emergency amendment at 6 Ill. Reg. 8455, effective July 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 14953, effective December 1, 1982; amended at 7 Ill. Reg. 8697, effective July 20, 1983; codified at 8 Ill. Reg. 2633; amended at 9 Ill. Reg. 1739, effective January 29, 1985; amended at 9 Ill. Reg. 10208, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 14011, effective August 29, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5076, effective March 15, 1986; recodified at 12 Ill. Reg. 7980; amended at 13 Ill. Reg. 11193, effective July 1, 1989; emergency amendment at 13 Ill. Reg. 13638, effective August 18, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17327, effective November 1, 1989; amended at 14 Ill. Reg. 1233, effective January 12, 1990; amended at 14 Ill. Reg. 10732, effective July 1, 1990; emergency amendment at 15 Ill. Reg. 2838, effective February 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 10351, effective July 1, 1991; emergency amendment at 15 Ill. Reg. 14593, effective October 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 17398, effective November 15, 1991, for a maximum of 150 days; emergency amendment suspended at 16 Ill. Reg. 1744; emergency amendment modified in response to a suspension by the Joint Committee on Administrative Rules and reinstated at 16 Ill. Reg. 2943; amended at 15 Ill. Reg. 18568, effective December 13, 1991; emergency amendment at 16 Ill. Reg. 2630, effective February 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 2901, effective February 6, 1992, to expire June 30, 1992; emergency amendment at 16 Ill. Reg. 4069, effective February 28, 1992, to expire June 30, 1992; amended at 16 Ill. Reg. 11403, effective June 30, 1992; emergency amendment at 16 Ill. Reg. 11625, effective July 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 11731, effective June 30, 1992; emergency rule added at 16 Ill. Reg. 12615, effective July 23,

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1992, for a maximum of 150 days; modified at 16 Ill. Reg. 16680; amended at 16 Ill. Reg. 14565, effective September 8, 1992; amended at 16 Ill. Reg. 18767, effective November 27, 1992; amended at 17 Ill. Reg. 224, effective December 29, 1992; amended at 17 Ill. Reg. 6090, effective April 7, 1993; amended at 18 Ill. Reg. 609, effective February 1, 1994; emergency amendment at 18 Ill. Reg. 5348, effective March 22, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 13375, effective August 19, 1994; amended at 19 Ill. Reg. 9085, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10186, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 12693, effective August 25, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16031, effective November 20, 1995; amended at 19 Ill. Reg. 16523, effective December 1, 1995; amended at 20 Ill. Reg. 1493, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 5388, effective March 22, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 8995, effective July 1, 1996; amended at 20 Ill. Reg. 10597, effective August 1, 1996; amended at 21 Ill. Reg. 887, effective January 10, 1997; amended at 21 Ill. Reg. 6183, effective May 15, 1997; amended at 21 Ill. Reg. 12418, effective September 1, 1997; amended at 22 Ill. Reg. 3415, effective February 1, 1998; amended at 23 Ill. Reg. 2496, effective February 1, 1999; amended at 23 Ill. Reg. 5642, effective May 1, 1999; amended at 26 Ill. Reg. 9668, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10829, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17358, effective November 25, 2002; emergency amendment at 28 Ill. Reg. 923, effective December 26, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART H: FINANCIAL REQUIREMENTS

**Section 240.810 Assets**

- a) To be eligible to receive Community Care Program (CCP) services, an applicant/client shall not own interest in non-exempt assets having a combined value in excess of ~~\$12,500~~~~\$10,000~~, if:
- 1) unmarried; or
  - 2) married and:
    - A) spouse is receiving CCP services; or
    - B) spouse is in a nursing home; or
    - C) spouse does not reside on a permanent basis with and does not receive support from or give support to the applicant/client; or

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- D) spouse is abandoned; or
- E) spouse is potentially abusing the applicant/client.

EXCEPTION: An applicant/client, who is married and the spouse does not receive CCP services, shall not own interest in non-exempt assets having a total value in excess of the asset disregard amount allowed by the Illinois Department of Public Aid for Medicaid which is currently \$2,000 + \$1,500 in a pre-paid burial plan or life insurance policy + burial merchandise. Non-exempt assets having value over the asset disregard amount described above and up to the amount allowed by the Community Spouse Asset Allowance, as adopted by the Illinois Department of Public Aid at 89 Ill. Adm. Code 120.379(d), must be transferred to or for the sole benefit of the community spouse. If the couple owns assets that exceed the asset disregard and prevention of spousal impoverishment amounts allowed by statute, the excess (up to ~~\$10,500~~~~\$8,000~~ of non-exempt assets after transfer; and/or up to \$1,800 of countable monthly income after diversion) shall be designated as a spend down, to be spent before Medicaid enrollment is established.

- b) The value of non-exempt assets shall be considered in determining eligibility for the Community Care Program.
- c) All assets not specifically exempt are non-exempt.
- d) When a client's non-exempt assets are greater than the allowable disregard as specified in subsection (a) ~~above~~, consideration of non-liquid assets may be deferred as follows:
  - 1) real property may be deferred from consideration for six months;
  - 2) the client shall sign an agreement to dispose of the real property in excess of the allowable disregard within six months from the date of the agreement; and
  - 3) the six month period for disposition may be extended an additional six months if the client fails to dispose of the asset (through no fault of his/her own) despite reasonable and diligent effort.

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

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## SUBPART I: DISPOSITION OF DETERMINATION

**Section 240.920 Reasons for Denial**

Denial of Community Care Program (CCP) eligibility shall be based upon one or more of the reasons identified below:

- a) Applicant is less than 60 years of age at the time of the determination of eligibility.
- b) Applicant is not in need of CCP services: scored less than 29 total points/less than 15 points on Part A, Level of Impairment, of the Determination of Need.
- c) Applicant/authorized representative refuses to sign Client Agreement – Plan of Care.
- d) Applicant/authorized representative refuses to sign Client Agreement – Plan of Care based upon the expense to be incurred monthly as required on the Client Agreement – Plan of Care.
- e) Applicant/authorized representative does not agree with plan of care/hours of service.
- f) Applicant is deceased.
- g) Applicant has been institutionalized for more than 60 calendar days from the date of application.
- h) Applicant/authorized representative voluntarily withdraws application.
- i) Applicant cannot be located to determine eligibility/provide CCP services.
- j) Applicant/authorized representative has not provided reasonable documentation supporting eligibility as required by the Department or its Case Coordination Unit (CCU) within 90 calendar days from the date of receipt of the completed application.
- k) Applicant/authorized representative has not cooperated with the Department/CCU/vendor as required and as specified by Section 240.350.

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- l) Applicant does not meet citizenship requirements.
- m) Applicant does not meet residency requirements.
- n) A plan of care cannot be developed that adequately meets the applicant's determined needs.
  - 1) The determination that an adequate plan of care cannot be developed shall be sought first through the Physician/Nurse Practitioner/Registered Nurse/Christian Science Practitioner endorsement. Failure to obtain the supportive endorsement that an adequate plan of care cannot be developed shall be so documented.
  - 2) If the Physician/Nurse Practitioner/Registered Nurse/Christian Science Practitioner fails to provide the supportive endorsement, the CCU shall make the determination that an adequate plan of care cannot be developed in accordance with Section 240.715.
- o) The total value of applicant's non-exempt assets is in excess of ~~\$12,500~~~~\$10,000~~. |
- p) Applicant has not provided the Physician, Nurse Practitioner, Registered Nurse or Christian Science Practitioner endorsement as required by Section 240.730(d).
- q) Eligibility could not be established for an applicant who was receiving interim services based upon presumptive eligibility as required by Section 240.1020.
- r) Applicant/authorized representative provided fraudulent information.
- s) Applicant whose CCP services were previously denied or terminated for non-cooperation as set forth in Section 240.350 shall be denied services upon re-application, except as the situation or condition which led to the memorandum of understanding (~~see~~ See Section 240.350) has been permanently resolved. |
- t) Applicant has an outstanding bill for CCP services provided prior to this application which he/she refuses to pay.
- u) Applicant chooses not to receive CCP services from the list of authorized vendors and has so indicated on the Client's Vendor Selection form.
- v) Applicant received interim services in the past for which an incurred expense was

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never paid.

- w) Applicant has transferred non-exempt assets within the past 36 months for the purpose of obtaining CCP services.
- x) Applicant/authorized representative has not reported or refused to provide documentation of changes in circumstances which have occurred prior to eligibility determination as required by Section 240.360.
- y) Effective July 1, 2002, applicant refuses to apply for medical assistance (Medicaid) under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V].

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

**Section 240.950 Reasons for Termination**

A client shall be terminated from the Community Care Program (CCP) for one or more of the reasons identified below:

- a) client is deceased;
- b) client is an in-patient of any institution or is otherwise not available for services for more than ~~sixty (60)~~ calendar days;
- c) client's condition has improved and there is no longer a need for CCP services as measured by the CCP Determination of Need (DON);
- d) client cannot be located;
- e) client has requested termination of services;
- f) client refuses transfer to a different vendor/Case Coordination Unit (CCU) and the current vendor/CCU cannot provide services needed by the client;
- g) client has failed to cooperate with the Department/CCU/vendor as required and as specified in Section 240.350;
- h) client no longer meets citizenship requirements;
- i) client no longer meets residency requirements;

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- j) a plan of care cannot be developed that adequately meets the client's determined needs in accordance with Section 240.715.
- 1) Such determination shall be sought first through the Physician/Nurse Practitioner/Registered Nurse/Christian Science Practitioner endorsement. Failure to obtain the endorsement shall be so documented.
  - 2) If the Physician/Nurse Practitioner/Registered Nurse/Christian Science Practitioner fails to provide the supportive endorsement, the CCU shall make the determination that an adequate plan of care (see Section 240.730(d)) cannot be developed; ~~;~~
- k) client's non-exempt assets have increased and exceed ~~\$12,500~~\$10,000 (see Section 240.810(a));
- l) client failed to report the transfer of non-exempt assets as required by Section 240.820;
- m) client, initially determined eligible prior to July 6, 1982 (see Section 240.800(a) and (b)), who has had continuous service since that time, refuses to declare income/assets upon redetermination;
- n) client has failed to report or refused to provide documentation of changes in circumstances as required by Section 240.360;
- o) client refuses to sign a Client Agreement – Plan of Care (see Section 240.855(c));
- p) client rejects CCP services under Section 240.330 and has so indicated on the Client's Vendor Selection form; ~~or~~
- q) a client, whose CCP services were discontinued for non-payment of incurred expense for care, has not made payment for the indebtedness, and has not received CCP services for more than one ~~(1)~~ year (see Section 240.935(e)); ~~or~~;
- r) effective July 1, 2002, client refuses to apply for medical assistance (Medicaid) under Article V of the Illinois Public Aid Code [305 ILCS 5/Art. V].

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

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- 1) Heading of the Part: Victims' Economic Security and Safety Act
- 2) Code Citation: 56 Ill. Adm. Code 280
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
280.100	New Section
280.110	New Section
280.120	New Section
280.130	New Section
280.140	New Section
280.200	New Section
280.210	New Section
280.220	New Section
280.230	New Section
280.240	New Section
280.300	New Section
280.310	New Section
280.320	New Section
280.400	New Section
280.410	New Section
280.420	New Section
280.500	New Section
- 4) Statutory Authority: 820 ILCS 180
- 5) Effective Date of Rules: May 24, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office in Springfield and is available for inspection.
- 9) Notice of Proposal Published in Illinois Register: January 9, 2004; 28 Ill. Reg. 478
- 10) Has JCAR issued a Statement of Objection to these rules? Yes
  - A) Statement of Objection: June 4, 2004; 28 Ill. Reg. \_\_\_\_\_

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- B) Agency Response: \_\_\_\_\_; 28 Ill. Reg. \_\_\_\_\_
- C) Date Agency Response Submitted for Approval to JCAR: May 21, 2004
- 11) Difference between proposal and final version: The adopted rule ensures that the word “employer” includes all government employers, even if they have fewer than 50 employees. [56 Ill. Adm. Code 280.110]

The adopted rule clarifies the difference between an investigation (which may include an informal conference) and a “public hearing”, the latter meaning a formal administrative hearing. [Generally throughout the rule and specifically at 56 Ill. Adm. Code 280.110 and 280.400.]

The adopted rule clarifies when an employer is covered and removes language objected to by JCAR regarding the interaction between VESSA and the Family Medical Leave Act. [56 Ill. Adm. Code 280.120]

The adopted rule removes an undue recordkeeping requirement by deleting “time of day”. [56 Ill. Adm. Code 280.140]

The adopted rule amends the language for amending complaints. [56 Ill. Adm. Code 280.240]

The adopted rule deletes the requirement to provide copies of cited authority. [56 Ill. Adm. Code 280.310]

The adopted rule provides for protective orders. [56 Ill. Adm. Code 280.400]

The adopted rule clarifies that the Department will not allow the unauthorized practice of law, but will permit parties to have supportive persons. [56 Ill. Adm. Code 280.400]

The adopted rule provides a consistent legal standard (“reasonable cause”) for conducting an investigation. [56 Ill. Adm. Code 280.410]

The adopted rule eliminates the [automatic] referral for a formal administrative hearing. The adopted rule provides that either party may request, within 30 days in writing, that the matter be set for a formal administrative hearing. [56 Ill. Adm. Code 280.410]

In addition to the above changes, minor nonsubstantive technical and editorial changes were made in response to commenting parties.

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- 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 rulemaking replace an emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rules: The Victims' Economic Security and Safety Act (820 ILCS 180), commonly known as "VESSA", provides up to twelve (12) weeks of unpaid leave in any 12-month period to a qualified employee (of a defined employer) who is a victim of domestic or sexual violence, or who has a family or household member who is a victim of such violence, to address issues arising from such violence. Employers, including persons with more than 50 employees; the State of Illinois; and any unit of local government or school district are prohibited from discharging, harassing, or otherwise discriminating against any qualified employee. VESSA requires the adoption of rules necessary for the Department's administration and enforcement, including investigating alleged violations of VESSA. The adopted rules prescribe the Department's complaint process, subpoena (and other discovery) and investigative powers and the Department's ability to issue protective and other orders where necessary. The adopted rules also provide for maintaining records by defined employers to ensure compliance with VESSA. Further, the rules provide for the adoption by reference of formal hearing rules subject to the Administrative Review Law and the Administrative Procedure Act.
- 16) Information and questions regarding the adopted rulemaking shall be directed to:

Illinois Department of Labor  
Attn: Doris Moy  
160 N. La Salle St., Suite C-1300  
Chicago IL 60601

(312) 793-6797

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

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TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER I: DEPARTMENT OF LABOR  
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 280  
VICTIMS' ECONOMIC SECURITY AND SAFETY ACT

SUBPART A: GENERAL PROVISIONS

Section	
280.100	Purpose and Scope
280.110	Definitions
280.120	Application
280.130	Independent Contractor Exemption
280.140	Records Retention and Release

SUBPART B: COMPLAINT

Section	
280.200	Persons Who May File a Complaint
280.210	Requirements for Filing a Complaint
280.220	Confidentiality
280.230	Incomplete Complaint
280.240	Amendment of Complaint

SUBPART C: PROCEDURE IMMEDIATELY AFTER COMPLAINT

Section	
280.300	Withdrawal, Settlement, Waiver and Consents
280.310	Presentation of Parties' Information
280.320	Duplicative Issues or Inconsistent Rulings

SUBPART D: ADMINISTRATIVE CASE REVIEW

Section	
280.400	Investigation
280.410	Decision by the Department
280.420	Enforcement Procedures

SUBPART E: FORMAL ADMINISTRATIVE HEARING

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Section  
280.500      Procedures in Formal Administrative Hearing

AUTHORITY: Implementing the Victims' Economic Security and Safety Act of 2003 [820 ILCS 180].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 1017, effective December 29, 2003; adopted at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS

**Section 280.100 Purpose and Scope**

This Part shall apply to claims arising under the Victims' Economic Security and Safety Act [820 ILCS 180].

**Section 280.110 Definitions**

"Act" means the Victims' Economic Security and Safety Act (VESSA) [820 ILCS 180].

"Certification" means:

a sworn statement of the employee; and

any of the following:

documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional from whom the employee or the employee's family or household member has sought assistance in addressing domestic or sexual violence and the effects of the violence;

a police or court record; or

other corroborating evidence.

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"Complaint" means an allegation of a violation of the Act filed with the Department.

"Complainant" means a person who files a complaint.

"Department" means the Illinois Department of Labor or a duly authorized representative.

"Director" means the Director of Labor or a duly authorized representative.

"Employee" means any person suffered or permitted to work by an employer, including on a full-time or part-time basis or as a participant in a work assignment as a condition of receipt of federal or State income-based public assistance.

"Employer" means an individual, partnership, association, corporation, business trust, legal representative, or any organized group of persons, or entity for whom 50 or more employees are employed. Additionally, employer means the State of Illinois, any State officer, department, agency or commission, any unit of local government, and any school district.

"FMLA" means the federal Family and Medical Leave Act of 1993 (29 USC 2601 et seq.), or as hereafter amended.

"Public hearing" means a formal administrative hearing.

"Respondent" means an employer against whom a complaint is filed.

**Section 280.120 Application of the Act**

- a) Men and women have equal protection under the Act.
- b) The Department will assist an individual with a claim when:
  - 1) The claim concerns work performed within the State of Illinois, but not when the claim concerns sporadic work performed in Illinois for an employer located outside of Illinois.
  - 2) The claim concerns work performed outside the State of Illinois if the specified employer is located within Illinois or the contract for hire was entered into in this State, but not when the claim is filed by an employee

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whose permanent work station was outside the State of Illinois and who performed a substantial portion of his/her duties outside Illinois.

- c) In any calendar month that an employer is subject to the prescriptions of the Act, including, without limitation, providing leave or reasonable accommodation and prohibitions against discriminatory acts and retaliation against an employee, the employer shall continue to be subject to the Act and this Part for the following 12 months.

**Section 280.130 Independent Contractor Exemption**

- a) As used in this Part, the term "employee" shall not include any individual:
- 1) who has been and will continue to be free from control and direction over the performance of the individual's work, both under the contract of service with the employer and in fact; and
  - 2) who performs work that is either outside the usual course of business or is performed outside all the places of business of the employer unless the employer is in the business of contracting with third parties for the placement of employees; and
  - 3) who is an independently established trade, occupation, profession or business.
- b) "Control" means the existence of general control or right to general control, even though the details of the work are left to an individual's judgment.
- c) "An independently established trade, occupation, profession or business" means the individual performing the services has a proprietary interest in such business, to the extent that the individual operates the business without hindrance from any other person and as the enterprise's owner, may sell or otherwise transfer the business.
- d) All three conditions in subsection (a) must be satisfied and demonstrated by a respondent for the independent contractor exemption to apply.
- e) An individual may be an employee without being entirely dependent upon the relationship with a specified employer for the individual's livelihood. An

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individual engaged in other occupations may be an employee of a specified employer even though the individual only worked intermittently or part time.

- f) In determining whether the exemption applies, the Department may consider the actual, rather than the alleged, relationship between a respondent and complainant. Designations and terminology used by the parties, as well as the individual's status for tax purposes, are not controlling.

**Section 280.140 Records Retention and Release**

- a) Employers must maintain records that contain the following:
- 1) Name, address, and occupation of each employee; rate or basis of pay, terms of compensation; daily and weekly hours worked per pay period; additions to or deductions from wages; and total compensation paid each pay period.
  - 2) All dates leave under the Act is used by each employee shall be designated in the records as such leave. If leave is taken in increments of less than one full day and the number of hours taken must be recorded.
  - 3) Copies of "employee requests", if in writing, for leave under the Act, with any attachments, furnished to the employer.
  - 4) Copies of any written notices regarding the Act given to employees.
  - 5) Any documents describing employee benefits or employer policies and practices regarding the taking of paid and unpaid leaves.
  - 6) Any employer that provides any paid time off, including, without limitation, vacation, sick or personal leave, to its employees must maintain true and accurate records of the paid time off earned for each year and the dates on which paid time off was taken or paid.
  - 7) Records of any dispute between the employer and an employee regarding designation of leave under the Act, including any written documents from the employer or employee stating the reasons for the designation and for the disagreement.

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- b) In addition, the employer shall preserve any records made in the regular course of the business operation that relate to personnel records, employee qualifications for promotion, transfer, discharge or other disciplinary action, wage rates, skills testing certifications, job evaluations, job descriptions, merit systems, seniority systems, individual employment contracts, collective bargaining agreements, description of practices or other matters that describe or explain the basis for any use of any type of paid and unpaid time off.
- c) Records and documents relating to certifications, medical histories of employees or employees' family and household members, created for purposes of the Act, shall be maintained in conformance with all State and federal laws, including, without limitation, all confidentiality requirements.
- d) All records under this Section shall be maintained by an employer for at least three years. Failure by a respondent to maintain all records for the stated period or in the stated manner may result in a finding of failure to cooperate.

## SUBPART B: COMPLAINT

**Section 280.200 Persons Who May File a Complaint**

An employee, or representative of employees, who believes his or her rights under this Act have been violated may file a complaint with the Department requesting a review of the alleged violation.

**Section 280.210 Requirements for Filing a Complaint**

- a) A complaint shall be filed on a form to be supplied by the Department. Such form shall name the respondent, shall be signed by the complainant and shall be accurately completed alleging the violation of the Act requesting to be reviewed. The form may have attached copies of all supporting documentation.
- b) All complaints and amendments to any complaint shall be delivered, by U.S. mail or personal delivery, to the Department's Chicago office within three years after the alleged violation of the Act occurs. The complaint shall be deemed filed as of the date it is postmarked on the envelope or date stamped as received by the Department.

**Section 280.220 Confidentiality**

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Where a complainant requests confidentiality, the Department will advise the complainant of the need to reveal the complainant's identity so that the Department can conduct its investigation. In such cases, the Department will allow the complainant an opportunity to withdraw the complaint pursuant to Section 280.300 before notification of the complainant's identity is given to a respondent.

#### **Section 280.230 Incomplete Complaint**

If the Department receives a complaint from an individual that complies substantially with Section 280.210 but is lacking an element that still must be provided, the Department may accept and docket the complaint as an incomplete complaint. The Department shall notify the complainant, in writing, of the elements that must be supplied. If the complainant is unavailable or unwilling, without good cause, to perfect the complaint within 30 calendar days, the Department may make a finding of a failure to cooperate or may deem there to be a waiver of all proceedings before the Director.

#### **Section 280.240 Amendment of Complaint**

- a) A complaint may be amended, prior to a determination under Section 280.410:
  - 1) to cure technical defects;
  - 2) to set forth additional facts or allegations related to the subject matter of the original complaint if, at the time of the amendment, a separate complaint could have been timely filed under Section 280.210;
  - 3) to substitute or name additional respondents;
  - 4) to add an additional issue if, at the time of the amendment, the added respondent knew, or should have known or had reason to know, of the additional issue.

The amendment shall relate back to the original filing date.

- b) If the employee who is the subject of the complaint dies while the investigation is pending, the Department may continue, if feasible, to process the remaining issues.
- c) The Department shall provide any amendment to a complaint to all parties.

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SUBPART C: PROCEDURE IMMEDIATELY AFTER COMPLAINT

**Section 280.300 Withdrawal, Settlement, Waiver and Consents**

- a) A complaint may be voluntarily withdrawn at any time.
- b) Complainant and a respondent may settle at any time.
- c) Any party may waive a public hearing at any time after the time for filing a response has passed.
- d) At any time, the parties may enter into consent findings, rules and orders under 56 Ill. Adm. Code 120.540.
- e) Any withdrawal, settlement or Consent Order will not affect the processing of a complaint made by any other complainant, the allegations of which are similar or related to the individual allegations settled.

**Section 280.310 Presentation of Parties' Information**

- a) At the time of filing of the complaint, the Department may determine initially whether the allegations in the complaint sufficiently state a claim under the Act so that the Department can proceed with the investigation.
- b) If, at the time of filing, or at any subsequent time, it is determined that there is a lack of jurisdiction, the complaint shall be denied. Upon the specific request of either of the parties, or on its own motion, the Department may recommend to the Director the denial of the complaint. All parties shall be notified of the denial of the Complaint pursuant to the Administrative Procedures Act.
- c) If the Department determines jurisdiction appears to exist, the Department shall promptly serve upon each respondent a copy of the complaint with a written notice setting forth the rights and obligations of the parties. The notice shall be served by U.S. regular mail.
- d) Each respondent must remit a written response to the complaint within 21 calendar days after the date the Department forwarded the complaint. The response shall be signed by a duly authorized individual representative and shall include a complete, accurate and responsive explanation to the claim necessary and appropriate to the Department's investigation, specifying any defenses and

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any disputed and undisputed facts. If a respondent relied on any record for the response, the respondent shall submit a copy of that record. Failure, without good cause, of a respondent to submit an appropriate response to the Department may result in a finding of a failure to cooperate with the Department.

- e) Upon receipt of a respondent's response, the Department is to forward the response to the complainant. Complainant shall submit a rebuttal to the Department within 21 calendar days after the date the Department forwarded the response of the respondent. At least 10 calendar days before an informal conference, the Department will provide to the respondent a copy of the complainant's rebuttal. Failure, without good cause, of the complainant to submit timely a rebuttal to the Department may result in a finding of a failure to cooperate or may be deemed to be a waiver of all proceedings before the Director and will permit a final order denying the complaint.

**Section 280.320 Duplicative Issues or Inconsistent Rulings**

When the Department becomes aware that there is a complaint pending in federal or State court containing some or all of the issues before the Department, it may make a determination whether there is the possibility of inconsistent findings or rulings. At any time, the Department may recommend to the Director dismissal of those issues and continue, if feasible, to process the remaining issues. If all issues are being litigated, then denial of the entire complaint may be considered. The parties will be afforded an opportunity to contest the denial.

## SUBPART D: ADMINISTRATIVE CASE REVIEW

**Section 280.400 Investigation**

- a) The Department may conduct an investigation to ascertain the facts relating to the violation alleged in the complaint, to determine whether reasonable cause exists to believe a violation of the Act has occurred and to determine whether the issues may be resolved between the parties. The investigation may be in person or by telephone and may include written or oral inquiry, field visit or an informal conference or any method or combination of methods deemed suitable in the discretion of the Department. The Department will limit its investigation to reviewing up to three years prior to the date the complaint was filed, but in no case shall review occur prior to the effective date of the Act, August 25, 2003.
- b) The parties must cooperate fully with the Department at all times as provided for in this Part. Such cooperation shall include without limitation:

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- 1) promptly providing the Department with a notice of address or telephone change or any prolonged absence from the current address so that the parties can be located;
  - 2) providing necessary information and being available for interviews, conferences and hearings upon reasonable notice or request by the Department. If the parties cannot be located or do not respond to reasonable requests by the Department, without good cause, such action may result in a finding of a failure to cooperate with the Department.
- c) If, at any time, a party fails to cooperate with the Department under this Part, the Department, upon seven calendar days notice to all parties, may make a part of the official record a finding of failure to cooperate. If a finding of a failure to cooperate is made, the Department may make such recommendations as are appropriate to the Director, including denial of the complaint, or other order, including provision of discovery, including subpoenas or depositions, or affirmative action under the Act.
  - d) The Department, on its own or at the request of a party or a witness, may issue an appropriate protective order. The order may be issued at any time and shall be for the purpose of preventing a clearly unwarranted invasion of personal privacy or other disclosure of confidential information, including, without limitation, documents, home addresses or names of individuals. The order may apply, where relevant, to nonparties and other parties. Further, the order may be subject to being modified or vacated by a court of competent jurisdiction.
  - e) The Department may convene an informal conference for the purpose of obtaining evidence, identifying the issues in dispute, ascertaining the positions of the parties and exploring the possibility of settlement. The informal conference will be limited in scope to those issues the Department believes to be in question.
  - f) Notice of the conference shall be given to all parties at least ten calendar days prior to the conference and shall identify the individuals requested to attend on behalf of each party.
  - g) At an informal conference, an individual may be represented only by himself or herself or by an attorney at law. Further, a corporation or government agency, or other similar employer, may be represented only by an employee, officer or attorney at law. The Department may permit a party to have available witnesses,

## DEPARTMENT OF LABOR

## NOTICE OF ADOPTED RULES

a translator and/or other supportive person, including a relative or a representative of a union or of a victim services organization. Nothing in the Act or this Part shall be construed as to allow the unauthorized practice of law.

- h) Parties shall be prepared to proceed at the informal conference. A request by one party for a continuance may be granted prior to the conference if the request is in writing, with notice to the other party, and the Department grants permission. Otherwise, a request for a continuance may be made in person by any individual to the Department at the time of the conference with proof that the party notified or attempted to notify the other party in advance of the conference of the intent to ask for a continuance. The continuance will be granted only upon a showing of good cause. Good cause may be shown by, without limitation, the failure of a party to receive notice of the informal conference, the inability of a party to produce a material witness or relevant evidence, the illness or death of a party or counsel, the sudden and unexpected unavailability of counsel and substitution of counsel.
- i) The Department shall conduct the informal conference and control the proceedings. No tape recordings, stenographic report or other verbatim record of the conference shall be made. If any person, including a party, fails to cooperate at the conference, including becoming so disruptive or abusive that a full and fair conference cannot be conducted, the Department shall exclude the person from the conference. If a party fails to cooperate, a finding of failure to cooperate may result.
- j) Telephone Conferences
  - 1) Written requests to participate in an informal conference by telephone must be received by the Department's Chicago office no later than six calendar days prior to the conference date. The request shall be in writing and state a compelling reason why the party needs to participate by telephone and the name, address and telephone number of the person to be contacted.
  - 2) A party shall not consider its request granted unless the party receives written notice of the Department's approval prior to the conference date.
  - 3) In no event shall any party be able to participate in an informal conference through an electronic pager.

## DEPARTMENT OF LABOR

## NOTICE OF ADOPTED RULES

- k) If a party appears at an informal conference or formal administrative hearing, exclusively through an attorney or other representative unfamiliar with the events at issue, the Department shall make a finding of a failure to cooperate, unless the representative is seeking, in good faith, a continuance or, with respect to a respondent, the respondent establishes that it does not employ or control any person with knowledge of the events at issue.

**Section 280.410 Decision by the Department**

- a) At the conclusion of an investigation, the Department must make, in writing, at least one of the following determinations:
  - 1) Reasonable Cause. If the Department determines that there is reasonable cause that a violation of the Act has occurred, it may seek a Consent Order, executed by both parties and the Department, that abates the unlawful practice and provides appropriate relief to the complainant.
  - 2) No Reasonable Cause.
  - 3) Whether any party has failed to cooperate with the Department and any appropriate recommendation.
- b) Whenever a decision is made under this Section, notice must be in compliance with the Department's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).
- c) Upon the issuance of a determination under this Section, any party may request, in writing, that the Department provide a formal administrative hearing. Such request shall be delivered by U.S. mail or personal delivery to the Chief Administrative Law Judge at the Department's Chicago office within 30 calendar days after the determination. The request shall be prominently marked REQUEST FOR VESSA HEARING on both the letter and the envelope.

**Section 280.420 Enforcement Procedures**

- a) The Director may require reasonable evidence that a respondent is in full or substantial compliance with any order.
- b) If a respondent does not voluntarily comply with any discovery (including depositions or subpoenas) or other order of the Department within 21 calendar

DEPARTMENT OF LABOR

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days, there may be a finding of a failure to cooperate and the Director may refer the matter to the Office of the Attorney General for enforcement.

SUBPART E: FORMAL ADMINISTRATIVE HEARING

**Section 280.500 Procedures in Formal Administrative Hearing**

Upon referral of a matter for formal administrative hearing, the parties and the Department shall comply with this Part, all provisions of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10], and the Department's Rules of Procedure in Administrative Hearings (56 Ill. Adm. Code 120).

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Rules of Practice in Administrative Hearings
- 2) Code Citation: 68 Ill. Adm. Code 1110
- 3) Section Numbers:                    Adopted Action:  
1110.175 New Section  
1110.210 Amendment
- 4) Statutory Authority: Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i)]
- 5) Effective Date of Amendments: May 21, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments 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 Proposal Published in Illinois Register: March 12, 2004; 28 Ill. Reg. 4482.
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: No substantive differences.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these 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: Section 10-30 of the Administrative Procedure Act provides for disqualification of a hearing officer for bias or conflict of interest. These amendments merely add Section 1110.175 to elaborate on the procedures to be followed and amend Section 1110.210 to specifically list motions to disqualify.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Department of Professional Regulation

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DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Attention: Barb Smith  
320 West Washington, 3rd Floor  
Springfield, Illinois 62786

217/785-0813 Fax: 217/782-7645

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

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
SUBCHAPTER a: ADMINISTRATIVE RULES

## PART 1110

## RULES OF PRACTICE IN ADMINISTRATIVE HEARINGS

## Section

1110.5	Applicability
1110.10	Definitions
1110.20	Institution of a Contested Case by the Department
1110.30	Institution of a Contested Case by Petitioner
1110.40	Joinder
1110.50	Form of Papers
1110.60	Service
1110.70	Notice
1110.80	Prehearing Negotiations
1110.90	Representation
1110.100	Failure to Appear
1110.110	Amendment, Withdrawal of Complaints and Petitions for Hearing
1110.120	Requirement of an Answer
1110.130	Discovery
1110.140	Subpoenas
1110.150	Prehearing Conference
1110.160	Hearings
1110.170	Hearing Officers
<a href="#">1110.175</a>	<a href="#">Disqualification of Hearing Officer</a>
1110.180	Examination by the Committee
1110.190	Burden of Proof
1110.200	Documents
1110.210	Motions
1110.220	Evidence
1110.230	Adverse Witness
1110.240	Committee Reports
1110.250	Severability
1110.270	Variances
1110.APPENDIX A	Caption for a Case Filed by the Department
1110.APPENDIX B	Caption for a Petition for Restoration
1110.APPENDIX C	Caption for an Application for Licensure

## DEPARTMENT OF PROFESSIONAL REGULATION

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AUTHORITY: Implementing Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i)] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules of Practice in Administrative Hearings in the Department of Registration and Education and before committees of said Department, effective February 5, 1975; codified at 5 Ill. Reg. 11019; emergency amendment at 6 Ill. Reg. 2270, effective January 29, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8214, effective June 28, 1982; Part repealed new Part adopted at 9 Ill. Reg. 1110, effective January 9, 1985; transferred from Chapter I, 68 Ill. Adm. Code 110 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1110 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2964; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1110.175 Disqualification of Hearing Officer**

- a) A Hearing Officer may, on his/her own motion, recuse himself/herself from presiding over a matter due to conflict of interest or bias.
- b) At any time prior to the issuance of the hearing officer's final decision or recommendation, a party may file a motion to disqualify the hearing officer for bias or conflict of interest. An adverse ruling made by a hearing officer, in and of itself, shall not constitute bias or conflict of interest. The motion shall set forth the alleged grounds of bias or conflict of interest and shall include supporting affidavits. A different hearing officer shall have 7 days after the motion was filed to enter a written ruling, which shall be served on all parties. An adverse ruling or rulings rendered against the party or its representative in any previous matter shall not, in and of themselves, constitute sufficient grounds for disqualification under this Section.
- c) If the motion to disqualify is denied, the moving party may request the decision be reviewed by the Director.

(Source: Added at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.210 Motions**

- a) Motions will be made in writing, unless otherwise allowed by the Committee, hearing officer or Director during the course of a hearing. Written motions are limited to the following:

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) To request dismissal of a Complaint, for failure to state facts which, if true, would form a sufficient basis for discipline.
- 2) To request sanctions in accordance with the Section of these rules dealing with Representation.
- 3) To request sanctions in accordance with the Section of these rules dealing with Discovery.
- 4) To request dismissal of a Petition for Hearing, for failure to comply with the Section of these rules dealing with Institution of a Contested Case by a Petitioner.
- 5) To request dismissal of a Complaint where the Department's case has been concluded without sufficient evidence having been presented to form a basis for discipline.
- 6) To request a continuance, or extension of time to comply with any provision of these rules.
- 7) To request an order granting a rehearing, or additional hearings.
- 8) To request an order that a Committee or hearing officer reconsider its Findings of Fact, Conclusion of Law or Recommendation to the Director or to request a new hearing or additional hearings.
- 9) To request that a Committee or hearing officer deem a failure to file an Answer to be an admission of the truth of the allegations contained in the Complaint.
- 10) To request employment of a hearing officer.
- 11) To request that a member of the Committee be excluded from the hearing or deliberations, for prejudice.
- 12) To request that an Order be vacated or modified.
- 13) To request a prehearing conference.
- 14) To request separation of cases joined by the Department.

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15) To request disqualification of a hearing officer in accordance with Section 110.175.

- b) When any motion is filed, the Committee, hearing officer or Director may allow oral argument if this is deemed necessary to a fuller understanding of the issues presented. Where facts are alleged as a basis for the request, which are not a part of the record in the case, an affidavit will be attached to the motion setting forth such facts.

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

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Nursing and Advanced Practice Nursing Act - Registered Professional Nurse and Licensed Practical Nurse
- 2) Code Citation: 68 Ill. Adm. Code 1300
- 3) Section Number: 1300.15                      Adopted Action:  
Amendment
- 4) Statutory Authority: Nursing and Advanced Practice Nursing Act [225 ILCS 65]
- 5) Effective Date of Amendment: May 24, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment 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 Proposal Published in Illinois Register: February 27, 2004; 28 Ill. Reg. 3683.
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this amendment replace emergency amendments currently in effect? Yes, at 28 Ill. Reg. 3928, effective February 11, 2004.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This adopted rulemaking increases the renewal fee for registered and licensed practical nurses by \$10 per year (from \$40 to \$60 for a biennial renewal).
- 16) Information and questions regarding this amendment shall be directed to:

Department of Professional Regulation

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DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENT

Attention: Barb Smith  
320 West Washington, 3rd Floor  
Springfield, Illinois 62786

217/785-0813 Fax #: 217/782-7645

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

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

TITLE 68: PROFESSIONS AND OCCUPATIONS  
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1300  
NURSING AND ADVANCED PRACTICE NURSING ACT –  
REGISTERED PROFESSIONAL NURSE AND LICENSED PRACTICAL NURSE

Section	
1300.10	Definitions
1300.15	Fees
1300.20	Application for Examination or Licensure
1300.25	The Licensure Examination
1300.27	Application for Licensure on the Basis of Examination (Repealed)
1300.30	Licensure by Endorsement
1300.35	Remedial Education
1300.40	Approval of Programs
1300.41	Approval of Current Nursing Practice Update Course
1300.42	Standards of Professional Conduct for Registered Professional Nurses
1300.43	Standards of Professional Conduct for Licensed Practical Nurses
1300.44	Standards for Pharmacology/Administration of Medication Course for Practical Nurses
1300.45	Renewals
1300.48	Restoration
1300.50	Granting Variances
1300.60	Practice of Nursing
1300.65	Unethical or Unprofessional Conduct in Nursing Practice
1300.70	Fines
1300.75	Refusal to Issue a Nurse License Based on Criminal History Record
1300.APPENDIX A	Minimal Skills List for Registered Professional Nurses
1300.APPENDIX B	Minimal Assignment List for Registered Professional Nurses
1300.APPENDIX C	Minimal Skills List for Licensed Practical Nurses
1300.APPENDIX D	Minimal Assignment List for Licensed Practical Nurses

AUTHORITY: Implementing the Nursing and Advanced Practice Nursing Act [225 ILCS 65] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 4 Ill. Reg. 4, p. 290, effective January 14, 1980; amended at 5 Ill. Reg. 801, effective January 7, 1981; codified at 5 Ill. Reg. 11044; amended at 5 Ill. Reg. 14171,

## DEPARTMENT OF PROFESSIONAL REGULATION

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effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 10023, effective August 1, 1982; amended at 9 Ill. Reg. 6297, effective April 24, 1985; amended at 9 Ill. Reg. 13355, effective August 21, 1985; amended at 11 Ill. Reg. 18251, effective October 27, 1987; transferred from Chapter I, 68 Ill. Adm. Code 300 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1300 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2938; amended at 12 Ill. Reg. 12088, effective July 12, 1988; amended at 14 Ill. Reg. 10035, effective June 12, 1990; emergency amendment at 15 Ill. Reg. 2855, effective February 5, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 8573, effective May 28, 1991; amended at 17 Ill. Reg. 1572, effective January 25, 1993; amended at 19 Ill. Reg. 13552, effective September 19, 1995; amended at 22 Ill. Reg. 3895, effective February 5, 1998; amended at 22 Ill. Reg. 19273, effective October 13, 1998; amended at 24 Ill. Reg. 1191, effective January 4, 2000; amended at 25 Ill. Reg. 3850, effective March 1, 2001; amended at 26 Ill. Reg. 17225, effective November 18, 2002; emergency amendment at 28 Ill. Reg. 3928, effective February 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1300.15 Fees**

The following fees shall be paid to the Department and are not refundable:

- a) Application Fees
  - 1) The fee for application for a license as a registered professional nurse and a licensed practical nurse is \$50. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. 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 by the Department or the designated testing service, shall result in the forfeiture of the examination fee.
  - 2) The fee for a temporary restoration or endorsement permit for a license as a registered professional nurse and licensed practical nurse is \$25.
- b) Renewal Fees

The fee for the renewal of a license shall be calculated at the rate of ~~\$30~~\$20 per year.

## DEPARTMENT OF PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENT

## c) General Fees

- 1) The fee for the restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees, but not to exceed \$125.
- 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license which has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Department records when no duplicate license is issued.
- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the scoring of an examination authorized by the Department reviewed and verified is \$20 plus any fees charged by the applicable testing service.
- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing such certificate.
- 6) The fee for a roster of persons licensed as registered professional nurses or licensed practical nurses in this State shall be the actual cost of producing such a roster.
- 7) The fee for processing a fingerprint card by the Department of State Police is the cost of processing which shall be made payable to the State Police Services Fund and shall be remitted to the State Police for deposit into the Fund.

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Intermediate Care for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) Section Number: 350.1230                      Adopted Action:  
Amendment
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Rulemaking: May 24, 2004
- 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: 27 Ill. Reg. 17957; December 1, 2003
- 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 Source Note, after the entry for August 15, 2003, "emergency expired January 12, 2004;" was added.
  2. In the Source Note, the entry for October 15, 2003 was changed to "November 15, 2003".

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

1. In the Table of Contents, heading for Table D, "Adm." was stricken and "Admin." was added.
2. In the Table of Contents, heading for Table D, "Sixteen" was stricken.
3. In the Source Note, the entry for January 12, 2004 was changed to "January 11, 2004".

## DEPARTMENT OF PUBLIC HEALTH

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4. In the Source Note, the following was added after “November 15, 2003”:  
“expedited correction at 28 Ill. Reg. 3552, effective November 15, 2003”.

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 rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any 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

- 15) Summary and Purpose of Rulemaking: Section 350.1230 (Nursing Services) is being amended to allow a licensed practical nurse to be in charge of health services when the director of nursing is not on duty. The nurse shall be a registered nurse when required by the medical needs of the residents.
- 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:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENT

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
350.290	Quarterly List of Violators (Repealed)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

- 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)

SUBPART E: RESIDENT LIVING SERVICES

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENT

## 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
350.1240	Dental Services
350.1250	Physical and Occupational Therapy Services

## SUBPART G: MEDICATIONS

## Section

350.1410	Medication Policies and Procedures
350.1420	Compliance with Licensed Prescriber's Orders
350.1430	Administration of Medication
350.1440	Labeling and Storage of Medication
350.1450	Control of Medications

## SUBPART H: RESIDENT AND FACILITY RECORDS

## Section

350.1610	Resident Record Requirements
350.1620	Content of Medical Records

DEPARTMENT OF PUBLIC HEALTH

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- 350.1630 Confidentiality of Resident's Records
- 350.1640 Records Pertaining to Residents' Property
- 350.1650 Retention and Transfer of Resident Records
- 350.1660 Other Resident Record Requirements
- 350.1670 Staff Responsibility for Medical Records
- 350.1680 Retention of Facility Records
- 350.1690 Other Facility Record Requirements

SUBPART I: FOOD SERVICE

Section

- 350.1810 Director of Food Services
- 350.1820 Dietary Staff in Addition to Director of Food Services
- 350.1830 Hygiene of Dietary Staff
- 350.1840 Diet Orders
- 350.1850 Meal Planning
- 350.1860 Therapeutic Diets (Repealed)
- 350.1870 Scheduling Meals
- 350.1880 Menus and Food Records
- 350.1890 Food Preparation and Service
- 350.1900 Food Handling Sanitation
- 350.1910 Kitchen Equipment, Utensils, and Supplies

SUBPART J: MAINTENANCE, HOUSEKEEPING AND LAUNDRY

Section

- 350.2010 Maintenance
- 350.2020 Housekeeping
- 350.2030 Laundry Services

SUBPART K: FURNISHINGS, EQUIPMENT, AND SUPPLIES

Section

- 350.2210 Furnishings
- 350.2220 Equipment and Supplies

SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

Section

- 350.2410 Codes
- 350.2420 Water Supply

DEPARTMENT OF PUBLIC HEALTH

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- 350.2430 Sewage Disposal
- 350.2440 Plumbing

SUBPART M: CONSTRUCTION STANDARDS FOR NEW INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

- 350.2610 Applicability of These Standards
- 350.2620 Codes and Standards
- 350.2630 Preparation of Drawings and Specifications
- 350.2640 Site
- 350.2650 Administration and Public Areas
- 350.2660 Nursing Unit
- 350.2670 Dining, Living, Activities Rooms
- 350.2680 Therapy and Personal Care
- 350.2690 Service Departments
- 350.2700 General Building Requirements
- 350.2710 Structural
- 350.2720 Mechanical Systems
- 350.2730 Plumbing Systems
- 350.2740 Electrical Systems

SUBPART N: CONSTRUCTION STANDARDS FOR EXISTING INTERMEDIATE CARE FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Section

- 350.2910 Applicability
- 350.2920 Codes and Standards
- 350.2930 Preparation of Drawings and Specifications
- 350.2940 Site
- 350.2950 Administration and Public Areas
- 350.2960 Nursing Unit
- 350.2970 Living, Dining, Activities Rooms
- 350.2980 Treatment and Personal Care
- 350.2990 Service Department
- 350.3000 General Building Requirements
- 350.3010 Structural
- 350.3020 Mechanical Systems
- 350.3030 Plumbing Systems
- 350.3040 Electrical Requirements

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## SUBPART O: RESIDENT'S RIGHTS

## Section

350.3210	General
350.3220	Medical and Personal Care Program
350.3230	Restraints (Repealed)
350.3240	Abuse and Neglect
350.3250	Communication and Visitation
350.3260	Resident's Funds
350.3270	Residents' Advisory Council
350.3280	Contract With Facility
350.3290	Private Right of Action
350.3300	Transfer or Discharge
350.3310	Complaint Procedures
350.3320	Confidentiality
350.3330	Facility Implementation

SUBPART P: SPECIAL STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR  
THE DEVELOPMENTALLY DISABLED OF 16 BEDS OR LESS

## Section

350.3710	Applicability of Other Provisions of this Part
350.3720	Administration
350.3730	Admission and Discharge Policies
350.3740	Personnel
350.3750	Consultation Services and Nursing Services
350.3760	Medication Policies
350.3770	Food Services
350.3780	Codes and Standards
350.3790	Administration and Public Areas
350.3800	Bedrooms
350.3810	Nurses Station
350.3820	Bath and Toilet Rooms
350.3830	Utility Rooms
350.3840	Living, Dining, Activity Rooms
350.3850	Therapy and Personal Care
350.3860	Kitchen
350.3870	Laundry Room
350.3880	General Building Requirements
350.3890	Corridors
350.3900	Special Care Room

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350.3910	Exit Facilities and Subdivision of Floor Areas
350.3920	Stairways, Vertical Openings and Doorways
350.3930	Hazardous Areas and Combustible Storage
350.3940	Mechanical Systems
350.3950	Heating, Cooling, and Ventilating Systems
350.3960	Plumbing Systems
350.3970	Electrical Systems
350.3980	Fire Alarm and Detection System
350.3990	Emergency Electrical System
350.4000	Fire Protection
350.4010	Construction Types
350.4020	Equivalencies
350.4030	New Construction Requirements

## SUBPART Q: DAY CARE PROGRAMS

## Section

350.4210	Day Care in Long-Term Care Facilities
350.APPENDIX A	Classification of Distinct Part of a Facility for Different Levels of Service (Repealed)
350.APPENDIX B	Federal Requirements Regarding Residents' Rights (Repealed)
350.APPENDIX C	Seismic Zone Map
350.APPENDIX D	Forms For Day Care in Long-Term Care Facilities
350.APPENDIX E	Guidelines for the Use of Various Drugs
350.TABLE A	Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE B	Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled
350.TABLE C	Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled
350.TABLE D	Food Service Sanitation Rules, 77 Illinois <del>Admin. Adm.</del> Code 750, 1983 Applicable for New Intermediate Care Facilities for the Developmentally Disabled of <del>Sixteen</del> (16) Beds or Less
350.TABLE E	Construction Types and Sprinkler Requirements for New Intermediate Care Facilities for the Developmentally Disabled of Sixteen (16) Beds or Less
350.TABLE F	Heat Index Table/Apparent Temperature

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

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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; 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

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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 June 30, 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; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15924, effective September 25, 2003; amended at 27 Ill. Reg. 18160, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3552, effective November 15, 2003; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART F: HEALTH SERVICES

**Section 350.1230 Nursing Services**

- a) Each facility shall have a full-time director of nursing services (DON) who is a registered nurse (RN) and whose only responsibility is the immediate supervision of the facility's health services. This person shall be on duty a minimum of 36 hours, four days per week. At least 50 percent of this person's hours shall be regularly scheduled between 7 A.M. and 7 P.M.
  - 1) A registered nurse or licensed practical nurse shall be on duty 24 hours per day and seven days per week in charge of health services at all times when the director of nursing services is not on duty. The nurse shall be a registered nurse when required by the medical and/or nursing needs of the residents.
  - 2) A facility may, with written approval from the Department, have two registered nurses share the duties of this position if the facility is unable to obtain a full-time person. Such an arrangement will be granted approval only through written documentation that the facility was unable to obtain the full-time services of a qualified individual to fill this position. Such documentation shall include, but not be limited to: an advertisement that has appeared in a newspaper of general circulation in the area for at least three weeks; the names, addresses and phone numbers of all persons who applied for the position and the reasons why they were not acceptable or would not work full time; and information about the number and availability of registered nurses in the area. The Department will grant approval only when such documentation indicates that there were no qualified applicants who were willing to accept the job on a full-time basis, and the pool of registered nurses available in the area cannot be expected to produce, in the near future, a qualified person who is willing

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to work full time.

- 3) In facilities with a capacity of fewer than 50 beds, this person (or these persons) may also provide direct patient care, and this person's time may be included in meeting the staff to resident ratio requirements.
- b) Residents shall be provided with nursing services, in accordance with their needs, which shall include, but are not limited to, the following: The DON shall participate in:
- 1) Pre-admission evaluation study and plan.
  - 2) Evaluation study, program design, and placement of the resident at the time of admission to the facility.
  - 3) Periodic reevaluation of the type, extent, and quality of services and programming.
  - 4) Development of discharge plans, and the referral to appropriate community resources.
  - 5) Training in habits in personal hygiene and activities of daily living.
  - 6) Development of a written plan for each resident to provide for nursing services as part of the total habilitation program.
  - 7) Modification of the resident care plan, in terms of the resident's daily needs, as needed.
- c) A registered nurse shall participate, as appropriate, in planning and implementing the training of facility personnel.
- d) Direct care personnel shall be trained in, but are not limited to, the following:
- 1) Detecting signs of illness, dysfunction or maladaptive behavior that warrant medical, nursing or psychosocial intervention.
  - 2) Basic skills required to meet the health needs and problems of the residents.
  - 3) First aid in the presence of accident or illness.

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- e) Sufficient, appropriately qualified nursing staff shall be available, which may include licensed practical nurses and other supporting personnel, to carry out the various nursing service activities.
- f) The individual responsible for providing nursing services shall have knowledge and experience in the field of developmental disabilities.
- g) Nursing service personnel at all levels of competence and experience ~~and competence~~ shall be assigned responsibilities in accordance with their qualifications.

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

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- 1) Heading of the Part: The Illinois Library System Act
- 2) Code Citation: 23 Ill. Adm. Code 3030
- 3) 

<u>Section Numbers</u>	<u>Proposed Action</u>
3030.90	Amend
3030.105	Amend
- 4) Statutory Authority: Implementing and authorized by the Illinois Library System Act [75 ILCS 10]
- 5) Effective Date: June 1, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file and available for public inspection at the Illinois State Library, Gwendolyn Brooks Building, 300 S. Second Street, Springfield, IL 62701.
- 9) Notice of Proposed Amendments was published in the Illinois Register: February 20, 2004; 28 Ill. Reg. 2991
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: No changes
- 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 rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed amendments pending on this Part? No
- 15) Summary and purpose of these amendments: Section 3030.90 concerns the finances and records of the regional library systems in Illinois. A new incorporation by reference was added, and deadline dates for financial reports were changed to coincide with the changes to the submission of the systems' annual Per Capita and Area Grants that are being made in Section 3030.105. Also changed in Section 3030.105 are the application dates for the

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annual grant programs for the blind and physically handicapped grants, public library Per Capita and Equalization Grants, Illinois Major Urban Library Program and the School Library Grant.

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

Joseph A. Natale  
Illinois State Library  
Gwendolyn Brooks Building  
300 S. Second  
Springfield IL 62701

217-558-4185  
jnatale@ilsos.net

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

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TITLE 23: EDUCATION AND CULTURAL RESOURCES  
SUBTITLE B: CULTURAL RESOURCES  
CHAPTER I: SECRETARY OF STATEPART 3030  
THE ILLINOIS LIBRARY SYSTEM ACT

Section	
3030.10	Definitions
3030.15	Forms
3030.20	Administration of the Act: Hearings
3030.25	Establishment of Systems
3030.30	Geographic Boundaries
3030.35	Membership in a Library System
3030.40	Contracting Libraries
3030.45	Accessing Resources and Services (Repealed)
3030.50	Service Standards
3030.55	Service to State Institutions (Repealed)
3030.60	Services to the Physically Disabled (Repealed)
3030.65	Plan of Service for a Cooperative or Multitype Library System
3030.70	Plan of Service for a Public Library System (Repealed)
3030.75	Conversion of a Cooperative Public Library System or a Public Library System to a Multitype Library System
3030.80	Liquidation
3030.85	Merger
3030.90	Finances and Records
3030.95	Governing Board
3030.100	Rules
3030.105	State Grants
3030.106	Educate & Automate Automation/Technology Grants
3030.110	Revocation of Approval
3030.115	Suspension of a Library from Membership
3030.120	Adjustment of the Geographic Boundaries of Library Systems
3030.121	Administrative Review of State Librarian's Decision in Contested Cases
3030.122	Notice of Hearing
3030.123	Conduct of Hearing
3030.124	Motions
3030.125	Order of the Hearing
3030.126	Authority of Administrative Law Judge
3030.127	Record of the Hearing

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3030.128	Rules of Evidence; Official Notice
3030.129	Decisions and Orders
3030.130	Annual System Reports
3030.135	Withdrawal of Membership

AUTHORITY: Implementing and authorized by the Illinois Library System Act [75 ILCS 10].

SOURCE: Rules and Regulations for Library Systems and State Aid, November 8, 1965; rules repealed, new rules adopted and codified at 8 Ill. Reg. 16914, effective September 4, 1984; amended at 13 Ill. Reg. 1244, effective January 15, 1989; amended at 14 Ill. Reg. 20066, effective December 1, 1990; amended at 16 Ill. Reg. 10329, effective June 12, 1992; emergency amendment at 17 Ill. Reg. 9725, effective June 11, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 12449, effective July 15, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 21187, effective November 23, 1993; amended at 17 Ill. Reg. 22048, effective December 14, 1993; amended at 18 Ill. Reg. 7452, effective May 3, 1994; expedited correction at 18 Ill. Reg. 13154, effective May 3, 1994; amended at 20 Ill. Reg. 3909, effective February 16, 1996; emergency amendment at 21 Ill. Reg. 4853, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 11774, effective August 11, 1997; amended at 26 Ill. Reg. 5969, effective July 1, 2002; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 3030.90 Finances and Records**

- a) The fiscal year for each system shall begin July 1 and end on June 30 of each year.
- b) The board of directors of each library system shall:
  - 1) Maintain all financial records at the system administrative headquarters.
  - 2) ~~Maintain records of the system's financial activities in accordance with "Audit of State and Local Governmental Units," American Institute of Certified Public Accountants (AICPA), 1996, and "Statement 2, Grant, Entitlement and Shared Revenue Accounting by State and Local Governments," by the National Council on Governmental Accounting (NCGAS), Chicago, Municipal Finance Officers' Association, March 1979, and shall specifically record the actions of the board in regard to bills approved for payment. This incorporation by reference does not include later amendments to or editions of the titles cited.~~
  - 23) Cause an annual audit of the records of the system for the preceding fiscal

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year and those maintained by the Treasurer to be made by an independent certified public accountant and cause copies thereof to be filed with each participating library and with the State Librarian on or before September 30 following the end of the fiscal year. Audits shall be conducted in accordance with "Government Auditing Standards, 2003 Revisions", published by the Comptroller General of the United States, U.S. General Accounting Office, 441 G. Street, NW, Washington, DC 20548. The material incorporated by reference includes no later amendments or editions.

- 34) Submit a management letter prepared by the system's auditor as part of the annual audit.
- 45) Account for all funds of the system by expenditure, encumbrance, or reserves on or before June 30th of each year. ~~Encumbrances shall be paid by September 30 of each year.~~
- 56) Submit ~~prior to July 1 by May 1~~ of each year an estimated budget for the ensuing fiscal year according to the requirements cited in Section 3030.105(a)(2) of this Part.
- 67) ~~Maintain Have established, by July 1, 1984, and maintain thereafter,~~ an inventory of all library materials and equipment purchased with system funds. Such inventory shall be attested by the system auditor.
- 78) Maintain financial records and submit ~~quarterly~~ reports in compliance with the Uniform Accounting and Reporting Manual for the Illinois Library System Headquarters (second edition, April 1996, Office of the Secretary of State, Illinois State Library, Room 505, 300 S. Second Street, Springfield IL 62701-1796) or at the direction of the State Librarian. The material incorporated by reference includes no later amendments or editions. ~~Quarterly report documents should be submitted to the State Librarian on November 15, February 15, and May 15 of each year. In lieu of a fourth quarter report, audited financial statements, accompanied by a report on internal accounting control (management letter), are to be submitted following the end of each fiscal year running July 1 to June 30.~~

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

**Section 3030.105 State Grants**

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- a) Application for Annual Per Capita and Area Grants to the library systems shall be made to the State Librarian ~~on or before May 1~~ prior to July 1 of each year and shall consist of the following:
- 1) An annually updated plan of service. The plan of service shall clearly indicate how the proposed expenditure of state funds in the ensuing fiscal year will be utilized for the provision of member services within the goals for Illinois Library systems.
  - 2) The estimated system budget for the ensuing fiscal year based on current year funding with a contingency plan for anticipated funding for the ensuing year.
- b) Library technology grants
- 1) Application for *library system grants for the provision of services to member libraries and for technology developments* (Section 8(c) of the Act) shall be made according to criteria established by the State Librarian. Applicants shall use the forms prepared and made available by the Secretary of State for this purpose.
  - 2) Applications shall be reviewed by the State Library staff and the decision of the State Librarian is final.
  - 3) The number of grants to be awarded is at the discretion of the State Librarian within the confines of available funding.
  - 4) Applicants must meet requirements established by the State Library for telecommunications and network services to member libraries.
- c) Application for Annual Grants for special library services to the blind and physically handicapped shall be made to the State Librarian ~~on or before March 15~~ prior to July 1 of each year and shall consist of a budget and a description of services to be offered. Any change in the use of funds from that stated in the approved application shall have prior approval of the State Librarian. Failure to spend funds in accordance with the application or approved amendment shall result in ineligibility for future grants for a period of one year.
- d) To be eligible for a per capita grant, a public library shall show that it will *either*

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*meet or show progress toward meeting the Illinois Library Standards, as most recently adopted by the Illinois Library Association, by raising or improving its performance levels in relation to the standards, when such levels are below the standards, according to objectives, time frames, and priorities which the library shall state in its application for a grant, and which it shall also state are consistent with the terms of the plan of service of the system of which it is a member.* (Section 8.1(1) of the Act)

- e) Application for *annual equalization grants and per capita grants to public libraries* shall be made ~~on or before July 15 of~~ each year. (Section 8 of the Illinois Library Act) ~~The application deadline may be extended at the discretion of the State Librarian for public libraries subjected to Acts of God or natural disasters including but not limited to flooding for libraries located in counties which have been legally declared State and/or federal disaster areas. Those affected libraries may receive the extension by writing to the State Librarian setting forth the basis for said extension request by August 15 of the same calendar year. The State Librarian shall grant the extensions for affected libraries, but in no event shall the deadline be extended beyond September 1.~~ The State Library shall verify the eligible service area population of a public library using the latest census of population of Illinois, or a municipality or parts thereof, prepared and submitted to the Index Division by the federal government and certified by the Secretary of State no later than July 15 of the fiscal year of the grant, the filing deadline for grant applications. The applicant library shall submit supporting documentation with the grant application whenever there are any changes to be reported in the population service area.
- f) For a public library to qualify for a per capita grant, it must be a member of a library system and not under suspension. The application shall show that grant funds will be used to meet or make progress in meeting Illinois library standards cited in subsection (d) above. Any change in the use of funds from that stated in the approved application shall have prior approval of the State Librarian. Failure to spend funds in accord with Section 8.1 of the Act shall result in ineligibility for future grants for a period of one year.
- g) Libraries that qualify for the ILLINOIS MAJOR URBAN LIBRARY PROGRAM shall submit an application to the State Librarian, subject to his final approval, for use of the funds ~~by July 15 of each year.~~ The application shall consist of the public library per capita grant application cited in Section 3030.105(e) of this Part.

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- h) Research and reference center funding shall be allocated by the State Librarian for the purposes of making available adequate library resources and services. Grants shall be awarded for statewide resource sharing projects and for improving services of large libraries with special collections which benefit citizens throughout the state. Grants will be awarded at the discretion of the State Librarian each fiscal year as funding allows.
- i) The Research and Reference contracts will specify by inclusion:
- 1) The terms for apportionment of the grant funding, and
  - 2) Services to be performed.
- j) To qualify for an Annual Grant to the Illinois Regional Library for the Blind and Physically Handicapped, the applicant agent shall be jointly designated by the Illinois State Library and the Library of Congress National Library Service for the Blind and Physically Handicapped for such purpose. An annual contract with the State Library shall be executed which specifies the objectives and budget for the service.
- k) School District Library Grant Program
- 1) To be eligible for a School Library Grant, the applicant must be an Illinois public school district and a member in good standing of a regional multitype library system; or have made application for system membership 90 days prior to the ~~November 30~~ grant application deadline and be approved for membership prior to the following January 15. ~~The library system may be granted an extension until January 31, if requested in writing on or before January 15, to notify the Illinois State Library about the status of the application for library system membership.~~
  - 2) Application for School Library Grants shall be made ~~on or before November 30 of~~ each year. Applications shall be reviewed by the State Library staff and are subject to final approval by the State Librarian. ~~The application deadline may be extended at the discretion of the State Librarian for school districts subjected to Acts of God or natural disasters, including but not limited to flooding for school districts located in counties which have been legally declared State and/or federal disaster areas. Those affected districts may receive the extension by writing to the State Librarian setting forth the basis for the extension request by~~

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~~December 31. The State Librarian shall grant the extensions for affected school districts, but in no event shall the deadline be extended beyond January 15.~~

- 3) The applicant shall show that grant funds will be used to support the services of the district's school library media program. The grant may not be used for the construction of a new library. Any change in the use of funds from that stated in the approved application shall have prior approval of the State Librarian. Failure to spend funds in accordance with Section 8.4 of the Act shall result in ineligibility for future grants for a period of one year.
- 1) Library Grants for Veterans' Homes
    - 1) Pursuant to Section 8.6 of the Illinois Library System Act [75 ILCS 10/8.6], there is established by this subsection (1) the application procedures for Veterans' Home library grants.
    - 2) The application for annual grants to State-funded Veterans' Homes shall be made according to a deadline established by the State Librarian. The application shall be signed by the administrator and librarian or person responsible for library services at the Veterans' Home.
    - 3) The applications will be evaluated by Illinois State Library staff, and final funding decisions will be made by the State Librarian.
    - 4) Applications will be funded according to amount of funding available; demonstrated need; and number of residents being served. Criteria will also include whether the plan of operation contains information about the project goals and objectives, the methods used to achieve these goals and objectives, and the involvement of staff in providing library service.
    - 5) In order for an application to be considered, the Veterans' Home must be providing library services to its residents at the time of application.
    - 6) Any change in the use of funds from that stated in the approved application shall have prior approval of the State Librarian. Failure to spend funds as approved shall result in ineligibility for future grants for a period of one year.

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- 7) The application shall consist of:
- A) A statement on the proposed use of the grant for which application is being made which shall show how grant funds will be used to expand library services to residents of the Veterans' Home. Grant funds are eligible to be used for library staff, materials, equipment, and library services.
  - B) A report on the use of the previous year's grant, if a grant was received, which shall show how the grant was used; and an evaluation detailing the impact of the program.
  - C) A certification stating that:
    - i) the grant funds will be kept in a separate account;
    - ii) local funding for library service will not diminish as a result of the program;
    - iii) the library will submit semi-annual financial and programmatic reports to the Illinois State Library on January 31 and July 31 of each year covering the use of the funds.

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

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- 1) Heading of the Part: Department of Personnel
- 2) Code Citation: 80 Ill. Adm. Code 420
- 3) Section Number: 420.310      Adopted Action: Amendment
- 4) Statutory Authority: 15 ILCS 310
- 5) Effective Date of Amendment: May 24, 2004
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment 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) Notices of Proposal Published in Illinois Register: January 23, 2004, 28 Ill. Reg. 1358  
Issue date
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: Grammatical changes were made; nothing substantive was changed.
- 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. The companion emergency rulemaking expired on April 14, 2004.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This amendment brings consistency to statutory and regulatory provisions. Since the Illinois General Assembly amended the Secretary of State Merit Employment Code [15 ILCS 310] a change to similar language in the rules is necessary to bring consistency.
- 16) Information and questions regarding this adopted amendment shall be directed to:

ILLINOIS SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

Stephan J. Roth, Senior Legal Advisor  
Secretary of State Office  
148 Howlett Building  
Springfield IL 62756

(217) 782-1750

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

ILLINOIS SECRETARY OF STATE

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
POSITION CLASSIFICATIONS  
CHAPTER II: SECRETARY OF STATE

PART 420  
DEPARTMENT OF PERSONNEL

SUBPART A: INTRODUCTION

Section  
420.10 Definitions

SUBPART B: CLASSIFICATION AND PAY

Section  
420.200 Positions  
420.210 Position Classification  
420.220 Pay Plan

SUBPART C: MERIT AND FITNESS

Section  
420.300 Application and Examination  
420.310 Appointment and Selection  
420.320 Trainees  
420.330 Intermittents  
420.340 Continuous Service  
420.350 Performance Review  
420.360 Probationary Status  
420.370 Promotions  
420.380 Employee Transfers  
420.390 Demotion  
420.400 Layoffs and Reemployment  
420.410 Voluntary Reduction  
420.415 Sworn Personnel – Inter-Agency Assignment  
420.420 Resignation and Reinstatement  
420.430 Discipline, Discharge, and Termination  
420.435 Return of State Property

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## SUBPART D: CONDITIONS OF EMPLOYMENT

Section	
420.600	Grievance Procedure
420.610	Sick Leave
420.620	Leave for Personal Business
420.630	On-The-Job Injury – Industrial Disease
420.640	Leaves of Absence Without Pay
420.645	Adoption/Child Care Leave
420.650	Limitations on Leaves of Absence
420.660	Leaves of Absence – Special
420.665	Leaves of Absence – Sworn Personnel – Inter-Agency Assignment
420.670	Leaves of Absence – Special – Salary
420.680	Employee Rights After Leave
420.690	Leave of Absence – Election to Public Office
420.700	Failure to Return From Leave of Absence
420.710	Military and Peace Corps Leave
420.720	Leave For Annual Military Reserve Training or Special Duty
420.730	Leave for Military Physical Examinations
420.740	Leave to Take Exempt Position
420.760	Disability Leave
420.770	Attendance in Court
420.800	Vacation
420.810	Work Schedules
420.820	Overtime
420.825	Temporary Assignment
420.830	Holidays

## SUBPART E: GENERAL PROVISIONS

Section	
420.1000	Records
420.1010	Benefits
420.1030	Other Provisions

AUTHORITY: Implementing and authorized by Section 10 of the Secretary of State Merit Employment Code [15 ILCS 310/10].

SOURCE: Emergency rule adopted December 29, 1977; amended at 3 Ill. Reg. 49, p. 159, effective October 1, 1979; amended at 4 Ill. Reg. 40, p. 219, effective December 1, 1980;

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amended at 6 Ill. Reg. 3302, effective March 16, 1982; amended at 6 Ill. Reg. 7494, effective June 16, 1982; amended at 7 Ill. Reg. 11526, effective September 7, 1983; codified at 8 Ill. Reg. 2653; recodified at 10 Ill. Reg. 15659; amended at 12 Ill. Reg. 6766, effective April 1, 1988; amended at 17 Ill. Reg. 1652, effective February 1, 1993; emergency amendment at 21 Ill. Reg. 1710, effective January 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5937, effective April 24, 1997; emergency amendment at 27 Ill. Reg. 18259, effective November 17, 2003, for a maximum of 150 days; emergency expired April 14, 2004; amended at 28 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: MERIT AND FITNESS

**Section 420.310 Appointment and Selection**

- a) Eligible Lists: The Department of Personnel shall establish and maintain lists of qualified applicants for positions covered by Jurisdiction B of the Code. Such applicants shall have successfully qualified through competitive examinations as provided in Section 420.300(a). The names of successful applicants shall be arranged in the order of their relative excellence whether by numerical grade or category grouping. The length of time an eligible's name may appear on the list shall be specified in the examination announcement.
- b) Responsibilities of Eligibles: It shall be the responsibility of each eligible to inform the Department of Personnel in writing of any changes in name, address or availability for employment.
- c) Geographical Preference: Applicants for employment shall specify one or more of the locations or areas in which they will accept employment from those choices made available at the time of examination or which may be made available at a later date.
- d) Removal of Names From Eligible Lists:
  - 1) The Director of Personnel shall remove names from an eligible list for any of the following reasons:
    - A) Appointment of an eligible from the eligible list;
    - B) Death of an eligible;
    - C) Notice by postal authorities that they are unable to locate the

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eligible at his last known address;

- D) Attempt by an eligible to practice any deception or fraud in connection with an examination;
  - E) Evidence that the eligible lacks any of the qualifications required for the class for which he was erroneously declared eligible;
  - F) Request of an eligible to remove name;
  - G) The applicant's name has remained on the eligible list for twelve months.
- 2) Following are the only criteria by which the Director of Personnel may remove names from an eligible list. Eligibles shall be notified of such removal.
- A) Failure of an eligible, upon referral, to reply or to report for interview;
  - B) After accepting employment, failure without good cause to report to work within the time prescribed by the employing department or the Department of Personnel;
  - C) Failure of an eligible, upon request, to furnish written evidence of availability for employment;
  - D) Specifying conditions of employment by an eligible which are not associated with the class for which eligible;
  - E) Refusal of an eligible to accept three separate offers of employment;
  - F) After an eligible has been passed over three times after referral to the same department for the appointment of an eligible lower on the eligible list, and the department concerned requests removal of the eligible from the list for good and sufficient cause;
  - G) Poor work history of eligible;
  - H) Former experience and history of eligible not compatible with

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duties and responsibilities of the class;

- I) Physical inability of eligible to perform the duties and responsibilities of the class;
  - J) After eligible accepts promotion;
  - K) When a change in either classification or testing standards or other change requires such action;
  - L) Conviction of an eligible of a felony;
  - M) Addiction of an eligible to narcotics or to alcohol.
- e) Replacement of Names on Eligible List:
- 1) The Director of Personnel may restore a name to the same eligible list when such action would be in the best interest of the Office of the Secretary of State, including but not limited to:
    - A) Names of eligibles who, upon removal from list for failure to reply due to powers beyond control, did not receive referral in time to respond in the prescribed amount of time;
    - B) Names of veterans returning from active military service of not more than four years shall be restored to an eligible list for the same class if the request is made by the veteran within 90 days after discharge or from hospitalization continuing after discharge for not more than one year. The eligible must provide evidence of satisfactory completion of training and service when making the request and be qualified to perform the current duties of the class;
    - C) Names of employees who are laid off during their probationary period shall be returned to the eligible list for the class in which the layoff occurred.
  - 2) Names so restored shall be at the grade in effect when the removal from the list was made and may not remain on the list after that period of time which is equal to the unexpired time remaining of the original eligibility.

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- f) Appointment From Eligible List: When an appointment to a position is made from an eligible list resulting from an open competitive examination such appointment shall be made of the person standing among those who are available within the ~~10~~three highest grades, if such list is in order of examination grade, or from the highest ranking group of three or more available eligibles, if such list is in category groupings, except as provided for under Section 420.310(g).
- g) Extension of Jurisdiction B:
- 1) Employees in positions to which Jurisdiction B is extended pursuant to Sections 5d and 10d of the Merit Employment Code shall be continued in such positions and shall attain certified status therein provided they pass a qualifying examination prescribed by the Director of Personnel within six ~~(6)~~ months after such jurisdiction is extended and provided that they satisfactorily complete their respective probationary periods.
  - 2) Appropriate standards for probationary appointments shall be prepared by the Director of Personnel and appointments of such employees shall be without regard to eligible lists and without regard to the provisions of the Code and this Part requiring the appointment of the person standing among the three highest on the appropriate eligible list to fill a vacancy or from the highest category ranking group if the list is by rankings instead of numerical ratings. Nothing in this subsection (g) herein shall preclude the reclassification or reallocation as provided by this Part of any position held by any such incumbent.
- h) Appointments – Positions Subject to Jurisdiction B: Positions which are covered by Jurisdiction B of the Code shall be filled in one of the following ways:
- 1) By appointment of an applicant standing among the ~~10~~three highest on an eligible list which is numerically rated;
  - 2) By appointment of an applicant from the highest ranking group of ~~10~~three or more available eligibles from an eligible list which is not numerically rated;
  - 3) By present employees (May 24, 1977) who have passed examinations in accordance with the Personnel Code [20 ILCS 415](Ill. Rev. Stat. 1981, ch. 127, pars. 63b101 et seq.) under the Governor of Illinois and who having passed the probationary period shall be continued in their positions without further examination;

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- 4) By present employees (May 24, 1977) who having been promoted in accordance with the rules under the Personnel Code under the Governor of the State of Illinois (23 Ill. Adm. Code 302) shall be continued in their positions without further examination;
- 5) By present employees (May 24, 1977) who having passed examinations in accordance with the Personnel Code under the Governor of the State of Illinois, but who have not completed the probationary period shall be continued in their positions and be given credit for such probationary time toward the completion of the probationary period provided by this Part;
- 6) By all other present employees subject to Jurisdiction B who shall be continued in their positions providing that they have passed a qualifying examination within nine ~~(9)~~ months after May 24, 1977;
- 7) By present employees (May 24, 1977) or past employees who have rights or privileges arising under the Personnel Code under the Governor of Illinois or through judicial process and who shall be continued in the extent of such rights and privileges;
- 8) By an appointment to a position through promotion of an employee who is qualified pursuant to Section 420.370(b);
- 9) By emergency appointment for a period not in excess of ~~ninety(90)~~ calendar days to meet emergency situations. Emergency appointments may be made without regard to eligible lists. Such appointments may not be renewed;
- 10) By temporary appointments to positions which are temporary or seasonal in nature as determined by the Director of Personnel. Such appointments shall not exceed six ~~(6)~~ months out of any twelve month period;
- 11) By provisional appointments to positions without competitive examination when there is no appropriate eligible list. Provisional appointments may not exceed six ~~(6)~~ months out of any twelve month period;
- 12) By the transfer of employees from one position to another if the qualifications, responsibilities, duties and salary range are similar;

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- 13) By reinstatement of persons who formerly held certified status under the Code, the Personnel Code ~~[20 ILCS 415](Ill. Rev. Stat. 1981, ch. 127, pars. 63b101 et seq.)~~, "~~An Act to create~~ the State Universities Civil Service ~~ActSystem"~~ ~~[110 ILCS 70](Ill. Rev. Stat. 1981, ch. 24 1/2, pars. 38b1 et seq.)~~, or the Comptroller Merit Employment Code ~~[15 ILCS 410](Ill. Rev. Stat. 1981, ch. 15, pars. 401 et seq.)~~. To be eligible for reinstatement, such persons shall have resigned while in good standing or shall have been laid off from employment within their respective merit systems, except as provided in Section 420.430(k).
  - 14) By reemployment of an employee whose name appears upon a reemployment list; such reemployment may be made to positions in the same or lower salary range as to that salary range applicable to the position from which the person to be reemployed was laid off; reemployment appointments shall be of qualified employees and shall be made after consideration of seniority and performance records;
  - 15) By the appointment of trainees into training programs approved by the Director of Personnel; such appointments may be made with or without examination of applicants; trainees do not acquire any rights under Jurisdiction B of the Code by virtue of trainee appointments;
  - 16) By the reduction in rank or class of an employee, for cause, with the prior approval of the Director of Personnel;
  - 17) By the transfer of active, certified employees from the jurisdictions of the Personnel Code of Illinois, the University Civil Service System, or the Comptroller Merit Employment Code, persons so transferred shall retain the same status under the Code as that which they held under their previous merit employment.
- i) Types of Status: The following types of appointments may be made by the Director.
    - 1) Exempt: For persons in positions not subject to Jurisdiction B. If an exempt employee's position becomes subject to Jurisdiction B by reason of extension of Jurisdiction B, pursuant to Section 5d and 10d of the Code, such employee shall establish eligibility for such position by passing satisfactorily a qualifying examination prescribed by the Director of Personnel within six ~~(6)~~ months after the extension of Jurisdiction B to

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such position. In all other cases, if an exempt employee's position becomes subject to Jurisdiction B, such employee shall establish eligibility for such position within six ~~(6)~~ months by successfully competing in the open competitive examination and receiving a probationary appointment according to applicable rules.

- 2) Emergency: For persons selected by departments to meet emergency situations. Such appointments shall not exceed ~~ninety (90)~~ days, shall not be renewed, and may be made without regard to an eligible list. Notices of selections and terminations shall be reported to the Director of Personnel.
  - 3) Temporary: For persons in positions to perform temporary or seasonal work. No position shall be filled by temporary appointment for more than six ~~(6)~~ months out of any 12-month period.
  - 4) Provisional: For persons in positions for which there are fewer than ~~10~~~~three~~ available eligibles on the open competitive eligible list. No positions shall be filled by provisional appointment for more than six months out of any 12-month period. If a provisional employee's position is allocated to a class for which there are available eligibles, eligibility for such positions shall be established within 90 days through successfully competing in the open competitive examination and receiving a probationary appointment according to subsection (i)(5) the applicable rules herein.
  - 5) Probationary: For persons appointed from an eligible list, for persons receiving a promotion and for persons being reinstated. If a probationary employee's position is declared exempt from Jurisdiction B, the balance of the probationary period shall be served after which certified status shall be attained.
  - 6) Certified: For persons having successfully completed the required probationary period. If a certified employee's position is declared exempt from Jurisdiction B, certified status shall be retained in that position.
  - 7) Trainee: For persons in positions pursuant to established trainee and apprenticeship programs.
- j) Permanent Part-Time: Permanent part-time employees shall have all rights and

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benefits granted by Jurisdictions A, B and C based on the proration of the part-time scheduled hours against the normal 1957.5 hour work year.

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

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: State Toll Highway Rules
- 2) Code Citation: 92 Ill. Adm. Code 2520
- 3) Section Number: 2520.403                      Emergency Action:  
Amend
- 4) Statutory Authority: 605 ILCS 10/10(a)
- 5) Effective Date of Amendment: May 24, 2004
- 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: This emergency rule will expire when the proposed rulemaking is adopted.
- 7) Date Filed with the Index Department: May 24, 2004
- 8) A copy of the emergency amendment, 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: Several fatal traffic accidents have occurred at various toll collection plazas. In the interest of public safety, the Tollway wishes to reduce the speed limits at barrier plaza approaches.
- 10) A Complete Description of the Subjects and Issues Involved: The Emergency Amendment reduces the speed limits at barrier toll plaza approaches.
- 11) Are there any proposed amendments to this Part Pending? No. However, identical Proposed Rule Amendments are being simultaneously submitted.
- 12) Statement of Statewide Policy Objectives: These speed limit amendments are being made in the interest of public safety in effort to protect the Tollway's employees and its patrons. The proposed changes do not create or enlarge a State mandate.
- 13) Information and questions regarding this amendment shall be directed to: Persons who wish to comment on this proposed amendment may submit written comments to:

Mr. Thomas Bamonte  
General Counsel  
The Illinois State Toll Highway Authority

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2700 Ogden Avenue  
Downers Grove, Illinois 60515

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

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

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TITLE 92: TRANSPORTATION  
CHAPTER IV: ILLINOIS TOLL HIGHWAY AUTHORITYPART 2520  
STATE TOLL HIGHWAY RULES

## SUBPART A: AUTHORITY AND DEFINITIONS

## Section

2520.105 Authority  
2520.110 Definitions

## SUBPART B: GENERAL TRAFFIC RULES AND REGULATIONS

## Section

2520.200 Illinois Vehicle Code  
2520.201 Use of Tollway Prohibited or Restricted  
2520.202 Vehicles and Equipment Which May Be Excepted from Provisions of Section  
2520.203 Transportation of Hazardous Materials  
2520.204 Special Usage Toll  
2520.205 Loading or Unloading of Vehicles  
2520.206 Full Stop at All Toll Plazas  
2520.207 Entering and Leaving the Tollway  
2520.208 "U" Turns, Etc.  
2520.209 Backing Up of Vehicles  
2520.210 Parking, Standing or Stopping  
2520.211 Relocating of Vehicles  
2520.212 Pushing or Towing of Vehicles  
2520.213 Stopping or Halting Vehicles by the Authority  
2520.214 Destruction of Authority Property  
2520.215 Picnics  
2520.216 Aircraft  
2520.217 Sale of Goods and Services  
2520.218 Solicitation of Rides  
2520.219 Loitering or Interfering with Traffic  
2520.220 Approaching/Departing a Toll Plaza  
2520.221 Compliance with Orders or Directions of State Troopers, Etc.  
2520.222 Duty Upon Striking Fixtures, Structures or Other Property on Tollway  
2520.223 Payment of Tolls  
2520.224 Prohibited and Restricted Lanes

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- 2520.225 Traffic Control Devices
- 2520.226 Penalty for Violation

SUBPART C: TRESPASS

- Section
- 2520.300 Authority
- 2520.301 Restriction of Vehicles Using the Tollway
- 2520.302 Restriction on Nature of Use of Tollway
- 2520.303 Enforcement
- 2520.304 Persons and Vehicles Excepted from the Requirements of Subpart C
- 2520.305 Penalties

SUBPART D: SPEED RESTRICTIONS

- Section
- 2520.400 Authority
- 2520.401 Maximum Speed Limits for Passenger Cars
- 2520.402 Maximum Speed Limits for Trucks, Buses, Passenger Cars Towing Trailers, House Trailers and Campers
- 2520.403 Maximum Speed Limits for Designated I-Pass Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches

EMERGENCY

- 2520.404 Road Hazards and Construction Zones
- 2520.405 Minimum Speed Limits
- 2520.406 Special Road Conditions

SUBPART E: CONDUCT PROVISIONS

- Section
- 2520.500 Provisions
- 2520.501 Violations
- 2520.502 Littering – Penalty
- 2520.503 Spurious or Counterfeit Tickets, Coupons or Tokens – Penalty
- 2520.504 Toll Collection Devices – Penalty for Breaking

SUBPART F: SEVERABILITY CLAUSE

- Section
- 2520.600 Partial Invalidity

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## SUBPART G: General Provisions

Section	
2520.700	Authority
2520.701	Related Statutes
2520.702	Notice to Respondent
2520.703	Establishment of the Toll Free Telephone Number
2520.704	Judicial Review
2520.705	Penalties
2520.706	Discovery
2520.707	Administrative Adjudication (Repealed)
2520.708	Hearing Officers – Appointment, Disqualification, and Powers and Duties
2520.709	Hearings Format
2520.710	Default – Failure to Appear (Repealed)
2520.711	Enforcement of Final Order
2520.712	Continuance
2520.713	Authority Rulemaking
2520.714	Severability Clause (Repealed)
2520.715	Timely Request for Hearing – Notice of Hearing
2520.716	Failure to Respond to Notice of Violation – Default
2520.717	Liability of Lessor

AUTHORITY: Implementing and authorized by the Toll Highway Act [605 ILCS 10].

SOURCE: Filed January 3, 1973; effective February 1, 1973; codified at 8 Ill. Reg. 19884; Part repealed, new Part adopted at 17 Ill. Reg. 8539, effective May 27, 1993; amended at 20 Ill. Reg. 10200, effective July 12, 1996; emergency amendment at 24 Ill. Reg. 2737, effective February 4, 2000, for a maximum of 150 days; emergency expired July 2, 2000; emergency amendment at 24 Ill. Reg. 4234, effective February 29, 2000, for a maximum of 150 days; emergency expired July 27, 2000; amended at 24 Ill. Reg. 16078, effective October 11, 2000; emergency amendment at 26 Ill. Reg. 16325, effective October 31, 2002, for a maximum of 150 days ; amended at 27 Ill. Reg. 6325, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 18238, effective November 6, 2003, for a maximum of 150 days; emergency expired April 5, 2004; emergency amendment at 28 Ill. Reg. 1780, effective January 14, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 6911, effective April 23, 2004; emergency amendment at 28 Ill. Reg. \_\_\_\_\_, effective May 24, 2004, for a maximum of 150 days.

## SUBPART D: SPEED RESTRICTIONS

## ILLINOIS STATE TOLL HIGHWAY AUTHORITY

## NOTICE OF EMERGENCY AMENDMENT

**Section 2520.403 Maximum Speed Limits for Designated I-PASS Lanes, Service Areas, Parking Areas, Access Roads and Ramps, and Barrier Toll Plaza Approaches  
EMERGENCY**

- a) The maximum speed limit for I-PASS Only electronic toll collection lanes shall be 30 m.p.h. or as otherwise posted.
- b) The maximum speed limit for I-PASS Express electronic toll collection lanes shall be 55 m.p.h., or as otherwise posted.
- c) The maximum speed limit for Truck I-PASS Only or Mixed Use (Car & Truck) electronic toll collection lanes shall be 5 m.p.h. or as otherwise posted.
- d) The maximum speed limit for all vehicles in service areas, parking areas and access roads shall be 20 m.p.h.

- e) The maximum speed limit for all vehicles in approaches to Barrier Toll Plazas shall be as follows:

45 miles per hour approximately ½ mile south of 83rd Street Toll Plaza – Plaza 39 (M.P. 19.0 NB)

45 miles per hour approximately ½ mile north of 82nd Street Toll Plaza – Plaza 36 (M.P. 20.5 SB)

45 miles per hour approximately ½ mile south of Cermak Toll Plaza – Plaza 35 (M.P. 25.5 NB)

45 miles per hour approximately ½ mile north of Cermak Toll Plaza – Plaza 35 (M.P. 30.5 SB)

45 miles per hour approximately ½ mile north of Irving Park Toll Plaza – Plaza 33 (M.P. 39.5 SB)

45 miles per hour approximately ½ mile south of Touhy Avenue Toll Plaza – Plaza 29 (M.P. 41.3 NB)

55 miles per hour approximately 2 miles north of Waukegan Toll Plaza – Plaza 21 (M.P. 75.5 SB)

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45 miles per hour approximately ½ mile north of Waukegan Toll Plaza – Plaza 21 (M.P. 74.0 SB)

45 miles per hour approximately ½ mile south of Waukegan Toll Plaza – Plaza 21 (M.P. 73.0 NB)

45 miles per hour approximately ½ mile east of Elgin Toll Plaza – Plaza 9 (M.P. 24.5 WB)

45 miles per hour approximately ½ mile west of Elgin Toll Plaza – Plaza 9 (M.P. 25.5 EB)

45 miles per hour approximately ½ mile west of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 41.5 EB)

45 miles per hour approximately ½ mile east of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 40.5 WB)

55 miles per hour approximately 2 miles east of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 39.0 WB)

55 miles per hour approximately 2 miles west of Marengo-Hampshire Toll Plaza – Plaza 7 (M.P. 43.0 EB)

45 miles per hour approximately ½ mile east of Belvidere Toll Plaza – Plaza 5 (M.P. 55.0 WB)

45 miles per hour approximately ½ mile west of Belvidere Toll Plaza – Plaza 5 (M.P. 56.0 EB)

55 miles per hour approximately 2 miles east of Belvidere Toll Plaza – Plaza 5 (M.P. 53.5 WB)

55 miles per hour approximately 2 miles west of Belvidere Toll Plaza – Plaza 5 (M.P. 57.5 EB)

45 miles per hour approximately ½ mile east of South Beloit Toll Plaza – Plaza 1 (M.P. 75.0 WB)

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45 miles per hour approximately ½ mile west of South Beloit Toll Plaza – Plaza 1 (M.P. 76.0 EB)

55 miles per hour approximately 2 miles east of South Beloit Toll Plaza – Plaza 1 (M.P. 73.5 WB)

55 miles per hour approximately 2 miles west of South Beloit Toll Plaza – Plaza 1 (M.P. 77.5 EB)

45 miles per hour approximately ½ mile east of Devon Avenue Toll Plaza – Plaza 17 (M.P. 1.2 WB)

45 miles per hour approximately ½ mile west of River Road Toll Plaza – Plaza 19 (M.P. 1.1 EB)

45 miles per hour approximately ½ mile east of York Toll Plaza – Plaza 51 (M.P. 138.7 WB)

45 miles per hour approximately ½ mile west of York Toll Plaza – Plaza 51 (M.P. 137.5 EB)

45 miles per hour approximately ½ mile east of DeKalb Toll Plaza – Plaza 66 (M.P. 90.8 WB)

45 miles per hour approximately ½ mile west of DeKalb Toll Plaza – Plaza 66 (M.P. 91.8 EB)

55 miles per hour approximately 2 miles east of DeKalb Toll Plaza – Plaza 66 (M.P. 89.3 WB)

55 miles per hour approximately 2 miles west of DeKalb Toll Plaza – Plaza 66 (M.P. 93.3 EB)

45 miles per hour approximately ½ mile east of Dixon Toll Plaza – Plaza 69 (M.P. 53.9 WB)

45 miles per hour approximately ½ mile west of Dixon Toll Plaza – Plaza 69 (M.P. 54.8 EB)

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55 miles per hour approximately 2 miles east of Dixon Toll Plaza – Plaza 69  
(M.P. 52.3 WB)

55 miles per hour approximately 2 miles west of Dixon Toll Plaza – Plaza 69  
(M.P. 56.3 EB)

(Source: Amended by emergency rulemaking at 28 Ill. Reg. \_\_\_\_\_, effective May 24, 2004, for a maximum of 150 days)

## DEPARTMENT OF REVENUE

## NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Real Estate Transfer Tax
- 2) Code Citation: 86 Ill. Adm. Code 120
- 3) 

<u>Section Numbers:</u>	<u>Emergency Action:</u>
120.5	Amendment
120.10	Amendment
120.20	Amendment
- 4) Statutory Authority: 35 ILCS 200/Art. 31 as amended by Public Act 93-0657 (effective June 1, 2004)
- 5) Effective Date of Emergency Amendments: June 1, 2004
- 6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rulemaking does not expire before the end of the 150-day period.
- 7) Date filed with the Index Department: June 1, 2004
- 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: Public Act 93-0657 amends the Real Estate Transfer Tax Law effective June 1, 2004. The Department of Revenue has developed a new form for ground leases and the transfer of a controlling interest in a real estate entity. This rulemaking informs taxpayers, tax practitioners who prepare transfer declarations and other forms used to provide required supplemental information about the transfers, and public officials charged with enforcement responsibilities of the changes in the reporting requirements, clarifies procedures for revenue stamp sales to counties, and provides legal and technical interpretations addressing common reporting issues regarding taxable and exempt transactions.
- 10) A Complete Description of the Subjects and Issues Involved:

## Section 120.5:

Language is added to explain changes in the reporting requirements for taxable and exempt transactions plus the use of the new Form PTAX-203-B under the Real Estate Transfer Tax Law as a result of Public Act 93-0657. The State transfer tax will now be

## DEPARTMENT OF REVENUE

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imposed on the privilege of transferring either title to real estate or a beneficial interest in real property located in Illinois, regardless of whether a document is recorded. Payment will be required at the time of recordation or within three business days after a transfer is effected.

Section 120.10:

Obsolete or redundant information is stricken and language is added to clarify procedures for revenue stamp sales to counties.

Section 120.20:

Language is added to provide legal and technical interpretations regarding taxable and exempt transactions. Information is included to explain the new concept relating to the aggregation of related transfers for the purpose of determining whether there has been a transfer of a controlling interest in a real estate entity (a type of beneficial interest transfer now taxable under the Real Estate Transfer Tax Law as a result of Public Act 93-0657). A series of examples is provided addressing common issues relating to the reporting of full actual consideration for real estate or a beneficial interest in real property and calculating the applicable state transfer tax.

- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.
- 13) Information and questions regarding these Emergency Amendments shall be directed to:

Karen Alice Kloppe  
Associate Counsel – Property Taxes  
Illinois Department of Revenue  
101 West Jefferson  
Springfield, Illinois 62794  
Phone: (217) 782-2844

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

## DEPARTMENT OF REVENUE

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 120  
REAL ESTATE TRANSFER TAX

## Section

120.5 Transfer Declaration and Supplemental Information

EMERGENCY120.10 Procedures for Revenue Stamp Sales to Counties~~Procedure~~EMERGENCY120.20 Legal and Technical InterpretationsEMERGENCY

AUTHORITY: Implementing and authorized by the Real Estate Transfer Tax Law [35 ILCS 200/Art. 31].

SOURCE: Filed and effective August 26, 1971; codified at 8 Ill. Reg. 11465; amended at 9 Ill. Reg. 7938, effective May 14, 1985; amended at 18 Ill. Reg. 12849, effective August 9, 1994; amended by emergency rulemaking at 23 Ill. Reg. 14765, effective December 9, 1999, for a maximum of 150 days; emergency expired May 6, 2000; amended at 24 Ill. Reg. 8607, effective June 9, 2000; emergency amendment at 28 Ill. Reg. \_\_\_\_\_, effective June 1, 2004, for a maximum of 150 days.

**Section 120.5 Transfer Declaration and Supplemental Information**EMERGENCY

- a) Prior to June 1, 2004, at~~At~~ the time a deed or trust document is presented for recordation or registration, a transfer declaration and supplemental information, if applicable, shall be prepared as required by the Department in a manner consistent with the requirements of subsection ~~(c)~~~~(b)~~ and submitted to the recorder of deeds or registrar of titles of the county in which the property is situated, under Section 31-25 of the Property Tax Code [35 ILCS 200/31-25]. No transfer declaration or supplemental information is required to be prepared and submitted to the recorder of deeds or registrar of titles if the transfer qualifies for an exemption under subsection (a), (b) (but only for transfers in which the Administrator of Veterans' Affairs of the United States is the grantee pursuant to a foreclosure proceeding), (c), (d), (e), (f), (g), (h), (i), (j), or (l) of Section 31-45 of the Property Tax Code [35 ILCS 200/31-45(a)-(j), or (l)], but a notation of exempt status must appear on the face of the deed or trust document. If the transfer

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qualifies for an exemption under subsection (b) (for all transfers except those in which the Administrator of Veterans' Affairs of the United States is the grantee pursuant to a foreclosure proceeding), (k), or (m) of Section 31-45 of the Property Tax Code [35 ILCS 200/31-45(b), (k), or (m)], a transfer declaration and supplemental information, if applicable, shall be prepared and submitted to the recorder of deeds or registrar of titles.

b) On and after June 1, 2004, at the time a deed or document relating to the transfer of a taxable beneficial interest under Article 31 of the Property Tax Code [35 ILCS 200/Art. 31] is presented for recordation or registration, or within three business days after a transfer is effected in the event a transferring document is not presented for recordation or registration, a transfer declaration and supplemental information, if applicable, shall be prepared as required by the Department in a manner consistent with the requirements of subsection (c) and submitted to the recorder or registrar of titles of the county in which the property is situated, under Section 31-25 of the Property Tax Code [35 ILCS 200/31-25]. However, preparation of a second transfer declaration or supplemental information shall not be required in the event any such unrecorded transferring document is subsequently presented for recordation or registration unless the transferor cannot prove prior payment of the tax for the transaction. No transfer declaration or supplemental information is required to be prepared and submitted to the recorder of deeds or registrar of titles if the transfer qualifies for an exemption under subsection (a), (b) (but only for transfers in which the Administrator of Veterans' Affairs of the United States is the grantee pursuant to a foreclosure proceeding), (c), (d), (e), (f), (g), (h), (i), (j), or (l) of Section 31-45 of the Property Tax Code [35 ILCS 200/31-45(a)-(j), or (l)], but a notation of exempt status must appear on the face of the transferring document. If the transfer qualifies for an exemption under subsection (b) (for all transfers except those in which the Administrator of Veterans' Affairs of the United States is the grantee pursuant to a foreclosure proceeding), (k), or (m) of Section 31-45 or Section 31-46 of the Property Tax Code [35 ILCS 200/31-45(b), (k), and (m) or 31-46], a transfer declaration and supplemental information, if applicable, shall be prepared and submitted to the recorder of deeds or registrar of titles.

cb) A transfer declaration and supplemental information shall be prepared using paper versions of forms or electronically-produced paper versions thereof approved by the Department as follows:

1) Preparation procedures:

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- A) Paper versions of forms shall be available at the office of the recorder of deeds or registrar of titles in every county. These forms shall be supplied by the Department to the recorder of deeds and registrar of titles.
  - B) All applicable questions on the forms shall be answered completely and the forms shall be signed by the ~~transferee~~buyer and ~~transferor~~seller, or their agents, and the preparer.
  - C) If a transfer declaration and all supplemental information, if applicable, is not prepared and submitted, or is prepared and submitted without all applicable questions being answered completely and the transfer declaration being properly signed, the recorder of deeds or registrar of titles shall not ~~sell Revenue Stamps or~~ record or register the ~~transferring document~~ deed or trust document.
- 2) Transfer declarations:
- A) For transfers prior to January 1, 2000, if a transfer declaration was prepared prior to January 1, 2000, Form No. PTAX-203, Real Estate Transfer Declaration (a four-page document with a green first page and with a (R-4/94) designation in the lower left corner of the first page), or the appropriate predecessor version in effect at the time of transfer, shall be prepared and submitted.
  - B) For transfers prior to January 1, 2000, if a transfer declaration was not prepared prior to January 1, 2000, Form No. PTAX-203, Illinois Real Estate Transfer Declaration (a white two-page document with a (R-8/99) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer, shall be prepared and submitted.
  - C) For transfers on and after January 1, 2000, Form No. PTAX-203, Illinois Real Estate Transfer Declaration (a white two-page document with a (R-8/99) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer, shall be prepared and submitted.
  - D) If multiple deeds or trust documents are used to transfer real estate

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or beneficial interests in real property, a transfer declaration shall be prepared and submitted for each ~~transferring document~~ ~~deed or trust document~~ reflecting the particular interest being transferred ~~by each deed or trust document~~.

- E) If ~~a transfer affects an interest in~~ the real estate ~~which being transferred~~ is located in more than one county, separate transfer declarations shall be prepared and submitted in each county. Each transfer declaration shall list the prorated full actual consideration for ~~the particular interest in that portion of~~ the real estate being transferred in the county. The proration is to be made in such a manner so that the total of the prorated full actual consideration listed on each transfer declaration equals the full actual consideration for ~~the transfer all real estate being transferred~~.
- F) If there is an exchange of real estate, a separate transfer declaration shall be prepared and submitted for each transferring document.
- G) For purposes of this Section, "transfer" means execution of the ~~transferring deed or trust~~ document.

## 3) Supplemental information:

- A) For transfers prior to January 1, 2000, if a transfer declaration was prepared prior to January 1, 2000, "supplemental information" includes, if applicable, an extended legal description accompanying Form No. PTAX-203, Real Estate Transfer Declaration (a four-page document with a green first page and with a (R-4/94) designation in the lower left corner of the first page), or the appropriate predecessor version in effect at the time of transfer.
- B) For transfers on and after January 1, 2000 and prior to June 1, 2004, if a transfer declaration was prepared prior to June 1, 2004, and transfers prior to January 1, 2000 if a transfer declaration was not prepared prior to January 1, 2000, "supplemental information" includes, if applicable, an extended legal description, an itemized list of personal property, a finance schedule for sales occurring during a period in which the Department is required to adjust sales prices for seller paid points and prevailing cost of cash under Section 17-10 of the Property Tax Code, and Form No. PTAX-

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203-A, Illinois Real Estate Transfer Declaration Supplemental Form A. Supplemental information shall accompany Form No. PTAX-203, Illinois Real Estate Transfer Declaration (a white two-page document with a (R-8/99) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer.

- C) For transfers on and after June 1, 2004, and transfers on and after January 1, 2000 and prior to June 1, 2004, if a transfer declaration was not prepared prior to June 1, 2004, "supplemental information" includes, if applicable, an extended legal description, an itemized list of personal property, a finance schedule for sales occurring during a period in which the Department is required to adjust sales prices for seller paid points and prevailing cost of cash under Section 17-10 of the Property Tax Code, Form No. PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A, and Form No. PTAX-203-B, Illinois Real Estate Transfer Declaration Supplemental Form B. Supplemental information shall accompany Form No. PTAX-203, Illinois Real Estate Transfer Declaration (a white two-page document with a (R-7/00) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer.
- D)E) Form No. PTAX-203-A, Illinois Real Estate Transfer Declaration Supplemental Form A (a white one-page document with a (N-9/99) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer, shall be prepared and submitted if the transfer involves nonresidential property for which the full actual consideration is over \$1 million. In this context only, nonresidential property includes all property except: vacant land or lots, residences and apartment buildings of 6 units or fewer (e.g., single family, condominium, townhome, or duplex), mobile home residences, and farmland.
- E) Form No. PTAX-203-B, Illinois Real Estate Transfer Declaration Supplemental Form B (a white one-page document with a (N-5/04) designation in the lower left corner of the first page), or the appropriate succeeding version in effect at the time of transfer, shall be prepared and submitted if the transfer involves either the

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lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of 30 or more years when all options to renew or extend are included, whether or not any portion of the term has expired, or the indirect interest in real property as reflected by a controlling interest in a real estate entity.

- 4) Electronically-produced forms:
- A) For transfers on and after January 1, 2000, electronically-produced versions of forms may be prepared on the internet Web site of the Department and printed on the preparer's printer. Forms submitted to the recorder of deeds or registrar of titles using this technology must conform to the content, edit, format, and reproduction specifications of the Department.
  - B) For transfers on and after January 1, 2000, electronically-produced versions of forms may be prepared from other software programs for which the Department has tested and approved the output and printed on the preparer's printer. Forms submitted to the recorder of deeds or registrar of titles using this technology for which the Department has tested and approved the output must conform to the content, edit, format, and reproduction specifications of the Department. Electronically-produced versions of forms shall not be submitted to the recorder of deeds or registrar of titles if, without prior written approval of the Department, the software programs used to produce the forms have been revised in any manner since the time the Department tested and approved the output.
- ~~d~~e) Forms for the transfer declaration and supplemental information, as well as specifications and output testing requirements for electronically-produced versions, may be revised by the Department in its discretion.
- ~~e~~d) The Department may enter into a written agreement with the governing authority of a county to authorize the chief county assessment officer to electronically transmit data from the transfer declarations and supplemental information, if applicable, to the Department as required by Sections 31-30 and 31-70 of the Property Tax Code [35 ILCS 200/31-30 and 31-70]. Entry into such an agreement by the Department is contingent upon the use of compatible computer

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transmission methods and software by a county, the accuracy of the formatted electronic data from the transfer declarations and any supplemental information, and the adequacy of resources at the Department. The chief county assessment officer shall continue to submit the paper versions of the transfer declarations and any supplemental information until such time as the Department determines in its discretion that submission in this manner is no longer necessary.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. \_\_\_\_\_, effective June 1, 2004, for a maximum of 150 days)

**Section 120.10 Procedures for Revenue Stamp Sales to Counties Procedure  
EMERGENCY**

- a) The Department of Revenue shall issue Revenue Stamps resembling postage-type stamps in the denominations of \$0.25 to \$50,000.00.
- b) Recorders of Deeds and Registrars of Titles are hereby authorized to dispense Revenue Stamps by single stamp imprints produced by approved stamping machines. Meter settings for stamping machines shall be set by the Department of Revenue.
- c) Sales of postage-type stamps will be conducted at the Department of Revenue in Springfield only. Meter and metered settings for single stamp imprints produced by approved stamping machines will be conducted at the Department of Revenue's distribution centers in Chicago, Springfield, and District Offices. and Springfield. Only metered settings for single stamp imprints will be sold through District Offices. All stamps shall be coded according to counties.
- d) The Department of Revenue provides two options for purchasing Revenue Stamps:
  - 1) Option 1 – State Tax Only:  
Option 1 represents state tax only. Revenue Stamps and meter settings are purchased at full value and affixed at the rate of \$.50 per \$500 value or fraction thereof.
  - 2) Option 2 – State/County Tax:

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Option 2 represents payment of state and county tax. Revenue Stamps and meter settings are purchased at 66 $\frac{2}{3}$ % of face value and affixed at the rate of \$.75 per \$500 value or fraction thereof. Revenue Stamps are coded with the county name. On and after June 1, 2004, the recorder shall write or stamp in indelible ink or perforate using a machine or punch to mark Revenue Stamps or any transferring document that is recorded so as to denote any instances in which a transfer is not subject to the county tax.

- 3) Any county wishing to change from the option it originally selected must request approval from the Department of Revenue at least 30 days prior to the desired effective date of the change.
- ~~ed)~~ Purchases of postage-type stamps and ~~meter~~~~metered~~ settings for single stamp imprints shall be made on an order-invoice form prescribed by the Department of Revenue, Illinois Department of Revenue Order Invoice Form RLG-1 which shall be signed by an authorized county official.
- ~~fe)~~ The order-invoice form~~All Order Invoice Forms for stamps or metered settings~~ shall be accompanied by an official ~~check~~~~checks~~ which shall be signed by an authorized county ~~official,~~~~officials~~ and which shall be in full payment of the invoice amount.
- ~~gf)~~ ~~Credit or refunds may be given by the Recorders of Deeds or the Registrars of Titles to their purchasers on Illinois Department of Revenue Form RLG-3 for stamps proven to have been mistakenly used or mutilated. The Form shall be signed by the authorized county official and shall be used as credit at the time of stamp purchases or metered settings. 1) A claim form prescribed by the Department of Revenue Form RLG-3 shall also be used by the Recorder of Deeds or the Registrar of Titles to request for claim for credit for Revenue Stamps~~~~stamps~~ which can be proven to have been mistakenly issued, ~~or~~ ~~mutilated,~~ or otherwise result from a stamping machine malfunction by the Recorders of Deeds or the Registrars of Titles, and shall be used as credit at the time of stamp purchases or ~~meter~~~~metered~~ settings.
- ~~h)2)~~ The credit claim form~~All claims for credit~~ and required proof must accompany the order-invoice form~~Order Invoice Form RLG-1~~ if credit is to be allowed.
- ~~g)~~ ~~Revenue stamps, in the required amount, must be purchased from authorized officers, or their representatives, of the county where the deed is to be filed for recordation.~~

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- h) ~~In the event that property transferred is located in more than one county, the declaration of value form (P.T.A.B. 203) provided by the Department of Revenue shall indicate the proration of the property within each county to determine the required amount of revenue stamps to be purchased from each county. The division is to be made in such manner so that the total equals the full consideration. The revenue stamps for each county will be determined on the proration.~~
- i) ~~When the owner of any land conveys an interest in real estate (such as mining rights or royalty) by deed, the deed shall have the required amount of revenue stamps affixed thereto.~~
- j) ~~Declarations are not required to accompany deeds where there is an actual exchange of real estate. Revenue Stamps shall, however, be affixed to the deed for any difference in money paid or for the value of any personal property which is in addition to such real estate exchange.~~
- ik) All forms~~Forms RLG-1, RLG-3, RLG-4 and other forms~~ which may be issued pursuant to these Rules may be obtained from the ~~Illinois~~ Department of Revenue distribution center in Springfield.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. \_\_\_\_\_, effective June 1, 2004, for a maximum of 150 days)

**Section 120.20 Legal and Technical Interpretations**  
**EMERGENCY**

- a) Taxable Transactions.
- 1) Transfers of title to real estate located in Illinois are subject to the provisions of the Real Estate Transfer Tax Law [35 ILCS 200/Art. 31](Law).
- 2) Transfers of a beneficial interest in real property located in Illinois are subject to the provisions of the Law, including:
- A) the beneficial interest in an Illinois land trust;

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- B) the lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of 30 or more years when all options to renew or extend are included, whether or not any portion of the term has expired;
- C) the indirect interest in real property as reflected by a controlling interest in a real estate entity:
- i) EXAMPLE 1: Shareholder A and Shareholder B together own all 100 shares of the outstanding stock of Corporation X. Shareholder A owns 90 shares and Shareholder B owns 10 shares. Corporation X owns 60 percent of the stock of Corporation Y. Corporation Y's sole asset is real property in Illinois. Shareholder A transfers all of the stock in Corporation X to Shareholder B. There has been a transfer of a controlling interest in a real estate entity (e.g., the 90 percent interest in Corporation X multiplied by the 60 percent interest in Corporation Y equals the 54 percent interest Shareholder A had in Corporation Y);
- ii) EXAMPLE 2: Shareholder A and Shareholder B together own all 100 shares of the outstanding stock of Corporation X. Shareholder A owns 90 shares and Shareholder B owns 10 shares. Corporation X owns 50 percent of the stock of Corporation Y. Corporation Y's sole asset is real property in Illinois. Shareholder A transfers all of the stock in Corporation X to Shareholder B. There has not been a transfer of a controlling interest in a real estate entity (e.g., the 90 percent interest in Corporation X multiplied by the 50 percent interest in Corporation Y equals the 45 percent interest Shareholder A had in Corporation Y); and
- D) any other type of interest with the right to use or occupy real property or the right to receive income from real property such as air rights, air space rights, cooperative housing rights, condominium rights, development rights, easements, mining rights, royalty interests, timber rights, and timeshare rights.

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- 3) All such transfers are presumed taxable unless the person liable for the payment of the tax qualifies for an exemption and makes such a notation on the transferring document filed with the county.
- b) Full Actual Consideration.
    - 1) The full actual consideration for a transfer or aggregated transfers shall be stated in the transfer declaration. It is the total sale price or amount actually paid (or required to be paid) for the real estate or beneficial interest in real property, whether paid in money or otherwise, including personal property, real property, services, or other item of value.
    - 2) Full actual consideration includes:
      - A) the amount of any indebtedness or other obligation (such as liens or judgments) that is cancelled, discharged, or otherwise released in connection with the transfer;
      - B) the amount of any mortgages, regardless of whether the underlying indebtedness is assumed or taken subject to by the transferee; and
      - C) the amount of any back real estate taxes or other taxes paid by the transferee.
    - 3) Full actual consideration does not include any amount credited against the sale price or refunded for improvements or repairs.
  - c) Tax.
    - 1) Although the full actual consideration is stated in the transfer declaration, the tax is based on the net consideration after allowed deductions.
    - 2) Deductions will be allowed for the following amounts only if substantiated in the transferring document or other supplemental information submitted by the parties:
      - A) the amount of personal property transferred to the transferee;
      - B) the amount of other real estate transferred to the transferor in an actual (simultaneous) exchange between the same parties;

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- C) the amount of any mortgage remaining outstanding at the time of transfer unless the parties delay its discharge with the intent to avoid or underpay this tax;
- D) the amount of corporate franchise tax actually paid under the Business Corporation Act of 1983 as a result of a transfer of a controlling interest in a real estate entity; and
- E) the amount of state transfer taxes paid for any prior transfer of an aggregated interest for a controlling interest transfer under subsection (d)(4).
- 3) Allowed deductions will not be included when computing the value of Revenue Stamps to be sold or affixed to the transferring document:
- A) EXAMPLE 1: Party A sells real estate to Party B for \$100,000. Included in the sale from Party A to Party B are various items of personal property valued at \$5,000. The transfer declaration should report \$100,000 as the full actual consideration for this transfer, but the value of the personal property should be taken as a deduction resulting in a net consideration of \$95,000 for computing the tax.
- B) EXAMPLE 2: Party A pledges real estate as security for a \$25,000 mortgage loan. Party A pays back \$10,000 on the principle and then transfers title to Party B. Party B pays \$15,000 to Party A and assumes responsibility for completing the remaining mortgage payments. The transfer declaration should report \$30,000 as the full actual consideration for this transfer, but the \$15,000 outstanding balance of the mortgage should be taken as a deduction resulting in a net consideration of \$15,000 for computing the tax.
- C) EXAMPLE 3: Party A pledges real estate as security for a mortgage loan. Party A transfers title to Party B and waits one week before paying off the mortgage so as to avoid payment of the tax. This debt is not an outstanding mortgage and should not be taken as a deduction in computing the tax.

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- 4) Additional tax shall be due at the time any subsequent payment is made if part of the full actual consideration for a transfer of a controlling interest in a real estate entity is contingent upon the occurrence of a future event or the attainment of a future level of financial performance.
- d) Aggregation of Related Transfers.
- 1) Unless made pursuant to contracts executed prior to June 1, 2004, related transfers will be aggregated for the purpose of determining whether there has been a transfer of a controlling interest in a real estate entity.
- 2) Related transfers include:
- A) multiple transfers of interests in the same real estate entity that occur within a rolling 24-month period by the same transferor. EXAMPLE: Shareholder A owns 100 percent of Corporation X. Its sole asset is real property in Illinois. Shareholder A transfers a 40 percent interest to Party B and a 20 percent interest to Party C within the same year;
- B) multiple transfers of interests in the same real estate entity that occur within a rolling 24-month period by different transferors who act in concert as a result of common ownership. EXAMPLE: A parent corporation and a wholly-owned subsidiary that is acting under the direction of the parent each transfer on the same day a 30% interest in another entity that owns real estate located in Illinois. The two corporations have acted in concert because the parent controls the actions of the subsidiary as a result of common ownership; and
- C) multiple transfers of interests in the same real estate entity that occur within a rolling 24-month period by different transferors who act in concert as a result of a common purpose in structuring and executing the transfers, including instances when sales agreements contain mutual terms or other agreements bind the transferors to a particular course of action with respect to the transfer. EXAMPLE: Partnership X is composed of Partners A and B. Each has a 50 percent partnership interest. Partnership X owns real estate located in Illinois. In July of 2004, Partner A and Partner B together decide to raise more capital by selling a

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percentage of their respective partnership interests. In October of 2004, Partner A and Partner B each transfer a 15 percent partnership interest to Party C. In January of 2005, Partner A and Partner B each transfer a 20 percent partnership interest to Party D. The partners have acted in concert because there is a common purpose for the transfers.

- 3) The full actual consideration for each of the related transfers will also be aggregated on the transfer declaration in determining the proportional tax liability of any transferor in a controlling interest transfer:
- A) EXAMPLE 1: Shareholder A will owe tax on the full actual consideration for the aggregated transfer of the 60 percent interest in the first of the immediately preceding examples.
  - B) EXAMPLE 2: The parent corporation and the wholly-owned subsidiary will each owe tax on the full actual consideration for the aggregated transfer of their respective 30 percent interests in the second of the immediately preceding examples.
  - C) EXAMPLE 3: Partner A and Partner B will each owe tax on the full actual consideration for the aggregated transfer of their respective 15 percent and 20 percent interests in the third of the immediately preceding examples.
- 4) The tax is due if there is a subsequent transfer of an additional interest after the tax has already been paid on a controlling interest transfer. EXAMPLE: If an additional 10 percent interest is subsequently transferred in Example 1, then Shareholder A will owe tax on the full actual consideration for only the subsequent transfer of a 10 percent interest.
- e) Exemptions.
- 1) A controlling interest transfer that is accomplished by a transferring document other than a deed or trust document does not qualify for any of the exemptions under 35 ILCS 200/31-45.
  - 2) A transfer that is accomplished by a deed or trust document made by, from, or between the United State of America, the State of Illinois, or any

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of their respective agencies, instrumentalities, or political subdivisions qualifies for the exemption under 35 ILCS 200/31-45(b).

- 3) A transfer that is accomplished by a deed or trust document made by a foreign government that is a treaty participant to the Vienna Convention on Consular Relations qualifies for the exemption under 35 ILCS 200/31-45(b).
- 4) An entity is considered a governmental body so as to qualify for the exemption under 35 ILCS 200/31-45(b) if it was created to carry out a public function by a federal, state, or local unit of government.
- 5) A sheriff's deed does not qualify for the governmental exemption under 35 ILCS 200/31-45(b) unless the underlying transfer relates to property or interests acquired by or from any governmental body, or property or interests transferred between governmental bodies.
- 6) An organization is organized and operated exclusively for charitable, religious or educational purposes so as to qualify for the exemption under 35 ILCS 200/31-45(b) if such a determination has previously been made by the Department of Revenue (as evidenced by the issuance of a sales tax exemption letter or a property tax exemption certificate) or by a court of competent jurisdiction.
- 7) A transfer that is accomplished by a deed or trust document as a gift qualifies for the exemption under 35 ILCS 200/31-45(e).
- 8) A transfer that is accomplished by a deed or trust document so as to effect a change of identity or form of organization or ownership does not qualify for the exemption under 35 ILCS 200/31-45(e) if the full actual consideration for the transfer amounts to \$100 or more. EXAMPLE: Party A transfers real estate valued at \$100,000 to a partnership in exchange for a 30% interest in the partnership's assets. The partnership's assets are valued at \$300,000 after this transfer. The full actual consideration for the transfer, Party A's \$90,000 partnership interest, exceeds the \$100 threshold so it does not qualify for the exemption under 35 ILCS 200/31-45(e).

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- 9) A transfer that is accomplished by a deed or trust document does not qualify for the exemption under 35 ILCS 200/31-45(g) unless the transfer previously qualified for the exemption under 35 ILCS 200/31-45(c).
- 10) A transfer that is accomplished by a deed or trust document made by a parent corporation to a subsidiary corporation does not qualify for the exemption under 35 ILCS 200/31-45(j).
- 11) A transfer that is accomplished by an actual (simultaneous) exchange of deeds or trust documents between the same parties qualifies for the exemption under 35 ILCS 200/31-45(k). EXAMPLE: Party A and Party B each transfer title to real estate to the other party in a simultaneous exchange on the same date. Party A's real estate is valued at \$50,000. Party B's real estate is valued at \$55,000. The transfer is exempt from the tax except for the money difference or money's worth paid from one party to the other under 35 ILCS 200/31-45(k). The transfer declaration for the transfer from Party A to Party B should report \$50,000 as the full actual consideration for the transfer, but the value of Party B's property should be taken as an deduction resulting in a net consideration of \$0 in computing the tax. Party A must add an exemption notation on the transferring document that is filed with the county. The transfer declaration for the transfer from Party B to Party A should report \$55,000 as the full actual consideration for the transfer, but the value of Party A's property should be taken as a deduction resulting in a net consideration of \$5,000 in computing the tax. Party B must add an exemption notation and affix the appropriate amount of Revenue Stamps on the transferring document that is filed with the county.
- 12) A deferred exchange that is accomplished by a deed or trust document does not qualify for the exemption under 35 ILCS 200/31-45(k). EXAMPLE: Party A and Party B each transfer title to real estate to the other party in a deferred exchange on different dates. Party A's real estate is valued at \$50,000. Party B's real estate is valued at \$55,000. The transfer declaration for the transfer from Party A to Party B should report \$50,000 as the full actual consideration for the transfer. The transfer declaration for the transfer from Party B to Party A should report \$55,000 as the full actual consideration for the transfer. No deduction should be taken in computing the tax on either transfer declaration because deferred exchanges do not qualify for the exemption under 35 ILCS 200/31-45(k).

## DEPARTMENT OF REVENUE

## NOTICE OF EMERGENCY AMENDMENTS

- 13) A deferred ("Starker") exchange that is accomplished by a deed or trust document does not qualify for the exemption under 35 ILCS 200/31-45(k) even if it is exempt for federal tax purposes under Section 1031 of the Internal Revenue Code (26 USC 1031). EXAMPLE: Party A transfers title to real estate valued at \$50,000 to Party B. Party B does not transfer any real estate to Party A in the transaction. The transfer declaration for the transfer from Party A to Party B should report \$50,000 as the full actual consideration for the transfer. Party C subsequently transfers title to real estate valued at \$75,000 to Party A. The transfer declaration for the transfer from Party C to Party A should report \$75,000 as the full actual consideration for the transfer. No deduction should be taken in computing the tax on either transfer declaration because property is not being simultaneously exchanged in either transaction so as to qualify for the exemption under 35 ILCS 200/31-45(k).
- 14) A sheriff's deed does not qualify for the exemption under 35 ILCS 200/31-45(l) unless it appears on the face of the deed that the grantee is the holder of a mortgage or an assignee pursuant to either a mortgage foreclosure proceeding or a transfer in lieu of foreclosure.
- 15) A real estate entity must be liable and have actually paid corporate franchise taxes under the Business Corporation Act of 1983 as a result of a controlling interest transfer in order to claim the exemption under 35 ILCS 200/31-46.

~~Although the full consideration to be stated in the declaration of value form must include the amount of all outstanding obligations assumed at the time of transfer (such as mortgages, liens or judgments), the obligations assumed will not be included, however, in computing the value of revenue stamps to be affixed to the deed. For the purpose of the Act, any debt of the Seller which is taken over by the Purchaser is an assumed obligation.~~

- ~~b) Deeds for real estate exchanged for personal property are subject to the provisions of the Act.~~
- ~~e) For purposes of the Act, an organization is not organized and operated exclusively for charitable, religious or educational purposes unless it has previously been determined by the Department of Revenue or by a court of competent jurisdiction to be organized for said purposes.~~

## DEPARTMENT OF REVENUE

## NOTICE OF EMERGENCY AMENDMENTS

f) Forms.

Instructions covering forms issued pursuant to these Rules and not in contravention hereof, are incorporated herein and shall have the same force and effect as these Rules.

(Source: Amended by emergency rulemaking at 28 Ill. Reg. \_\_\_\_\_, effective June 1, 2004, for a maximum of 150 days)



JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION AND RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF LABOR

Heading of the Part: Victims' Economic Security and Safety Act

Code Citation: 56 Ill. Adm. Code 280

Section Number: 280.120

Date Originally Published in the Illinois Register: 1/9/04  
28 Ill. Reg. 478

At its meeting on May 18, 2004, the Joint Committee on Administrative Rules objected to Section 280.120(d) of the Department of Labor's rulemaking titled Victims' Economic Security and Safety Act (56 Ill. Adm. Code 280; 28 Ill. Reg. 478) because, by permitting leave under the Act after leave is exhausted under the federal Family and Medical Leave Act of 1993, the Department is violating Section 20(a)(2) of the Act that states the Act "does not create a right for an employee to take unpaid leave granted under the Act that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993" [820 ILCS 180/20(a)(2)].

The Committee also recommended that the Department seek a legislative resolution of the ambiguity between Sections 20(a)(2) and 45(b) of the Act.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

NOTICE OF FAILURE TO REMEDY

ILLINOIS COMMERCE COMMISSION

- 1)                   Heading of Part:       Relocation Towing
- 2)                   Code Citation:        92 Ill Adm Code 1710
- 3)   Section Numbers:    1710.170  
  Action: Objection/Filing  
  Prohibition
- 4)   Notice of Proposal published in  
Illinois Register: 27 Ill. Reg. 8600 -  
  5/30/03
- 5)   Date JCAR issued Statement  
of Objection: 2/18/04
- 6)    Summary of Action taken by the Agency: Refusal to Modify or Withdraw Rulemaking
- 7)    JCAR Action: The rule allows the Commerce Commission to increase fees to support the administration and enforcement of the relocation towing program that applies to Cook, DuPage, Will, Kane and Winnebago Counties. The Joint Committee objected to Section 1710.170 because increasing from \$5 to \$7.50 the amount a commercial relocater of trespassing vehicles is charged for relocation tow record forms and relocation tow record numbers, regardless of whether the relocater is reimbursed for the tow, could create an undue economic burden on these businesses, which may result in a decrease in the number of relocators and an increase in the number of abandoned vehicles. At its meeting on May 18, 2004, the Committee voted to issue a Notice of Failure to Remedy.

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 May 18, 2004 through May 24, 2004 and have been scheduled for review by the Committee at its June 15, 2004 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>
6/30/04	<u>Department of Public Aid</u> , Hospital Services (89 Ill. Adm. Code 148)	3/19/04 28 Ill. Reg. 4848	6/15/04
6/30/04	<u>Department of Public Aid</u> , Medical Payment (89 Ill. Adm. Code 140)	3/26/04 28 Ill. Reg. 5167	6/15/04
7/2/04	<u>Department of Children and Family Services</u> , Licensing Standards for Child Welfare Agencies (89 Ill. Adm. Code 401)	9/19/03 27 Ill. Reg. 14699	6/15/04
7/2/04	<u>Teachers' Retirement System</u> , The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)	4/2/04 28 Ill. Reg. 5629	6/15/04
7/4/04	<u>Department of Human Services</u> , Children's Mental Health Screening, Assessment and Support Services (59 Ill. Adm. Code 131)	3/19/04 28 Ill. Reg. 4826	6/15/04
7/7/04	<u>Office of Banks and Real Estate</u> , Residential Mortgage License Act of 1987 (38 Ill. Adm. Code 1050)	3/26/04 28 Ill. Reg. 5052	6/15/04

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

**NOTICE OF PENALTY FEE 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 penalty fee of \$1,650.00 against M3 Mortgage Specialist, Inc., License No. 6251 of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective April 5, 2004.

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 \$500.00 against First Capital Financial Services, Corp., License No. 5273 of Appleton, Wisconsin, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective April 5, 2004.

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OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

**NOTICE OF PENALTY FEE 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 penalty fee of \$250.00 against The Mortgage House, Inc., License No. 4115 of Deerfield, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective April 5, 2004.

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

**NOTICE OF PENALTY FEE 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 penalty fee of \$950.00 against Best Rate, LLC., License No. 6143 of Chicago, Illinois, a licensee under the Act, for violating the terms of the Act and the rules and regulations adopted thereunder, effective April 5, 2004.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PUBLIC INFORMATION

**NOTICE OF SUSPENSION & FINE 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 suspended the license of CBM Financial Corporation, License No. 5682 of Chicago, Illinois, and issued a fine of \$2,500 against Licensee under the Act, for violating the Surety Bond requirements of the Act and the rules and regulations adopted thereunder, effective April 22, 2004.

## OFFICE OF BANKS AND REAL ESTATE

## NOTICE OF PUBLIC INFORMATION

**NOTICE OF SUSPENSION & FINE 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 suspended the license of Continental Mortgage Corp. of IL, License No. 4517 of Chicago, Illinois, and issued a fine of \$2,500 against Licensee under the Act, for violating the Surety Bond requirements of the Act and the rules and regulations adopted thereunder, effective April 22, 2004.

## PROCLAMATIONS

**2004-144****Hirth Plumbing and Heating Company**

WHEREAS, Hirth Plumbing and Heating Company in Belleville, Illinois was founded on January 15, 1904 by George Hirth. Mr. Hirth owned and operated the company until his death in 1932; and

WHEREAS, Hirth Plumbing and Heating Company is committed to providing prompt, professional and courteous service to its customers, family, friends and neighbors; and

WHEREAS, the mission of Hirth technicians is to locate, diagnose and complete people's plumbing, heating or cooling service needs; and

WHEREAS, today, Hirth Plumbing and Heating is in its fourth generation of ownership. The company employs 40 people, and serves the entire metro east area with a customer base of over 9,000; and

WHEREAS, in addition to their home office of operations, which is still in Belleville, Hirth also has offices in Alton, Collinsville, Columbia, Edwardsville, Freeburg, Granite City, Mascoutah, Jerseyville and New Athens, Illinois; and

WHEREAS, being a continuously operated business, Hirth Plumbing and Heating Company has contributed significantly to Illinois' economy over the past century; and

WHEREAS, on January 15, 2004, Hirth Plumbing and Heating Company, along with their employees and the entire city of Belleville, celebrated their 100<sup>th</sup> Anniversary:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby recognize HIRTH PLUMBING AND HEATING COMPANY for its great longevity, and encourage all citizens to join in commemorating their presence in the community of Belleville on the occasion of its 100<sup>th</sup> year of operation.

Issued by the Governor May 19, 2004.

Filed by the Secretary of State May 20, 2004.

**2004-145****Gaudio and Sons Day**

WHEREAS, brothers Joe and Jack Gaudio went into the beer wholesaling business together on August 8, 1904 in Benld, Illinois. In 1915, when Jack returned to Italy and Joe moved to Utah, Charles Gaudio, Jack and Joe's brother, took over the business; and

WHEREAS, Earl Gaudio, Charles' son, and his wife Bruna, opened their own business in 1956, Earl Gaudio and Sons, and moved the company to Danville, Illinois; and

WHEREAS, celebrating its 100<sup>th</sup> anniversary in 2004, Gaudio and Sons of Danville is the only wholesaler in the Anheuser-Busch company that has been owned by the same family for 100 consecutive years; and

WHEREAS, the Anheuser-Busch company is the largest brewer in the world, currently having a 50 percent market share in the United States; and

WHEREAS, even during Prohibition, a period of time from 1920 – 1933 when the manufacturing and sale of alcoholic products was banned by the United States government, the

## PROCLAMATIONS

Gaudio family remained a member of the Anheuser-Busch team, selling non-alcoholic beverages, diesel engines for submarines, and other products produced by the company; and

WHEREAS, when the business came to Danville, Earl Gaudio and Sons was one of seven beer wholesalers in the town, it now stands as the only wholesaler left in Vermilion County. More importantly, Gaudio and Sons now dominates approximately 70 percent of the market in their area:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim August 8, 2004 as GAUDIO AND SONS DAY in Illinois, and encourage all citizens to recognize the impact Gaudio and Sons and other local businesses play in our state's economy.

Issued by the Governor May 19, 2004.

Filed by the Secretary of State May 20, 2004.

**2004-146****Year of Polio Awareness**

WHEREAS, polio is a potentially crippling disease caused by a virus that struck fear into an entire generation of Americans during the first half of the 20<sup>th</sup> Century; and

WHEREAS, in 1955, an effective polio vaccination became available, and by 1979 polio had been officially declared eradicated from the United States; and

WHEREAS, post-polio syndrome (PPS) is a complication that occurs in a large number of polio survivors, generally arising anywhere from 20 to 40 years after the original disease; and

WHEREAS, PPS affects nerve pathways and causes overwhelming fatigue, muscle weakness and pain, sleep disorders, and potential new paralysis; and

WHEREAS, in order to treat the effects of PPS, polio survivors need to plan rest periods everyday, and should avoid strenuous activity in order to conserve their energy. Polio survivors also need to take advantage of assistive devices such as braces, canes, crutches, and wheelchairs; and

WHEREAS, it is important that we, as a society, remain cognizant of the fact that although polio is no longer a threat to Americans, numerous citizens are still living with the often debilitating effects of PPS:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim 2004 as the YEAR OF POLIO AWARENESS in Illinois, and encourage all citizens to do what they can to improve the lives of polio survivors in their communities.

Issued by the Governor May 19, 2004.

Filed by the Secretary of State May 20, 2004.

**2004-147****Breastfeeding Promotion Month**

WHEREAS, breastfeeding "provides physical contact, warmth, and closeness, which helps to create a special bond between a mother and her baby"; and

## PROCLAMATIONS

WHEREAS, in addition to the emotional bond that is created, human milk offers special benefits that formulas cannot offer, and provides all of the proteins, sugars, fats, and vitamins a baby needs to be healthy. It also helps to protect a baby from certain diseases and infections; and

WHEREAS, babies who are breastfed are less likely to have certain infections and illnesses. Research also suggests that breastfeeding may help to protect against Sudden Infant Death Syndrome, also known as SIDS; and

WHEREAS, it has been found that breastfeeding enhances a child's cognitive development, which leads to improved academic performance in later years; and

WHEREAS, there are a number of health benefits that breastfeeding also provides for the mother. Breastfeeding burns more calories, reduces the risk of ovarian cancer, and in premenopausal women, reduces the risk of breast cancer, and lastly, helps the woman's uterus return to its regular size more quickly; and

WHEREAS, during the month of August, the Illinois Department of Human Services, in conjunction with regional breastfeeding task forces, public and private organizations, and physicians and hospitals throughout Illinois, will be promoting the importance of breastfeeding:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim August 2004 as BREASTFEEDING PROMOTION MONTH in Illinois and encourage all women who are pregnant or may become pregnant to choose the feeding option that will provide lifelong benefits for yourself and your baby.

Issued by the Governor May 19, 2004.

Filed by the Secretary of State May 20, 2004.

**2004-148****Mental Health Month**

WHEREAS, in a given year, an estimated 54 million Americans suffer from some form of a mental disorder, and each year, as many as eight million Americans who have serious mental illnesses do not receive adequate treatment; and

WHEREAS, a mental illness is a disease that "causes mild to severe disturbances in thought and/or behavior, resulting in an inability to cope with life's ordinary demands and routines"; and

WHEREAS, as with cancer, diabetes and heart disease, mental illnesses are often physical as well as emotional and psychological, but with proper care and treatment, many individuals learn to cope or recover from a mental illness or emotional disorder; and

WHEREAS, there are five steps that can help a family to cope with their loved ones' mental illness, including: accept that your feelings are normal, find ways to handle unusual behaviors and emotional outbursts that may accompany the illness, establish a support network, seek counseling, and take time out for yourself; and

WHEREAS, the following are a list of possible warning signs and symptoms of mental illness in adults: prolonged depression, strong feelings of anger, delusions or hallucinations, and substance abuse; and

## PROCLAMATIONS

WHEREAS, warning signs that may appear in older children and pre-adolescents are: an inability to cope with problems and daily activities, defiance of authority, truancy, theft, and/or vandalism, and frequent outbursts of anger; and

WHEREAS, in younger children, warning signals may include, persistent nightmares, changes in school performance, and excessive worry or anxiety (i.e. refusing to go to bed or school); and

WHEREAS, the Illinois Department of Human Services funds and coordinates mental health treatment and support services for people with serious mental illness and limited resources:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 2004 as MENTAL HEALTH MONTH in Illinois and encourage all citizens to increase their awareness and understanding of mental health issues in our state and reduce the stigma associated with mental illness.

Issued by the Governor May 19, 2004.

Filed by the Secretary of State May 20, 2004.

**2004-149****National Transportation Week**

WHEREAS, our transportation system not only gives us freedom and mobility, allowing us to move from place to place, but it also boosts the nation's economy, and strengthens our nation's security; and

WHEREAS, advancing knowledge of the transportation industry and increasing public awareness on the significant nature transportation plays in the nation's economy, are two goals the National Defense Transportation Association (NDTA) has set forth for National Transportation Week; and

WHEREAS, the first National Transportation Week was observed in 1953 with the help of the Women's Transportation Club of Houston. This group originally set up a scholarship program benefiting transportation degree students at the University of Houston, but with no interested applicants; and

WHEREAS, seeing that the students and the public were virtually unaware and uninterested in the transportation industry, attempts were then made to sway past Presidents of the United States to proclaim National Transportation Week as a way of promoting the transportation industry, though their efforts weren't officially honored until 1962; and

WHEREAS, the 2<sup>nd</sup> annual National Transportation Week Conference and Expo will culminate the week's events:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 16 – 22, 2004 as NATIONAL TRANSPORTATION WEEK in Illinois, and commend the outstanding accomplishments of the men and women who keep our transportation systems going, whether they be the distributors that transport goods, or the laborers of our highways.

Issued by the Governor May 19, 2004.

Filed by the Secretary of State May 20, 2004.

## PROCLAMATIONS

**2004-150****International Children's Day**

WHEREAS, there is a strong need for us to take action and ensure that the children of this State are being provided a healthy start. It is with this need in mind that we dedicate this day as International Children's Day and celebrate children in Illinois and around the world; and

WHEREAS, International Children's Day was first celebrated in 1925 in Geneva, Switzerland, during the "World Conference for the Well-Being of Children". This conference focused on issues relating to the child welfare, including poverty, prevention of child labor, and education; and

WHEREAS, this year, the focus will be Children's Obesity in the USA. There are many health and social problems associated with childhood and adolescent obesity that can continue to haunt children into adulthood; and

WHEREAS, with about 15 percent of adolescents (ages 12 to 19), and 15 percent of children (ages 6 to 11) suffering from obesity, it is important that families and educational systems work together to curb this epidemic; and

WHEREAS, teaching children about nutrition and involving them in regular physical activity are key to solving this problem; and

WHEREAS, because of the increasing number of health problems children are stricken with due to poor eating habits, my administration has proposed legislation that would ban junk food and soft drinks from all school vending machines. Additionally, we have proposed modifications to the physical education curriculums and school lunch programs to promote healthier lifestyles for our children:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim June 1, 2004 as INTERNATIONAL CHILDREN'S DAY in Illinois, and encourage all citizens to use this day as a catalyst to strengthen the relationship between you and a special child in your life.

Issued by the Governor May 20, 2004.

Filed by the Secretary of State May 21, 2004.

**2004-151****National Men's Health Week**

WHEREAS, it is fundamental that men view their health as an issue of utmost importance, as it effects not only themselves, but also the well being of their family; and

WHEREAS, in 1994, the Men's Health Network worked with Congress to develop National Men's Health Week, as a special campaign to help educate men and their families about preventable health problems, and encourage early detection and treatment of disease among men and boys; and

WHEREAS, men who are educated about the value of preventative health will be more likely to participate in health screenings, and take on healthy eating habits, with a regular exercise regimen; and

## PROCLAMATIONS

WHEREAS, during Men's Health Week, men should focus on implementing healthier life choices, and ask their doctor about a range of common men's health issues, including heart disease, diabetes, prostate, testicular and colon cancer; and

WHEREAS, early detection of male health problems will result in reducing rates of mortality from disease, and offer men a chance at a more fulfilling and energetic life:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim June 14 – 20, 2004 as NATIONAL MEN'S HEALTH WEEK in Illinois, and encourage all men to make a conscious effort to undergo a health screening, and to make a commitment to a healthy lifestyle for themselves, and for their family.

Issued by the Governor May 20, 2004.

Filed by the Secretary of State May 21, 2004.

**2004-152****Association Week**

WHEREAS, the Association Forum of Chicagoland represents CEOs and executives from associations located in Chicago, and its surrounding communities; and

WHEREAS, the associations that the Association Forum serves generate more than three billion dollars annually for Chicago's economy and employ 33,000 professionals in various capacities; and

WHEREAS, the Association Forum represents institutions such as the American Bar Association, the American Medical Association, the American Hospital Association and many others; and

WHEREAS, Chicago is home to the second most association headquarters in America, and ranks first for healthcare-related organizations; and

WHEREAS, the Association Forum will celebrate the first Association Week from June 21 – 27, 2004, with the theme Education, Recognition and Celebration; and

WHEREAS the contributions of associations and their employees will be recognized this week through such events as the Association All-Star Day, and the first ever Forum Honors Gala:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim June 21 – 27, 2004 as ASSOCIATION WEEK in Illinois, and encourage all citizens to recognize and celebrate the innumerable contributions that Illinois headquartered associations make to the health, education and overall well-being of the people of this great State.

Issued by the Governor May 20, 2004.

Filed by the Secretary of State May 21, 2004.

**2003-153****Kids in Danger Day**

## PROCLAMATIONS

WHEREAS, there are millions of children's products on the market today, and it is extremely important that parents and other caregivers take steps to ensure the safety of those products before they purchase them for use with their children; and

WHEREAS, each year, an estimated 67,000 children under the age of five are treated in hospital emergency rooms for injuries from children's products, and more than 50 children die annually in incidents associated with nursery products; and

WHEREAS, a popular misconception in our society is that popular brand name products, expensive products, and hand-me-downs that have already been "kid tested" are automatically safe; and

WHEREAS, Kids in Danger (KID) is a non-profit organization that was founded in Chicago, Illinois in 1998. Their mission is to protect children by improving children's product safety; and

WHEREAS, KID's programs serve to advocate, promote, and educate people about children's product safety. They include: The Health Care Providers Outreach Program (HCPOP), Teach Early Safety Testing (TEST), and Test It Now (TIN); and

WHEREAS, the State of Illinois recognizes the great work performed by KID each day, and it is fitting that we take the time to recognize their dedicated efforts to keep children safe:

THEREFORE, I, Rod Blagojevich, Governor of the State of Illinois, do hereby proclaim May 26, 2004 as KIDS IN DANGER DAY in Illinois, and encourage all citizens to become cognizant of the safety of children's products to ensure that our youth are not unnecessarily harmed.

Issued by the Governor May 21, 2004.

Filed by the Secretary of State May 24, 2004.

# ILLINOIS ADMINISTRATIVE CODE

## Issue Index - With Effective Dates

Rules acted upon in Volume 28, Issue 23 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquires about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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