

# 2006

# ILLINOIS

# REGISTER

RULES  
OF GOVERNMENTAL  
AGENCIES



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## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Consumer Installment Loan Act
- 2) Code Citation: 38 Ill. Adm. Code 110
- 3) Section Number: 110.275                      Proposed Action:  
New Section
- 4) Statutory Authority: Consumer Installment Loan Act [205 ILCS 670]
- 5) A Complete Description of the Subjects and Issues Involved: This Section is being added to provide necessary and appropriate protections of consumers. This Section addresses oppressive and deceptive practices and helps avoid the cycle of debt caused when credit terms and conditions more appropriate for short-term debt are applied to longer-term debt.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes
- 10) Statement of Statewide Policy Objective: This rulemaking has no impact on local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Department of Financial and Professional Regulation  
Attention: Barb Smith  
320 West Washington, 3rd Floor  
Springfield, IL 62786

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

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

- 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: This rulemaking was not including on either of the two most recent regulatory agendas because: it was not anticipated at the time of the preparation of the Regulatory Agenda.

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 110

## CONSUMER INSTALLMENT LOAN ACT

## SUBPART A: GENERAL PROVISIONS

## Section

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110.220	Credit Practices
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110.230	General
110.235	Relocation
110.236	Name Change
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110.250	Limited Purpose Branch

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

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## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

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110.APPENDIX B	Mortgage Ratio Worksheet
110.TABLE A	Illinois Rule of 78 <del>Fractions</del> Fraction for Rebating Charges According to Number of Months Originally Contracted For and Number of Months Prepaid in Full for Contracts of 2 to 120 Months (Repealed)
110.TABLE B	Rule of 78 Percentage Rebate Table (Repealed)

AUTHORITY: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670/22].

SOURCE: Filed and effective June 19, 1970; amended at 3 Ill. Reg. 24, p. 16, effective June 15, 1979; emergency amendment at 4 Ill. Reg. 5, p. 372, effective January 16, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 36, p. 138, effective September 22, 1980; amended at 5 Ill. Reg. 1352, effective February 3, 1981; codified at 7 Ill. Reg. 11721; amended at 9 Ill. Reg. 1343, effective January 17, 1985; amended at 11 Ill. Reg. 2749, effective January 28, 1987; emergency amendment at 11 Ill. Reg. 14141, effective August 7, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 10456, effective June 7, 1988; amended at 19 Ill. Reg. 44, effective December 22, 1994; amended at 20 Ill. Reg. 5799, effective April 8, 1996; emergency amendment at 22 Ill. Reg. 1485, effective January 2, 1998, for a maximum of 150 days; emergency expired May 31, 1998; amended at 22 Ill. Reg. 13657, effective July 14, 1998; amended at 25 Ill. Reg. 6227, effective May 17, 2001; amended at 25 Ill. Reg. 7456, effective August 1, 2001; expedited correction at 29 Ill. Reg. 5776, effective August 1, 2001; amended at 26 Ill. Reg. 14232, effective October 1, 2002; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 110.275 Consumer Protection Provision**

All loans made pursuant to the Act must provide the following consumer protections:

- a) Practices concerning members of the military.
  - 1) A licensee may not garnish the wages or salaries of a consumer who is a member of the military.
  - 2) In addition to any rights and obligations provided under the federal Servicemembers Civil Relief Act, a licensee shall suspend and defer collection activity against a consumer who is a member of the military and

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENT

who has been deployed to a combat or combat support posting for the duration of the deployment.

3) A licensee may not knowingly contact the military chain of command of a consumer who is a member of the military in an effort to collect on a loan.

b) Prohibited acts. A licensee may not commit, or have committed on behalf of the licensee, any of the following acts:

1) Threatening to use or using the criminal process in this or any other state to collect on a loan.

2) Threatening to take any action against a consumer that is prohibited by the Act or making any misleading or deceptive statements regarding the loan or any consequences of the loan.

3) Including any of the following provisions in loan documents:

A) a confession of judgment clause;

B) a waiver of the right to a jury trial, if applicable, in any action brought by or against a consumer, unless the waiver is included in an arbitration clause allowed under subsection (b)(3)(C);

C) a mandatory arbitration clause that is oppressive, unfair, unconscionable, or substantially in derogation of the rights of consumers; or

D) a provision in which the consumer agrees not to assert any claim or defense arising out of the contract.

4) Collecting treble damages on an amount owing from a loan.

c) If the finance charge of the loan exceeds an annual percentage rate of 36%, the licensee shall not accept any of the following:

1) one or more checks dated on the date written with the agreement to hold them for a period of days before deposit or presentment, or one or more checks dated subsequent to the date written with an agreement to hold them for deposit; or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENT

- 2) one or more authorizations to debit a consumer's bank account; or
- 3) an interest in a consumer's wages, including, but not limited to, a wage assignment.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Payment of Annual Compliance Fees For Pension Funds
- 2) Code Citation: 50 Ill. Adm. Code 4415
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
4415.10	Amendment
4415.20	Amendment
4415.30	Amendment
4415.40	Amendment
4415.50	Amendment
4415.60	Amendment
4415.70	Amendment
4415.80	Amendment
4415.90	Amendment
4415.ILLUSTRATION A	Amendment
4415.ILLUSTRATION B	Amendment
- 4) Statutory Authority: Implementing Sections 1A-107 and 1A-112, and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103, 1A-107 and 1A-112].
- 5) A Complete Description of the Subjects and Issues Involved: Section 4415.40 is being amended to implement PA 93-32, which increased the amount of the compliance fee that pension funds must pay under Articles 3 and 4 of the Illinois Pension Code [40 ILCS 5] from 0.007 percent to 0.02 percent of total assets of the pension fund and increased the maximum fee from \$6000 to \$8000. Housekeeping changes are being made in the remaining Sections.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Eve Blackwell-Lewis, Attorney  
Department of Financial and  
Professional Regulation  
Division of Insurance  
320 West Washington or  
Springfield, Illinois 62767-0001

(217) 782-2867

Barb Smith, Rules Coordinator  
Department of Financial and  
Professional Regulation  
320 West Washington  
Springfield, Illinois 62767-0001

(217) 785-0813

- 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 Amendments begins on the next page:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL  
REGULATION ~~INSURANCE~~

## SUBCHAPTER aaa: PENSIONS

## PART 4415

## PAYMENT OF ANNUAL COMPLIANCE FEES FOR PENSION FUNDS

## Section

4415.10	Purpose
4415.20	Applicability
4415.30	Definitions
4415.40	Annual Compliance Fee Amount
4415.50	Notification of Annual Compliance Fee Amount
4415.60	Annual Compliance Fee Payment Date
4415.70	Payment Method
4415.80	Hearing on Annual Compliance Fee Amount
4415.90	Penalties
4415.ILLUSTRATION A	Designation for Fund Transfer for State Pension Fund for Payment of Annual Compliance Fee
4415.ILLUSTRATION B	Designation for Automated Clearing House Payment of Annual Compliance Fees

AUTHORITY: Implementing Sections 1A-107 and 1A-112, and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103, 1A-107 and 1A-112].

SOURCE: Adopted at 22 Ill. Reg. 7987, effective April 27, 1998; amended at 26 Ill. Reg. 16529, effective October 28, 2002; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 4415.10 Purpose**

This Part sets forth the procedural requirements for the submission of the annual compliance fee by pension funds to the [Department of Financial and Professional Regulation-  
Division](#) ~~Department~~ of Insurance as required by Section 1A-112 of the Illinois Pension Code [40 ILCS 5/1A-112]. Additionally, this Part will further the directive of the Legislature given to the Public Pension Division of the [Division](#) ~~Department~~ of Insurance to automate its operations as set forth in Section 1A-107 of the Illinois Pension Code [40 ILCS 5/1A-107].

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

**Section 4415.20 Applicability**

This Part applies to every pension fund that is required to file an annual statement with the Division of Insurance~~Department~~ pursuant to Section 1A-109 of the Code [40 ILCS 5/1A-109].

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 4415.30 Definitions**

Automated Clearing House, or ACH, means a central distribution and settlement point for the electronic clearing of debts between the financial institutions rather than the physical movement of paper items. The term includes any Federal reserve bank, or an organization established by agreement with the National Automated Clearing House Association, which operates as a clearing house for transmitting or receiving entries between banks and/or bank accounts and which authorizes an electronic transfer of funds between ~~such~~ banks or bank's accounts.

ACH Debit means the electronic transfer of funds from the pension fund's account for deposit in the Public Pension Regulation Fund pursuant to Section 8(f) of the State Finance Act [30 ILCS 105/8(f)].

Annual compliance fee means the fee required to be paid by pension funds pursuant to Section 1A-112 of the Illinois Pension Code [40 ILCS 5/1A-112].

Basis point means 0.01%~~1/100th of one percent~~ [40 ILCS 5/1A-102].

Code means the Illinois Pension Code [40 ILCS 5], ~~the Deferred Compensation Continuing Appropriation Act [40 ILCS 10], and the State Pension Funds Continuing Appropriation Act [40 ILCS 15].~~

Department means the Illinois Department of Financial and Professional Regulation~~Insurance of the State of Illinois~~ [40 ILCS 5/1A-102].

Division of Insurance means the Illinois Department of Financial and Professional Regulation-Division of Insurance.

~~Division means the Public Pension Division of the Department of Insurance [40 ILCS 5/1A-102].~~

Payment information means the data ~~that~~which the Division of

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

~~Insurance~~Department requires from a pension fund for the purpose of making an ACH Debit transaction.

Pension Fund means any public pension fund, annuity and benefit fund, or retirement system established under the Illinois Pension Code [40 ILCS 5/1A-102].

Public Pension Division means the Public Employee Pension Division of the Division of Insurance [40 ILCS 5/1A-102].

State Pension Fund means any of the following pension funds: General Assembly Retirement System (~~see [40 ILCS 5/Art. 2]-~~), State Employees' Retirement System (~~see [40 ILCS 5/Art. 14]-~~), State Universities Retirement System (~~see [40 ILCS 5/Art. 15]-~~), Teachers' Retirement System of the State of Illinois (~~see [40 ILCS 5/Art. 16]-~~), and Judges Retirement System of Illinois (~~see [40 ILCS 5/Art. 18]-~~).

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 4415.40 Annual Compliance Fee Amount**

Every pension fund that is required to file an annual statement under Section 1A-109 of the Code shall pay an annual compliance fee pursuant to the following schedule:

- a) *In the case of a pension fund under Article 3 or 4 of the Code, the annual compliance fee is ~~0.02%~~ 0.007% (~~20.7~~ basis points) of the total assets of the pension fund, as reported in the most current annual statement of the fund, but no more than ~~\$8,000~~ \$6,000; or*
- b) *In the case of all other pension funds and retirement systems, the annual compliance fee shall be ~~\$8,000~~ \$6,000 [40 ILCS 5/1A-112(a)]-*

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 4415.50 Notification of Annual Compliance Fee Amount**

The Public Pension Division shall notify by mail each pension fund of the amount of its annual compliance fee, calculated pursuant to Section 4415.40 of this Part, at least 45 days prior to the payment due date ~~as~~ set forth in Section 4415.60 of this Part. Failure of the Public Pension Division to provide notification to any pension fund pursuant to this Section does not relieve any

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

pension fund from the obligations of Section 1A-112 of the Code.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 4415.60 Annual Compliance Fee Payment Date**

*The annual compliance fee shall be due on June 30 for the following State fiscal year.* [40 ILCS 5/1A-112(b)]-

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 4415.70 Payment Method**

- a) Payment of the annual compliance fee may be made by any of the following methods:
- 1) By check or money order in U.S. funds, made payable to the Illinois State Treasurer~~Director of Insurance~~ and mailed to the Department of Financial and Professional Regulation~~Division of Insurance~~, P.O. Box 7087, Administrative Services Division, Tax and Fiscal Services Section, Tax and Audit Unit, 320 West Washington Street, Springfield, Illinois 62791-62767-0001;
  - 2) By State voucher, submitted to the address in subsection (a)(1) above; or
  - 3) By utilizing an ACH payment process that is compatible with the State accounting systems. This option ~~cannot~~can not be utilized without first obtaining specific written acceptance from the Division of Insurance~~Department~~.
- b) Pension funds seeking approval to make payment utilizing the ACH must first obtain the written approval of the Division of Insurance~~Department~~. Upon receipt of ~~such~~ approval and at least 30 days prior to the payment due date, the Pension fund shall file with the Public Pension Division, as set forth in Section 4415.60 of this Part, the appropriate information of either:
- 1) If a State pension fund, payment information as shown in Illustration A of this Part, which must contain at least the following information:
    - A) Fund account number from which the annual compliance fee may

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

be withdrawn; and

- B) State pension fund name; or
- 2) If not a State pension fund, payment information as shown in Illustration B of this Part, which must contain at least the following information:
- A) Banking account number from which the annual compliance fee payment may be withdrawn;
- B) Routing number for the financial institution in which the bank account is held;
- C) The pension fund name; and
- D) Financial institution's name where the pension fund's account is located.
- c) Filings made pursuant to subsection (b) of this Section shall be addressed to the Department of ~~Financial and Professional Regulation Insurance~~, Administrative Services ~~Section~~Division, Tax and Fiscal Services ~~Section, Tax and Audit~~ Unit, 320 West Washington, Springfield, Illinois 62767-0001.
- d) Pension funds electing to make payment utilizing the ACH are not required to file the payment information ~~required by~~pursuant to subsection (b) of this Section if the payment information has been previously submitted and ~~such payment information~~ has not changed since the previous submittal.
- e) Based on the payment information provided by the pension funds ~~under~~in subsection (b) of this Section, the ~~Public Pension~~ Division will initiate an ACH Debit transfer or account transfer on the payment due date, or the first business day thereafter, in an amount equal to the annual compliance fee as calculated pursuant to Section 4415.40 of this Part and as stated in the notification sent pursuant to Section 4415.50 of this Part.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 4415.80 Hearing on Annual Compliance Fee Amount**

A pension fund that wants to challenge the annual compliance fee as calculated by the ~~Public~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

Pension Division pursuant to Section 4415.40 of this Part, and as stated in the notification pursuant to Section 4415.50 of this Part, may submit a written request for hearing pursuant to 50 Ill. Adm. Code 2402 within 15 days after receipt of the notification. ~~TheSuch~~ written request shall include the pension fund's reasons for disagreement with the Public Pension Division's calculation of the annual compliance fee and must include a copy of the Public Pension Division notification sent pursuant to Section 4415.50 of this Part. The pension fund will not be assessed late fees pursuant to 50 Ill. Adm. Code 4435 and Section 1A-113 of the Code by the Division of Insurance unless the pension fund loses its appeal.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 4415.90 Penalties**

Every pension fund required to pay an annual compliance fee pursuant to Section 4415.20 may also be subject to a late penalty fee and a noncompliance penalty as set forth in 50 Ill. Adm. Code 4435 if the pension fund fails to comply by the payment due date, as set forth in Section 4415.60 of this Part.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

**Section 4415.ILLUSTRATION A Designation for Fund Transfer for State Pension Fund for Payment of Annual Compliance Fee**

Illinois Department of Financial and Professional Regulation-Division of Insurance  
Public Pension Division

Designation for Automated Clearing House Payment of Annual Compliance Fees

State Pension Fund Name: \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Fund Account Number to be Debited: \_\_\_\_\_

Fund Account Number to be Credited: \_\_\_\_\_

Amount of Transfer: \_\_\_\_\_

Requested Date of Transfer: \_\_\_\_\_

Statutory Authority: \_\_\_\_\_

Authorized State Pension Fund Representative: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

**Section 4415.ILLUSTRATION B Designation for Automated Clearing House Payment of Compliance Annual Fees**

Illinois Department of Financial and Professional Regulation-Division of Insurance  
Public Pension Division

Designation for Automated Clearing House  
Payment of Annual Compliance Fees

Depository Name: \_\_\_\_\_

Account Name: \_\_\_\_\_

City: \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

Routing Transit Number of Depository Above: \_\_\_\_\_

Account Number to be Debited: \_\_\_\_\_

Authorized Pension Representative: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Signed: \_\_\_\_\_

Dated: \_\_\_\_\_

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## PROPERTY TAX APPEAL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of Part: Practice and Procedure for Appeals Before the Property Tax Appeal Board
- 2) Code Citation: 86 Ill. Adm. Code 1910
- 3) Section Numbers:      Proposed Action:  
     1910.31                      New Section  
     1910.94                      New Section  
     1910.96                      New Section
- 4) Statutory Authority: 35 ILCS 200/Art.7 and 16-180 through 16-195
- 5) A Complete Description of the Subjects and Issues Involved:

Section 1910.31 – Amendments: This new Section is added to provide a mechanism for the contesting party to amend a petition for appeal after the original filing with the Board.

Section 1910.94 – Inspection of Subject Property – Effect of Denial by Taxpayer or Property Owner: This new Section is added to prevent the taxpayer or property owner from denying a board of review and/or taxing district appraiser or valuation witness access to the subject property for valuation purposes and then challenging the credibility of the opposing party's evidence due to the failure to inspect the property.

Section 1910.96 – Evidence Depositions: This new Section is added to allow the parties to take the deposition of a witness whose testimony is relevant and who may be unavailable at the hearing of the appeal due to exceptional circumstances.

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

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1910.50	Amended	29 Ill. Reg. 18071; 11/4/05
1910.50	Amended	30 Ill. Reg. 1816; 2/10/06
1910.55	New Section	29 Ill. Reg. 18071; 11/4/05
1910.66	Amended	29 Ill. Reg. 18071; 11/4/05

## PROPERTY TAX APPEAL BOARD

## NOTICE OF PROPOSED AMENDMENTS

1910.67	Amended	30 Ill. Reg. 1816; 2/10/06
1910.76	Amended	29 Ill. Reg. 13983; 9/16/05
1910.90	Amended	29 Ill. Reg. 18071; 11/4/05
1910.91	New Section	30 Ill. Reg. 1816; 2.10/06
1910.92	New Section	29 Ill. Reg. 13983; 9/16/05
1910.98	New Section	30 Ill. Reg. 1816; 2/10/06

- 10) Statement of Statewide Policy Objectives: This rulemaking will not modify or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may comment on this proposed rulemaking by filing such comments in writing, within 45 days after publication of this Notice in the *Illinois Register*, with the Property Tax Appeal Board at its offices in Springfield:

James W. Chipman - Executive Director  
Property Tax Appeal Board  
Rm. 402, Stratton Office Building  
401 S. Spring St.  
Springfield, Illinois 62706

(217) 782-6076  
james.chipman@illinois.gov

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: All small businesses owning taxable real property in Illinois
- 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 2006

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

## PROPERTY TAX APPEAL BOARD

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER II: PROPERTY TAX APPEAL BOARD

## PART 1910

PRACTICE AND PROCEDURE FOR APPEALS  
BEFORE THE PROPERTY TAX APPEAL BOARD

## Section

1910.5	Construction and Definitions
1910.10	Statement of Policy
1910.11	Rules of Order
1910.20	Correspondence
1910.25	Computing Time Limits
1910.30	Petitions – Application
<a href="#">1910.31</a>	<a href="#">Amendments</a>
1910.40	Board of Review Response to Petition Application
1910.50	Determination of Appealed Assessment
1910.60	Interested Parties – Intervention
1910.63	Burdens of Proof
1910.64	Motion Practice – Service of Papers
1910.65	Documentary Evidence
1910.66	Rebuttal Evidence
1910.67	Hearings
1910.68	Subpoenas
1910.69	Sanctions
1910.70	Representation at Hearings
1910.71	Ex Parte Communications
1910.72	Informal Settlement Conference
1910.73	Pre-hearing Conference – Formal Settlement Conference
1910.74	Administrative Review
1910.75	Access to Board Records – Freedom of Information Procedures
1910.76	Publication of Annual Synopsis
1910.77	Withdrawals and Substitutions of Attorneys
1910.78	Consolidation of Appeals
1910.80	Forms
1910.90	Practice Rules
1910.93	Request for Witnesses
<a href="#">1910.94</a>	<a href="#">Inspection of Subject Property – Effect of Denial by Taxpayer or Property Owner</a>
1910.95	Separability (Renumbered)
<a href="#">1910.96</a>	<a href="#">Evidence Depositions</a>

## PROPERTY TAX APPEAL BOARD

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1910.100 Severability

AUTHORITY: Implementing and authorized by Article 7 and Sections 16-180 through 16-195 of the Property Tax Code [35 ILCS 200/Art. 7 and 16-180 through 16-195].

SOURCE: Adopted at 4 Ill. Reg. 23, p. 106, effective May 27, 1980; codified at 8 Ill. Reg. 19475; amended at 13 Ill. Reg. 16454, effective January 1, 1990; amended at 21 Ill. Reg. 3706, effective March 6, 1997; amended at 21 Ill. Reg. 11949, effective August 13, 1997; amended at 21 Ill. Reg. 14551, effective October 27, 1997; amended at 22 Ill. Reg. 957, effective December 19, 1997; amended at 22 Ill. Reg. 16533, effective September 2, 1998; amended at 24 Ill. Reg. 1233, effective January 5, 2000; amended at 29 Ill. Reg. 13574, effective August 19, 2005; amended at 29 Ill. Reg. 21046, effective December 16, 2005; amended at 30 Ill. Reg. 1419, effective January 20, 2006; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1910.31 Amendments**

- a) After the Property Tax Appeal Board has transmitted an appeal to the board of review and the time period for intervention under Section 1910.60 of this Part has expired, a petition for appeal may be amended to correct any technical defects or to conform to the evidence presented at hearing, except when the amendment would be prejudicial to a party.
- b) The original filing of the petition, and not any subsequent amendment, shall determine whether:
  - 1) review of the Property Tax Appeal Board's final decision is afforded in the circuit court or the Appellate Court as provided in Section 16-195 of the Code; and
  - 2) the board of review shall notify taxing districts of the appeal as required by Section 16-180 of the Code and Section 1910.40 (f) of this Part.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1910.94 Inspection of Subject Property – Effect of Denial by Taxpayer or Property Owner**

- a) No taxpayer or property owner shall present for consideration, nor shall the Property Tax Appeal Board accept for consideration, any testimony, objection, motion, appraisal critique or other evidentiary material that is offered to refute,

## PROPERTY TAX APPEAL BOARD

## NOTICE OF PROPOSED AMENDMENTS

discredit or disprove evidence offered by an opposing party regarding the description, physical characteristics or condition of the subject property when the taxpayer or property owner denied a request made in writing by the board of review or a taxing body, during the time when the Board was accepting documentary evidence, to physically inspect and examine the property for valuation purposes.

- b) Any motion made to invoke this Section shall incorporate a statement detailing the consultation and failed reasonable attempts to resolve differences over issues involving inspection with the taxpayer or property owner.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1910.96 Evidence Depositions**

- a) In any appeal before the Board in which a change in assessed valuation of \$100,000 or more is sought, and the parties are represented by attorneys, an evidence deposition may be ordered by the Board at anytime prior to hearing upon a showing that the person deposed will not be available to participate in the hearing because of exceptional circumstances, such as impending death, illness, imprisonment, relocation out of state, or other hardship, and the deposition of that person is necessary for the preservation of relevant testimony.
- b) A written request for an evidence deposition shall be served on the Board and all other parties to the appeal. Within 21 days after receipt of a deposition request, a party may file a response.
- c) A Board order for the taking of a deposition may provide that any designated books, papers, or documents, not privileged, be produced at the same time and place the deposition is scheduled.
- d) All parties to the appeal and the Board shall have the right to confront and cross-examine any witness whose deposition is taken. Any party may waive that right by serving written notice on all other parties, including the Board.
- e) Depositions shall be taken in the county of residence or of employment of the witness, as specified in Illinois Supreme Court Rule 203, unless the witness waives this right in writing.

PROPERTY TAX APPEAL BOARD

NOTICE OF PROPOSED AMENDMENTS

- f) Failure to obey a Board order for deposition shall result in the same sanctions as provided in Section 1910.68(e) of this Part for failure to comply with a subpoena.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Intermediate Care Facilities for the Developmentally Disabled Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 350
- 3) 

<u>Section Numbers:</u> 350.670 350.3740	<u>Proposed Action:</u> Amendment Amendment
--	---
- 4) Statutory Authority: [210 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: Section 350.670 (Personnel Policies) is being amended to eliminate the requirement that orientation programs include training in the prevention and treatment of decubitus ulcers. New language in the Section will require all new employees to be taught each resident's requirements and needs, and in-service training also requires this. Language requiring nutrition training was moved to a different part of the Section and a requirement that orientation and training be documented was added.

Section 350.3740 (Personnel) is being amended to clarify language concerning the amount of time that the Resident Services Director is required to spend per week per resident in performing duties related to the resident's plan of care. A new subsection is being added to require all new employees to receive orientation and in-service training in accordance with Section 350.670(f).

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

Section NumbersProposed ActionIllinois Register Citation

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

350.330	Amendment	29 Ill. Reg. 13460; 9/2/05
350.625	Amendment	29 Ill. Reg. 13460; 9/2/05
350.630	Amendment	29 Ill. Reg. 13460; 9/2/05
350.635	New Section	29 Ill. Reg. 13460; 9/2/05
350.636	New Section	29 Ill. Reg. 13460; 9/2/05
350.637	New Section	29 Ill. Reg. 13460; 9/2/05

10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

11) Time, Place, and Manner in which interested persons may comment on this rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761

217/782-2043  
e-mail: rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis:

A) Type of small businesses, small municipalities and not-for-profit corporations affected: Small businesses or not-for-profit corporations that own or operate intermediate care facilities with 16 or fewer beds for individuals with developmental disabilities.

B) Reporting, bookkeeping or other procedures required for compliance: Facilities will be required to maintain records of the orientation that all new employees receive, including employees in facilities with 16 or fewer beds.

C) Types of professional skills necessary for compliance: All new employees, including employees in facilities with 16 or fewer beds, will have to be trained on the individual needs and behavioral issues of any residents who may come under their care.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER 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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART B: ADMINISTRATION

- Section
- 350.510 Administrator

SUBPART C: POLICIES

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

SUBPART D: PERSONNEL

- Section
- 350.810 Personnel
- 350.820 Consultation Services

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

350.830 Personnel Policies (Repealed)

## SUBPART E: RESIDENT LIVING SERVICES

## Section

350.1010 Service Programs  
350.1020 Psychological Services  
350.1030 Social Services  
350.1040 Speech Pathology and Audiology Services  
350.1050 Recreational and Activities Services  
350.1055 Volunteer Program  
350.1060 Training and Habilitation Services  
350.1070 Training and Habilitation Staff  
350.1080 Restraints  
350.1082 Nonemergency Use of Physical Restraints  
350.1084 Emergency Use of Physical Restraints  
350.1086 Unnecessary, Psychotropic, and Antipsychotic Drugs  
350.1088 Language Assistance Services

## 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  
350.1260 Vaccinations

## 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 Medications  
350.1450 Control of Medications

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SUBPART H: RESIDENT AND FACILITY RECORDS

- Section
- 350.1610 Resident Record Requirements
- 350.1620 Content of Medical Records
- 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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

350.2220 Equipment and Supplies

## SUBPART L: WATER SUPPLY AND SEWAGE DISPOSAL

## Section

350.2410 Codes  
350.2420 Water Supply  
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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

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

## 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

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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
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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 350.TABLE D Food Service Sanitation Rules, 77 Illinois Admin. Code 750, 1983  
Applicable for New Intermediate Care Facilities for the Developmentally  
Disabled of 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].

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

## DEPARTMENT OF PUBLIC HEALTH

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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 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 12, 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. 7653, effective May 24, 2004; amended at 28 Ill. Reg. 11217, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11971, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCAR Recommendation at 29 Ill. Reg. 15247, effective September 23, 2005, for the remainder of the maximum 150 days; amended at 29 Ill. Reg. 12954, effective August 2, 2005; amended at 30 Ill. Reg. 1460, effective January 23, 2006; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: POLICIES

**Section 350.670 Personnel Policies**

- a) Each facility shall develop and maintain written personnel policies that are followed in the operation of the facility. These policies shall include, at a minimum, each of the requirements of this Section.
- b) Employee Records
  - 1) Employment application forms shall be completed for each employee and kept on file in the facility. Completed forms shall be available to Department personnel for review.

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## NOTICE OF PROPOSED AMENDMENTS

- 2) Individual personnel files for each employee shall contain date of birth; home address; educational background; experience, including types and places of employment; date of employment and position employed to fill in this facility; and (if no longer employed in this facility) last date employed and reasons for leaving.
  - 3) Individual personnel files for each employee shall also contain health records, including the initial health evaluation and the results of the tuberculin skin test required under Section 350.675, and any other pertinent health records.
  - 4) Individual personnel records for each employee shall also contain records of evaluation of performance.
- c) Prior to employing any individual in a position that requires a State license, the facility shall contact the Illinois Department of Professional Regulation to verify that the individual's license is active. A copy of the license shall be placed in the individual's personnel file.
  - d) The facility shall check the status of all applicants with the Nurse Aide Registry prior to hiring.
  - e) All personnel shall have either training or experience, or both, in the job assigned to them.
  - f) Orientation and In-Service Training
    - 1) All new employees, including student interns, shall complete an orientation program covering, at a minimum, the following: general facility and resident orientation; job orientation, emphasizing allowable duties of the new employee; resident safety, including fire and disaster, emergency care and basic resident safety; the importance of nutrition in general healthcare; and understanding and communicating with the type of residents being cared for in the facility. In addition, all new direct care staff, including student interns, shall complete an orientation program covering the facility's policies and procedures for resident care services before being assigned to provide direct care to residents. The employee's training and competency shall be documented. This orientation program shall include information on the prevention and treatment of decubitus ulcers and the importance of nutrition in general health care.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 2) All employees, except student interns, shall attend in-service training programs pertaining to their assigned duties at least annually. These in-service training programs shall include the facility's policies, skill training and ongoing education to enable all personnel to perform their duties effectively. The in-service training sessions regarding personal care, nursing and restorative services shall include information on the prevention and treatment of decubitus ulcers. In-service training concerning dietary services shall include information on the effects of diet in treatment of various diseases or medical conditions and the importance of laboratory test results in determining therapeutic diets. Written records of program content for each session and of personnel attending each session shall be kept.

3) All facility employees who deal directly with residents shall be trained on the individual requirements and behavioral issues of residents who may come under their care, to ensure the safety and dignity of each client. The employees' training and competency shall be documented.

- g) Employees shall only be assigned duties that are directly related to their job functions, as identified in their job descriptions. Exceptions may be made in emergencies.
- h) Personnel policies shall include a plan to provide personnel coverage for regular staff when they are absent.
- i) Every facility shall have a current, dated weekly employee time schedule posted where employees may refer to it. This schedule shall contain the employee's name, job title, shift assignment, hours of work and days off. The schedule shall be kept on file in the facility for one year after the week for which the schedule was used.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

**Section 350.3740 Personnel**

- a) The Resident Services Director shall be responsible for ensuring that all

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

recommendations in the individual plan of care are carried out as stated in the plan. ~~The~~In no case shall the Resident Services Director shall spend at least~~less~~ ~~than~~ two hours per week per resident in the performance of these duties. ~~(B)~~

- b) All new employees shall receive orientation and in-service training in accordance with Section 350.670(f) of this Part.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Trifecta
- 2) Code Citation: 11 Ill. Adm. Code 306
- 3) Section Number: 306.20                      Proposed Action: Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: For trifecta wagers, replaces requirements for entries specific to harness racing or thoroughbred racing with requirements governing both. Stewards (now, the Executive Director or the State Director of Mutuels) must approve more than 2 entries in one race. For stakes races with a minimum purse of \$20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests. For stakes races with a minimum purse of \$200,000, common owner shall be allowed and there shall be no restrictions on minimum betting interests.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None used
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending in this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 7-701  
Chicago, Illinois 60601

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

(312) 814-5017

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small business affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: January 2006

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

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
 SUBTITLE B: HORSE RACING  
 CHAPTER I: ILLINOIS RACING BOARD  
 SUBCHAPTER a: GENERAL RULES

PART 306  
 TRIFECTA

Section	
306.10	Definition
306.20	Entries
306.30	Minimum Fields
306.40	Pool Distribution
306.50	Dead Heats
306.60	Scratches

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

SOURCE: Adopted at 19 Ill. Reg. 15225, effective November 1, 1995; amended at 24 Ill. Reg. 7397, effective May 1, 2000; amended at 26 Ill. Reg. 4900, effective March 20, 2002; amended at 26 Ill. Reg. 12355, effective August 1, 2002; amended at 27 Ill. Reg. 5024, effective March 7, 2003; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 306.20 Entries**

a) ~~For harness racing, only one entry, either coupled or uncoupled, shall be allowed in a trifecta race so long as it is a stakes race with a minimum purse of \$25,000 and a minimum field of eight betting interests at the start of the race. For stakes races with a minimum purse of \$50,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests. In stakes races with purses of \$200,000 or more, common owner entries, either coupled or uncoupled, shall be allowed.~~

a)b) Entries For thoroughbred racing, entries, either coupled or uncoupled, shall be allowed in a trifecta race under the following conditions:

- 1) one entry requires at least six betting interests at the start of the race.
- 2) two entries requires at least eight betting interests at the start of the race.

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENT

- 3) more than two entries shall require approval from the stewards.~~Executive Director or the State Director of Mutuels.~~
- b) For stakes races with a minimum purse of \$20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- c) For stakes races with a minimum purse of \$200,000, common owner entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- d)e) This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in 11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of \$250,000 or more.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Superfecta
- 2) Code Citation: 11 Ill. Adm. Code 311
- 3) 

<u>Section Number:</u>	<u>Proposed Action:</u>
311.35	Amend
311.40	Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: For superfecta wagers, minimum field requirements shall not be applicable to stakes races. Replaces requirements for entries specific to harness racing or thoroughbred racing with requirements governing both. Stewards (now, the Executive Director or the State Director of Mutuels) must approve more than 2 entries in one race. For stakes races with a minimum purse of \$20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests. For stakes races with a minimum purse of \$200,000, common owner shall be allowed and there shall be no restrictions on minimum betting interests.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None used.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending in this Part? No
- 11) Statement of Statewide Policy Objectives: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo  
Illinois Racing Board  
100 West Randolph, Suite 7-701

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

Chicago, Illinois 60601

(312) 814-5017

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small business affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: January 2006

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

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
 SUBTITLE B: HORSE RACING  
 CHAPTER I: ILLINOIS RACING BOARD  
 SUBCHAPTER a: GENERAL RULES

PART 311  
 SUPERFECTA

Section	
311.10	Superfecta
311.20	Pool Distribution
311.25	Scratches
311.30	Dead Heats
311.35	Minimum Fields
311.40	Entries

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

SOURCE: Adopted at 18 Ill. Reg. 7440, effective May 8, 1994; amended at 19 Ill. Reg. 6663, effective May 1, 1995; amended at 26 Ill. Reg. 4903, effective March 20, 2002; amended at 26 Ill. Reg. 12357, effective August 1, 2002; emergency amendment at 26 Ill. Reg. 14702, effective September 16, 2002, for a maximum of 150 days; emergency expired February 12, 2003; emergency amendment at 26 Ill. Reg. 16854, effective November 15, 2002, for a maximum of 150 days; emergency expired April 13, 2003; amended at 28 Ill. Reg. 7121, effective May 10, 2004; amended at 29 Ill. Reg. 14024, effective September 1, 2005; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 311.35 Minimum Fields**

- a) Superfecta wagering shall be prohibited on races with fewer than seven betting interests at the start of the race.
- b) This Section shall not be applicable to ~~thoroughbred~~ stakes races ~~or standardbred stakes races with a minimum purse of \$50,000.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 311.40 Entries**

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

- a) ~~Entries for thoroughbred racing, entries~~, either coupled or uncoupled, shall be allowed in a superfecta race under the following conditions:
- 1) one entry requires at least seven betting interests at the start of the race.
  - 2) two entries require at least eight betting interests at the start of the race.
  - 3) more than two entries shall require approval from the ~~stewards~~Executive Director or the State Director of Mutuels.
- b) For stakes races with a minimum purse of \$20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- c) For stakes races with a minimum purse of \$200,000, common owner entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- ~~db)~~ This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in 11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of \$250,000 or more.
- e) ~~For harness racing, only one entry, either coupled or uncoupled, shall be allowed in a superfecta race so long as it is a stakes race with a minimum purse of \$25,000. In stakes races with purses of \$200,000 or more, common owner entries, either coupled or uncoupled, shall be allowed.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Racing and Track Rules
- 2) Code Citation: 11 Ill. Adm. Code 1314
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1314.20	Amend
1314.50	Amend
1314.150	Amend
1314.170	Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) A Complete Description of the Subjects and Issues Involved: No additional harness races on a racing date will be permitted without the written approval of the Executive Director (now, Board Secretary). Strikes the requirement that, in the event that racing pursuant to the hours prescribed by the licensee is conducted at night or twilight, the wagering program must be completed no later than midnight. Replaces prohibition against use of photo finish equipment unless a spinner or target is used with a requirement that use of such equipment be approved by the stewards. Requires the association steward (now, the presiding judge), along with the State steward to review all photo finishes and confirm or correct the judges' decision before a race is declared official.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None used.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending in this Part? No
- 11) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

Mickey Ezzo

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

Illinois Racing Board  
100 West Randolph, Suite 7-701  
Chicago, Illinois 60601

(312) 814-5017

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small business affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda which this rulemaking was summarized: January 2006

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

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY  
SUBTITLE B: HORSE RACING  
CHAPTER I: ILLINOIS RACING BOARD  
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACING

PART 1314  
GENERAL RACING AND TRACK RULES

Section	
1314.10	Number of Races (Repealed)
1314.20	Extra Races
1314.30	Postponement of Races
1314.40	Postponement Procedure
1314.50	Post Time
1314.60	Head Numbers
1314.70	License Display
1314.80	Bonafide Contests
1314.90	Payment Default
1314.110	Liability for Promoters
1314.120	Bad Checks
1314.130	Advertised Purse
1314.140	Advertising and Awards
1314.150	Allocation of Stalls
1314.160	Paddock and Receiving Barn
1314.170	Photofinish and Starting Gate
1314.180	Driver Insurance
1314.190	Interference with Officials
1314.200	Film Recordings
1314.210	Penalty for Violation of Rules
1314.220	Stall Availability
1314.230	Limitation on Purse Reductions

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

SOURCE: Published in Rules and Regulations of Harness Racing, (original date not cited in publication); amended at August 8, 1973; added March 15, 1974, filed March 22, 1974; amended April 11, 1974, filed and effective April 30, 1974; amended July 12, 1974, filed July 22, 1974; amended October 25, 1974, filed November 7, 1974; amended August 21, 1976, filed August 30,

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

1976; codified at 5 Ill. Reg. 10939; amended at 16 Ill. Reg. 8229, effective May 19, 1992; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1314.20 Extra Races**

No additional races on a racing date will be permitted without the written approval of the ~~Executive Director~~~~Secretary of the Board~~, and subject to conditions by the Board.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1314.50 Post Time**

~~a) In the event that racing pursuant to the hours prescribed by the license for the meeting is conducted at night or twilight, the wagering program must be completed no later than midnight.~~

~~b) Post time for the first race of the program may be fixed by the race track operator. If post time must be delayed, ~~the said~~ operator must receive approval of ~~the said~~ delay from the ~~stewards state steward~~.~~

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1314.150 Allocation of Stalls**

- a) No race track operator shall allocate stalls except pursuant to a written stall application and agreement, the form of which shall have been approved by the Board. The racing secretary shall be responsible for stall allocation unless some other official is substituted by the race track operator to perform such function and the Board notified thereof.
- b)
- 1) The racing secretary shall give each applicant written notice specifying whether his application, with respect to each stall requested, has been accepted, denied, or placed in a pending status. Such notice shall be given not later than five days prior to the start of the meeting or ten days after receipt of the stall application, whichever shall be last to occur.
  - 2) Within ten days after initial notification is required by this rule, final action shall be taken and written notice thereof given with respect to any stall application originally placed, in whole or in part, in a pending status.

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

- c) The racing secretary's view of the best interests of racing and of the meeting in question shall govern his action on stall applications, and he shall be allowed broad discretion in performing this function. Nevertheless:
- 1) No action on a stall application shall be based upon –
    - A) the race, color, creed, religion, national origin or sex of the applicant, or
    - B) an arbitrary or capricious decision, or a decision not related to any reasonable view of the best interests of racing or of the meeting in question.
  - 2) No stall allocation shall be conditioned upon the payment, transfer or delivery to the racing secretary, or to any other person designated by him, of any money, property or other thing of value or upon the applicant's promise to make such payment, transfer or delivery.
- d) Any owner, trainer or other person believing himself to be aggrieved by a violation of this rule may file a written complaint with the Board which shall conduct a hearing with respect to the alleged violation. If the Board determines that such a violation has occurred, it may impose a fine upon the race track operator not to exceed \$500. for each violation, may order that stalls be allocated to the complainant and may take such other action as it deems appropriate. In order to facilitate the conduct of inquiries into alleged violations of this rule, the racing secretary shall cause all stall applications, stall agreements, correspondence and other related material to be retained until the close of the meeting or for such longer period as the Board may direct.
- e) In passing upon stall applications that are of substantially equal merit, the racing secretary shall give preference to applications submitted with respect to horses owned by Illinois residents.
- f) Acceptance of an application for stall space for any horse shall be conditioned upon proof of a negative ~~AGID~~-(Coggins) test for equine infectious anemia.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1314.170 Photofinish and Starting Gate**

## ILLINOIS RACING BOARD

## NOTICE OF PROPOSED AMENDMENTS

- a) At all tracks a photo finish and starting gate must be used. Whenever the judges use a photo to determine the order of finish, it shall be posted for public inspection during that same racing program. Photo finish equipment shall be approved by the stewards. ~~not be acceptable unless a spinner or target is used therewith.~~
- b) The state steward and association steward ~~presiding judge~~ shall review all photo finishes and confirm or correct the decision of the placing judges before a race is declared official.

(Source: Amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Departmental Duties
- 2) Code Citation: 2 Ill. Adm. Code 552
- 3) Section Number: 552.30                      Proposed Action:  
New Section
- 4) Statutory Authority: Section 14(f) of the Secretary of State Act [15 ILCS 305/14(f)]
- 5) A Complete Description of the Subjects and Issues Involved: Section 255.30 will prescribe guidelines for members of the Secretary of State's Office of the Inspector General to use when initiating, conducting and completing investigations.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The proposed amendments do not require expenditures by units of local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the proposed amendment is posted on Secretary of State's web site, [www.sos.state.il.us/departments/index/home](http://www.sos.state.il.us/departments/index/home) as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to the:  

Secretary of State  
Nathan Maddox, Senior Legal Advisor  
298 Howlett Building  
Springfield, IL 62701  
  
217-785-3094
- 12) Initial Regulatory Flexibility Analysis:

## SECRETARY OF STATE

## 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: Complaints must be recorded, investigations conducted, and reports compiled as set forth in the rule.
  - C) Types of Professional skills necessary for compliance: Requires the skills of professionally trained investigators.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the need for this rulemaking was not recognized at the time the agendas were prepared.

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

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE C: CONSTITUTIONAL OFFICERS  
CHAPTER III: SECRETARY OF STATEPART 552  
DEPARTMENTAL DUTIES

## Section

552.10	Service of Process Upon the Secretary of State
552.20	Filing of Miscellaneous Documents with the Secretary of State
<u>552.30</u>	<u>Initiating, Conducting and Completing Investigations</u>

AUTHORITY: Secretary of State Act, Section 14(f) (15 ILCS 305/14(f)).

SOURCE: Adopted at 12 Ill. Reg. 3022, effective February 1, 1988; amended at 14 Ill. Reg. 6854, effective May 1, 1990; amended at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 552.30 Initiating, Conducting and Completing Investigations**

- a) The Office of Inspector General (OIG) will conduct all investigations in a professional and thorough manner. Investigations will be properly documented and will be submitted in written reports of findings.
- b) The OIG will utilize methods for investigative interviews consistent with current police practices and techniques and will observe and comply with all laws and agreements related to the questioning of employees or other individuals.
- c) For the purposes of this Section, the following provisions shall apply when the OIG initiates investigations:
  - 1) The OIG will maintain an intake procedure, under the supervision of the Chief of Investigations, for processing all complaints. Complaints may be received by telephone, letter, fax, e-mail or in person. Anonymous complaints will be accepted. When a complaint is received, it will be documented on a complaint form and assigned a complaint reference number.
  - 2) The Chief of Investigations will review each complaint to determine whether a case should be initiated and assigned to an Inspector. When necessary for this initial decision, an Inspector may be assigned to gather

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

additional information concerning the validity of the complaint and/or the credibility of the complainant. When the Chief of Investigations initiates a case, the complaint will receive a case number and be assigned to an Inspector.

3) To initiate an investigation, a complaint must, at a minimum, include facts demonstrating OIG jurisdiction and a reasonable belief that employee misconduct may have occurred involving a violation of a law, rule or regulation; mismanagement; abuse of authority; or a substantial and specific danger to the public health and safety.

d) For the purposes of this Section, the following provisions shall apply when the OIG conducts investigations:

1) The Chief of Investigations, or his/her designee, will be responsible for the supervision of all investigative activities and will ensure that Inspectors:

A) Properly document all investigative activities;

B) Properly secure all physical evidence;

C) Promptly complete all reports; and

D) Submit case summaries to management that are accurate and complete.

2) Investigative activities may include, but are not limited to: interviews; requests for information, documents or other materials; custody of physical evidence; surveillance; and inspection of physical premises. The methods of investigation utilized in each case will be those most likely to establish the relevant facts of the case.

e) For the purposes of this Section, the following provisions shall apply when the OIG completes investigations:

1) All cases will be characterized as either Active, Pending or Closed.

2) A case is Active when the matter requires current or continued investigation.

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

- 3) A case is Pending when the investigation is completed and awaiting prosecution or civil or administrative action. A case may be Pending/Inactive if no investigative activity is anticipated for a period of 30 days or longer.
- 4) A case is Closed when investigative action ceases due to unfounded allegations, an administrative closing of the case, the completion of adjudication of all subjects, or the referral of the case to another agency for investigation in which the OIG will not participate.
- 5) A Case Summary Report will be completed at the conclusion of each investigation.
  - A) Case Summary Reports will be submitted to the Chief of Investigations for approval.
  - B) The approved Case Summary Reports then will be submitted to the Inspector General for final approval.
  - C) Case Summary Reports approved by the Inspector General will be forwarded to the appropriate Director for informational purposes or for the initiation of disciplinary action. Copies of the Summaries also will be forwarded to the Director of Personnel.
- f) The following provisions shall apply to interactions between the OIG and other law enforcement agencies.
  - 1) When it appears that a case may warrant criminal investigation, the appropriate federal, state or local law enforcement agency will be contacted for possible joint investigation at the earliest practicable time. When warranted by an investigation, a case will be presented to the appropriate local or federal prosecutor for a prosecutorial decision.
  - 2) When necessary for the completion of an OIG investigation, the OIG may request information or assistance from appropriate local, state or federal law enforcement agencies.
  - 3) Upon receipt of a request from a local, state or federal law enforcement agency for assistance or information, the OIG will provide that

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

information or assistance in compliance with applicable State and federal laws.

(Source: Added at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Accreditation of Environmental Laboratories
- 2) Code Citation: 35 Ill. Adm. Code 186
- 3) Section Number: 186.115                      Adopted Action:  
Amended
- 4) Statutory Authority: 415 ILCS 5/4(n) and(o)
- 5) Effective Date of Amendment: February 10, 2006
- 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 rulemaking, including any material incorporated by reference, is on file in the agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 and is available for public inspection.
- 9) Notice of Proposal published in the Illinois Register: October 28, 2005; 29 Ill. Reg. 16133
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Grammatical and punctuation changes were made as agreed upon with 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? No
- 15) Summary and Purpose of Amendment: This rulemaking establishes and enforces minimum standards of operation of laboratories to issue certificates of competency and to promulgate and enforce regulations relevant to the issuance of such certifications. This purpose of this adopted rulemaking is to update a citation found in Section 186.115.
- 16) Information and questions regarding this rulemaking shall be directed to:

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ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

Ronald Turpin  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19726  
Springfield, Illinois 62794-9276

217-785-7475

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

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE A: GENERAL PROVISIONS  
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCYPART 186  
ACCREDITATION OF ENVIRONMENTAL LABORATORIES

## Section

186.105	Purpose
186.110	Scope and Applicability
186.115	Incorporation by Reference
186.120	Definitions
186.125	Application Process (Repealed)
186.130	Accreditation Procedures and References to Accreditation (Repealed)
186.135	On-Site Evaluations (Repealed)
186.140	Personnel Requirements (Repealed)
186.145	Laboratory Equipment and Materials (Repealed)
186.150	Laboratory Facilities (Repealed)
186.155	Calibration (Repealed)
186.160	Quality Assurance/Quality Control (Repealed)
186.165	Quality Assurance Plan (Repealed)
186.170	Performance Evaluation Sample Testing (Repealed)
186.175	Performance Evaluation Testing Programs (Repealed)
186.180	Fields of Testing
186.185	Sample Acceptance and Receipt (Repealed)
186.190	Record Keeping, Sample Tracking and Reporting (Repealed)
186.195	Subcontracting (Repealed)
186.200	Reciprocity (Repealed)
186.205	Acceptance of Out-of-State Accreditation (Repealed)
186.210	Suspension, Revocation and Denial of Accreditation (Repealed)
186.215	Hearing, Decision and Appeal
186.220	Confidential Documents
186.225	Severability
186.230	On-site Assessment and Proficiency Testing Laboratory Expenses
186.APPENDIX A	Required Method Detection Limits (MDL) or Pattern Recognition Levels (PRL) for Drinking Water Laboratory Accreditation (Repealed)

AUTHORITY: Implementing and authorized by Section 1401(1)(D) of the Safe Drinking Water Act [42 USC 300f(1)(D)], Subpart C of the National Interim Primary Drinking Water Regulations [40 CFR 141.21 through 141.30], the Clean Water Act [32 USC 1251], the Illinois

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Environmental Protection Act [415 ILCS 5], and authorized by Section 4(n) and (o) of the Illinois Environmental Protection Act [415 ILCS 5/4(n) and (o)].

SOURCE: Adopted at 22 Ill. Reg. 5546, effective March 4, 1998; amended at 26 Ill. Reg. 12167, effective July 29, 2002; amended at 30 Ill. Reg. 2507, effective February 10, 2006.

**Section 186.115 Incorporation by Reference**

- a) The Agency incorporates the following documents by reference.
- 1) ~~EPA/600/R-04/003~~~~EPA/600/R-99/068~~, "National Environmental Laboratory Accreditation Conference: Constitution, Bylaws, and Standards" (July ~~2003~~)~~2004~~; and
  - 2) "Test Methods for Evaluating Solid Waste, SW846", "Laboratory Manual Physical/Chemical Properties", volumes 1A, 1B and 1C, 3<sup>rd</sup> edition; (November 2000), Office of Solid Waste and Emergency Response, Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; (202)512-1800 or online at [www.epa.gov/sw-846](http://www.epa.gov/sw-846).
- b) The Agency incorporates the following Sections of federal regulations by reference:
- 1) 40 CFR 136.3 Table IC, Table IB, Table ID (2001),  
40 CFR 136.4 (2001),  
40 CFR 136.5 (2001),  
40 CFR 136 Appendix A (2001),  
40 CFR 136 Appendix B (2001),  
40 CFR 136 Appendix C (2001),  
40 CFR 136 Proposed Rule October 18, 1995: "Guidelines Establishing Test Procedures for the Analysis of Pollutants: New Methods",
  - 2) 40 CFR 141.23(k) (2001),

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40 CFR 141.24(e) (2001),

40 CFR 141.24(f)(20) (2001)

40 CFR 141.27 (2001),

40 CFR 143.4 (2001),

40 CFR 141.40(n)(11) (2001), and

40 CFR 136, 141, 143 Direct Final Rule January 16, 2001: "Guidelines Establishing Test Procedures for the Analysis of Pollutants Under the Clean Water Act; National Primary Drinking Water Regulations; and National Secondary Drinking Water Regulations; Methods Update".

c) This Section incorporates no later amendments or editions.

(Source: Amended at 30 Ill. Reg. 2507, effective February 10, 2006)

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- 1) Heading of the Part: Acupuncture Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1140
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1140.10	Amendment
1140.20	Amendment
1140.30	Amendment
1140.35	Amendment
1140.40	Amendment
1140.50	Amendment
1140.60	Amendment
1140.70	Amendment
1140.80	Amendment
1140.90	Amendment
1140.100	Amendment
1140.110	Amendment
- 4) Statutory Authority: Acupuncture Practice Act [225 ILCS 2]
- 5) Effective Date of Amendments: February 8, 2006
- 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: 29 Ill. Reg. 13949; 9/16/05
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Various non-substantive technical changes have been made.
- 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

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Curriculum requirements are being updated in Section 1140.40, and the continuing education requirements in Section 1140.90 are being clarified. Additional technical changes were made to the entire Part by changing references from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Department of Financial and Professional Regulation  
Division of Professional Regulation  
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:

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## TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF [FINANCIAL AND](#) PROFESSIONAL REGULATION  
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1140

## ACUPUNCTURE PRACTICE ACT

## Section

1140.10	Definitions
1140.20	Fees
1140.30	Application for Licensure
1140.35	Application for Guest Instructor Permit
1140.40	Acupuncture Curriculum
1140.50	Endorsement
1140.60	Renewals
1140.70	Inactive Status
1140.80	Restoration
1140.90	Continuing Education
1140.100	Unprofessional Conduct
1140.110	Granting Variances

AUTHORITY: Implementing the Acupuncture Practice Act [225 ILCS 2] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 23 Ill. Reg. 5705, effective April 30, 1999; amended at 25 Ill. Reg. 10893, effective August 13, 2001; amended at 26 Ill. Reg. 11938, effective July 18, 2002; amended at 27 Ill. Reg. 10103, effective June 20, 2003; amended at 30 Ill. Reg. 2512, effective February 8, 2006.

**Section 1140.10 Definitions**

"Act" means the Acupuncture Practice Act [225 ILCS 2].

"Acupuncturist" means a person who practices acupuncture and is licensed by the [Division](#)~~Department~~.

"Board" means the Board of Acupuncture.

"Department" means the Department of [Financial and](#) Professional Regulation.

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"Director" means the Director of the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Evaluation in Acupuncture" means the use of Oriental diagnosis and therapeutic theories to determine the treatment plan.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.20 Fees**

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

- a) Application Fees.
  - 1) The fee for application for a license as an acupuncturist is \$500.
  - 2) The fee for application for a guest instructor permit is \$150.
  - 3) The fee for application as a continuing education sponsor is \$250.
- b) Renewal Fees.
  - 1) The fee for the renewal of an acupuncturist license shall be calculated at the rate of \$250 per year.
  - 2) The fee for the renewal of continuing education sponsor approval is \$250 for a 2 year license.
- 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, not to exceed \$1,000.
  - 2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that 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

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changes on ~~Division~~Department records when no duplicate license is issued.

- 3) The fee for the certification of a license for any purpose is \$20.
- 4) The fee for a wall certificate showing licensure shall be the actual cost of producing such certificate.
- 5) The fee for a roster of persons licensed as acupuncturists in this State shall be the actual cost of producing such a roster.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.30 Application for Licensure**

- a) ~~Prior to January 1, 2002, an applicant for an acupuncture license shall apply on forms approved by the Department. The application shall include:~~
  - 1) ~~Either:~~
    - A) ~~Proof of passage of the National Commission for the Certification of Acupuncturists (NCCA) or National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination or another examination that has been approved by the Department;~~  
~~or~~
    - B) ~~Current certification from the National Certification Commission for Acupuncture and Oriental Medicine;~~
  - 2) ~~Proof of successful completion of the Clean Needle Technique (CNT) Course offered by the Council of Colleges of Acupuncture and Oriental Medicine;~~
  - 3) ~~A complete work history; and~~
  - 4) ~~The required fee specified in Section 1140.20 of this Part.~~
- b) ~~The Division~~Beginning January 1, 2002, theDepartment shall issue a license to an applicant who submits with the application proof of the following:

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- 1) Education
    - A) Graduation from a school accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or a similar accrediting body approved by the ~~Division~~Department; or
    - B) Completion of a comprehensive educational program approved in accordance with Section 1140.40 by the ~~Division~~Department; and
  - 2) Passing the ~~National Commission for the Certification of Acupuncturists (NCCA) examination~~, National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) acupuncture examination or a substantially equivalent examination approved by the ~~Division~~Department;
  - 3) Proof of successful completion of the Clean Needle Technique (CNT) course offered by the Council of Colleges of Acupuncture and Oriental Medicine;
  - 4) A complete work history since completion of acupuncture education; and
  - 5) The required fee specified in Section 1140.20.
- e) ~~In lieu of the requirements in subsection (a)(1) and (a)(2) above, an applicant may, prior to December 31, 1999, submit proof of active practice for at least 3 of the last 5 years and:~~
- 1) ~~Graduation from a formal full-time acupuncture program consisting of a minimum of 1,350 hours of entry level acupuncture education (including at least 500 hours of clinic). A copy of the transcript shall accompany the application; or~~
  - 2) ~~Completion of an apprenticeship, signed by the preceptor, of at least 4,000 contact hours in acupuncture techniques in a 3 to 6 year period. The preceptor must have had at least 5 years experience prior to the beginning of the apprenticeship, and his or her practice must include the use of acupuncture as a primary means of treatment with a minimum of 100 different patients and 500 patient visits per year during the apprenticeship. A copy of the preceptor's curriculum vitae shall accompany the application; or~~

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~~3)~~ ~~Practice of acupuncture as a primary means of treatment for at least 5 additional years (a total of a minimum of 8 years) that includes the use of acupuncture in general practice with a minimum of 100 different patients and 500 patient visits per year. Five affidavits attesting to 5 years of practice from peers or colleagues shall accompany the application.~~

~~b~~) All documents shall be submitted to the ~~Division~~Department in English.

~~c~~) If the applicant has ever been licensed in another jurisdiction, he/she shall also submit a certification, on forms provided by the ~~Division~~Department, from the jurisdiction in which the applicant was originally licensed and in which the applicant is currently licensed, stating:

- 1) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
- 2) A description of the examination in that jurisdiction; and
- 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

~~d~~) When the accuracy of any submitted documentation or experience is questioned by the ~~Division~~Department or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:

- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.35 Application for Guest Instructor Permit**

- a) Any person not licensed in this State to practice acupuncture who is an invited guest of a professional acupuncture association, scientific acupuncture foundation, an acupuncture training program or a ~~Division~~Department approved continuing

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education provider who will be providing professional education through lectures, clinics or demonstrations must be the holder of a Guest Instructor Permit issued by the ~~Division~~Department pursuant to the provisions of Section ~~(20.1)~~ of the Act.

- b) An application for a Guest Instructor Permit shall be made on forms provided by the ~~Division~~Department. The application shall include:
- 1) Either:
    - A) Current certification in good standing as an acupuncturist from the National Certification Commission for Acupuncture and Oriental Medicine; or
    - B) Current certification of licensure in another jurisdiction; or
    - C) Equivalent education and training set forth in this Part;
  - 2) Certification from the acupuncture association, scientific acupuncture foundation, an acupuncture training program or an approved continuing education sponsor indicating:
    - A) That the person has received an invitation or appointment to teach acupuncture technique in conjunction with lecture, clinics or demonstrations;
    - B) The nature of the educational services to be provided by the applicant; and
    - C) The term of the invitation or contract;
  - 3) A copy of the applicant's current curriculum vitae; and
  - 4) The fee set forth in Section 1140.20.
- c) A Guest Instructor Permit shall be valid for 12 months.
- d) A guest instructor may engage in the application of acupuncture techniques in conjunction with the lecture, clinics, or demonstration, but may not open an office, appoint a place to meet private patients, consult with private patients, or otherwise engage in the practice of acupuncture beyond what is required in

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conjunction with these lectures, clinics or demonstrations.

- e) When the holder of a Guest Instructor Permit has been discharged or terminated from an appointment, any permit issued in the name of the person shall be null and void as of the date of the discharge or termination.
- f) If, at the conclusion of the term of the appointment for which the permit was issued, the holder of the permit desires to remain in the State and practice or teach his/her profession, he/she must apply for and receive a license to practice acupuncture.
- g) Nothing shall prohibit the holder of a Guest Instructor Permit from applying for and receiving a license to practice acupuncture in this State during the term of the appointment. In the event the holder of a permit is issued a license to practice in this State, upon receipt of the license, the permit shall become null and void and shall be returned to the ~~Division~~Department.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.40 Acupuncture Curriculum**

The ~~Division~~Department shall, upon the recommendation of the Board of Acupuncture, approve an applicant's acupuncture curriculum if it meets the following minimum criteria:

- a) The school from which the applicant was graduated:
  - 1) Is legally recognized and authorized by the jurisdiction in which it is located to confer an acupuncture degree; and
  - 2) Has a faculty that comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions; and
  - 3) Maintains permanent student records that summarize the credentials for admission, attendance and grades and other records of performance.
- b) Curriculum shall be a minimum of at least 3 academic years and no less than 27 calendar months (a minimum of ~~1950~~1725 hours ~~or 93 semester credits~~ or its

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equivalent). This must be composed of at least:

- 1) ~~47 semester hours~~ 890705 hours (~~47 semester hours~~ or its equivalent) in theory and treatment techniques in acupuncture and related studies.

A) Topics shall include, but not be limited to, the following:

iA) History of Acupuncture;

iiB) Basic Theory. Topics include, but are not limited to, basic Yin-Yang theory, 8 principles, and 5 elements; Zang (viscera) organs and Fu (bowels) organs and extraordinary organs; theory and function of channels (meridians) and collaterals; ~~function of channel and collateral;~~ Qi, blood and body ~~fluids; fluid;~~ Qi tonification (supplementation) and sedation (~~reducing draining;~~); ~~the~~ etiology (the causes of diseases) such as 6 exogenous, 7 emotional factors and non-internal or non-external reasons; pathology;

iiiC) Point Location and Channel (Meridian) Theory. Topics include, but are not limited to, nomenclature and distribution of the 14 channels on the body surface – 12 regular channels, Ren (conception) channel and Du (governing) channel; classification of points; points study should include the method of locating the points, anatomic structures, classification of points, functions and indications, and contraindications; know the specific points, such as Five Shu points, Yuan (source) points, Luo (connecting) points, Xi (cleft) points, Back-Shu points, Front-Mu points, Crossing points; 8 extraordinary channels and points;

ivD) Acupuncture Treatment. Topics include, but are not limited to, use of the special evaluation method, differentiation of syndromes according to 8 principles, Qi and blood, Zang-Fu organs and theory of meridians and collaterals; case review, based on history of the patient and charting; the ~~four-examination methods~~ Five Examinations; measuring and recording vital signs and symptoms, to make treatment plans and future; ~~methods and systems for~~

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~~planning, carrying out and evaluating a treatment and~~  
 prognosis; contraindications of treatment; indications of  
 potential ~~for increased~~ risk to the patient; ~~(e.g., immune~~  
~~compromised patient, diabetic patient)~~; the need to modify  
 standard therapeutic approach (e.g., infants and children,  
 pregnancy); and apparently benign presentations that may  
 have a more serious cause (hypertension, headaches);

~~vE)~~ Treatment Techniques. Topics include, ~~but are not limited~~  
~~to~~, needle insertion: depth, duration, manipulation and  
 withdrawal; the appearance of Qi; Moxa: application,  
 direct and indirect, etc.; other techniques (e.g., bleeding,  
 moxibustion, cupping, Gua Sha, 7 star); tonification and  
 sedation techniques; knowledge relating to the treatment of  
 acute and chronic conditions, first aid, analgesia,  
 anesthesia, and electrical stimulation; safety issues;  
 Oriental bodywork therapy (e.g., Tui Na, Shiatsu, Amma,  
 acupressure, etc.); ~~and~~ contraindication for certain  
conditions; and

~~viF)~~ Ethics and Practice Management. Topics include  
 confidentiality; informed consent; HIPPA guidelines;  
 understanding the scope of practice; recordkeeping: legal  
 requirements, release of data; ethical and legal aspects of  
 referring patients to another practitioner; professional  
 conduct and appropriate interpersonal behavior; laws and  
 regulations governing the practice of acupuncture;  
 recognition and clarification of patient expectations;  
 general liability insurance; legal requirements; professional  
 liability insurance: risk management and quality assurance;  
 building and managing a practice, including ethical and  
 legal aspects of third party reimbursement; ~~and~~ professional  
 development.

B) No more than 9072 hours may count towards history and ethics  
 and practice management.

2) 660 hours (~~22 semester credits~~ or its equivalent) in clinical training.

A) The program must assure that each student participates in a

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minimum of 500 hours in the supervised care of patients using acupuncture. This portion of the clinical training, conducted under the supervision of program-approved supervisors, must consist of 250 student-performed treatments where students conduct patient interviews, participate in treatment planning, perform appropriate acupuncture treatments, and follow up on patients' responses to treatment.

- B) The supervised clinical practice must be an internship that provides the student training in all phases of patient care and must be conducted in a teaching clinic operated by the institution or in a clinical facility with a formal affiliation with the institution where the institution exercises academic oversight substantially equivalent to the academic oversight exercised for teaching clinics operated by the institution, where:
- i) Clinical instructors' qualifications meet school requirements for clinical instruction;
  - ii) Regular, systematic evaluation of the clinical experience takes place; and
  - iii) Clinical training supervision procedures are substantially equivalent to those within the teaching clinic operated by the institution. Student interns must receive training from a variety of clinical faculty in order to ensure that interns are exposed to different practice styles and instructional methods.
- C) ~~Of the~~The remaining 160 hours, 150 hours must ~~may~~ be acquired in observation ~~and case review~~.
- 3) ~~400~~360 hours (~~or its equivalent~~24 semester credits) in biomedical clinical sciences.
- A) Biomedical Clinical Sciences. Topics include, but are not limited to, basic science courses; biomedical and clinical concepts and terms; human anatomy and physiology; pathology and the biomedical disease model; pharmacology; the nature of the biomedical clinical process, including history taking, diagnosis,

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treatment and follow-up; the clinical relevance of laboratory and diagnostic tests and procedures, as well as biomedical physical examination findings; and

- B) Clean Needle Technique. Topics include infectious~~Infectious~~ diseases, sterilization procedures, needle handling and disposal, and other issues relevant to bloodborne and surface pathogens; the basis and need for referral and/or consultation; the range of biomedical referral resources and the modalities they employ.
  
- c~~f~~) An individual who is deficient in course work may complete the required courses at a regionally accredited college or university or a school of acupuncture accredited by ACAOM. The individual will be required to submit a transcript from the program indicating successful completion of the course and a course description.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.50 Endorsement**

- a) An applicant who is licensed/registered under the laws of another state or territory of the United States who wishes to be licensed in Illinois as an acupuncturist shall file an application with the Division~~Department~~, on forms provided by the Division~~Department~~, that includes:
  - 1) One of the following:
    - A) Proof of passage of the National Commission for the Certification of Acupuncturists (NCCA)~~or National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM)~~ examination or another examination that has been approved by the Division~~Department~~ for individuals licensed in another jurisdiction prior to January 1, 2002; or
    - B) Current certification from the National Certification Commission for Acupuncture and Oriental Medicine for individuals licensed in another jurisdiction prior to January 1, 2002; or
    - C) Verification of meeting examination, education, apprenticeship or experience requirements as set forth in Section 1140.30 of this Part

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for individuals licensed in another jurisdiction prior to January 1, 2000; or

- D) For applicants licensed after January 1, 2002, proof of:
- i) Graduation from a school accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or a similar accrediting body approved by the ~~Division~~Department; or
  - ii) Completion of a comprehensive educational program approved in accordance with Section 1140.40 by the ~~Division~~Department and proof of passage of the ~~National Commission for the Certification of Acupuncturists (NCCA) or~~ National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination or another examination that has been approved by the ~~Division~~Department;
- 2) Proof of successful completion of the Clean Needle Technique (CNT) Course offered by the Council of Colleges of Acupuncture and Oriental Medicine;
  - 3) Certification from the jurisdiction of original licensure and the jurisdiction in which the applicant is currently licensed and practicing, if other than original, stating the time during which the applicant was licensed in that state, whether the file on the applicant contains any disciplinary actions taken or pending, and the applicant's license number;
  - 4) Complete work history since completion of training and/or education; and
  - 5) The required fee specified in Section 1140.20 of this Part.
- b) The ~~Division~~Department shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination of the Act or whether the applicant possesses individual qualifications that were substantially equivalent to the requirements of the Act.
- c) The ~~Division~~Department shall either issue a license by endorsement to the

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applicant or notify the applicant in writing of the reasons for the denial of the application.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.60 Renewals**

- a) Every license issued under the Act shall expire on June 30 of odd numbered years. The holder of a license may renew such license during the month preceding the expiration date by paying the required fee. ~~Beginning with the June 30, 2005 and every renewal thereafter, a renewal applicant will be required to complete 30 hours of continuing education in accordance with Section 1140.90 in order to renew the license. For the June 30, 2005 renewal only, a renewal applicant shall submit proof of successful completion of the Clean Needle Technique (CNT) Course offered by the Council of Colleges of Acupuncture and Oriental Medicine.~~
- b) It is the responsibility of each licensee to notify the ~~Division~~Department of any change of address. Failure to receive a renewal form from the ~~Division~~Department shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.
- c) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 110 of the Act.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.70 Inactive Status**

- a) Licensed acupuncturists who notify the ~~Division~~Department, on forms provided by the ~~Division~~Department, may place their licenses on inactive status and shall be excused from paying renewal fees until they notify the ~~Division~~Department in writing of the intention to resume active practice.
- b) Any licensed acupuncturist seeking restoration from inactive status shall do so in accordance with Section 1140.90 of this Part.
- c) Any acupuncturist whose license is on inactive status shall not use the title "acupuncturist" or any of the other designations listed in Section 50 of the Act in

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the State of Illinois. Any person violating this subsection shall be considered to be practicing without a license and shall be subject to the disciplinary provisions of the Act.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.80 Restoration**

- a) Any acupuncturist whose license has expired or has been placed on inactive status for 5 years or less may have the license restored by paying the fees required by Section 1140.20 of this Part and proof of completion of 30 continuing education (CE) hours during the 2 years prior to submitting the restoration application in accordance with Section 1140.90 of this Part. Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs.
- b) Any person seeking restoration of a license that has been expired or placed on inactive status for more than 5 years shall file an application, on forms supplied by the [DivisionDepartment](#), for review by the Board, together with the fee required by Section 1140.20 of this Part. In addition the applicant shall submit:
  - 1) One of the following:
    - A) Sworn evidence of active practice in another jurisdiction. Such evidence shall include a statement from an appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice; or
    - B) An affidavit attesting to military service as provided in Section 70 of the Act; or
    - C) Proof of passage of the ~~National Commission for the Certification of Acupuncturists (NCCA)~~ or National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination or another examination that has been approved by the [DivisionDepartment](#) within 2 years prior to the restoration application; or
    - D) Evidence of recent attendance at educational programs in acupuncture, including attendance at college level courses,

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professionally oriented continuing education classes, special seminars, or any other similar program. The ~~Division~~Department will accept, for example:

- i) for an applicant whose license has lapsed 5 to 10 years, 160 contact hours of clinical training under the supervision of a licensed acupuncturist or 90 hours of continuing education relating to the clinical aspects of acupuncture, or a combination thereof, approved by the Board within 2 years prior to the restoration application. Clinical training shall be approved by the Board prior to an applicant starting the training.
  - ii) for an applicant whose license has lapsed for 10 years or more, 320 contact hours of clinical training under the supervision of an acupuncturist or 120 hours of continuing education relating to the clinical aspects of acupuncture, or any combination thereof approved by the Board within 2 years prior to the restoration application. Clinical training shall be approved by the Board prior to an applicant starting the training.
- 2) Proof of successful completion of the Clean Needle Technique (CNT) Course offered by the Council of Colleges of Acupuncture and Oriental Medicine within the last 5 years.
- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the ~~Division~~Department because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration shall be requested to:
- 1) Provide such information as may be necessary; and/or
  - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.
- d) Upon recommendation of the Board and approval by the Director, an applicant shall have the license restored or be notified in writing of the reason for denying the application.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.90 Continuing Education**

## a) Continuing Education Hours Requirements

- 1) ~~Every~~ Beginning with the June 30, 2005 renewal, every licensee who applies for renewal of a license as an acupuncturist shall complete 30 hours of continuing education (CE) relevant to the practice of acupuncture.
- 2) A prerenewal period is the 24 months preceding June 30 of each odd-numbered year.
- 3) One CE hour shall equal one clock hour.
- 4) Courses that are part of the curriculum of an accredited university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
- 5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.
- 6) Acupuncturists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.
- 7) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois if they meet the requirements for CE in Illinois.

## b) Approved Continuing Education (CE)

- 1) CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c), except for those activities provided in subsections (b)(2), (3), (4), ~~and (5)~~ and (6).

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 2) A maximum of 5 hours of CE credit per renewal may be earned for completion of a self-study (including online) course that areis offered by an approved sponsor who meets the requirements set forth in subsection (c). Each self-study course shall include an examination.
  - 3) A maximum of 155 hours of CE credit per renewal may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of acupuncture related courses that are a part of the curriculum of an approved acupuncture program or a college, university or graduate school.
  - 4) A maximum of 155 hours of CE credit per renewal may be earned for verified teaching in a college, university or school of acupuncture approved in accordance with Section 1140.40 and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 1.5 hours for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program).
  - 5) A maximum of 5 hours of CE credit per renewal may be earned for authoring papers, published in refereed professional journalspublications or books ~~and for preparing presentations and exhibits. The preparation of each published paper, book, chapter or presentation dealing with acupuncture may be claimed as 5 hours of credit. A presentation must be before a professional audience. Five credit hours may be claimed for only the first time the information is published or presented.~~
  - 6) A maximum of 5 hours of CE earned may be for attendance at or participation in a program in Illinois related to the practice of acupuncture.
- c) Approved CE Sponsors and Programs
- 1) Approved sponsor, as used in this Section, shall mean:
    - A) The American Association of Acupuncture and Oriental Medicine, or its affiliates;
    - B) Asian American Acupuncture Association, or its affiliates;

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- C) Illinois ~~Association of State~~ Acupuncture and Oriental Medicine Association, or its affiliates;
  - D) Korean American Acupuncture Association of Illinois, or its affiliates;
  - E) Chicago Korean American Acupuncture Association, or its affiliates; or
  - F) Acupuncture and Oriental Medicine Alliance, or its affiliates;
  - G) Any other person, firm, association, corporation, or group that has been approved and authorized by the ~~Division~~Department pursuant to subsection (c)(2) of this Section upon the recommendation of the Board to coordinate and present continuing education courses or programs.
- 2) Entities seeking a license as a CE sponsor pursuant to subsection (c)(1)(F) shall file a sponsor application, along with the required fee of \$250. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall certify to the following:
- A) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section. A sponsor shall be required to submit a CE program with course materials for review prior to being approved as a CE sponsor;
  - B) That the sponsor will be responsible for verifying attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9);
  - C) That, upon request by the ~~Division~~Department, the sponsor will submit evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Evidence shall be required when the ~~Division~~Department has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.
- 3) All programs shall:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of acupuncture that includes direct and indirect patient care, acupuncture treatment, treatment techniques, point location and ~~channel~~ theory, and ethics, but does not include herbal therapy or preparation;
  - B) Foster the enhancement of general or specialized acupuncture practice and values;
  - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
  - D) Specify the course objectives, course content and teaching methods to be used; and
  - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.
- 4) Each CE program shall provide a mechanism for evaluation of the program by the participants.
  - 5) An approved sponsor may subcontract with individuals and organizations to provide approved programs.
  - 6) All programs given by approved sponsors shall be open to all licensed acupuncturists and not be limited to members of a single organization or group.
  - 7) To maintain approval as a licensed sponsor, each sponsor shall submit to the ~~Division~~Department by each odd-numbered year a renewal application, the renewal fee specified in Section 1140.20 of this Part and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.
  - 8) It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:
    - A) The name, address and license number of the sponsor;

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- B) The name and address of the participant;
  - C) A brief statement of the subject matter;
  - D) The number of hours attended in each program;
  - E) The date and place of the program; and
  - F) The signature of the sponsor.
- 9) The sponsor shall maintain attendance records for not less than 5 years.
- 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.
- 11) Upon the failure of a sponsor to comply with any of the foregoing requirements, the DivisionDepartment, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the DivisionDepartment receives assurances of compliance with this Section.
- 12) Notwithstanding any other provision of this Section, the DivisionDepartment or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with the requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b).
  - 2) The DivisionDepartment may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence may be required in the context of the Division'sDepartment's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

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- 3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- e) Continuing Education Earned in Other Jurisdictions
- 1) If a licensee has earned CE hours offered in another state or territory not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an out of state continuing education approval form, along with a \$25 processing fee, prior to participation in the program or 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
  - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval form with the \$25 processing fee plus a \$10 per hour late fee not to exceed \$150. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
- f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the [DivisionDepartment](#) shall restore the license upon payment of the required fee as provided in Section 1470.55 of this Part.
- g) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the [DivisionDepartment](#) a renewal application along with the required fee set forth in Section 1470.55 of this Part, a statement setting forth the facts concerning non-compliance, and request for waiver of all or part of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the [DivisionDepartment](#), upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the [DivisionDepartment](#) shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

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- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
  - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;
  - B) An incapacitating illness documented by a statement from a currently licensed physician;
  - C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or
  - D) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the [DivisionDepartment](#).

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.100 Unprofessional Conduct**

- a) Pursuant to Section 110 of the Act, unethical, unauthorized, or unprofessional conduct in the practice of acupuncture shall include, but not be limited to:
  - 1) Procuring, attempting to procure or renewing a license by bribery, or by fraudulent misrepresentation;
  - 2) Willfully making or filing a false report or record, willfully failing to file a report or record required by State or federal law, or willfully impeding or obstructing such filing or inducing another person to do so;
  - 3) Circulating untruthful, fraudulent, deceptive or misleading advertising;
  - 4) Willfully failing to report any violation of the Act or this Part;
  - 5) Willfully or repeatedly violating a lawful order of the Board or the

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Division~~Department~~ previously entered in a disciplinary hearing;

- 6) Accepting and performing professional responsibilities that the licensee knows, or has reason to know, he/she is not competent to perform;
- 7) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience or licensure to perform them;
- 8) Gross or repeated malpractice or the failure to deliver acupuncture services with that level of care, skill and treatment that is recognized by a reasonably prudent acupuncturist with similar professional training as being acceptable under similar conditions and circumstances;
- 9) Dividing with anyone, other than physicians with whom the licensee receives referrals or another acupuncturist with whom the licensee works, any fee, commission, rebate or other form of compensation for any professional services not actually and personally rendered. Nothing contained in this subsection prohibits persons holding valid and current licenses under this Act from practicing in a partnership, limited liability partnership, limited liability company or a corporation under the Professional Corporation Act or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership or corporation.

- b) The Division~~Department~~ hereby incorporates by reference the "Statement of Ethics and Professional Conduct" of the National Certification Commission for Acupuncture and Oriental Medicine, 11 Canal Center Plaza, Suite 300, Alexandria VA 22314, April 2005~~January 1999~~, with no later amendments or editions.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

**Section 1140.110 Granting Variances**

- a) The Director may grant variances from this Part in individual cases when~~where~~ he or she finds that:
  - 1) The provision from which the variance is granted is not statutorily

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mandated;

- 2) No party will be injured by the granting of the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board of the granting of the variance, and the reasons [for granting the variance](#)~~therefor~~, at the next meeting of the Board.

(Source: Amended at 30 Ill. Reg. 2512, effective February 8, 2006)

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## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Americans With Disabilities Act Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 250
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
250.10	New Section
250.20	New Section
250.30	New Section
250.40	New Section
250.50	New Section
250.60	New Section
250.70	New Section
250.EXHIBIT A	New Section
- 4) Statutory Authority: Implementing Title II, Subtitle A of the Americans With Disabilities Act of 1990 (42 USC 12131-12134), as specified in Title II regulations (28 CFR 35.107), and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].
- 5) Effective Date of Rules: February 7, 2006
- 6) Do these rules contain an automatic repeal date? No
- 7) Do these rules contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 12, 2005; 29 Ill. Reg. 12311
- 10) Has JCAR issued a Statement of Objections to these rules? No
- 11) Differences between proposal and final version:

In Section 250.20, added a period at the end of the definition of "Act".

In line 4 of Section 250.40(c), changed "10 business days" to "15 business days".

In line 6 of Section 250.50(a), changed "5 business days" to "15 business days".

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- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rules replace an emergency rules currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: 28 CFR 35.107 requires all agencies of State government employing at least 50 persons to publish rules governing the grievance procedure under the Americans With Disabilities Act (ADA). JCAR noted that the Department of Financial and Professional Regulation-Division of Insurance does not have such a rule in place. It is anticipated that DFPR will eventually promulgate an ADA rule that will be applicable to all of the agency's Divisions and replace their existing rules, but the Department, on behalf of its Division of Insurance, is adopting Part 250 to allow the Division to be in compliance with the ADA requirements in the interim.
- 16) Information and questions regarding these adopted rules shall be directed to:

Glen Gasiorek, Attorney  
Department of Financial and  
Professional Regulation  
Division of Insurance  
100 W. Randolph, Suite 9-301  
Chicago, IL 60601-3251

(312) 814-2435

The full text of the Adopted Rules begins on the next page:

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## TITLE 4: DISCRIMINATION PROCEDURES

## CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 250

## AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

## Section

250.10	Purpose
250.20	Definitions
250.30	Procedure
250.40	Designated Coordinator Level
250.50	Final Level
250.60	Accessibility
250.70	Case-by-Case Resolution
250.EXHIBIT A	Grievance Form

AUTHORITY: Implementing Title II, Subtitle A of the Americans With Disabilities Act of 1990 (42 USC 12131-12134), as specified in Title II regulations (28 CFR 35.107), and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 30 Ill. Reg. 2538, effective February 7, 2006.

**Section 250.10 Purpose**

- a) This Americans With Disabilities Act Grievance Procedure is established pursuant to the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.) and specifically Section 35.107 of the Title II regulations (28 CFR 35) requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the Act or its regulations to understand the rights, privileges and remedies afforded by it, they should contact the Designated Coordinator of the Department of Financial and Professional Regulation-Division of Insurance.
- b) In general, the Act requires that each program, service and activity offered by the Division, when viewed in its entirety, be readily accessible to and usable by qualified individuals with disabilities.
- c) It is the Division's intention to foster open communication with all individuals requesting readily accessible programs, services and activities. The Division

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encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

**Section 250.20 Definitions**

Act means the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

Complainant means an individual with a disability who files a grievance with the Division pursuant to the provisions of this Part.

Designated Coordinator means the persons appointed by the Director who are responsible for the coordination of efforts of the Division to comply with and carry out its responsibilities under Title II of the Act, including investigation of grievances filed by complainants.

Department means the Department of Financial and Professional Regulation.

Director means the Director of the Department of Financial and Professional Regulation-Division of Insurance of the State of Illinois or anyone to whom the Director's responsibilities and authority are lawfully delegated.

Division means the Department of Financial and Professional Regulation-Division of Insurance.

Grievance means any complaint under the Act by an individual with a disability who meets the essential eligibility requirements for participation in or receipt of the benefits of a program, activity or service offered by the Division, and believes he or she has been excluded from participation in or denied the benefits of any program, service or activity of the Division, or has been subject to discrimination by the Division.

Grievance Form means a Division created form (attached as Exhibit A) that, when completed by a complainant, includes, but is not limited to, the name, address and telephone number of the complainant; date of incidence; a short factual statement of the grievance; and the relief requested, if applicable.

Procedure means the Americans With Disabilities Act Grievance Procedure set forth in this Part.

**Section 250.30 Procedure**

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- a) Grievances must be submitted in accordance with and follow the procedures set forth in Section 250.40 and Section 250.50 of this Part. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement in writing by the complainant and the reviewer at the Designated Coordinator and Final Levels.
- b) A complainant's failure to submit a grievance, or to submit or appeal it to the next level of procedure within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the last response given in the grievance procedure as the Division's last response.
- c) The Division shall, upon being informed of that individual's desire to file a formal grievance, instruct the individual how to receive a copy of this procedure and provide a Grievance Form.

**Section 250.40 Designated Coordinator Level**

- a) If an individual desires to file a formal written grievance, the individual shall promptly, but no later than 180 days after the alleged discrimination, submit the grievance to the Designated Coordinator in writing on the Grievance Form prescribed for that purpose. The Grievance Form must be completed in full in order to receive proper consideration by the Designated Coordinator.
- b) Upon request, assistance shall be provided by the Division to complete the Grievance Form.
- c) The Designated Coordinator, or his or her representative, shall investigate the grievance and shall make reasonable efforts to resolve it. The Designated Coordinator shall provide a written response to the complainant and the Director within 15 business days after receipt of the Grievance Form.

**Section 250.50 Final Level**

- a) If the grievance has not been resolved at the Designated Coordinator Level to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form and Designated Coordinator's response to the Director for final review. The complainant shall submit these documents to the Director, together with a short written statement explaining the reason for dissatisfaction with the

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Designated Coordinator's written response, within 15 business days after receipt by the complainant of the Designated Coordinator's response.

- b) The Director shall appoint a 3-member panel to review the grievance at the Final Level. One member so appointed shall be designated chairman.
- c) The complainant shall be afforded an opportunity to appear before the panel. The complainant shall have a right to appoint a representative to appear on his or her behalf. The panel shall review the Designated Coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- d) Upon reaching a concurrence, the panel shall make recommendations in writing to the Director as to the proper resolution of the grievance. All recommendations shall include reasons for the recommendations and shall bear the signatures of the concurring panel members. A dissenting member of the panel may make a recommendation to the Director in writing and shall also sign the recommendation.
- e) Upon receipt of recommendations from the panel, the Director shall approve, disapprove or modify the panel recommendations, shall render a decision in writing, shall state the basis for the decision, and shall cause a copy of the decision to be served on the parties. The Director's decision shall be final. If the Director disapproves or modifies the panel's recommendations, the Director shall include written reasons for disapproval or modification.
- f) The Grievance Form, the Designated Coordinator's response, the statement of reasons for dissatisfaction, the recommendations of the panel and the decision of the Director shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law.

**Section 250.60 Accessibility**

The Division shall ensure that all stages of the procedure are readily accessible to and usable by individuals with disabilities.

**Section 250.70 Case-by-Case Resolution**

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, the benefits to be derived, and the nature of the service, program or activity at issue; the health and safety of others; and whether an

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Division. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.

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**Section 250.EXHIBIT A Grievance Form**

**Grievance  
Discrimination Based on Disability**

It is the policy of the Illinois Department of Financial and Professional Regulation-Division of Insurance to provide assistance in filling out this form. If assistance is needed, please ask:

ADA Coordinator – IDFPR-Division of Insurance  
320 West Washington Street  
Springfield IL 62767-0001  
( 217 ) 782-4515 (Voice) – (217) 524-4872 (TDD)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

The Best Means and Time for Contacting: \_\_\_\_\_

Program, Service, or Activity to which Access was Denied or in which Alleged Discrimination Occurred: \_\_\_\_\_

Date of Alleged Discrimination: \_\_\_\_\_

Nature of Alleged Discrimination: \_\_\_\_\_

(Attach additional sheets, if necessary. If the grievance is based on a denial of requested reasonable modification, please fill out the back of this form.)

I certify that I am qualified or otherwise eligible to participate in the program, service or activity and the above statements are true to the best of my knowledge and belief.

Signature \_\_\_\_\_ Date \_\_\_\_\_

Please give to the ADA Coordinator at the address listed above.

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For Office Use Only

Date Received: \_\_\_\_\_ By: \_\_\_\_\_  
(BACK OF FORM)

Please fill out this part of the form if this grievance is based upon the denial of a requested reasonable modification. A reasonable modification will be made to make programs, services and activities accessible. Reasonable modifications could include such things as providing auxiliary aides and devices and changing some policies and requirements to allow an individual with a disability to participate. This portion of the form should be filled in to the extent you know the answers. The form may be submitted even if this portion is incomplete.

Reasonable modification requested:

The date the reasonable modification was requested:

The person to whom the request was made:

The reason for denial:

Estimated cost of modification (if an assistive device, such as a TDD or optical reader, or commodity or service to which a cost is readily known):

Why is the requested modification necessary to use or participate in the program, service or activity?

Alternative modifications that may provide accessibility:

Any other information you believe will aid in a fair resolution of this grievance:

## ILLINOIS BOARD OF HIGHER EDUCATION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Diversifying Higher Education Faculty in Illinois Program
- 2) Code Citation: 23 Ill. Adm. Code 1080
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1080.100	New Section
1080.110	New Section
1080.200	New Section
1080.210	New Section
1080.220	New Section
1080.230	New Section
1080.300	New Section
1080.310	New Section
1080.320	New Section
1080.330	New Section
- 4) Statutory Authority: Implementing and authorized by the Diversifying Higher Education Faculty in Illinois Act [110 ILCS 930]
- 5) Effective Date of Rulemaking: February 9, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the Illinois Register: September 9, 2005; 29 Ill. Reg. 13606
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: In Section 1080.230 (b)(5), revised "Spring" to "spring".
- 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

## ILLINOIS BOARD OF HIGHER EDUCATION

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of rules: This new Part implements the provisions of P.A. 93-862.
- 16) Information and questions regarding these adopted rules shall be directed to:

Sandi Gillilan, Administrative Rules Coordinator  
Illinois Board of Higher Education  
431 East Adams Street, Second Floor  
Springfield IL 62701

217-557-7352

The full text of the Adopted Rules begins on the next page:

## ILLINOIS BOARD OF HIGHER EDUCATION

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## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER II: BOARD OF HIGHER EDUCATION

## PART 1080

## DIVERSIFYING HIGHER EDUCATION FACULTY IN ILLINOIS PROGRAM

## SUBPART A: GENERAL

## Section

1080.100	Purpose
1080.110	Definitions

## SUBPART B: PROGRAM ADMINISTRATION

## Section

1080.200	Board of Higher Education Responsibilities
1080.210	Program Board Composition
1080.220	Program Board Responsibilities
1080.230	Institution and Institutional Representative Responsibilities

## SUBPART C: APPLICATION AND AWARD PROCESS

## Section

1080.300	Student Eligibility
1080.310	Student Fulfillment of the Conditions of the Award
1080.320	Application Procedures
1080.330	Determining and Administering Awards

AUTHORITY: Implementing and authorized by the Diversifying Higher Education Faculty in Illinois Act [110 ILCS 930].

SOURCE: Adopted at 30 Ill. Reg. 2547, effective February 9, 2006.

## SUBPART A: GENERAL

**Section 1080.100 Purpose**

- a) This Part provides for the administration of the Diversifying Higher Education Faculty in Illinois Act [110 ILCS 930] and the program of financial assistance

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under this Act called the Diversifying Higher Education Faculty in Illinois Program (DFI). DFI combines two former programs, the Illinois Consortium for Educational Opportunity Program (ICEOP) and the Illinois Minority Graduate Incentive Program (IMGIP).

- b) The purpose of the DFI Program is to *encourage minority students to enroll and complete academic programs at the post-baccalaureate level and to enhance the diversity of faculty and professional staff at Illinois higher education institutions and agencies.* (Section 6 of the Act) Only full-time students with a demonstrated financial need are awarded this highly competitive fellowship.

**Section 1080.110 Definitions**

"Academic Year" means the period of time beginning with the fall term in one calendar year and running through the end of the summer term in the following calendar year.

"Act" means the Diversifying Higher Education Faculty in Illinois Act [110 ILCS 930].

*"Board" means the Board of Higher Education.* (Section 2 of the Act)

*"Program Board" means the 21-member entity appointed by the Board to establish policy for administration of the grant program authorized by the Act.* (Sections 3 and 4 of the Act)

"Institutional Representative" means the designated individual who is responsible for coordinating DFI activities at each qualified institution of higher education.

"Illinois Resident" means any United States citizen or lawful permanent resident alien of the United States who meets at least one of the following requirements:

*Has earned an educational diploma at an institution of education located in this State; or*

*Is a registered voter in the State of Illinois and has lived in Illinois for a period of at least three years prior to applying for a grant.* (Section 7 of the Act)

The status of the Illinois residency of the student at the time of initial

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matriculation in this program will hold for his or her entire time in his or her graduate or professional study at the DFI institution.

*"Qualified Institution of Higher Education" means a qualifying publicly or privately operated educational institution located within Illinois that offers instruction leading toward or prerequisite to an academic or professional degree beyond the baccalaureate degree, excluding theological schools, and that is authorized to operate in the State of Illinois. (Section 2 of the Act)*

*"Traditionally Underrepresented Minority Group" means any of the racial minority groups designated in the Act that are represented in Illinois post-baccalaureate enrollment at a percentage rate less than the percentage of the racial minority group's representation in the total Illinois population. The Board shall annually determine which racial groups are underrepresented based upon census data and annual graduate enrollment reports from Illinois institutions of higher education.*

## SUBPART B: PROGRAM ADMINISTRATION

**Section 1080.200 Board of Higher Education Responsibilities**

- a) *The Board of Higher Education shall appoint the 21 members of the Program Board. (Section 3 of the Act)*
- b) The Board shall name the Chair of the Program Board.
- c) The Board shall disseminate information regarding the DFI program.
- d) *The Board shall provide administrative assistance for the Program Board.*
- e) *The Board shall distribute funds appropriated by the General Assembly for the DFI Program in accordance with decisions made by the Program Board. (Section 6 of the Act)*

**Section 1080.210 Program Board Composition**

- a) Program Board members shall serve 2-year terms and will continue to serve until replacement or reappointment is determined. There are no term limits.
- b) The Program Board shall name the Vice-Chair and make any necessary

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subcommittee appointments.

**Section 1080.220 Program Board Responsibilities**

- a) The Program Board shall be responsible for:
  - 1) establishing policies and program guidelines for the operation of the DFI grant program.
  - 2) prioritizing fields of study for awarding DFI funds annually.
  - 3) creating the application materials and setting application deadlines.
  - 4) *reviewing and approving applications for participation in the DFI grant program.*
  - 5) *establishing criteria to promote placement of DFI fellows.*
  - 6) *reporting annually to the Board on program outcomes and results.*  
(Section 4 of the Act)
- b) The Program Board shall meet at least three times per year.
- c) Program Board members are expected to consistently attend Program Board meetings.

**Section 1080.230 Institution and Institutional Representative Responsibilities**

- a) A DFI institution shall:
  - 1) be a qualified institution of higher education as defined in the Act;
  - 2) commit to providing leadership, information, and placement opportunities for DFI fellows; and
  - 3) designate an institutional representative.
- b) A DFI institutional representative shall:
  - 1) actively recruit students who will be eligible for DFI awards and verify to

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the Program Board that applicants for DFI financial assistance meet all eligibility requirements;

- 2) maintain records for award recipients, including program application materials, contracts and records of award payments;
- 3) provide award recipients with academic and support services, such as mentoring, counseling, and other activities that would enhance the chances for degree completion and success in achieving the goals of the program;
- 4) supervise payment of awards from the funds awarded by the Program Board;
- 5) collect, process and forward to the Program Board by the announced deadline each spring all new applications and renewal forms from eligible students; and
- 6) assist award recipients who complete their program of study in seeking a full-time teaching or administrative position in an Illinois institution of higher education or a full-time position as an employee of this State in an education-related capacity. Such positions may include, but shall not be limited to, administrative positions in State elementary/secondary and higher education agencies.

## SUBPART C: APPLICATION AND AWARD PROCESS

**Section 1080.300 Student Eligibility**

- a) For a student to be eligible to participate in the DFI grant program, the student shall establish and the applicable institution shall verify that the student applicant meets the following criteria:
  - 1) *he or she is an Illinois resident as defined in the Act;*
  - 2) *he or she is a citizen or lawful permanent resident alien of the United States;*
  - 3) *he or she is a member of a racial minority as defined in the Act;*
  - 4) *he or she has earned a baccalaureate degree from an accredited*

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*institution of higher education;*

- 5) he or she has been admitted as a student pursuing a doctoral, master's, or post-baccalaureate professional degree and will pursue this degree objective as a full-time student, as defined by the institution, for at least 9 months of the year;
  - 6) he or she has signed an agreement to meet the Act's employment conditions if a DFI award is accepted;
  - 7) *his or her financial resources are such that in the absence of a DFI grant the individual will be prevented from pursuing a graduate or professional degree at the institution; and*
  - 8) *he or she has above-average academic ability to pursue a graduate or professional degree* (Section 7 of the Act), as evidenced by the following:
    - A) minimum grade point average of C+ (2.75 on a grade scale of 4.00 = A) in the last 60 hours of undergraduate work; and
    - B) admission to a post-baccalaureate degree program at a qualified institution of higher education as defined in the Act.
- b) In order to maintain eligibility in the program and in order to be considered for subsequent DFI grants, an awardee must meet scholastic requirements and eligibility for financial assistance as required by the institution in which she or he is enrolled as a DFI participant.

**Section 1080.310 Student Fulfillment of the Conditions of the Award**

- a) *As a condition for acceptance of the award, the recipient shall agree to the following:*
  - 1) *Accept a teaching or nonteaching full-time appointment at an Illinois institution of higher education; or*
  - 2) *Accept a position as an employee of this State in an administrative, education-related position, as determined by the Program Board. Such positions shall include, but shall not be limited to, administrative positions in State elementary/secondary and higher education agencies; or*

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- 3) Make a good faith effort to secure such position for a time period of no less than 5 years. A good faith effort includes actively seeking employment and maintaining contact with the institutional representative and Program Board.
- b) *The recipient shall accept such positions for a period equal to the number of years that he or she was a participant in the DFI grant program. (Section 10 of the Act)*
- c) Failure of the recipient to fulfill the award conditions as provided for in subsection (a) or (b) shall require the recipient to repay 20 percent of the total amount of the award on a ten-year repayment schedule.
- d) All grants shall be subject to the provisions of the Illinois Grant Funds Recovery Act [30 ILCS 705].
- e) *Program participants admitted under the provisions of the former Illinois Consortium for Educational Opportunity Program shall be governed by the statutory provisions and rules governing the program at the time of their admission. (Section 11.5 of the Act)*

**Section 1080.320 Application Procedures**

- a) The Board or its administrative designee shall disseminate information about the DFI grant program to qualified institutions of higher education for distribution.
- b) A student shall apply directly to the qualified institution of higher education that he or she plans to attend. All new applications and renewal forms shall be submitted by the institution on behalf of the student to the Program Board with the institution's verification and endorsement.

**Section 1080.330 Determining and Administering Awards**

- a) In determining the recipients of the awards, the Program Board shall:
  - 1) consider only members of traditionally underrepresented minority groups who are underrepresented in particular fields of study;

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- 2) favor recipients who received awards in previous years who maintain conditions of eligibility as enumerated in Section 1080.300 and have made satisfactory academic progress toward a degree, as determined by each institution, provided that no student shall receive assistance for more than four years.
- b) In administering the award, the Program Board shall:
- 1) *determine the award amount annually* (Section 9 of the Act);
  - 2) direct the Board to deliver the awards to the institution to disburse to the recipients, conditioned upon the recipients' satisfactory academic progress; and
  - 3) attempt to achieve distribution of the awards among qualified institutions of higher education so that the awards are distributed equitably within fields of study and geographic locations in the State of Illinois and between public and private institutions of higher education.
- c) Grant funds shall be distributed by the institutions to grantees during the period of DFI enrollment, not to exceed 12 months per award.

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- 1) Heading of the Part: Cancellation, Revocation or Suspension of Licenses or Permits
- 2) Code Citation: 92 Ill. Adm. Code 1040
- 3) Section Numbers:      Adopted Action:  
1040.32                      Amendment  
1040.109                     New Section
- 4) Statutory Authority: Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)], Section 6-206(a)(38) and (39) of the Illinois Vehicle Code [625 ILCS 5/6-206(a)(38) and (39)], Section 6-301.1 of the Illinois Vehicle Code [625 ILCS 5/6-301.1], Section 6-301.2 of the Illinois Vehicle Code [625 ILCS 5/6-301.2] and Section 14 of the Illinois Identification Card Act [15 ILCS 335/14]
- 5) Effective Date of Amendments: February 10, 2006
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Published in Illinois Register: 29 Ill. Reg., 5933; April 29, 2005
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Grammatical, punctuation or non-substantive technical changes were made as agreed upon with JCAR.
- 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? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1040.42	Amendment	29 Ill. Reg. 12231; 8/5/05
1040.33	Amendment	29 Ill. Reg. 12340; 8/12/05

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- 15) Summary and Purpose of Amendments: The adopted rulemaking is pursuant to P.A. 92-804 and P.A. 92-814, which were passed into law effective January 1, 2003. P.A. 92-804 amends the Liquor Control Act of 1934 that provides that the local liquor commissioners have the duty to report to the Secretary of State any conviction for a violation of the Act's provision, or a similar provision of a local ordinance, prohibiting a person under 21 from purchasing, accepting, possessing, or consuming alcoholic liquor and prohibiting the transfer or alteration of identification cards, the use of the identification card of another or a false or forged identification card, or the use of false information to obtain an identification card. The rulemaking provides that the Secretary of State is authorized to suspend or revoke without a preliminary hearing the driver's license or learner's permit of any person convicted of violating any of the prohibitions of the Liquor Control Act of 1934 provision or a similar provision of a local ordinance. P.A. 92-814 amends the Illinois Vehicle Code and provides that the Secretary of State may suspend for a minimum of 6 months the driving privileges of a person who has committed a second or subsequent violation of the provision requiring obedience to a signal indicating the approach of a train.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Office of the Secretary of State  
Driver Services Department  
JoAnn Wilson, Legislative Liaison  
c/o Director's Office  
2701 South Dirksen Parkway  
Springfield IL 62723

(217) 785-1441

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

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TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATE

## PART 1040

## CANCELLATION, REVOCATION OR SUSPENSION OF LICENSES OR PERMITS

## Section

1040.10	Court to Forward Licenses and Reports of Convictions
1040.20	Illinois Offense Table
1040.25	Suspension or Revocation for Driving Without a Valid Driver's License
1040.29	2 or More Traffic Offenses Committed within 24 Months by a Person Under the Age of 21 Years
1040.30	3 or More Traffic Offenses Committed Within 12 Months
1040.31	Operating a Motor Vehicle During a Period of Suspension or Revocation
1040.32	Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently
1040.33	Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered Person-with-Disabilities License Plate or Parking Decal or Device or Fraudulent Person-with-Disabilities License Plate or Parking Decal or Device
1040.35	Commission of an Offense Requiring Mandatory Revocation Upon Conviction, and Suspension or Revocation Upon a Local Ordinance Conviction
1040.36	Suspension for Violation of Restrictions on Driver's License
1040.37	Suspension for Violation of Restrictions on Instruction Permit
1040.38	Commission of a Traffic Offense in Another State
1040.40	Repeated Convictions or Collisions
1040.41	Suspension of Licenses for Curfew Violations
1040.42	Fleeing and Eluding
1040.43	Illegal Transportation
1040.46	Fatal Accident and Personal Injury Suspensions or Revocations
1040.48	Vehicle Emission Suspensions
1040.50	Suspension of License of Commercial Vehicle Driver
1040.52	Driver Remedial Education Course
1040.55	Suspension for Driver's License Classification Violations
1040.60	Release of Information Regarding a Disposition of Court Supervision
1040.65	Offenses Occurring on Military Bases
1040.66	Invalidation of a Restricted Driving Permit
1040.70	Problem Driver Pointer System
1040.80	Cancellation of Driver's License Upon Issuance of a Handicapped Identification Card

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1040.100	Rescissions
1040.101	Reinstatement Fees
1040.102	Bankruptcy for Suspensions, Cancellations, Failure to Pay and Returned Checks Actions
1040.105	Suspension for 5 or More Tollway Violations and/or Evasions
1040.107	Suspension for Violation of 625 ILCS 5/11-907, Approaching a Stationary Emergency Vehicle
1040.108	Suspension for Failure to Make Report of Vehicle Accident Violations
<a href="#">1040.109</a>	<a href="#">Two or More Convictions for Railroad Crossing Violations</a>
1040.110	Bribery
1040.111	Suspension for Violation of 625 ILCS 5/11-908(a-1) for Failure to Yield Upon Entering a Construction or Maintenance Zone Where Workers Are Present

AUTHORITY: Implementing Articles II and VII of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Arts. II and VII] and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed September 22, 1972; amended at 3 Ill. Reg. 26, p. 282, effective June 30, 1979; amended at 5 Ill. Reg. 3533, effective April 1, 1981; amended at 6 Ill. Reg. 4239, effective April 2, 1982; codified at 6 Ill. Reg. 12674; amended at 8 Ill. Reg. 2200, effective February 1, 1984; amended at 8 Ill. Reg. 3783, effective March 13, 1984; amended at 8 Ill. Reg. 18925, effective September 25, 1984; amended at 8 Ill. Reg. 23385, effective November 21, 1984; amended at 10 Ill. Reg. 15265, effective September 4, 1986; amended at 11 Ill. Reg. 16977, effective October 1, 1987; amended at 11 Ill. Reg. 20659, effective December 8, 1987; amended at 12 Ill. Reg. 2148, effective January 11, 1988; amended at 12 Ill. Reg. 14351, effective September 1, 1988; amended at 12 Ill. Reg. 15625, effective September 15, 1988; amended at 12 Ill. Reg. 16153, effective September 15, 1988; amended at 12 Ill. Reg. 16906, effective October 1, 1988; amended at 12 Ill. Reg. 17120, effective October 1, 1988; amended at 13 Ill. Reg. 1593, effective January 23, 1989; amended at 13 Ill. Reg. 5162, effective April 1, 1989; amended at 13 Ill. Reg. 7802, effective May 15, 1989; amended at 13 Ill. Reg. 8659, effective June 2, 1989; amended at 13 Ill. Reg. 17087, effective October 16, 1989; amended at 13 Ill. Reg. 20127, effective December 8, 1989; amended at 14 Ill. Reg. 2944, effective February 7, 1990; amended at 14 Ill. Reg. 3664, effective February 7, 1990; amended at 14 Ill. Reg. 5178, effective April 1, 1990; amended at 14 Ill. Reg. 5560, effective March 22, 1990; amended at 14 Ill. Reg. 14177, effective August 21, 1990; amended at 14 Ill. Reg. 18088, effective October 22, 1990; amended at 15 Ill. Reg. 14258, effective September 24, 1991; amended at 17 Ill. Reg. 8512, effective May 27, 1993; amended at 17 Ill. Reg. 9028, effective June 2, 1993; amended at 17 Ill. Reg. 12782, effective July 21, 1993; amended at 18 Ill. Reg. 7447, effective May 3, 1994; amended at 18 Ill. Reg. 10853, effective June 27, 1994; amended at 18 Ill. Reg. 11644, effective July 7, 1994;

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amended at 18 Ill. Reg. 16443, effective October 24, 1994; amended at 20 Ill. Reg. 2558, effective January 26, 1996; amended at 21 Ill. Reg. 8398, effective June 30, 1997; amended at 21 Ill. Reg. 10985, effective July 29, 1997; amended at 21 Ill. Reg. 12249, effective August 26, 1997; amended at 21 Ill. Reg. 12609, effective August 29, 1997; amended at 22 Ill. Reg. 1438, effective January 1, 1998; amended at 22 Ill. Reg. 5083, effective February 26, 1998; amended at 22 Ill. Reg. 13834, effective July 10, 1998; amended at 24 Ill. Reg. 1655, effective January 11, 2000; emergency amendment at 24 Ill. Reg. 8398, effective June 2, 2000, for a maximum of 150 days; emergency expired October 29, 2000; emergency amendment at 24 Ill. Reg. 16096, effective October 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 16689, effective October 30, 2000; amended at 25 Ill. Reg. 2723, effective January 31, 2001; amended at 25 Ill. Reg. 6402, effective April 26, 2001; emergency amendment at 26 Ill. Reg. 2044, effective February 1, 2002, for a maximum of 150 days; emergency expired June 30, 2002; emergency amendment at 26 Ill. Reg. 3753, effective February 21, 2002, for a maximum of 150 days; emergency expired July 20, 2002; amended at 26 Ill. Reg. 12373, effective July 25, 2002; amended at 26 Ill. Reg. 13684, effective August 28, 2002; amended at 29 Ill. Reg. 2441, effective January 25, 2005; amended at 29 Ill. Reg. 13892, effective September 1, 2005; amended at 29 Ill. Reg. 15968, effective October 7, 2005; amended at 30 Ill. Reg. 2557, effective February 10, 2006.

**Section 1040.32 Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently**

- a) For purposes of this Section, the following definitions shall apply:

"Amnesty" – Aa sovereign act of forgiveness for past acts granted by a government to all persons (or to certain persons) generally conditioned upon their return to obedience and duty within a prescribed time as recognized by the Immigration Reform and Control Act of 1986- (P.L. 99-603-).

"Department" – Driver Services Department within the Office of the Secretary of State.

"Driver's License or Permit" – Document that~~document which~~ permits a person to legally operate a motor vehicle. Includes a restricted driving permit, a judicial driving permit, instruction permit, a traffic ticket issued where the person's driver's license is deposited in lieu of bail, a suspension notice in which the suspension is not yet effective, a duplicate or corrected driver's license, a temporary instruction permit, or temporary driver's license, or a probationary driver's license.

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"False Information" – Anyany information concerning the name, sex, date of birth, social security number or any photograph that falsifies all or in part the actual identity of the individual issued the driver's license, permit or identification card.

"Fictitious Driver's License or Permit" – Anyany issued driver's license or permit for which a computerized number and file have been created by the Secretary of State or other official driver's license agency in another jurisdiction which contains false information concerning the identity of the individual issued the driver's license or permit.

"Fictitious Identification Card" – Anyany issued identification card for which a computerized number and file have been created by the Secretary of State, the United States Government, any other state or political subdivision thereof, or any governmental or quasi-governmental organization that contains false information concerning the identity of the individual issued the identification card.

"Fraudulent Driver's License or Permit" – Anyany driver's license or permit thatwhich purports to be an official driver's license or permit for which a computerized number and file have not been created by the Secretary of State or other official driver's license agency in another jurisdiction.

"Fraudulent Identification Card" – Anyany identification card thatwhich purports to be an official identification card for which a computerized number and file have not been created by the Secretary of State, the United States Government or any state or political subdivision thereof, or any governmental or quasi-government organization. For the purpose of this definitionparagraph, any identification card thatwhich resembles an official identification card in either size, or color, or photograph location, or design, or uses the word "official", or "state", or "Illinois", or the name of any other state or political subdivision thereof, or any governmental or quasi-governmental organization individually or in any combination thereof to describe or modify the term "identification card" or "I.D. card" anywhere on the card, or uses a shape in the likeness of Illinois or any other state on the photograph side of the card, is deemed to be a fraudulent identification card.

"Identification Card" – Anyany document made or issued by or under the authority of the United States Government, the State of Illinois, or any other state or political subdivision thereof, or any governmental or quasi-governmental organization that, upon issue contains information concerning the individual, is of

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the type intended or commonly accepted for the purpose of identifying the individual in accordance with Section 14(a-5) of the Illinois Identification Card Act [15 ILCS 335/14(a-5)].

"Revocation" – The termination by formal action of the Secretary of a person's driver's license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration except that an application for a new driver's license may be presented and acted upon by the Secretary after the expiration of at least one year after the date of revocation as defined in Section 1-176 of the Illinois Vehicle Code [625 ILCS 5/1-176].

"Suspension" – The temporary withdrawal by a formal action of the Secretary of a person's driver's license or privilege to operate a motor vehicle on the public highways, for a period specifically designated by the Secretary pursuant to Section 1-204 of the Illinois Vehicle Code.

"Unlawfully Altered Driver's License, Permit or Identification Card" – ~~Any~~ issued driver's license, permit or identification card for which a computerized number and file have been created by the Secretary of State or other official driver's license agency in another jurisdiction which has been physically altered or changed in such a manner that false information appears upon the driver's license or permit.

b) The Secretary of State has discretionary authority to suspend or revoke the driving privileges of any person upon receipt of evidence that ~~the~~ person has committed one or more of the following offenses listed in Section 6-206 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-206].

1) If ~~any~~ person has permitted an unlawful use of ~~a~~ driver's license, identification card, or permit by allowing another person to use ~~any~~ license, identification card or permit, the Department shall take the following action pursuant to Section 6-206(a)(5) of the Illinois Driver Licensing Law of the Illinois Vehicle Code:

## ACTION TABLE

1 <sup>st</sup> offense	12-month Suspension
1 <sup>st</sup> offense (with pending or effective Revocation)	Revocation
2 <sup>nd</sup> or subsequent offense	Revocation; or

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- 2) If anysueh person has made a false statement or made any false affidavit or has knowingly concealed or affirmed falsely to a material fact or used false information or identification in an application for a driver's license, identification card or permit, the Department shall take the following action pursuant to Section 6-206(a)(9) of the Illinois Driver Licensing Law of the Illinois Vehicle Code:

ACTION TABLE

1 <sup>st</sup> offense	12-month Suspension
1 <sup>st</sup> offense (with pending or effective Revocation)	Revocation
2 <sup>nd</sup> or subsequent offense	Revocation; or

- 3) If anysueh person has possessed, displayed or attempted to fraudulently use any driver's license, identification card, or permit not issued to thatsueh person, the Department shall take the following action pursuant to Section 6-206(a)(10) of the Illinois Driver Licensing Law of the Illinois Vehicle Code:

ACTION TABLE

1 <sup>st</sup> offense	12-month Suspension
1 <sup>st</sup> offense (with pending or effective Revocation)	Revocation
2 <sup>nd</sup> or subsequent offense	Revocation; or

- 4) If anysueh person has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application process for the purpose of obtaining a driver's license, identification card or permit for some other person, the Department shall take the following action pursuant to Section 6-206(a)(12) of the Illinois Driver Licensing Law of the Illinois Vehicle Code:

ACTION TABLE

1 <sup>st</sup> offense	12-month Suspension
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1 <sup>st</sup> offense (with pending or effective Revocation)	Revocation
2 <sup>nd</sup> or subsequent offense	Revocation; or

5) If anysueh person has violated Sections 6-301, 6-301.1 or 6-301.2 of the Illinois Vehicle Code or Section 14, 14A or 14B or the Illinois Identification Card Act, the Department shall take action appropriate for the violation committed pursuant to Section 6-206 of the Illinois Driver Licensing Law of the Illinois Vehicle Code.

A) Unlawful use of driver's license, permit or identification card: If anysueh person has displayed or caused to be displayed or had in his possession any cancelled, revoked or suspended driver's license, permit or identification card; allowed unlawful use of driver's license, permit or identification card; lent his driver's license, permit or identification card to any other person or knowingly allowed the use thereof by another; or displayed or represented as his own any driver's license, permit or identification card issued to another, the Department shall take the following action pursuant to Section 6-301 of the Illinois Driver Licensing Law of the Illinois Vehicle Code or Section 14 of the Illinois Identification Card Act:

## ACTION TABLE

1 <sup>st</sup> offense	12-month Suspension
1 <sup>st</sup> offense (with pending or effective Revocation)	Revocation
2 <sup>nd</sup> or subsequent offense	Revocation; or

B) Fictitious or unlawfully altered driver's license, identification card or permit: If anysueh person has knowingly possessed or displayed any fictitious or unlawfully altered driver's license, identification card or permit; knowingly issued or assisted in the issuance of a fictitious driver's license, identification card or permit; or knowingly manufactured, possessed, transferred or provided any identification document for the purpose of obtaining a fictitious driver's license, identification card or permit, the Department shall take the following action pursuant to Section 6-

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301.1 of the Illinois Driver Licensing Law of the Illinois Vehicle Code or Section 14 of the Illinois Identification Card Act:

ACTION TABLE

1 <sup>st</sup> offense	12-month Suspension
1 <sup>st</sup> offense (with pending or effective Revocation)	Revocation
2 <sup>nd</sup> or subsequent offense	Revocation; or

- C) Fraudulent driver's license or permit: If anysueh person has knowingly possessed, displayed or caused to be displayed any fraudulent driver's license, identification card or permit; knowingly possessed without authority any driver's license-making implement; or knowingly duplicated, manufactured, sold or transferred any fraudulent driver's license, identification card or permit, the Department shall take the following action pursuant to Section 6-301.2 of the Illinois Driver Licensing Law of the Illinois Vehicle Code or Section 14 of the Illinois Identification Card Act:

ACTION TABLE

1 <sup>st</sup> or subsequent offense	Revocation; or
---------------------------------------	----------------

- 6) If anysueh person has permitted another person to use any form of thatsueh person's identification in the application process to obtain a driver's license, identification card, or permit, the Department shall take the following action pursuant to Section 6-206(a)(25) of the Illinois Driver Licensing Law of the Illinois Vehicle Code:

ACTION TABLE

1 <sup>st</sup> offense	12-month Suspension
1 <sup>st</sup> offense (with pending or effective Revocation)	Revocation
2 <sup>nd</sup> or subsequent offense	Revocation; or

- 7) If anysueh person has unlawfully altered or attempted to alter or possessed an altered driver's license, identification card, or permit, the Department shall take the following action pursuant to Section 6-206(a)(26) of the

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Illinois Driver Licensing Law of the Illinois Vehicle Code:

ACTION TABLE

1 <sup>st</sup> offense	12-month Suspension
1 <sup>st</sup> offense (with pending or effective Revocation)	Revocation
2 <sup>nd</sup> or subsequent offense	Revocation; or

- 8) If ~~anysuch~~ person has violated Section 6-16 of the Liquor Control Act of 1934 [235 ILCS 5/6-16], the Department shall take the following action pursuant to Section 6-206(a)(27) of the Illinois Driver Licensing Law of the Illinois Vehicle Code:

ACTION TABLE

1 <sup>st</sup> offense	12-month Suspension
1 <sup>st</sup> offense (with pending or effective Revocation)	Revocation
2 <sup>nd</sup> or subsequent offense	Revocation; <u>or-</u>

- 9) If any person has been convicted of violating Section 6-20 of the Liquor Control Act of 1934 [235 ILCS 5/6-20], the Department shall take the following action pursuant to Section 6-206(a)(38) of the Illinois Driver Licensing Law of the Illinois Vehicle Code:

ACTION TABLE

<u>1<sup>st</sup> conviction</u>	<u>12-month Suspension</u>
<u>1<sup>st</sup> conviction (with pending or effective Revocation)</u>	<u>Revocation</u>
<u>2<sup>nd</sup> or subsequent conviction</u>	<u>Revocation.</u>

- c) The sources of acceptable proof of the offenses described in subsection (b)~~above~~ are court documents, driver services facility applications, government entity documents, and law enforcement correspondence/reports.
- d) Persons who have applied for federal amnesty pursuant to the Immigration Reform and Control Act of 1986 (P.L. 99-603) shall not be suspended or revoked

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

under subsection (b) of this Section if they show proof to the Department that they have applied for federal amnesty, unless they are otherwise ineligible to be licensed as drivers or granted a permit, as provided by Section 6-103 of the Illinois Driver Licensing Law of the Illinois Vehicle Code. Proof shall be the application documents for federal amnesty issued by the Immigration and Naturalization Service verifying that the individual has applied for federal amnesty. If an individual seeking federal amnesty has previously been found by the Department to be in violation of this Section or if the Department receives a report from individuals or agencies listed in subsection (c) of this Section that a person applying for federal amnesty has been convicted of committing a criminal act involving the use of their identification card, driver's license or permit in violation of the Criminal Code of 1961 [720 ILCS 5], his or her driving privileges shall be suspended or revoked by the Department in accordance with subsection (b) of this Section.

- e) The Director of the Department shall rescind a suspension or revocation or reduce the period of a suspension for fraudulent activity if the Office of the Inspector General provides the Director with sufficient evidence demonstrating the person has cooperated in the course of an official investigation regarding the sale, manufacture, issuance or receipt of a fraudulent or fictitious driver's license or identification card. Sufficient evidence of cooperation will be shown by a written statement to the Director signed by the supervising official of the Office of the Inspector General. Whether the person cooperated in an investigation will be determined by the Office of the Inspector General.

(Source: Amended at 30 Ill. Reg. 2557, effective February 10, 2006)

**Section 1040.109 Two or More Convictions for Railroad Crossing Violations**

- a) For purposes of this Section, the following definitions shall apply:

"Conviction" – Adjudication of guilty as defined in Section 6-100 of the Illinois Vehicle Code [625 ILCS 5/6-100].

"Department" – Department of Driver Services within the Office of the Secretary of State.

"Suspension" – The temporary withdrawal by formal action of the Secretary of a person's license or privilege to operate a motor vehicle on the public highways for a period specifically designated by the Secretary as provided for in Section 1040.20 of this Part, and as defined in Section 1-204 of the Illinois Vehicle Code

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

[625 ILCS 5/1-204].

b) An individual who has 2 or more convictions for violating Section 11-1201 of the Illinois Vehicle Code shall have his/her driving privileges suspended by the Department in accordance with Section 6-206(a)(39) of the Illinois Vehicle Code.

1) In reviewing an individual's driving record for convictions of violating Section 11-1201, only those convictions for violating Section 11-1201 with arrest dates on or after January 1, 2003 shall be considered.

2) If the driving record contains 2 or more convictions for violating Section 11-1201, the following action shall be taken:

ACTION TABLE

2<sup>nd</sup> conviction

6 month Suspension

3<sup>rd</sup> or subsequent conviction

12 month Suspension.

(Source: Added at 30 Ill. Reg. 2557, effective February 10, 2006)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF AGENCY RESPONSE TO THE OBJECTION  
OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill Adm. Code 140
- 3) Section Number:      Action:  
140.442                      Agreement with JCAR
- 4) Date Originally Published in the Illinois Register: October 28, 2005; 29 Ill. Reg. 16515
- 5) JCAR Statement of Objection on Emergency Rulemaking Published in the Illinois Register: December 2, 2005 (29 Ill. Reg. 19728)
- 6) Summary of Action Taken by the Agency: At its meeting on November 15, 2005, the Joint Committee on Administrative Rules considered the above-cited emergency rulemaking and issued an objection to the Department of Healthcare and Family Services rulemaking titled Medical Payment (89 Ill. Adm. Code 140) that was published on October 28, 2005 at 29 Ill. Reg. 16515. The Objection specifically stated that "...no standards are provided for when HFS will or will not reimburse for the cost of brand name drugs. That omission constitutes policy undefined in rule."

The Department accepts the Joint Committee's Objection. Revisions have been submitted to the Joint Committee in the second notice for the related proposed rulemaking that add clarifications on reimbursement for brand name prescription drugs. These changes will be incorporated in the permanent adopted rulemaking.

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 February 7, 2006 through February 13, 2006 and have been scheduled for review by the Committee at its March 14, 2006 meeting in Springfield. 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>
3/23/06	<u>Department of Financial and Professional Regulation-Division of Insurance, Accident and Health Risk Ratio Notice (Repealer) (50 Ill. Adm. Code 938)</u>	9/16/05 29 Ill. Reg. 13941	3/14/06
3/23/06	<u>Department of Labor, Victims' Economic Security and Safety Act (56 Ill. Adm. Code 280)</u>	11/28/05 29 Ill. Reg. 19118	3/14/06
3/25/06	<u>Illinois Gaming Board, Riverboat Gambling (86 Ill. Adm. Code 3000)</u>	12/9/05 29 Ill. Reg. 19773	3/14/06

2006-03

**AMENDMENT TO EXECUTIVE ORDER NUMBER 6 (2005)  
WHICH CREATED THE ILLINOIS REGENERATIVE  
INSTITUTE FOR STEM CELL RESEARCH**

WHEREAS, Executive Order Number 6 (2005) created the Illinois Regenerative Institute for Stem Cell Research; and

WHEREAS, the Illinois Department of Health was directed to develop the Illinois Regenerative Medicine Institute for Stem Cell Research (IRMI) within the Department that will provide for the awarding of grants to medical research facilities for the development of finding treatments and cures from stem cell research; and

WHEREAS, the IRMI will better benefit the State of Illinois by allowing the Illinois Department of Public Health to grant awards and enable research to start as expeditiously as possible; and

NOW, THEREFORE, BE IT RESOLVED that I, Rod Blagojevich, by virtue of the power vested in me as Governor, hereby amend Executive Order Number 6 (2005) to read as follows:

**Illinois Department of Public Health (Grant Program)**

The Director of the Illinois Department of Public Health shall develop an Illinois Regenerative Medicine Institute (IRMI) program within the department that will provide for the awarding of grants to medical research facilities for the development of finding treatments and cures from stem cell research.

The Department of Public Health shall issue and administer grants authorized by this Executive Order. All eligible grant recipients shall agree to and comply with all terms and conditions of the Department prior to acceptance of such awards.

The Department of Public Health shall issue an annual report to the Governor, and the appropriate appropriations committee of the General Assembly that sets forth grants awarded, grants in progress, research accomplishments, and future program directions.

**Stem Cell Research Policy & IRMI Functions**

All grants shall be consistent with the policies and functions of the Illinois Regenerative Medicine Institute (IRMI) program as set forth below:

1. The Department of Public Health shall establish the IRMI program and make grants and loans for stem cell research to study therapies, protocols, medical procedures, possible cures for, and potential mitigations of, major diseases, injuries, and orphan diseases; to support all stages of the process of developing cures, from laboratory research through

2006-03

**AMENDMENT TO EXECUTIVE ORDER NUMBER 6 (2005)  
WHICH CREATED THE ILLINOIS REGENERATIVE  
INSTITUTE FOR STEM CELL RESEARCH**

successful clinical trials; to establish the appropriate regulatory standards and oversight bodies for research and facilities development.

2. The IRMI program shall provide funding for stem cell research that involves adult stem cells, cord blood stem cells, pluripotent stem cells, totipotent stem cells, progenitor cells, the product of somatic cell nuclear transfer or any combination of those cells.
3. No funds authorized or made available under the IRMI program shall be used for research involving the reproductive cloning of a human being, fetuses from induced abortions or to create embryos through the combination of gametes solely for the purpose of research. As used in this Executive Order, "cloning of a human being" means asexual human reproduction by implanting or attempting to implant the product of nuclear transplantation into a woman's uterus to initiate a human pregnancy.
4. No funds shall be awarded to any person who knowingly, for valuable consideration, purchases or sells embryonic or cadaveric fetal tissue for research purposes. For the purposes of this paragraph, payment of customary medical charges for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation of the tissue does not constitute valuable consideration. This paragraph does not prohibit reimbursement for removal, storage, or transportation of embryonic fetal tissue for research purposes pursuant to this Executive Order.

**Grantee Requirements & Conditions**

**Medical and scientific accountability standards**

All eligible grantees shall agree to and comply with all terms and conditions of the Department, of this Executive Order, and the grant requirements which shall include, but not be limited to, the specific requirements and conditions as set forth below prior to acceptance of any such grant awards.

1. Informed consent. Standards for obtaining the informed consent of research donors, patients, or participants initially shall be generally based on the requirements at 45 CFR 46.116 for all research funded by the National Institutes of Health and consistent with the Guidelines for Human Embryonic Stem Cell Research issued by the National Academies of Sciences.

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**AMENDMENT TO EXECUTIVE ORDER NUMBER 6 (2005)  
WHICH CREATED THE ILLINOIS REGENERATIVE  
INSTITUTE FOR STEM CELL RESEARCH**

2. Controls on research involving humans. Standards for the review of research involving human subjects shall be generally based on the policies adopted at 45 CFR 46 for all research funded by the National Institutes of Health.
3. Limitations on payments for cells. Grants shall be limited in the use of the funds for the purchase of stem cells or stem cell lines to reasonable payment for removal, processing, disposal, preservation, quality control, storage, transplantation, implantation, or legal transaction or other administrative costs associated with these medical procedures and shall specifically include any required payments for medical or scientific technologies, products, or processes for royalties, patent, licensing fees, or other costs for intellectual property. Grant terms shall be consistent with the Guidelines for Human Embryonic Stem Cell Research issued by the National Academies of Sciences.
4. Patient privacy laws. Standards shall ensure compliance with State and federal patient privacy laws.
5. Time limits for obtaining cells. Standards shall set a limit on the time during which cells may be extracted from blastocysts, which shall initially be 8 to 12 days after cell division begins, not counting any time during which the blastocysts or cells have been stored frozen.
6. All grants and loan awards issued by the institute shall include intellectual property provisions that provide protections and incentives to encourage both the discovery and development of new knowledge and its transfer for the public benefit. It is the policy and objective of the institute to promote the utilization of intellectual property arising from program-supported research or development; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to ensure that intellectual property is used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to ensure that the State obtains proportionate rights in institute-supported intellectual property; to protect the public against nonuse or unreasonable use of such intellectual property; and to minimize the costs of administering policies in this area.

**Severability**

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or

2006-03

**AMENDMENT TO EXECUTIVE ORDER NUMBER 6 (2005)  
WHICH CREATED THE ILLINOIS REGENERATIVE  
INSTITUTE FOR STEM CELL RESEARCH**

application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

**Effective Date**

This Executive Order shall become effective upon filing with the Secretary of State.

Issued by Governor: February 10, 2006

Filed with Secretary of State: February 10, 2006

## PROCLAMATIONS

**2006-36****COALITION FOR THE REMEMBRANCE OF ELIJAH MUHAMMAD DAY**

WHEREAS, the Coalition for the Remembrance of Elijah Muhammad (C.R.O.E.) is celebrating their 19<sup>th</sup> Anniversary Founders' Day on February 12, 2006; and

WHEREAS, founded in 1987 by Halif Muhammad, Shahid Muslim and Munir Muhammad, all of whom still serve the organization, C.R.O.E. exists to pay tribute to The Honorable Elijah Muhammad, and ensure that his accomplishments and ideas are not forgotten; and

WHEREAS, the Coalition for the Remembrance of Elijah Muhammad continues to be an invaluable institution and an important voice in both the African-American community and among the general public:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 12, 2006 as **COALITION FOR THE REMEMBRANCE OF ELIJAH MUHAMMAD DAY** in Illinois, and encourage citizens to recognize the organization's nineteen years of service to Illinois citizens and their ongoing commitment to ensuring the legacy of this influential African-American leader.

Issued by the Governor on February 9, 2006.

Filed by the Secretary of State February 9, 2006.

**2006-37****PARKLAND COLLEGE**

WHEREAS, on March 12, 1966, Champaign area residents voted overwhelmingly in favor of a Class I Junior College; it was later named Parkland College; and

WHEREAS, as the third largest district in the State of Illinois, Parkland College covers 2,500 square miles; and

WHEREAS, Parkland College enrolls approximately 18,000 students annually and has delivered vocational-technical and academic instruction to more than 200,000 people since its classes began in 1967; and

WHEREAS, Parkland College is a melting pot of student life, with cultures as diverse as the communities served; students ranging in age from 16 to 66+, and a growing international student presence; and

## PROCLAMATIONS

WHEREAS, Parkland College is a center for educational opportunity and community enrichment in east central Illinois and has earned a national reputation for its excellent academic standards, innovative programs and quality instruction; and

WHEREAS, this year, the State of Illinois celebrates the contributions Parkland College has made in its forty years of excellence in education:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby recognize **PARKLAND COLLEGE** for providing 40 years of quality, affordable higher education to the people of the 505 community college district and the state of Illinois.

Issued by the Governor on February 9, 2006.

Filed by the Secretary of State February 9, 2006.

**2006-38****NATIONAL FOREIGN LANGUAGE WEEK**

WHEREAS, all citizens live and participate in an increasingly interdependent global community; and

WHEREAS, boundaries between countries are being dissolved by new technology, making foreign language study increasingly important as people begin to experience and enjoy the growing social, cultural, and economic ties between all nations; and

WHEREAS, in order to compete on a global scale, many employers are now seeking individuals proficient in foreign languages who are able to operate and adapt in the culturally diverse international marketplace; and

WHEREAS, recent studies show that the study of foreign languages contributes to improved academic performance and a greater understanding of people from different language and cultural backgrounds; and

WHEREAS, foreign language educators in Illinois urge the public to recognize the importance of foreign language study and its ability to expand the cultural and literary horizons of all people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim March 6 – 12, 2006 as **NATIONAL FOREIGN LANGUAGE WEEK** in Illinois, and encourage all citizens to recognize and appreciate the value that foreign language study brings to our society.

Issued by the Governor on February 9, 2006.

## PROCLAMATIONS

Filed by the Secretary of State February 9, 2006.

**2006-39****ILLINOIS STATE HISTORICAL SOCIETY MARKERS AWARENESS WEEK**

- WHEREAS, history shapes the way we view the present and helps us to understand our place in the world; and
- WHEREAS, there are many places in Illinois which are significant sites of local, state, national and world history; and
- WHEREAS, visitors to these sites are presented with information regarding historical people, ideas and events that lead to a deeper appreciation of history; and
- WHEREAS, increasing visitations at historic sites stimulates beautification, preservation, conservation, tourism and business in Illinois communities, and particularly in the counties where these sites are located; and
- WHEREAS, the Illinois State Historical Society, organized in 1899 and established by the Illinois General Assembly in 1903, has already placed markers at more than four hundred locations around the state to inform residents and tourists of the historical significance of these sites; and
- WHEREAS, the Illinois General Assembly, in conjunction with the Illinois State Historical Society, seek to heighten the historical awareness of Illinois residents and visitors by calling attention to these markers and historic sites throughout the state:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 27 through March 4, 2006 as **ILLINOIS STATE HISTORICAL SOCIETY MARKERS AWARENESS WEEK** in Illinois, and encourage all citizens to learn about and appreciate the rich history of our state.

Issued by the Governor on February 9, 2006.

Filed by the Secretary of State February 9, 2006.

**2006-40****CHICAGO BUSINESS OPPORTUNITY DAYS**

- WHEREAS, the 39<sup>th</sup> Annual Chicago Business Opportunity Fair will be held April 11-13, 2006; and

## PROCLAMATIONS

- WHEREAS, this fair provides minority suppliers and purchasing personnel from major buying organizations the opportunity to meet and exchange information about mutual buying and selling needs; and
- WHEREAS, the fair also assists in advancing the year-round efforts of its sponsor, the Chicago Minority Business Development Council, Inc., an organization devoted to stimulating minority purchasing in Chicago; and
- WHEREAS, by promoting opportunities in business, the Chicago Business Opportunity Fair is playing a major role in revitalizing Illinois' economy; and
- WHEREAS, the Minority Business Committee of the Chicago Minority Business Development Council will hold its 28<sup>th</sup> Annual Awards Program on June 9, 2006, in honor of representatives from both the public and private sector who have contributed significantly to the growth and development of minority suppliers:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim April 11 - 13, 2006 as **CHICAGO BUSINESS OPPORTUNITY DAYS** in Illinois, and encourage all citizens to recognize the importance of supplier diversity in today's global business arena.

Issued by the Governor on February 9, 2006.

Filed by the Secretary of State February 9, 2006.

**2006-41****ASIAN AMERICAN COALITION DAY**

- WHEREAS, the Asian American Coalition of Chicago exists to organize and promote equal opportunity in government, education, economic development, and international affairs in order to advance the integration of all Asian Americans into the mainstream of society; and
- WHEREAS, Asian Americans comprise over 3 percent of the total population of the State of Illinois; and
- WHEREAS, the 23<sup>rd</sup> Annual Asian American Coalition of Chicago Lunar New Year Celebration is sponsored by the Asian American Coalition of Chicago; and
- WHEREAS, each year, a different Asian community hosts the celebration, and this year's prestigious ceremony will be hosted by the Indonesian American community; and

## PROCLAMATIONS

WHEREAS, individuals and community-based agencies who have dedicated themselves to providing excellent service to the Asian American communities will be honored and awarded during this year's celebration; and

WHEREAS, with the devastation of the South Asian Tsunami, and continued threats of terrorism, this annual event will promote the value of Asian Americans and other global leaders standing unified in the face of challenges. The theme for this year is, "Unity in Diversity."

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim February 25, 2006 as **ASIAN AMERICAN COALITION OF CHICAGO DAY** in Illinois, and encourage all citizens to be appreciative of the impact that Asian Americans have on our country, while taking the opportunity to learn about their rich heritage.

Issued by the Governor on February 10, 2006.

Filed by the Secretary of State February 10, 2006.

# ILLINOIS ADMINISTRATIVE CODE

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