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AGENCIES



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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or preemptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 22, 2008	January 2, 2009
2	December 29, 2008	January 9, 2009
3	January 5, 2009	January 16, 2009
4	January 12, 2009	January 23, 2009
5	January 20, 2009	January 30, 2009
6	January 26, 2009	February 6, 2009
7	February 2, 2009	February 13, 2009
8	February 9, 2009	February 20, 2009
9	February 17, 2009	February 27, 2009
10	February 23, 2009	March 6, 2009
11	March 2, 2009	March 13, 2009
12	March 9, 2009	March 20, 2009
13	March 16, 2009	March 27, 2009
14	March 23, 2009	April 3, 2009
15	March 30, 2009	April 10, 2009
16	April 6, 2009	April 17, 2009
17	April 13, 2009	April 24, 2009
18	April 20, 2009	May 1, 2009
19	April 27, 2009	May 8, 2009
20	May 4, 2009	May 15, 2009
21	May 11, 2009	May 22, 2009
22	May 18, 2009	May 29, 2009

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
23	May 26, 2009	June 5, 2009
24	June 1, 2009	June 12, 2009
25	June 8, 2009	June 19, 2009
26	June 15, 2009	June 26, 2009
27	June 22, 2009	July 6, 2009
28	June 29, 2009	July 10, 2009
29	July 6, 2009	July 17, 2009
30	July 13, 2009	July 24, 2009
31	July 20, 2009	July 31, 2009
32	July 27, 2009	August 7, 2009
33	August 3, 2009	August 14, 2009
34	August 10, 2009	August 21, 2009
35	August 17, 2009	August 28, 2009
36	August 24, 2009	September 4, 2009
37	August 31, 2009	September 11, 2009
38	September 8, 2009	September 18, 2009
39	September 14, 2009	September 25, 2009
40	September 21, 2009	October 2, 2009
41	September 28, 2009	October 9, 2009
42	October 5, 2009	October 16, 2009
43	October 13, 2009	October 23, 2009
44	October 19, 2009	October 30, 2009
45	October 26, 2009	November 6, 2009
46	November 2, 2009	November 13, 2009
47	November 9, 2009	November 20, 2009
48	November 16, 2009	November 30, 2009
49	November 23, 2009	December 4, 2009
50	November 30, 2009	December 11, 2009
51	December 7, 2009	December 18, 2009
52	December 14, 2009	December 28, 2009

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Teachers' Retirement Insurance Program
- 2) Code Citation: 80 Ill. Adm. Code 2170
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
2170.130	Amendment
2170.210	Amendment
2170.220	Amendment
2170.230	Amendment
2170.250	Amendment
2170.260	Amendment
2170.270	Amendment
2170.330	Amendment
2170.350	Amendment
2170.410	Amendment
- 4) Statutory Authority: Authorized by the State Employees Group Insurance Act of 1971 [5 ILCS 375/3; 5 ILCS 375/6.5; 5 ILCS 375/6.6]
- 5) A Complete Description of the Subjects and Issues Involved: The changes update the rules currently in place to enhance the standards under the Health Insurance Portability and Accountability Act (HIPAA); expand coverage under Public Act 95-958; further delineate the roles of the Department of Central Management Services and the Department of Healthcare and Family Services; and, clarify enrollment and eligibility matters.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 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 rulemakings pending on this Part? No

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706

217/785-1793
- 13) 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
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: it was not anticipated.

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE F: EMPLOYEE BENEFITS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 2170

TEACHERS' RETIREMENT INSURANCE PROGRAM

SUBPART A: PURPOSE AND DEFINITIONS

Section

- 2170.110 Name of Program
- 2170.120 Purpose
- 2170.130 Definitions

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section

- 2170.210 Determining Enrollment Policies
- 2170.220 Determining Insurance Rates and Premiums
- 2170.230 Determining Benefits
- 2170.240 Provision for Benefits
- 2170.250 Other Responsibilities
- 2170.260 Appeals Process Responsibilities
- 2170.270 Health Insurance Portability and Accountability Act (HIPAA)

SUBPART C: RESPONSIBILITY OF TEACHERS' RETIREMENT SYSTEM (TRS)

Section

- 2170.310 Eligibility
- 2170.320 Enrollments and Terminations
- 2170.330 Premium Collection and Payment
- 2170.340 Administering Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)
- 2170.350 Other Responsibilities
- 2170.360 Health Insurance Portability and Accountability Act (HIPAA)

SUBPART D: FUNDING

- 2170.410 Teacher Health Insurance Security Fund

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Authorized by the State Employees Group Insurance Act of 1971 [5 ILCS 375].

SOURCE: Adopted at 27 Ill. Reg. 9127, effective May 27, 2003; amended at 33 Ill. Reg. _____, effective _____.

SUBPART A: PURPOSE AND DEFINITIONS

Section 2170.130 Definitions

Whenever used in this Part, the following terms shall have the meanings set forth in this Section unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized.

"Act" means the State Employees Group Insurance Act of 1971 [5 ILCS 375].

"Benefit Choice Period" means the annual benefit election period (usually May 1 through May 31 each year).

"Certificate of Creditable Coverage" means a document ~~that indicates the length of time a person has been continuously covered under a qualifying previous healthcare plan containing a description of benefits provided by licensed insurance plans.~~

"COBRA" means the federal Consolidated Omnibus Budget Reconciliation Act of 1985.

~~"State Department"~~ means any department, institution, board, commission, officer, court or any agency of the State government receiving appropriations and having power to certify payrolls to the Comptroller authorizing payments of salary and wages against such appropriations as are made by the General Assembly from any State fund, or against trust funds held by the State Treasurer and includes boards of trustees of the retirement systems created by Articles 2, 14, 15, 16 and 18 of the Illinois Pension Code. "Department" also includes the Illinois Comprehensive Health Insurance Board, the Board of Examiners established under the Illinois Public Accounting Act, and the Illinois ~~Finance Authority Rural Bond Bank.~~

"CMS" means the Illinois Department of Central Management Services.

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NOTICE OF PROPOSED AMENDMENTS

"Director" means the Director of the Illinois Department of Central Management Services or of any successor agency designated to administer the Act~~(CMS)~~.

"Fiscal Year" means the State's fiscal year from July 1 through June 30.

"Fund" means the Teacher Health Insurance Security Fund.

"HFS" means the Illinois Department of Healthcare and Family Services.

"Participant" means a TRS Benefit Recipient and/or TRS Dependent Beneficiary enrolled in the Teachers' Retirement Insurance Program.

"Protected Health Information" or "PHI" means individually identifiable health information as defined in 45 CFR 160.103 that is subject to the protections of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.L. 104-191).

"Plan Administrator" means an organization, company or other entity contracted by the Department~~CMS~~ to review and approve benefit payments, pay claims; and perform other duties related to the administration of a specific plan.

"Program" means the Teachers' Retirement Insurance Program, as authorized by the State Employees Group Insurance Act of 1971.

"TCHP" means the Teachers' Choice Health Plan, the major medical coverage program offered under the Teachers' Retirement Insurance Program~~(indemnity medical plan offered under TRIP).~~

"TRIP" means the Teachers' Retirement Insurance Program, as authorized by the ~~State Employees Group Insurance Act of 1971.~~

"TRS" means the Teachers' Retirement System.

"TRS Benefit Recipient" means a person who is not a "member"; as defined in the Act; and is receiving a monthly benefit or retirement annuity under Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]; and ~~either~~

has at least 8 years of creditable service under Article 16 of the Illinois

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NOTICE OF PROPOSED AMENDMENTS

Pension Code or was enrolled in the health insurance Program offered under that Article on January 1, 1996; or

is the survivor of a Benefit Recipient who had at least 8 years of creditable service under Article 16 of the Illinois Pension Code or was enrolled in the health insurance Program offered under that Article on June 21, 1995; or

is a recipient or survivor of a recipient of a disability benefit under Article 16 of the Illinois Pension Code.

"TRS Dependent Beneficiary" means a person who is not a "member" or "dependent" as defined in the Act, and is a:

TRS Benefit Recipient's spouse; or

dependent parent who is receiving at least half of his or her support from the TRS Benefit Recipient; or

unmarried natural, step, or adopted child who is under age 19; or

enrolled as a full-time student in an accredited school, financially dependent upon the TRS Benefit Recipient, eligible to be claimed as a dependent for income tax purposes, and either is under age 24 or was, on January 1, 1996, participating as a Dependent Beneficiary in the health insurance Program offered under Article 16 of the Illinois Pension Code; or

age 19 or over who is mentally or physically handicapped; or

eligible for coverage pursuant to Section 356z.11 or 356z.12 of the Illinois Insurance Code [215 ILCS 5].

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART B: RESPONSIBILITIES OF THE DEPARTMENT

Section 2170.210 Determining Enrollment Policies

- a) Initial enrollment periods. Initial enrollment in TRIP is limited to the following periods:

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NOTICE OF PROPOSED AMENDMENTS

- 1) When a TRS Benefit Recipient applies for annuity benefits;
 - 2) When a TRS Benefit Recipient or TRS Dependent Beneficiary turns age 65;
 - 3) When a TRS Benefit Recipient or TRS Dependent Beneficiary becomes eligible for Medicare;
 - ~~43)~~ When coverage of a TRS Benefit Recipient or TRS Dependent Beneficiary is involuntarily terminated by a former group plan;
 - ~~54)~~ During the Benefit Choice Period, if never previously enrolled.
- b) Re-enrollment periods. Re-enrollment into the Program is limited to the following periods:
- 1) When a TRS Benefit Recipient or TRS Dependent Beneficiary turns age 65;
 - 2) When a TRS Benefit Recipient or TRS Dependent Beneficiary becomes eligible for Medicare; or
 - ~~32)~~ When coverage of a TRS Benefit Recipient or TRS Dependent Beneficiary is involuntarily terminated by a former employer.
- c) A TRS Benefit Recipient may change health plans only:
- 1) When the TRS Benefit Recipient has a permanent address change and the previously selected managed care plan is not available at the new address;
 - 2) When the TRS Benefit Recipient's primary care physician leaves the managed care plan selected by the TRS Benefit Recipient; or
 - 3) During the Benefit Choice Period.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 2170.220 Determining Insurance Rates and Premiums

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The Director of HFS will determine the insurance rates and premiums for TRS Benefit Recipients and TRS Dependent Beneficiaries and present to TRS the rate-setting methodology used to determine the amount of the health care premiums by April 15 of each calendar year. Rates and premiums may be based in part on age and eligibility for federal Medicare coverage. Pursuant to the Act, premiums are based on the plan selected by the Benefit Recipient. The TRS Benefit Recipient shall pay the entire premium for any coverage for a TRS Dependent Beneficiary.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 2170.230 Determining Benefits

The Director~~CMS~~ will determine the benefits available to TRS Benefit Recipients and TRS Dependent Beneficiaries.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 2170.250 Other Responsibilities

- a) CMS will offer an annual Benefit Choice Period for TRS Benefit Recipients to:
 - 1) Initially enroll into the Program;
 - 2) Add a Dependent Beneficiary, pursuant to enrollment policies;
 - 3) Change health plans.
- b) CMS will provide information regarding benefits and requirements of the Program in a TRIP Benefits Handbook and an annual Benefit Choice Options booklet.
 - 1) The TRIP Benefits Handbook shall embrace the following topics:
 - A) Eligibility guidelines pursuant to the definitions of Benefit Recipient and Dependent Beneficiary in Section 2170.130.
 - B) Enrollment opportunities pursuant to Section 2170.210.

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NOTICE OF PROPOSED AMENDMENTS

C) Termination guidelines.

i) Coverage for a Benefit Recipient terminates on the last day of the month when:

- eligibility requirements are no longer met;
- the TRIP program is terminated;
- a written request is received by TRS that coverage should be terminated; or
- the Benefit Recipient becomes eligible for and enrolls in the State of Illinois Employees Group Insurance Program.

ii) Coverage for a Benefit Recipient terminates on the date of death.

iii) Coverage for a Dependent Beneficiary terminates:

- on the last day of the month simultaneously with termination of a Benefit Recipient's coverage;
- at the end of the month in which the enrolled Dependent Beneficiary no longer meets eligibility requirements;
- on the date of death; or
- on the first day of the month following receipt of the written request to terminate Dependent Beneficiary coverage.

~~Coverage for a Benefit Recipient terminates at midnight on the last day of the month when eligibility requirements are no longer met, TRIP coverage terminates, a written request is received by TRS that coverage should be terminated, the Benefit Recipient becomes eligible for and enrolls in the State of Illinois Employees Group~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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~~Insurance Program, or upon death. Coverage for a Dependent Beneficiary terminates at midnight on the last day of the month simultaneously with termination of a Benefit Recipient's coverage; when coverage is terminated by the Benefit Recipient; when eligibility requirements are no longer met or upon death.~~

D) Covered Benefits under TCHP ~~(e.g., chemotherapy, durable medical equipment, hospital services, infertility treatments, lab and x-ray, physician services, speech therapy, organ and tissue transplant, urgent care, preventive services, prescription drug, mental health/substance abuse and exclusions.~~

E) TCHP claims filing deadlines and procedures.

2) The Benefit Choice Options booklet shall detail information not provided in the Benefits Handbook (e.g., premium amounts, coverage changes, managed care plan availability and preferred provider information).

c) CMS will provide training seminars for TRS regarding benefits under TRIP.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 2170.260 Appeals Process Responsibilities

a) If a Participant believes that an error has been made in the benefit amount allowed or disallowed, the Participant should contact the claims processing office of the Plan Administrator, pursuant to the appeal process ~~Appeal Process~~ as detailed in the Benefits Handbook. The Participant must utilize the Plan Administrator's review process to the fullest extent prior to contacting CMS. The Participant must ~~contacteontanet~~ the appropriate Plan Administrator within 180 days after the date of the initial claim determination.

b) If the Participant is not satisfied with the results of the review ~~process~~ by the Plan Administrator, the Participant may submit a written request for review to CMS, within 60 days after the date of the initial claim ~~Initial Review~~ determination, for a final determination ~~Final Determination~~.

c) If, after receiving the final determination, the Participant is still not satisfied, an appeal of the determination may be made to an appeal committee, created by the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Director, within 60 days after the ~~final determination~~~~Final Review~~ by CMS. The findings of the appeal committee shall be final and binding on all parties.

- d) The ~~Participant~~~~Participants~~ will be notified in writing of every decision rendered during the ~~appeal process~~~~Appeal Process~~.
- e) The Participant retains all rights under Section 15(h) of the ~~Group Insurance~~-Act.
- f) Appeal ~~committee~~~~Committee~~ members are appointed by the Director ~~of CMS~~.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 2170.270 Health Insurance Portability and Accountability Act (HIPAA)

CMS ~~and HFS shall~~~~will~~ comply with the uses and disclosures of Protected Health Information (PHI), permitted by ~~the Health Insurance Portability and Accountability Act (HIPAA)~~, where applicable as referenced in the plan documents.

- a) An annual notice of privacy practices shall be provided that outlines the legal duties and privacy practices concerning the PHI of Participants.
- b) PHI may be disclosed:
 - 1) to healthcare providers who take care of Participants;
 - 2) to process claims and make payments for covered services;
 - 3) for healthcare operations;
 - 4) to remind Participants of an upcoming appointment; and
 - 5) as required or authorized by law.
- c) Participants have the right to:
 - 1) request restrictions on how their PHI is used for purposes of treatment, payment and healthcare operations;
 - 2) receive confidential communications about their PHI;

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NOTICE OF PROPOSED AMENDMENTS

- 3) request to inspect information used to make decisions about them;
 - 4) request an amendment to their PHI;
 - 5) receive an accounting of disclosures that have been made of their PHI;
 - 6) obtain a paper copy of the annual notice of privacy practices; and
 - 7) file a complaint if they believe that their privacy rights have been violated.
- d) PHI may not be disclosed:
- 1) for any purpose other than administration of the benefit plan;
 - 2) for any fundraising activity; or
 - 3) for the marketing of any products or services.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART C: RESPONSIBILITY OF TEACHERS' RETIREMENT SYSTEM (TRS)

Section 2170.330 Premium Collection and Payment

TRS shall be responsible for the collection and transmission of ~~Participant~~TRS Benefit Recipient and ~~TRS Dependent Beneficiary~~ premiums into the Teacher Health Insurance Security Fund.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 2170.350 Other Responsibilities

- a) TRS shall provide enrollment, termination and change in status and/or address information to CMS.
- b) TRS shall inform TRS Benefit Recipients that they must:
 - 1) Notify TRS of coverage options chosen, and any changes that may affect eligibility or enrollment, including address changes;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 2) Notify TRS of the existence of, or change to, other group insurance coverage to ensure appropriate coordination of benefits; and
- 32) Review the TRIP Benefits Handbook, annual Benefit Choice Options booklet and any other materials provided by TRS or CMS and abide by all policies outlined in those publications.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART D: FUNDING

Section 2170.410 Teacher Health Insurance Security Fund

- a) The Director shall establish the Teacher Health Insurance Security Fund (**Fund**) (see 5 ILCS 375/6.6). This Fund shall be a continuing fund not subject to Fiscal Year limitations.
- b) All active contributors to the Teachers' Retirement System who are not employees of a ~~State~~-Department shall make contributions toward the cost of annuitant and survivor health benefits. These contributions shall be at the following rates: until January 1, 2002, 0.5% of salary; beginning January 1, 2002, 0.65% of salary; beginning July 1, 2003, 0.75% of salary; beginning July 1, 2005, 0.80% of salary; and, beginning July 1, 2007 through June 30, 2010, 0.84% of salary. Future contributions shall be at a percentage of salary to be determined by the Director but in no Fiscal Year shall the salary required to be paid exceed 105% of the percentage of salary actually paid in the previous Fiscal Year. These contributions shall be paid to TRS as service agent for CMS.
- c) Every employer of a teacher, other than an employer that is a ~~State~~-Department, shall pay an employer contribution toward the cost of annuitant and survivor health benefits. The contributions are computed as follows: January 1, 2002 through June 30, 2003, 0.4% of each teacher's salary; July 1, 2003, 0.5%; beginning July 1, 2005, 0.6% of each teacher's salary; and, beginning July 1, 2007 through June 30, 2010, 0.63% of each teacher's salary. Future contributions shall be at a percentage of salary to be determined by the Director, but in no Fiscal Year shall the salary required to be paid exceed 105% of the percentage of salary actually paid in the previous Fiscal Year. These contributions shall be paid to TRS as service agent for CMS.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- d) TRS shall deposit all moneys collected pursuant to the terms of the Act into the ~~Teacher Health Insurance Security~~ Fund.
- e) On or before November 15 of each year, the Board of Trustees of TRS shall certify to the Governor, the ~~Directors~~ Director of CMS and HFS and the State Comptroller its estimate of the total amount of contributions to be paid for the next Fiscal Year ~~fiscal year~~. The amount certified shall be increased or decreased each year by the amount that the actual active teacher contributions either fell short of or exceeded the estimate used by the Board in making the certification for the previous Fiscal Year ~~fiscal year~~.
- f) On the first day of each month, the State Treasurer and the State Comptroller shall transfer from the General Revenue Fund to the ~~Teacher Health Insurance~~ Fund 1/12 of the annual amount appropriated for that Fiscal Year ~~fiscal year~~ to the State Comptroller for deposit into the ~~Teacher Health Insurance Security~~ Fund pursuant to 5 ILCS 375/6.6(c) and (d).

(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Procedures Governing the Establishment of Credit, Billing, Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois
- 2) Code Citation: 83 Ill. Adm. Code 735
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
735.130	Amendment
735.160	Amendment
- 4) Statutory Authority: Implementing Sections 8-101 and 9-252 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-101, 9-252, and 10-101]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to Part 735 deal with the postmark requirements for bills and discontinuance notices. The proposed amendments are prompted by the changes that have taken place in postal practices and technology since the adoption of the current requirements.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will these proposed amendments replace any emergency amendments currently in effect?
No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Do these proposed amendments contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: These proposed amendments neither create nor expand any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 09-0384, with:

Chief Clerk

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. These amendments will not affect any small municipalities or not for profit corporations unless they also provide local exchange telecommunications services.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Managerial skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for these amendments at that time.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 735

PROCEDURES GOVERNING THE ESTABLISHMENT OF CREDIT, BILLING,
DEPOSITS, TERMINATION OF SERVICE AND ISSUANCE OF TELEPHONE
DIRECTORIES FOR LOCAL EXCHANGE TELECOMMUNICATIONS
CARRIERS IN THE STATE OF ILLINOIS

Section	
735.10	Definitions
735.20	Policy
735.30	Scope and Application
735.40	Discrimination Prohibited
735.50	Variance
735.60	Saving Clause
735.70	Customer Billings
735.80	Deferred Payment Agreements
735.90	Preferred Payment Dates
735.100	Applicants for Service
735.110	Present Customers
735.120	Deposits
735.121	Refunds of Additional Charges
735.130	Discontinuance or Refusal of Service
735.140	Illness Provision
735.150	Payment for Service
735.160	Past Due Bills
735.170	Service Restoral Charge
735.180	Directories
735.190	Dispute Procedures
735.200	Commission Complaint Procedures
735.210	Public Notice of Commission Rules
735.220	Second Language
735.230	Customer Information Booklet
735.APPENDIX A	Notice of Discontinuance of Service
735.APPENDIX B	Requirements to Avoid Shutoff of Service in the Event of Illness
735.APPENDIX C	Public Notice Concerning Availability of this Part

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AUTHORITY: Implementing Sections 8-101 and 9-252 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-101, 9-252, and 10-101].

SOURCE: Adopted at 7 Ill. Reg. 2108, effective February 4, 1983; codified at 7 Ill. Reg. 15969; emergency amendment at 7 Ill. Reg. 16055, effective November 17, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 5161, effective April 13, 1984; amended at 18 Ill. Reg. 4146, effective March 15, 1994; amended at 18 Ill. Reg. 6164, effective May 1, 1994; amended at 18 Ill. Reg. 17981, effective December 15, 1994; emergency amendment at 25 Ill. Reg. 16552, effective December 13, 2001 for a maximum of 150 days; amended at 26 Ill. Reg. 7078, effective May 1, 2002; amended at 33 Ill. Reg. _____, effective _____.

Section 735.130 Discontinuance or Refusal of Service

- a) The company may discontinue or refuse service for any of the following reasons ~~stated below~~:
- 1) For failure to make or increase a deposit pursuant to Sections 735.100, 735.110, and 735.120;
 - 2) For failure to pay a past due bill owed to the company, including one for the same class of service furnished to the applicant or customer at the same or another location, or where the applicant or customer voluntarily assumed, in writing, responsibility for the bills of another applicant or customer. For purposes of this subsection (a)(2), a company may discontinue service if the current customer is liable for a past due bill for telephone service pursuant to Section 15 of the Rights of Married Persons Act [750 ILCS 65/15], unless the customer, at the option of the company, pays any past due bill and/or provides a deposit pursuant to Section 735.120 and/or enters into a deferred payment agreement pursuant to Section 735.80;
 - 3) For failure to provide company representatives with necessary access to company-owned service equipment, after the company has made a written request to do so;
 - 4) For failure to make payment in accordance with the terms of a deferred payment arrangement;
 - 5) When a company has reason to believe that a customer has used a device

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or scheme to obtain service without payment and where the company has so notified the customer prior to disconnection;

- 6) For violation of or noncompliance with a Commission order;
 - 7) For violation of or noncompliance with any rules of the company on file with the Commission for which the company is authorized by tariff to discontinue service for violation or noncompliance on the part of the customer or user;
 - 8) For violation of or noncompliance with municipal ordinances and/or other laws pertaining to service; or
 - 9) The customer's use of equipment adversely affects the company's service to others. This disconnection may be done without notice to the customer or user.
- b) The following shall not constitute sufficient cause for discontinuance or refusal of service:
- 1) Except as specified in subsection (a)(2)-~~above~~, failure to pay the past due bill of a previous customer of the premises to be served, unless the applicant for service voluntarily signed a form agreeing to assume responsibility for the bills of the previous customer, or the previous customer is currently a member of the same household as the applicant;
 - 2) Failure to pay charges for directory advertising;
 - 3) Failure to pay the past due bill for a different class of service (residential or business); or
 - 4) Failure to pay charges for terminal equipment or other telephone equipment purchased from the company, an affiliate, or a subsidiary.
- c) Discontinuance procedures. The company may discontinue service to a customer only after it has mailed or delivered by other means a written notice of discontinuance, substantially in the form of Appendix A. Service shall not be discontinued until at least five days after the notice is delivered in person or eight days after the notice is mailed to the customer. If the notice is mailed, the

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company shall maintain and retain, for a two-year period, any documentation of the date of mailing that the US Postal Service requires for the mailing method used by the company. If the notice is mailed by the company and the envelope is postmarked by the US Postal Service, then the date of the postmark shall satisfy this documentation requirement.

1) The notice of discontinuance shall be delivered separately from any other written matter or bill.

2) Notice of discontinuance shall not be delivered or mailed before the third business day following the due date shown on the bill.

~~1) The company may discontinue service to a customer only after it has mailed or delivered by other means a written notice of discontinuance, substantially in the form of Appendix A. Service shall not be discontinued until at least five days after delivery of this notice or eight days after the postmark date on a mailed notice. The notice of discontinuance shall be delivered separately from any other written matter or bill.~~

~~2) Notice of discontinuance shall not be mailed before the third business day following the due date shown on the bill.~~

d) ~~The Said~~ notice required by subsection (c) shall remain in effect for 20 days beyond the date of discontinuance shown on the notice. The company shall not discontinue service beyond the 20 day period until at least five days after delivery of a new written notice of discontinuance or eight days after the postmark on a mailed notice.

e) In addition to the written notice, the company shall attempt to advise the customer when service is scheduled for discontinuance. The company shall not deliver more than two consecutive notices of discontinuance for past due bill without engaging in collection activity with the customer.

f) Timing of the discontinuance.

1) Service shall not be discontinued for a past due bill after 12 noon on a day before or on any Saturday, Sunday, legal holiday recognized by the State of Illinois, or any day when the utility's business offices are not open for business. Services may be discontinued only between the hours of 8 a.m.

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and 2 p.m., unless the company is prepared to restore service within three hours after receipt of payment, at the standard restoral charge, if any.

- 2) Each company shall have personnel available until at least 5 p.m. on business days authorized to reconnect service if the conditions cited as grounds for discontinuance are corrected and any restoral charge specified by the company's tariff is paid.
- g) Service shall not be discontinued, and shall be restored if discontinued, ~~when~~where a present customer who is indebted to the company enters into a payment arrangement pursuant to Section 735.80~~;~~ and complies with the terms of the arrangement~~thereof~~.
- h) Service shall not be discontinued, and shall be restored if discontinued, for any reason ~~that~~which is the subject of a dispute or complaint pursuant to Section 735.190 and/or 735.200 while ~~the~~such dispute or complaint is pending and the complainant has complied with the provisions of ~~those~~these Sections.
- i) Service shall not be discontinued for an amount due the company ~~that~~which has not been included in a discontinuance notice.
- j) Nothing in this Section shall be construed to prevent immediate discontinuance of service without notice or the refusal of service for reasons of public safety or health.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 735.160 Past Due Bills

- a) Due Date₂
~~The due date printed on the monthly bill may not be less than twenty-one (21) days after the date of the postmark on the bill, if mailed, or the date of delivery as shown on the bill if delivered by other means.~~
 - 1) The company shall retain documentation for a period of two years of the following:
 - A) the due date of each bill; and

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- B) the date each bill was mailed, delivered, sent or made available to each customer.
- 2) The due date printed on the monthly bill may not be less than 21 days after the date upon which:
- A) the bill is mailed to the customer;
- B) the bill is delivered in person to the customer;
- C) the bill is sent electronically to the customer; or
- D) the customer is notified that the bill is available electronically.
- 3) The bill shall include a bill date, which shall not be less than 21 days prior to the due date on the bill.
- 4) If the company relies upon the US Postal Service for mailing bills to its customers, then the documentation required in subsection (a)(1)(B) may be satisfied by retention and, if necessary, production of the records created for the method of mailing required by the US Postal Service.
- 5) If the company employs a method of mailing with the US Postal Service whereby a postmark with date is applied to the mailing, then the company shall not be obliged to maintain the documentation required in subsection (a)(1)(B).
- b) Payment at Company Offices or Authorized Agents.
Payment made in person at the ~~company's~~Company's office or authorized agent shall be deemed received the date payment is made.
- c) Night Depository Payments.
Payment made in the ~~company's~~Company's night depository shall be deemed received on the next full business date.
- d) Late Payment Charges.
The company may assess a late payment charge in accordance with tariffs approved by the Commission against the amount ~~which is~~ considered past due under this Section.

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(Source: Amended at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Dental Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1220
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1220.200	Amendment
1220.220	Amendment
1220.240	Amendment
1220.245	Amendment
1220.260	Amendment
1220.270	Amendment
1220.335	Amendment
1220.440	Amendment
1220.500	Amendment
1220.505	Amendment
1220.510	Amendment
1220.520	Amendment
1220.525	Amendment
1220.530	Amendment
1220.540	Repealed
1220.560	Amendment
1220.APPENDIX D	Amendment
- 4) Statutory Authority: Illinois Dental Practice Act [225 ILCS 25]
- 5) A Complete Description of the Subjects and Issues Involved: PA 95-399 requires the Department to promulgate rules relating to the administration and monitoring of anesthesia and the requisite training of dental personnel; this proposed rulemaking implements those requirements. Both the initial training and renewal requirements relating to the practice and use of anesthesia for dentists and dental hygienists is being strengthened, depending on the level of sedation being administered. Section 1220.530 re-creates the Anesthesia Review Panel to advise the Director on anesthesiology-related issues. In addition, this proposed rulemaking clarifies the continuing education requirements for dental hygienists to conform with the Act.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemakings currently in effect? No

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- 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) 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: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785/0813 Fax: 217/557-4451

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Businesses providing dental services.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Dental skills are required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2008

The full text of the Proposed 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 1220

ILLINOIS DENTAL PRACTICE ACT

SUBPART A: DENTIST

Section

1220.100	Application for Licensure
1220.110	Application for Examination (Repealed)
1220.120	Dental Examinations
1220.130	System of Retaking the Clinical Sections of the Examination (Repealed)
1220.140	Minimum Standards for an Approved Program in Dentistry
1220.150	Licensure (Repealed)
1220.155	Restricted Faculty Licenses
1220.156	Temporary Training License
1220.160	Restoration
1220.170	Renewal

SUBPART B: DENTAL HYGIENIST

Section

1220.200	Application for Licensure
1220.210	Application for Examination (Repealed)
1220.220	Dental Hygiene Examination
1220.230	System of Grading (Repealed)
1220.231	System of Retaking the Clinical Examination (Repealed)
1220.240	Prescribed Duties for Dental Hygienists
1220.245	Prescribed Duties of Dental Assistants
1220.250	Approved Programs of Dental Hygiene
1220.260	Restoration
1220.270	Renewal

SUBPART C: DENTAL SPECIALIST

Section

1220.310	Applications
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1220.320	Examination
1220.330	System of Grading (Repealed)
1220.335	American Board Diplomates
1220.340	Specialty Listing (Repealed)
1220.350	Restoration
1220.360	Renewal

SUBPART D: GENERAL

Section	
1220.380	Definitions
1220.400	Reportable Diseases and Conditions
1220.405	Reporting of Adverse Occurrences
1220.406	Impaired Dentist and Dental Hygienist Program of Care, Counseling or Treatment
1220.410	Endorsement
1220.415	Fees
1220.421	Advertising
1220.425	Referral Services
1220.431	Employment by Corporation (Repealed)
1220.435	Renewals (Repealed)
1220.440	Continuing Education
1220.441	Granting Variances

SUBPART E: ANESTHESIA PERMITS

Section	
1220.500	Definitions
1220.505	<u>Minimal Sedation</u> (Anxiolysis) in the Dental Office Setting
1220.510	<u>Moderate Sedation</u> (Conscious Sedation) in the Dental Office Setting
1220.520	Deep Sedation and General Anesthesia in the Dental Office Setting
1220.525	Renewal
1220.530	Anesthesia Review Panel (Repealed)
1220.540	Approved Programs in Anesthesiology (Repealed)
1220.550	Reporting of Adverse Occurrences (Repealed)
1220.560	Restoration of Permits

1220.APPENDIX A	Pre-clinical Restorative Dentistry Sub-section (Repealed)
1220.APPENDIX B	Dental Assistant Permitted Procedures (Repealed)
1220.APPENDIX C	Dental Hygienist Permitted Procedures (Repealed)

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1220.APPENDIX D Characteristics of Levels of Anesthesia

AUTHORITY: Implementing the Illinois Dental Practice Act [225 ILCS 25] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Dental Practice Act, effective August 16, 1967; amended at 3 Ill. Reg. 16, p. 21, effective April 21, 1979; amended at 3 Ill. Reg. 42, p. 266, effective October 3, 1979; codified at 5 Ill. Reg. 11028; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 4174, effective May 24, 1982; amended at 6 Ill. Reg. 7448, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 8952, effective July 15, 1983, for a maximum of 150 days; emergency expired December 12, 1983; amended at 8 Ill. Reg. 15610, effective August 15, 1984; amended at 10 Ill. Reg. 20725, effective December 1, 1986; transferred from Chapter I, 68 Ill. Adm. Code 220 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1220 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2926; amended at 13 Ill. Reg. 4191, effective March 16, 1989; amended at 13 Ill. Reg. 15043, effective September 11, 1989; amended at 17 Ill. Reg. 1559, effective January 25, 1993; emergency amendment at 17 Ill. Reg. 8309, effective May 21, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 15890, effective September 21, 1993; amended at 17 Ill. Reg. 21492, effective December 1, 1993; amended at 19 Ill. Reg. 6606, effective April 28, 1995; amended at 21 Ill. Reg. 378, effective December 20, 1996; emergency amendment at 22 Ill. Reg. 2332, effective January 8, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10574, effective June 1, 1998; amended at 22 Ill. Reg. 14880, effective July 29, 1998; amended at 23 Ill. Reg. 7294, effective June 10, 1999; amended at 24 Ill. Reg. 13992, effective August 31, 2000; amended at 25 Ill. Reg. 10901, effective August 13, 2001; amended at 26 Ill. Reg. 18286, effective December 13, 2002; amended at 30 Ill. Reg. 8574, effective April 20, 2006; emergency amendment at 30 Ill. Reg. 12999, effective July 18, 2006, for a maximum of 150 days; emergency expired December 14, 2006; amended at 30 Ill. Reg. 19656, effective December 18, 2006; amended at 33 Ill. Reg. _____, effective _____.

SUBPART B: DENTAL HYGIENIST

Section 1220.200 Application for Licensure

An applicant for licensure as a dental hygienist shall file an application, on forms supplied by the Division, that shall include:

- a) Certification of successful completion of 2 academic years of credit from a dental

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hygiene program approved by the Commission on Dental Accreditation of the American Dental Association;

- b) Proof that the applicant has passed the National Dental Hygienist Board Examination given by the Joint Commission on National Dental Examinations and has been issued a National Board Certificate, mailed to the Division by the Joint Commission. In order to be successful, a grade of at least 75 is required;
- c) Proof of successful completion of an examination pursuant to Section 1220.220(a) received directly from the testing entity;
- d) A current certification in Basic Life Support for Healthcare Providers (BLS), or its equivalent, cardiopulmonary resuscitation from the American Red Cross, the American Heart Association or an equivalent agency or a statement from a licensed physician indicating that the applicant is physically disabled and unable to obtain certification;
- e) Certification, on forms provided by the Division, from the state in which an applicant was originally licensed and is currently licensed, if applicable, stating:
 - 1) The time during which the applicant was licensed in that state, including the date of the original issuance of the license; and
 - 2) Whether the file on the applicant contains any record of disciplinary actions taken or pending;
- f) The required fee set forth in Section 1220.415(a)(3).

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.220 Dental Hygiene Examination

- a) The Division, upon recommendation of the Board, shall accept the American Dental Hygiene Licensing Examination (~~ADHLEX~~~~ADLEX~~) developed by the American Board of Dental Examiners, Inc. (ADEX) for licensure. The passing score accepted by the Division shall be the passing score established by the testing entity. Dental hygiene licensure candidates can view and download a copy of the Candidate's Manual online at www.nerb.org/manual.htm or www.crds.org/dental.htm.

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- b) The Division, upon recommendation from the Board, shall also accept the following examinations for licensure if administered and passed in their entirety prior to October 1, 2006:
- 1) The North East Regional Board (NERB) with a passing score of 75 or better on each part of the examination. Beginning July 1, 1998, the passing score accepted by the Division shall be the passing score established by the testing entity;
 - 2) The Central Regional Dental Testing Service (CRDTS) Examination after January 1, 1988, with a passing score of 75 prior to May 1993. Beginning in May 1993 a passing score of 70 or better on each part of the examination shall be accepted for licensure. Beginning July 1, 1998, the passing score accepted by the Division shall be the passing score established by the testing entity. Beginning July 1, 2002, the passing score on the examination shall be 75;
 - 3) The Southern Regional Testing Agency, Inc. (SRTA) Examination after January 1, 1991, with a passing score of 75% or better on each part of the examination. Beginning July 1, 1998, the passing score accepted by the Division shall be the passing score established by the testing entity; or
 - 4) The Western Regional Examination Boards (WREB) Examination taken after May 1, 1998, with a passing score as established by the testing entity.
- c) Retake requirements shall be that of the testing entity.
- d) The applicant shall have examination scores submitted to the Division directly from the reporting entity.
- e) The Division will only accept examinations that have been completed in the 5 years prior to submission of the application, if never licensed in another jurisdiction.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.240 Prescribed Duties of Dental Hygienists

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- a) Dental hygienists may perform the operative procedure of dental hygiene, consisting of oral prophylaxis procedures.
- b) Dental hygienists may perform dental health education functions and may record case histories and oral conditions observed.
- c) Dental hygienists may perform all procedures that may be performed by an appropriately trained dental assistant.
- d) Dental hygienists shall not perform those procedures that constitute the practice of dentistry as described in the Illinois Dental Practice Act. Hygienists may not perform procedures that require the professional judgment and skill of a dentist. Such prohibited procedures include, but shall not be limited to, the following:
 - 1) Making denture adjustments.
 - 2) Condensing or carving amalgam restorations.
 - 3) Placing and finishing composite restorations.
 - 4) Taking final impressions for the fabrication of prosthetic appliances, crowns, bridges, inlays, onlays or other restorative or replacement dentistry.
 - 5) Permanently cementing permanent crowns or bridges.
 - 6) Permanently re-cementing permanent crowns or bridges that have come loose.
- e) Dental hygienists may administer and monitor nitrous oxide under the following conditions:
 - 1) The dental hygienist functions under the supervision of the dentist who ~~must remain~~remains in the facility;
 - 2) The dental hygienist may administer (start the flow of) nitrous oxide to the patient and control the induction of the gas, so that the patient is at a level of analgesia not anesthesia;

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- 3) The dental hygienist may remove the patient from nitrous oxide when the hygiene procedures have been completed; ~~and~~
 - 4) The dental hygienist is responsible for obtaining proof of certification, validating completion of a 12 hour course relative to nitrous oxide analgesia and submitting certification to the dentist of valid completion of the required course. ~~The Such~~ course shall have been completed no earlier than December 31, 1994. A dental hygienist who completed the 12 hour course shall complete an additional 2 hour course in nitrous oxide analgesia administration. ~~A The~~ dental hygienist, who has not completed the 12 hour course, shall complete an approved course of 14 hours relative to the administration and monitoring of nitrous oxide analgesia and submit certification of successful completion to the dentist. ~~The Such~~ course shall have been completed no earlier than January 1, 1998. An individual who graduated from an approved dental hygiene program after January 1, 1998 that contained nitrous oxide analgesia administration and monitoring in the curriculum shall not be required to complete the 14 hour course upon proof to the dentist of the required curriculum. A dental hygienist who has not completed the 12 or 14 hour course shall complete an approved 6 hour course relative to the administration and monitoring of nitrous oxide analgesia and submit certification of successful completion to the dentist. The course shall be completed within 18 months after this amendatory rulemaking. Proof of nitrous oxide analgesia education shall be made available to the Division upon request. The required hours shall include both didactic and clinical components and be given by a continuing education sponsor approved pursuant to Section 1220.440 or a dental hygiene program approved by the Division pursuant to Section 1220.250; ~~;~~
 - 5) The dental hygienist must maintain Basic Life Support for Healthcare Providers certification or its equivalent, which will be in addition to the required courses.
- f) Dental hygienists may assist in the provision of moderate sedation (conscious sedation), deep sedation, and general anesthesia, as defined in Section 1220.500, under the following conditions:
- 1) The dental hygienist functions under the supervision of the dentist who must remain in the facility. When the hygienist is the treatment provider while the patient is under moderate sedation (conscious sedation), deep

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sedation, or general anesthesia, the anesthesia permit holder must remain in the treatment room;

- 2) The dental hygienist is responsible for obtaining proof of certification validating completion of a course or courses totaling 12 hours or more. The course or courses shall include areas of anatomy, physiology, pharmacology, monitoring and emergency procedures with an emphasis on airway management. The required hours shall include both didactic and clinical components and be given by a continuing education sponsor approved pursuant to Section 1220.440 or a dental hygiene program approved by the Division pursuant to Section 1220.250;
- 3) If the dental hygienist has complied with the provisions set forth in subsection (e)(4), the dental hygienist may complete an additional course or courses totaling 6 hours or more on advanced airway management and monitoring equipment in lieu of the 12 hour course required by subsection (f)(2). Proof shall be made available to the Division upon request;
- 4) The dental hygienist must maintain Basic Life Support for Healthcare Providers certification or its equivalent, which will be in addition to the required courses.

g) Dental hygienists may administer local anesthetics under the following conditions:

- 1) The dental hygienist functions under the supervision of the dentist who remains in the facility.
- 2) The dental hygienist is responsible for obtaining proof of certification, indicating successful completion of a 32 hour course that contains 24 hours of lecture and 8 hours of clinical training relative to the administration of local anesthetics and submitting certification to the dentist. An individual who graduated from an approved dental hygiene program after January 1, 1999 that contained administration of local anesthetics in the curriculum shall not be required to complete the 32 hour course upon proof to the dentist of the required curriculum. Proof of completion of education shall be made available to the Division upon request. The required hours shall include both didactic and clinical components and be given by a continuing education sponsor approved

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pursuant to Section 1220.440 or a dental or a dental hygiene program approved by the Division pursuant to Section 1220.250. The course shall contain at a minimum the following topics:

- A) Patient preevaluation, which includes dental and medical health history (e.g., drug interactions/anxiety/pain and a physical evaluation);
- B) Pharmacology (e.g., drugs/types, vasoconstrictors, dosages, toxicity);
- C) Recordkeeping;
- D) Anatomy/Neuroanatomy/Physiology;
- E) Armamentarium;
- F) Techniques that include adjunctive use of topical anesthetics, mandibular block and infiltration;
- G) Complications;
- H) Post-operative instructions; and
- I) Clinical experience that includes combining techniques for quadrant anesthesia and practical use of different techniques in all areas of oral cavity.

- 3) A dental hygienist who was licensed in another state and was authorized to administer local anesthesia in that jurisdiction will not be required to complete an additional course. Proof shall be submitted to the dentist and shall be made available to the Division upon request.

hg) The licensed dentist need not be present in the facility for a dental hygienist to perform the procedures set forth in this Section (except for the administration and monitoring of nitrous oxide, minimal sedation (anxiolysis), assisting in the provision of moderate sedation (conscious sedation), deep sedation, and general anesthesia, as defined in Section 1220.500, and the administration of injectable local anesthetics, which must be done under the direct supervision of a dentist as

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outlined in subsection (e)(1)) on persons who reside in a long-term care facility licensed by the State of Illinois or a mental health or developmental disability facility operated by the Department of Human Services hospital or other similar institution and are unable to travel to a dental office because of illness or infirmity. The dentist shall personally examine and diagnose the patient and determine which services are necessary to be performed, which shall be contained in a written order to the hygienist. The order must be implemented within 90 days after its issuance and an updated medical history and oral inspection must be performed by the hygienist immediately prior to beginning the procedures to ensure that the patient's health has not changed in any manner to warrant a re-examination by the dentist.

- ih)** All intraoral procedures performed by a dental auxiliary, except those provided for in subsections (b) and (**hg**), must be examined by the supervising dentist prior to the dismissal of the patient from the facility that day.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.245 Prescribed Duties of Dental Assistants

- a) "Dental Assistant" means an appropriately trained person who, under the supervision of a dentist, provides dental services or procedures as authorized by Section 17 of the Illinois Dental Practice Act or as prescribed by this Part. "Appropriately trained" means a person who:
- 1) Has completed formal training as a condition for administering a specific service or procedure as required by the Illinois Dental Practice Act or this Part; and
 - 2) Is considered, for all other authorized or prescribed services or procedures, by the supervising dentist to be competent to render such service or procedure as a result of on-the-job training.
- b) Provided that a dental assistant is appropriately trained pursuant to this Section and is acting under the supervision and full responsibility of a dentist, a dental assistant may perform any dental service or procedure except the following:
- 1) Any and all diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury or physical condition of the human teeth or

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jaws, or adjacent structures.

- 2) Removal of, restoration of, or addition to the hard or soft tissues of the oral cavity. For purposes of this Section, coronal polishing and acid etching of a tooth surface are not considered removal of hard or soft tissues.
- 3) Any and all correction of malformation of teeth or of the jaws.
- 4) Administration of anesthetics except for topical anesthetics and monitoring of nitrous oxide as specified in this Section.
- 5) Removal of calculus from teeth.
- 6) Taking of final impressions for the fabricating of prosthetic appliances, crowns, bridges, inlays, onlays, or other restorative or replacement dentistry.
- 7) The operative procedure of dental hygiene consisting of oral prophylactic procedures except for coronal polishing as specified in this Section.
- 8) Making denture adjustments.
- 9) Condensing or carving amalgam restorations.
- 10) Placing and finishing composite restorations.
- 11) Permanently cementing permanent crowns or bridges.
- 12) Permanently re-cementing permanent crowns or bridges that have come loose.
- 13) Placement of any chemotherapeutic agent for the management of periodontal disease.
- 14) Applying cavity bases.
- 15) Cementing bands and/or bonding brackets.

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- 16) Performing supragingival or subgingival scaling.
 - 17) Performing pulp vitality tests.
- c) A dental assistant, who is at least 18 years of age and has 1000 hours of clinical dental assisting experience or has graduated from a dental assistant program accredited by the Commission on Dental Accreditation of the American Dental Association, or is a currently certified dental assistant as designated by the Dental Assisting National Board, Inc., may perform the following services and procedures, but only under the following terms and conditions:
- 1) Monitoring nitrous oxide, provided:
 - A) The dental assistant has completed an approved course of 12 hours relative to nitrous oxide analgesia and has submitted certification to the dentist of valid completion of such course. ~~The Such~~ course shall have been completed no earlier than January 1, 1998. A dental assistant who has not completed the 12 hour course shall complete an approved course or courses totaling 6 hours or more relative to monitoring nitrous oxide analgesia and submit certification of successful completion to the dentist. The course shall be completed within 18 months after this amendatory rulemaking. Proof shall be made available to the Division upon request. The required hours shall include both didactic and clinical components and have been designed by an educational institution such as a dental school, dental hygiene or dental association program or by an approved CE sponsor. The course shall and include areas of anatomy, physiology, monitoring, pharmacology and emergency procedures with an emphasis on airway managementdental emergencies. Courses being offered by approved CE sponsors, as provided for in-approved pursuant to Section 1220.440(b)(2)(N) must be preapproved by the Division prior to their initial offering and must meet the requirements set forth in this subsection (c)(1). ~~In addition to the required hours, the assistant must be currently certified in CPR;~~
 - B) The dental assistant is functioning under the supervision of the dentist who must remainremains in the facility;

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- C) Only a dentist or dental hygienist qualified pursuant to Section 1220.240(e) shall administer (start the flow of) nitrous oxide to the patient and control the induction of the gas so that the patient is at a level of analgesia, not anesthesia;
- D) Only a dentist or dental hygienist qualified pursuant to Section 1220.240(e) shall remove the patient from nitrous oxide when the dentist or dental hygienist has completed the procedures on the patient;
- E) If the dental assistant has completed a monitoring course or courses totaling 12 hours or more provided by the American Association of Oral and Maxillofacial Surgeons (AAOMS) or a similar course preapproved by the Division, the dental assistant need not complete the course hours required in subsection (c)(1)(A). The course shall have been completed no earlier than December 31, 2002. Proof shall be made available to the Division upon request;
- F) The dental assistant maintains Basic Life Support for Healthcare Providers certification or its equivalent, which will be in addition to the required courses.
- 2) Monitoring minimal sedation (anxiolysis), moderate sedation (conscious sedation), deep sedation, or general anesthesia, as defined in Section 1220.500, provided:
- A) The dental assistant is responsible for obtaining proof of certification validating completion of a course or courses totaling 12 hours or more. The course or courses shall include areas of anatomy, physiology, pharmacology, monitoring and emergency procedures with an emphasis on airway management. The required hours shall include both didactic and clinical components and be given by a continuing education sponsor approved pursuant to Section 1220.440 or a dental hygiene program approved by the Division pursuant to Section 1220.250.
- B) If the dental assistant has complied with the provisions set forth in subsection (c)(1)(A), the dental assistant shall complete an

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additional 6 hour course on advanced airway management and monitoring equipment in lieu of the 12 hour course required in subsection (c)(2)(A). Proof shall be made available to the Division upon request.

C) If the dental assistant has completed a monitoring course or courses totaling 12 hours or more provided by the American Association of Oral and Maxillofacial Surgeons (AAOMS) or a similar course or courses preapproved by the Division, the dental assistant need not complete the course hours required in subsection (c)(2)(A). The course shall have been completed no earlier than December 31, 2002. Proof shall be made available to the Division upon request.

D) The dental assistant is functioning under the supervision of the dentist who must remain in the facility;

E) The dental assistant maintains Basic Life Support for Healthcare Providers certification or its equivalent, which will be in addition to the required courses.

32) Coronal polishing, provided:

A) The dental assistant has completed an approved course of 6 hours relative to coronal polishing and has submitted certification of successful completion to the dentist. Such course shall have been completed no earlier than January 1, 1998. Proof shall be made available to the Division upon request. The required hours shall include a minimum of 4 hours of didactic study in areas of anatomy, physiology, pharmacology and dental emergencies and 2 hours of clinical instruction and have been provided by an educational institution such as a dental school, dental hygiene or dental assistant program or by an approved CE sponsor. Courses being offered by CE sponsors approved pursuant to Section 1220.440(b)(2)(N) must be preapproved by the Division prior to their initial offering and must meet the requirements set forth in this subsection (c)(2). The assistant must pass an examination in the didactic portion of the course and the clinical portion must contain experience on human subjects;

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- B) Coronal polishing ~~is shall be~~ limited to polishing the clinical crown of the tooth and existing restoration, supragingivally;
 - C) Coronal polishing ~~is shall be~~ limited to the use of slow speed rotary instruments using a rubber cup and/or brush polishing method. The use of air polish by dental assistants is not permitted; and
 - D) A dentist shall be limited to supervising 4 dental assistants at any one time for the task of coronal polishing.
- 43) Pit and fissure sealant application, provided:
- A) The dental assistant has completed a course of at least 2 hours of didactic study and 2 hours of clinical instruction;
 - B) Prior to being permitted to place sealants in accord with this Section, the supervising dentist has personally observed the dental assistant ~~successfully placing~~~~suecessful place~~ 6 pit and fissure sealants;
 - C) The supervising dentist ~~documents~~~~must document~~ that the training has been completed; and
 - D) The supervising dentist is responsible for examining the patient prior to and following the placement of sealants by a dental assistant.
- d) An individual who graduated from an approved dental assisting program after January 1, 1999 that contained monitoring of nitrous oxide, coronal polishing, and sealant application in the curriculum shall not be required to complete an additional course or courses in these areas as prescribed in this Section upon proof to the dentist of having successfully completed the required curriculum.
- e) All intraoral procedures performed by a dental assistant must be examined by the supervising dentist prior to the dismissal of the patient from the facility that day.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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Section 1220.260 Restoration

- a) A licensee seeking restoration of a dental hygienist license after it has expired or been placed on inactive status for less than 5 years shall have the license restored by submitting proof of ~~3624~~ 32 hours of continuing education pursuant to Section 1220.440 within ~~32~~ 3 years prior to application for restoration, proof of certification in ~~Basic Life Support for Healthcare Providers (BLS) or its equivalent~~ cardiopulmonary resuscitation or a statement from a licensed physician indicating that the applicant is physically disabled and unable to obtain certification and payment of \$20 plus all lapsed renewal fees, but not to exceed \$85. Individuals restoring a license from inactive status shall only be required to pay the current renewal fee.
- b) A licensee seeking restoration of a dental hygienist license after it has expired or been placed on inactive status for 5 years or more shall file an application, on forms supplied by the Division, together with the fees required by Section ~~1220.41521 of the Act~~, proof of ~~3624~~ 32 hours of continuing education pursuant to Section 1220.440 within ~~32~~ 3 years prior to application for restoration and proof of certification in ~~BLS or its equivalent~~ cardiopulmonary resuscitation or a statement from a licensed physician indicating that the applicant is physically disabled and unable to obtain certification. Individuals restoring a license from inactive status shall only be required to pay the current renewal fee. The licensee shall also submit either:
- 1) Certification of lawful active practice in another jurisdiction for at least 3 of the last 5 years. The certification shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or
 - 2) An affidavit attesting to military service as provided in Section 16 of the Act. If an applicant applies for restoration of a license within 2 years of termination of such service, he/she shall have the license restored without paying any lapsed renewal or restoration fees.
- c) If the licensee has not maintained an active practice in another jurisdiction for over 5 years, he/she shall be required to take and pass the clinical examination as provided in Section 1220.220.

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(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.270 Renewal

- a) Beginning with the September 30, 2006 renewal, every dental hygienist license issued under the Act shall expire on September 30 every 3 years. The holder of a license may renew the license during the month preceding the expiration date by:
- 1) certifying on the application to completion of 3624 hours of continuing education pursuant to Section 1220.440-~~of this Part~~;
 - 2) certifying to current certification in Basic Life Support for Healthcare Providers or its equivalent~~cardiopulmonary resuscitation~~ or a statement from a licensed physician indicating that the applicant is physically disabled and unable to obtain certification; and
 - 3) submitting the fee required in Section 1220.41521~~of the Act~~.
- b) It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division 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 23 of the Act.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART C: DENTAL SPECIALIST

Section 1220.335 American Board Diplomates

- a) An applicant for dental specialist licensure as a specialist in Endodontics, Pediatric Dentistry, Periodontics, Prosthodontics, Orthodontics and Dentofacial Orthopedics, Oral Maxillofacial Radiology or Oral and Maxillofacial Surgery who is also certified as an American Board Diplomate in the specialty for which application for licensure is made shall not be required to take the examination for dental specialist licensure as provided for in Section 1220.320 of this Part. To qualify for this exemption from the Division's dental specialty examination, the

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American Board Diplomate must have passed both the written and oral examinations provided by the specialty board, regardless of whether American Board Diplomate status is conferred by the specialty board without passage of both examinations.

- b) American Board Diplomates applying for dental specialist licensure shall meet the requirements for specialty licensure set forth in Section 1220.310, with the exception of the examination, and shall additionally submit evidence of certification as an American Board Diplomate and proof of passage of both the written and oral examinations provided by the specialty board at time of application for licensure.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART D: GENERAL

Section 1220.440 Continuing Education

- a) Continuing Education Hours Requirements
- 1) Beginning with the September 30, 2009 renewal and every renewal thereafter, each person who applies for renewal of a license as a dentist shall have completed 48 hours of continuing education (CE) relevant to the practice of dentistry during the prerenewal period.
 - 2) Beginning with the September 30, 2009 renewal and every renewal thereafter, each person who applies for renewal of a license as a dental hygienist shall have completed ~~3632~~ hours of CE relevant to the practice of dental hygiene during the prerenewal period.
 - 3) A prerenewal period is the 36 months preceding September 30 of the year of the renewal.
 - 4) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of a dental or dental hygienist license.
 - 5) Continuing education is not required to renew a dental specialty license. The holder of a dental specialty license is, however, required to complete

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48 hours to renew the dental license.

- 6) Dentists or dental hygienist licensed in Illinois but residing in other states shall comply with the CE requirements set forth in this Section.
 - 7) Continuing education credit for hours used to satisfy the CE requirements of another state may be applied to fulfillment of the CE requirements of the State of Illinois.
- b) Approved Continuing Education/Continuing Education Sponsors
- 1) All CE courses shall be relevant to the treatment and care of patients and shall be:
 - A) Clinical courses in dentistry and dental hygiene; or
 - B) Nonclinical subjects that relate to the skills necessary to provide dental or dental hygiene services and are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, stress management). Courses not acceptable for the purpose of this definition include, but are not limited to, estate planning, financial planning, investments and personal health.
 - 2) CE credit may be earned for verifiable attendance at or participation in any courses that meet the requirements of subsection (b)(1) given by one of the following sponsors:
 - A) American Dental Association and National Dental Association, its constituent and component/branch associations and the American Dental Association Continuing Education Recognition Programs;
 - B) American Dental Hygienist's Association and National Dental Hygienist's Association, its constituent and component/branch associations;
 - C) Dental programs approved by the Division as meeting minimum standards for an approved curriculum in dentistry under Section 1220.140 and dental hygiene programs approved under Section 1220.250 of this Part;

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- D) Organizations of specialties recognized by the American Dental Association and its constituent and component/branch associations, such as, but not limited to:
- i) Oral and Maxillofacial Surgery
 - ii) Endodontics
 - iii) Pediatric Dentistry
 - iv) Prosthodontics
 - v) Orthodontics
 - vi) Periodontology;
 - vii) Oral and Maxillofacial Radiology;
- E) Academy of General Dentistry, its constituent and component/branch associations and approved sponsors;
- F) American Dental Society of Anesthesiology and its constituent and component/branch associations;
- G) Community colleges with an approved dental hygiene program if offered under the auspices of the dental hygiene program;
- H) A college or university accredited by an agency approved by the U.S. Office of Education or a community college approved by the Illinois Community College Board;
- I) A hospital that has been accredited by the Joint Commission on Accreditation of Healthcare Organizations;
- J) The American Heart Association and the American Cancer Society;
- K) A medical school that is accredited by the American Medical

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Association's Liaison Committee for Medical Education;

- L) American Medical Association (AMA), specialty medical associations/organizations, the Accreditation Council on Continuing Medical Education;
 - M) Federal and State government agencies (i.e., dental division, military dental division, Veterans' Administration, etc.); or
 - N) A person, firm or association approved by the Division in accordance with subsection (c).
- 3) CE credit may be earned for completion of an individual study course (correspondence, audio or video course) sponsored by an approved sponsor. Such courses shall include a test that the licensee must pass to obtain credit. No more than 50% of the required CE credit hours during a prerenewal period may be acquired through correspondence courses.
 - 4) CE credit may be earned from teleconferencing courses with a moderator present given by an Illinois approved sponsor.
 - 5) CE credit may be earned from courses leading to an advanced degree or specialty in dental or dental hygiene. Such courses shall be allotted CE credit at the rate of 15 CE hours for each semester hour and 10 CE hours for each quarter hour of school credit awarded.
 - 6) CE credit may be earned as an instructor of continuing education courses given by approved sponsors. Credit will be applied for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations). No more than 50% of the required CE credit hours during a prerenewal period may be acquired through teaching continuing education courses.
 - 7) CE credit may be earned for presenting volunteer community oral health education programs. Credit will be applied for each hour of presentation documented by the program director. No more than 2 hours of the required CE credit hours during a prerenewal period may be acquired through presentation of volunteer community oral health education programs.

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- 8) ~~Hours for CPR recertification shall not be counted toward meeting CE requirements for dental hygienists.~~9) Continuing education hours required by a disciplinary order shall not be used to satisfy the continuing education requirements for license renewal.
- 9)10) If a renewal applicant will be earning or has earned CE hours in another jurisdiction, but is not licensed in that jurisdiction and the course is not presented by an Illinois approved sponsor, the applicant shall submit an individual program approval request form, along with a \$20 processing fee, to have the program reviewed. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (b)(1) of this Section. Applicants may seek individual program approval prior to participation in the course or program. All individual program approval requests shall be submitted prior to the expiration date of the license.
- c) Sponsor Application Pursuant to Subsection (b)(2)(M)
- 1) Entities seeking approval as CE sponsors pursuant to subsection (b)(2)(M) shall file an application, on forms supplied by the Division, along with the fee set forth in Section 1220.415(a)(9). The applicant shall certify on the application the following:
- A) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (b)(1) and all other criteria in this Section;
- B) That the sponsor will be responsible for providing a certificate of attendance and will maintain attendance records for at least 5 years. The certificate of attendance shall contain:
- i) The name and address of the sponsor;
- ii) The name, address and license number of the participant;
- iii) A brief statement of the subject matter;
- iv) The number of hours attended in each program;

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- v) An indication of whether the program fulfills CE requirements for dentist, dental hygienist or both;
 - vi) The date and place of the program; and
 - vii) The signature of the sponsor;
- C) That, upon request by the Division, 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 has reason to believe that there is not full compliance with this Part and that the information is necessary to ensure compliance.
- 2) To maintain approval as a sponsor, each sponsor shall submit to the Division by September 30 of each even-numbered year a renewal application, the fee set forth in Section 1220.415(b)(5) 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.
- 3) The sponsor shall be responsible for ensuring that any dentist or dental hygienist who will be performing some type of procedure as a part of a continuing education course shall have a current license in Illinois or another jurisdiction.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, to full compliance with the CE requirements set forth in subsection (a).
 - 2) The Division may require additional evidence (e.g., certificate of attendance, transcripts, proof of registration) demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance. The evidence shall be retained for at least 5 years following the renewal period in which the CE was taken.
 - 3) The Division may conduct random audits to verify compliance with CE

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requirements.

- 4) When there is evidence of a lack of compliance with CE requirements, an applicant shall be notified in writing and may request a hearing before the Board. The Division may recommend that steps be taken to begin the formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- e) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of the license or certificate without having fully complied with these CE requirements shall file with the Division a renewal application, a statement setting forth the facts concerning such noncompliance, a request for waiver of the CE requirements on the basis of such facts and, if desired, a request for an interview before the Board. If the Division finds from such statement or any other evidence submitted, that good cause has been shown for granting a waiver of the CE requirements, or any part thereof, the Division shall waive enforcement of such requirements for the renewal period for which the applicant has applied.
 - 2) Good cause shall 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 such period;
 - B) A temporaryAn incapacitating illness documented by a licensed physician. A second, consecutive request for a CE waiver pursuant to this subsection (e)(2)(B) shall be prima facie proof that the renewal applicant has a physical or mental illness, including, but not limited to, deterioration through the aging process, or loss of motor skills that results in the dentist's inability to practice dentistry with reasonable judgment, skill or safety, in violation of Section 23(24) of the Act, and shall be grounds for denial of the renewal or other discipline;
 - C) Temporary undueUndue hardship (e.g., prolonged hospitalization,

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being disabled and unable to practice dentistry or dental hygiene on a temporary basis);

- ~~D) Being retired from practice and not performing any dental or dental hygiene services (if a dentist or dental hygienist wishes to still practice occasionally, he/she shall be required to fulfill the requirements of continuing education as he/she is actively functioning in a professional capacity, albeit infrequently); or~~
- ~~E) Being disabled and unable to practice dentistry or dental hygiene.~~

- 3) If an interview is requested at the time the request for waiver is filed with the Division, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

SUBPART E: ANESTHESIA PERMITS

Section 1220.500 Definitions

"Deep Sedation" means a ~~pharmacologically induced depressed~~~~controlled~~ state of ~~depressed~~ consciousness, accompanied by partial loss of protective reflexes, including the inability to respond purposefully to oral commands. The purposeful response to painful stimulation is maintained. Cardiovascular function is usually maintained~~verbal command, produced by a pharmacologic method.~~

"General Anesthesia" means a ~~pharmacologically induced~~~~controlled~~ state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to independently maintain an airway and respond purposefully to ~~painful~~~~physical~~ stimulation or oral commands~~verbal command, produced by a pharmacologic method.~~

"Minimal Sedation"~~or "Anxiolysis-or Mood Altering Sedation"~~ means a pharmacologically induced, altered state of consciousness (altered mood; reduced anxiety) where an individual is awake but has decreased anxiety to facilitate coping skills, retaining interaction ability.

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"Moderate Sedation" or "Conscious Sedation" means a pharmacologically induced depressed state of consciousness (altered consciousness; signs of sleep) under which an individual retains the ability to independently and continuously maintain an airway and respond appropriately to light tactilephysical stimulation and oralverbal commands.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.505 Minimal Sedation (Anxiolysis) in the Dental Office Setting

- a) Minimal sedation (anxiolysis)~~Anxiolysis or mood altering sedation~~ includes the prescription or administration of a pharmacologic ~~anxiolitic~~anxiolysis either with or without ~~concomitant~~concomitant use of nitrous oxide dental analgesia. The drugs and/or techniques used must carry a margin of safety wide enough never to render a depressed level of consciousness beyond minimal sedation.
- b) No permit is required beyond the D.D.S. or D.M.D. degrees.
- c) Minimal monitoring of the patient is to be by clinical observation and appropriately documented in the patient's record.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.510 Moderate Sedation (Conscious Sedation) in the Dental Office Setting

- a) Moderate sedation (conscious~~Conscious~~ sedation) includes the prescription or administration of pharmacologic~~pharmœologie~~ agents to be used for the purposes of moderate~~conscious~~ sedation. Moderate sedation (conscious~~Conscious~~ sedation) must be administered by an individual qualified under this Section. (See Appendix D for characteristics of levels of anesthesia.) The drugs and/or techniques used must carry a margin of safety wide enough to render unintended loss of consciousness unlikely.
- b) A licensed dentist seeking a Permit A for moderate sedation (conscious sedation) administration privileges shall file an application with the Division, on forms provided by the Division, that ~~shall include~~includes:
 - 1) Certification of completion of an anesthesiology training program that meets the following requirements: ~~set forth in Section 1220.540(a);~~

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- A) Include a minimum of 75 hours of didactic and clinical study that includes training in moderate sedation (conscious sedation), physical evaluation, venipuncture, advanced airway management, technical administration, recognition and management of complications and emergencies, and monitoring with additionally supervised experience in providing conscious sedation to 20 or more patients; and
- B) Be an organized sequence of study operated by one entity and completed in less than one calendar year;
- 2) A signed affidavit certifying that the dentist will practice in a facility properly equipped in accordance with subsection ~~(g)(h)~~ of this Section for the administration of moderate sedation (conscious sedation). The facility shall be ~~and~~ staffed with a supervised team that will remain in the treatment room. The team shall ~~consist~~ consist of a minimum of 2 dental hygienists, dental assistants, or combination thereof ~~individuals~~ per patient capable of assisting with the procedures, problems and emergencies incident to the administration of the sedation and, ~~in addition to~~ the dentist who holds the Permit A. The dentist permit holder shall remain immediately available to the patient being treated under moderate sedation (conscious sedation). All members of the anesthesia team, including the dentist, must maintain current certification in, ~~capable of assisting with~~ procedures, problems and emergencies incident to the administration of such sedation (e.g., Basic Life Support for Healthcare Providers (BLS) or its equivalent. BLS certification shall be in addition to the required 9 anesthesia CE hours per renewal cycle); ~~and~~
- 3) Proof of current Advanced Cardiac Life Support (ACLS) certification or Pediatric Advanced Life Support (PALS) certification; and
- 4) The required fee set forth in Section ~~1220.41521~~ of the Act.
- c) Dentists who have a current valid permit for moderate sedation (conscious sedation) issued by the Division shall be permitted to administer without additional application.
- d) ~~Dentists who need to obtain a permit will be required to complete the required~~

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~~training and apply for the permit by December 1, 2003.e)~~ Upon review and recommendation of the Board in accordance with the standards set forth in this Section, the Division will:

- 1) Issue a moderate sedation (conscious sedation) permit (Permit A).
 - 2) Re-issue a moderate sedation (conscious sedation) permit to Permit A holders who attest to completing continuing education.
- ~~ef)~~ Licensees qualified to administer deep sedation (Permit B) pursuant to Section 1220.520 may administer moderate sedation (conscious sedation) without a Permit A.
- ~~fg)~~ If the accuracy, relevance or sufficiency of any submitted documentation is questioned by the Division or the Board, because of discrepancies or conflicts in information, needing further clarification, and/or missing information, additional documentation may be required and/or an on-site evaluation of the facilities, equipment and personnel may be conducted by the Division or a member of the Board's Advisory Panel.
- ~~gh)~~ A properly equipped facility for the administration of moderation sedation (conscious sedation) shall include at minimum:
- 1) Sphygmomanometer and stethoscope;
 - 2) An oxygen delivery system with full face masks and connectors appropriate to the patient population being served that is capable of delivering oxygen to the patient under positive pressure, with an emergency~~a~~ backup system;
 - 3) Emergency drugs and equipment appropriate to the medications administered;
 - 4) Suction equipment, including an emergency backup suction system;
 - 5) An emergency backup~~back-up~~ lighting system that will permit the completion of any operation underway; ~~and~~
 - 6) A pulse oximeter;~~;~~

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- 7) Laryngoscope complete with selection of blades and spare batteries and bulbs in sizes appropriate to the patient population being served;
 - 8) Advanced airway devices that would isolate the trachea and facilitate positive pressure oxygen administration in sizes appropriate for the patient population being served (e.g., endotracheal tubes or laryngeal mask airway);
 - 9) Tonsillar or pharyngeal suction tips adaptable to all office outlets;
 - 10) Nasal and oral airways in sizes appropriate to the patient population being served;
 - 11) Defibrillator (an automated external defibrillator is an acceptable defibrillator);
 - 12) Equipment for the establishment of an intravenous infusion;
 - 13) An operating table or an operating chair that permits appropriate access to the patient and provides a firm platform for the management of cardiopulmonary resuscitation; and
 - 14) A recovery area that has available oxygen, lighting, suction and electrical outlets. The Permit A holder shall remain with the patient until the patient retains the ability to independently and consciously maintain an airway and respond appropriately to physical stimulation and oral commands. The recovery area may be the operating theatre.
- hi) The following records shall be kept during the administration of moderate sedation (conscious sedation):
- 1) Medical history of the patient and consent for administration of anesthesia prior to the performance of any procedure;
 - 2) Preoperative, intraoperative, and pre-discharge monitoring of blood pressure, pulse, respiration and oxygen saturation; A time based record shall be entered into the patient's chart;

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- 3) Drugs and dosages of these drugs used during the operative procedure, including the identification of the person administering drugs and times of their administration over the course of the procedure. Documentation of the anesthetic encounter shall be consistent with currently accepted standards of anesthetic practice.
- i) The dentist who holds the Permit A shall report adverse occurrences to the Division and the Board as required by Section 1220.405.
- j) A licensed dentist shall hold Permit A in order to perform dentistry while a licensed certified nurse anesthetist administers moderate sedation (conscious sedation). A nurse anesthetist for purposes of this Section is a licensed certified nurse anesthetist who holds a license as an advanced practice nurse under the ~~Nurse~~Illinois Nursing and Advanced Practice Nursing Act [225 ILCS 65]. The dentist shall enter into a written practice agreement with the nurse anesthetist in accordance with Section 15-25 of the ~~Nurse~~Illinois Nursing and Advanced Practice Nursing Act and 68 Ill. Adm. Code 1300.1305.
- k) Proof of 94 hours of continuing education per renewal cycle in sedation techniques, including medications and recognition and management of complications and emergencies, is required for renewal of Permit A.
- l) A treating dentist does not need to hold Permit A to perform dentistry when another dentist, who holds Permit A or Permit B, or a physician assists the treating dentist by administering moderate sedation (conscious sedation). Physician for purposes of this Section means a physician who is licensed to practice medicine in all of its branches under the Medical Practice Act [225 ILCS 60] and is authorized to provide anesthesia services in a licensed hospital or licensed ambulatory surgical treatment center or is a Board certified anesthesiologist. The treating dentist shall be prepared to provide affidavits to the following if requested by the Division:
- 1) ~~Proof of Basic Life Support (BLS) training;~~2) That the facility used for sedation meets the criteria of subsection (g) of this Section;
- 23) That the dentist shall staff the facility with a supervised team that includes a minimum of 32 individuals (in addition to the provider sedating) per patient. The team shall be composed of one dental hygienist or dental assistant capable of assisting with procedures, problems and emergencies

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incident to the administration of ~~these~~ sedation; the treating dentist; and the physician or a dentist who holds a Permit A or B providing the anesthesia services. All members of the team, including the treating dentist (non-permit holder) must maintain current (e.g., BLS certification or its equivalent).

3) In addition, the dentist shall report adverse occurrences to the Division as set forth in Section 1220.405 and accept the responsibility to verify the certification and licensure of any licensed provider present during the moderate sedation (conscious sedation) of a patient who is receiving dental care.

m) A dentist holding a Permit A shall maintain current Advanced Cardiac Life Support (ACLS) certification or Pediatric Advanced Life Support (PALS) certification. ACLS or PALS certification shall be in addition to the required 9 hours of anesthesia CE per renewal cycle.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.520 Deep Sedation and General Anesthesia in the Dental Office Setting

Deep sedation and general anesthesia must be administered by an individual qualified under this Section. (See Appendix D for characteristics of levels of anesthesia.)

- a) A licensed dentist seeking a permit to administer deep sedation or general anesthesia shall make application to the Division, on forms provided by the Division, that shall include:
 - 1) Certification of meeting one or more of the following:
 - A) Completion of a minimum of 2 years of advanced training in anesthesiology ~~or related academic subjects, or its equivalent,~~ beyond the pre-doctoral level, in a training program approved by the American Dental Association, Commission on Dental Education, as outlined in Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students ~~Part 2 of Teaching the Comprehensive Control of Pain and Anxiety in an Advanced Education Program~~, published by the American Dental Association, ~~Commission~~ Council on Dental Education (October

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~~2007), dated December 2002.~~

B) Be a diplomate of the American Board of Oral and Maxillofacial Surgery.

C) Have an active, approved application with the American Board of Oral and Maxillofacial Surgery to obtain diplomate status.

~~DE)~~ Have~~Has~~ a specialty license in oral and maxillofacial surgery issued by the Division;

~~D)~~ Has a current valid permit for deep sedation or general anesthesia administration issued by the Division;

2) A signed affidavit certifying that the dentist will practice in a facility properly equipped in accordance with subsection (d) ~~of this Section~~ for the administration of deep sedation and general anesthesia staffed with a supervised team that includes a minimum of 2 dental hygienists, dental assistants, or combination thereof per patient individuals, in addition to the dentist who holds the Permit B, capable of assisting with procedures, problems and emergencies incident to the administration of ~~thesueh~~ sedation. All members of the anesthesia team, including the dentist, must maintain current (e.g., Basic Life Support for Healthcare Providers (BLS) certification or its equivalent. BLS certification shall be in addition to the required 9 anesthesia CE hours per renewal cycle; and

3) Proof of current Advanced Cardiac Life Support (ACLS) certification or Pediatric Advanced Life Support (PALS) certification; and

43) The required fee set forth in Section 1220.415.

b) Upon review and recommendation of the Board in accordance with the standards set forth in this Section, the Division will issue a deep sedation or general anesthesia permit (Permit B).

c) If the accuracy, relevance or sufficiency of any submitted documentation is questioned by the Division or the Board because of discrepancies or conflicts in information needing further clarification, and/or missing information, additional documentation may be required and/or an on-site evaluation of the facilities,

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equipment and personnel may be conducted by the Division or a member of the Board's Advisory Panel.

- d) ~~A properly equipped~~Each facility ~~for the administration of~~where deep sedation or general anesthesia ~~is administered~~ shall include, at a minimum~~be equipped with equipment specified in Section 1220.510(g) as well as the following:~~
- 1) Sphygmomanometer and stethoscope;
 - 2) An oxygen delivery system with full face masks and connectors appropriate to the patient population being served that is capable of delivering oxygen to the patient under positive pressure, with an emergency backup system;
 - 3) Emergency drugs and equipment appropriate to the medications administered;
 - 4) Suction equipment, including an emergency backup suction system;
 - 5) An emergency backup lighting system that will permit the completion of any operation underway;
 - 61) Laryngoscope complete with selection of blades and spare batteries and bulbs in sizes appropriate to the patient population being served;
 - 72) Endotracheal tubes and connectors ~~and face masks~~ in sizes appropriate for the patient population being served ~~and a device capable of delivering positive pressure ventilation;~~
 - 83) Tonsillar or pharyngeal suction tips adaptable to all office outlets;
 - 94) Nasal and oral airways in sizes appropriate to the patient population being served;
 - 105) Device for monitoring temperature (e.g., temperature strips, thermometer);
 - 116) Electrocardioscope and defibrillator (an automated external defibrillator is an acceptable defibrillator);

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- ~~127)~~ Pulse oximeter;
 - ~~138)~~ Equipment for the establishment of an intravenous infusion;
 - ~~9)~~ ~~Emergency drugs and equipment appropriate to the medications administered;~~
 - ~~1410)~~ An operating table or an operating chair that permits appropriate access to the patient and provides a firm platform for the management of cardiopulmonary resuscitation; ~~and~~
 - ~~1511)~~ A recovery area that has available oxygen, lighting, suction and electrical outlets. The ~~Permit B holder shall~~~~patient should~~ remain with the patient in the recovery area until the ~~patient~~~~individual~~ retains the ability to independently and consciously maintain an airway and respond appropriately to physical stimulation and ~~oral commands~~~~verbal command~~. The recovery area may be the operating theatre. ~~;~~ ~~and~~
 - ~~12)~~ ~~An emergency back-up lighting system that will permit the completion of any operation underway.~~
- e) The following records shall be kept when administering deep sedation and general anesthesia:
- 1) Medical history and patient evaluation prior to the performance of any procedure;
 - 2) Preoperative, intraoperative, and pre-discharge monitoring of blood pressure, pulse, respiration and oxygen saturation. ~~;~~ A time based record shall be entered into the patient's chart;
 - 3) EKG monitoring during the entire procedure;
 - 4) Drugs and dosages of agents used during the operative procedure, including nitrous oxide and oxygen, and including identification of the person administering drugs and times of their administration over the course of the procedure. Documentation of the anesthetic encounter will be consistent with currently accepted standards of anesthetic practice.

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- f) The dentist who holds ~~the~~ Permit B shall report adverse occurrences to the Division and the Board as required by Section 1220.405.
- g) A licensed dentist shall hold ~~a~~ Permit B in order to perform dentistry while a licensed certified nurse anesthetist administers deep sedation or general anesthesia. A nurse anesthetist for purposes of this Section is a licensed certified nurse anesthetist who holds a license as an advanced practice nurse under the ~~Nurse Illinois Nursing and Advanced Practice Nursing Act [225 ILCS 65].~~ The dentist shall enter into a written ~~collaborative practice~~ agreement with the nurse anesthetist in accordance with Section ~~65-3515-25~~ of the ~~Nurse Illinois Nursing and Advanced Practice Nursing Act~~ and 68 Ill. Adm. Code ~~13001305~~.
- h) Proof of ~~94~~ hours of continuing education ~~per renewal cycle~~ in sedation techniques, including medications and recognition and management of complications and emergencies, is required for renewal of Permit B.
- i) A treating-dentist does not need to hold Permit B to perform dentistry when another dentist, who holds Permit B, or a physician assists the treating dentist by administering deep sedation or general anesthesia. Physician for purposes of this Section means a physician who is licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60] and is authorized to provide anesthesia services in a licensed hospital or licensed ambulatory surgical treatment center or is ~~a Board certified an~~ anesthesiologist. The dentist shall be prepared to provide affidavits attesting to the following if requested by the Division:
- ~~1) BLS training;~~
- ~~12) That the facility used is equipped as specified in subsection (d) of this Section;~~
- ~~23) That the dentist shall staff the facility~~staffing of the deep sedation or general anesthesia is~~ with a supervised team that ~~include~~consists of a minimum of ~~32~~ individuals per patient. ~~In, in~~ addition to the treating dentist, the team shall be composed of any 2 of the following, as appropriate: a dental hygienist or dental assistant capable of assisting with handling procedures, problems and emergencies incident to the administration of ~~the such~~ sedation, a nurse anesthetist; a Permit B holder; and/or a physician providing the anesthesia. All members of the~~

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anesthesia team, including the treating dentist (non Permit B holder) must maintain certification in-(e.g., BLS or its equivalent)-.

3) In addition, the dentist shall report severe adverse occurrences to the Division as set forth in Section 1220.405 and accept the responsibility for verifying certification and licensure of any licensed provider present during the deep sedation or general anesthesia of a patient receiving dental care.

j) A dentist holding a Permit B shall maintain current Advanced Cardiac Life Support (ACLS) certification or Pediatric Advanced Life Support (PALS) certification. ACLS or PALS certification shall be in addition to the required 9 hours of anesthesia CE per renewal cycle.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.525 Renewal

a) Beginning with the September 30, 2006 renewal, every anesthesia permit issued under the Act shall expire on September 30 every 3 years. The holder of a permit may renew the permit during the month preceding the expiration date by paying the required fee in Section 1220.415 and completing the following:

1) 94 hours of continuing education as required in Section 1220.510(k) or 1220.520(h).

2) Certification that the renewal applicant has performed at least 10 anesthesia cases per year appropriate to the permit held. If the permit holder has not performed at least 10 cases per year prior to the expiration of the renewal period, his or her application may be reviewed by the Division to determine whether the applicant is still capable of administering anesthetics with requisite competency. If the Division determines that the applicant is no longer qualified, the license will automatically expire and the applicant will need to restore pursuant to Section 1220.560.

3) Certification that the renewal applicant has held at least semiannual emergency drills with staff that participates in Permit A or B related activities. These drills shall consist of the staff actively going through

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simulated emergencies that may occur during the administration of anesthesia. It is incumbent upon the permit holder to design the emergency drills to ensure adequate preparation of staff in the case of a real emergency. Documentation of the semiannual drills shall be provided to the Division upon request.

- b) No anesthesia permit shall be renewed if the dental license of the permit holder is expired, revoked, suspended or otherwise subject to discipline under Section 23 of the Act.
- c) It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

d) Certification of Anesthesia Cases

- 1) Each renewal applicant shall certify, on the renewal application, that the renewal applicant has performed at least 10 anesthesia cases per year appropriate to the permit held.
- 2) The Division may require additional evidence demonstrating compliance. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance. The evidence shall be retained by the licensee for at least 5 years following the renewal period in which the anesthesia cases were performed.
- 3) The Division may conduct random audits to verify compliance.
- 4) When there is evidence of a lack of compliance, an applicant shall be notified in writing and may request a hearing before the Board. The Division may recommend that steps be taken to begin the formal disciplinary proceedings required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.530 Anesthesia Review Panel (~~Repealed~~)

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- a) The Director may appoint an Anesthesia Review Panel that shall consist of six members.
- b) The members shall meet the following minimum requirements:
 - 1) Each member shall be a licensed dentist in the State of Illinois whose license is active and in good standing;
 - 2) Three members shall hold an active Permit A;
 - 3) Three members shall hold an active Permit B;
- c) The Panel shall:
 - 1) Meet only at the direction of the Director;
 - 2) Be reimbursed for all legitimate, necessary and authorized expenses incurred in attending the meetings of the panel;
 - 3) Review Permit A and Permit B applications at the request of the Director;
 - 4) Recommend to the Director the eligibility of applicants;
 - 5) Recommend to the Director when an on-site inspection may be necessary and conduct an inspection with a Board member present;
 - 6) Evaluate results of on-site inspection and make recommendation to the Director as to eligibility of applicants; and
 - 7) Advise the Director in regard to anesthesiology related matters that include mortality and morbidity statistics.
- d) Each Panel member shall serve a 4 year term and may be appointed once.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1220.540 Approved Programs in Anesthesiology (Repealed)

- a) Conscious Sedation in the Dental Office Setting

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~~The anesthesiology training program shall:~~

- ~~1) Include a minimum of 60 hours of didactic and clinical study that includes training in conscious sedation (both light and deep), physical evaluation, venipuncture, technical administration, recognition and management of complications and emergencies, and monitoring with additionally supervised experience in providing conscious sedation to 20 or more patients; and~~
- ~~2) Be an organized sequence of study operated by one entity and completed in less than one calendar year.~~

~~b) Deep Sedation or General Anesthesia~~

- ~~1) An approved training program in anesthesiology to administer deep sedation or general anesthesia shall be 2 calendar years that includes a minimum of 200 hours of didactic and 2,000 hours of clinical training.~~
- ~~2) The didactic aspect may precede the clinical training or it may be offered in an integrated manner. The trainee must receive the equivalent of 2 calendar years, on a consecutive basis, not to exceed 3 years, as the minimum required to provide an acceptable clinical and didactic program in comprehensive pain control. Both lectures and seminars are appropriate for providing the didactic training. The didactic subject matter shall include:
 - ~~A) The basic sciences (physiology, pharmacology, anatomy, biochemistry). The instruction shall not be based only on its relationship to a limited technical practice of anesthesia but shall also provide the opportunity for a thorough understanding of the processes of respiration, circulation, kidney function and liver function;~~
 - ~~B) Patient evaluation (physical diagnosis and internal medicine);~~
 - ~~C) Psychological aspects of human behavior and management of pain;~~
 - ~~D) Techniques of pain control, including physical, psychological and~~~~

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~~pharmacological methods; and~~

~~E) Management of related emergencies and complications.~~

~~3) If the advanced training is obtained in a hospital based residency in anesthesiology, the training shall be restricted to those hospitals having anesthesia training programs approved by the Council on Medical Education of the American Medical Association or American Dental Association or American Dental Society of Anesthesiology.~~

~~e) An anesthesiology training program shall be based in a university or hospital.~~

(Source: Repealed at 33 Ill. Reg. _____, effective _____)

Section 1220.560 Restoration of Permits

a) A licensee seeking restoration of a permit after it has expired for 5 years or less shall have the permit restored upon payment of \$20 plus the current renewal fee.

The licensee shall also submit proof of:

1) For permits expired less than 12 months, performing at least 10 anesthesia cases per year prior to the expiration of the permit, as appropriate to the permit being restored. If the restoration applicant has not performed at least 10 cases per year prior to the expiration of the permit, he or she must submit proof of at least 10 anesthesia cases directly supervised by a dentist who holds the same permit as the one being restored. Anesthesia cases performed within 12 months prior to the expiration of the permit may be used in compiling a total of 10 cases.

2) For permits expired more than 12 months but less than 5 years, remedial training as referenced in subsection (b)(3) or (b)(4), as appropriate to the permit being restored.

b) A licensee seeking restoration of a permit after it has expired for more than 5 years shall file an application, on forms supplied by the Division, together with the fees required by Section 1220.415. The licensee shall also submit:

1) Sworn evidence of lawful active practice in another jurisdiction. Such evidence shall include a statement from the appropriate board or licensing

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authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or

- 2) An affidavit attesting to military service as provided in Section 16 of the Act. If an applicant applies for restoration of the permit within 2 years after termination of such service, he/she shall have the permit restored without paying any lapsed renewal or restoration fees; or
- 3) For Permit A restoration, proof of the training set forth in Section 1220.510(b)(1)~~540(a)~~ taken 2 years prior to application; or
- 4) For Permit B restoration, proof of the training set forth in Section ~~1220.520(a)(1)~~~~1220.540(b)~~ taken 2 years prior to application.

c) When proof of remedial training is provided, the permit shall not be restored unless and until the Board has reviewed and approved the training. The Board may require the renewal applicant to obtain additional training when it finds that the training completed was not sufficient.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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Section 1220.APPENDIX D Characteristics of Levels of Anesthesia*

Factors	<u>Minimal Sedation/Anxiolysis</u> (No Permit required)	<u>Moderate/Conscious Sedation</u> (Permit A)	Deep Sedation (Permit B)	General Anesthesia (Permit B)
Goal	Decrease anxiety; facilitate coping skills	Decrease or eliminate anxiety; facilitate coping skills	Eliminate anxiety; coping skills overridden	Eliminate cognitive, sensory and skeletal motor activity
Definition	Pharmacologically induced, altered state of consciousness (altered mood; reduced anxiety) where an individual is awake but has decreased anxiety to facilitate coping skills, retaining interaction ability. <u>Ventilatory and cardiovascular functions are unaffected</u>	Pharmacologically induced depressed state of depressed consciousness (altered consciousness, signs of sleep) under which an individual retains the ability to independently and continuously maintain an airway and respond appropriately to <u>light tactile physical</u> stimulation and oral <u>verbal</u> commands	Pharmacologically induced controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to <u>oral commands</u> . <u>The purposeful response to painful stimulation is maintained.</u> <u>Cardiovascular function is usually maintained</u> verbal command	Pharmacologically induced controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to <u>painful physical stimulation or oral commands</u> verbal command

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Personnel	1 (treating dentist)	3 (treating dentist with Permit A; trained person to monitor patient or nurse anesthetist; trained assistant) OR 3 (treating dentist w/o Permit A/B; physician or dentist with Permit A/B; trained assistant)	3 (treating dentist with Permit B; trained person to monitor patient or nurse anesthetist; trained assistant) OR 3 (treating dentist w/o Permit B; physician or dentist with Permit B; trained assistant)	3 (treating dentist with Permit B; trained person to monitor patient or nurse anesthetist, trained assistant) OR 3 (treating dentist w/o Permit B; physician or dentist or dentist with Permit B; trained assistant)
Monitoring	Clinical observation and monitoring as appropriate	Preoperative, intraoperative and pre-discharge monitoring of BP, pulse, respiration and oxygen saturation	Preoperative, intraoperative, and pre-discharge monitoring of BP, pulse, respiration and oxygen saturation, EKG monitoring. Defibrillator; defibrillator required	Preoperative, intraoperative, and pre-discharge monitoring of BP, pulse, respiration and oxygen saturation, EKG monitoring. Defibrillator; defibrillator required

*Chart adapted from American Academy of Pediatric Dentistry, Reference Manual 2000-2001, Templates of Definitions and Characteristics for Levels of Sedation and General Anesthesia [and the American Dental Association, Guidelines for the Use of Sedation and General Anesthesia by Dentists \(October 2007\)](#).

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Professional Land Surveyor Act of 1989
- 2) Code Citation: 68 Ill. Adm. Code 1270
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1270.30	Amendment
1270.56	Amendment
- 4) Statutory Authority: Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330]
- 5) A Complete Description of the Subjects and Issues Involved: Section 1270.56, regarding the minimum standards of practice for the profession, is being amended to add minimum standards for writing parcel legal descriptions providing a clearer definition for what constitutes those descriptions. Obsolete language is being removed and other technical changes are being made.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking has no impact on local government.
- 12) 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: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813

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Fax #: 217/557-4451

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Those employing licensed professional land surveyors
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Land surveying education and training is required for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: January 2009

The full text of the Proposed 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 1270

ILLINOIS PROFESSIONAL LAND SURVEYOR ACT OF 1989

Section

1270.5	Application for Licensure as a Professional Land Surveyor-in-Training by Examination
1270.10	Application for Licensure as a Professional Land Surveyor by Examination
1270.13	Experience
1270.15	Definition of Related Science
1270.20	Examinations
1270.30	Endorsement
1270.35	Inactive Status
1270.40	Restoration
1270.45	Professional Design Firm
1270.50	Renewals
1270.52	Fees
1270.55	Land Surveyor Complaint Committee
1270.56	Minimum Standards of Practice
1270.57	Standards of Professional Conduct
1270.58	Seal and Signature Requirements
1270.60	Granting Variances
1270.65	Professional Development
1270.APPENDIX A	Rules for the Perpetuation of Monuments Under the Land Survey Monuments Act

AUTHORITY: Implementing the Illinois Professional Land Surveyor Act of 1989 [225 ILCS 330] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Land Surveyors Act, effective April 27, 1967; 2 Ill. Reg. No. 50, page 64, effective December 11, 1978; codified and amended at 5 Ill. Reg. 11039; 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; emergency amendment at 8 Ill. Reg. 5365, effective April 12, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15485, effective

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August 10, 1984; amended at 11 Ill. Reg. 1615, effective January 6, 1987; amended at 11 Ill. Reg. 4763, effective March 10, 1987; recodified from Chapter I, 68 Ill. Adm. Code 270 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1270 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2950; amended at 15 Ill. Reg. 5258, effective April 2, 1991; amended at 16 Ill. Reg. 15548, effective September 28, 1992; amended at 18 Ill. Reg. 5900, effective April 5, 1994; amended at 18 Ill. Reg. 14730, effective September 19, 1994; amended at 19 Ill. Reg. 16071, effective November 17, 1995; amended at 20 Ill. Reg. 5852, effective April 3, 1996; amended at 21 Ill. Reg. 14252, effective October 15, 1997; amended at 24 Ill. Reg. 576, effective December 31, 1999; amended at 24 Ill. Reg. 13719, effective August 28, 2000; amended at 24 Ill. Reg. 17548, effective November 20, 2000; amended at 25 Ill. Reg. 3865, effective March 1, 2001; amended at 26 Ill. Reg. 12263, effective July 24, 2002; amended at 28 Ill. Reg. 2228, effective January 23, 2004; amended at 28 Ill. Reg. 15297, effective November 10, 2004; amended at 31 Ill. Reg. 1832, effective January 8, 2007; amended at 33 Ill. Reg. _____, effective _____.

Section 1270.30 Endorsement

- a) An applicant who is licensed or registered to practice Land Surveying as a Professional Land Surveyor or a Professional Land Surveyor-in-Training under the laws of another state or territory of the United States who desires to become licensed by endorsement shall file an application with the Division together with:
 - 1) Proof that the applicant has met the requirements substantially equivalent to those in force in this ~~State~~state for a Licensed Professional Land Surveyor at the time of original or subsequent licensure by examination in the other state or territory, including certification of education, and verification of experience as appropriate;
 - 2) A certification by the state or territory of original licensure and certification from the state or territory of predominant active practice, including the following:
 - A) The time during which the applicant was licensed in that state or territory, including the date of the original issuance of the license;
 - B) The basis of licensure and a description of all examinations by which the applicant was licensed in that state or territory and the date of passage of any such examinations; and

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- C) Whether the records of the licensing authority contain any record of disciplinary action taken ~~or pending~~ against the applicant;
- 3) The required fee specified in Section 1270.52;
- 4) Applicants who received a license after January 1, 1997 and who received their education in a foreign country shall have the education evaluated at their expense. Applicants may obtain forms from the American Association of Collegiate Registrars and Officers (AACRAO), 1 Dupont Circle, N.W., Suite 370, Washington, D.C. 20036-1110 or other entity approved by the Board to evaluate educational programs. The Board will review all transcripts and the evaluation submitted to the Division to determine if the education meets the requirements set forth in this Section and Section 1270.15;
- 5) Proof of passage of the Test of English as a Foreign Language Internet Based Test (TOEFL-iBT) with a minimum score of 26 on the speaking module and a total minimum integrated score of 88 or the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 on the computer-based test and the Test of Spoken English (TSE) with a minimum score of 50, for applicants who were licensed after January 1, 1997, who graduated from a land surveyor program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the land surveyor program from which the applicant graduated was taught in English.
- b) An applicant for licensure under this Section shall be required to appear before the Board for an oral interview if the Division has questions about the applicant's application, because of discrepancies or conflicts in information, information needing further clarification and/or missing information.
- c) Applicants for licensure on the basis of endorsement shall successfully complete the Illinois Jurisdictional Examination as set forth in Section 1270.20.
- d) The Division shall examine each endorsement application to determine whether the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in force in the State of Illinois. The Division shall either issue a license by endorsement to the applicant or notify the applicant

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in writing of the reason for the denial of ~~thesueh~~ application.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1270.56 Minimum Standards of Practice

The minimum standards of practice set forth in this Section are intended to provide protection for the public by insuring that surveying services defined in this Section are completed in accordance with prevailing professional practices and current technological methods, and to provide a means by which professional performance of the individual practitioner can be assessed. These standards are to be binding upon every person and firm practicing land surveying in the State of Illinois, except where differing federal, State or local laws, ordinances or rules may be more stringent, or when special conditions exist that effectively prevent the survey from meeting these minimum standards. When special conditions exist any necessary deviations from the standards shall be noted on the plat of survey. It shall be a violation of this Part to use special conditions to circumvent the intent and purpose of the minimum standards. Any of the professional services set forth in this Section are greatly influenced by the evaluation of recorded information and field observations, and all those services shall be accomplished in compliance with these standards to ensure that they are located, described and platted in a professional manner. All terms used in these Minimum Standards of Practice shall be interpreted to agree with the definitions of those terms in the most current publication of Black's Law Dictionary, Definitions of Surveying and Associated Terms published by the American Congress on Surveying and Mapping (ACSM) and the American Society of Civil Engineers (ASCE), and Glossary of the Mapping Sciences published by American Society for Photogrammetry and Remote Sensing (ASPRS), ACSM and the ASCE.

- a) ALTA/ACSM Land Title Survey.
 - 1) An ALTA/ACSM land title survey is a specialized survey that meets the specific needs peculiar to title insurance purposes, to enable title insurance companies to insure title to land without exceptions as to survey matters.
 - 2) All land title surveys shall be subject to the "2005 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys", published jointly by the American Land Title Association (ALTA), 1828 L. St., N.W., Suite 705, Washington, D.C. 20036; the American Congress on Surveying and Mapping (ACSM), 6 Montgomery Village Avenue, Suite #403, Gaithersburg MD 20879; and the National Society of Professional Surveyors (NSPS), 6 Montgomery Village Avenue, Suite #403,

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Gaithersburg MD 20879. This incorporation does not include any later amendments or editions.

- 3) All ALTA/ACSM land title surveys are to be performed to the current ALTA/ACSM Minimum Standard Detail Requirements. It is incumbent upon the licensed professional land surveyor to discuss with the client additional or optional requirements to be provided.
- b) Boundary Survey.
- 1) A boundary survey is a land survey that requires study, investigation and evaluation of major factors affecting and influencing the location of boundary lines and that culminates in the deliberate location or relocation of the perimeters, division lines or boundaries of a certain lot, parcel or quantity of real estate, according to the record title description of the parcel or parent tract. This description should be furnished by the client, unless otherwise jointly agreed upon by the client and surveyor.
 - 2) The purpose of a boundary survey is to establish or re-establish the extent of title lines, and to define and identify those lines so as to uniquely locate each lot, parcel or other specific land area in relation to well recognized and established points of reference, adjoining properties, and rights of way.
 - 3) A boundary survey shall include, but not be limited to, the following:
 - A) Clear and legible field notes containing all pertinent information, measurements and observations made in the course of the field survey.
 - B) Unless requested otherwise by the client or his/her agent, a plat of survey.
 - C) A legal description for any parcel surveyed.
 - D) Unless requested otherwise by the client or his/her agent, monuments or witness points shall be set for all accessible corners of the survey.

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- 4) Information Research Required. Sufficient information to perform the survey shall be either furnished by the client and/or his/her agent or obtained by the surveyor by agreement with the client. The following appropriate factors must be evaluated by the surveyor:
 - A) A property description describing the subject parcel. If, in the opinion of the surveyor, the description furnished or obtained is insufficient to fully define the extent or location of the parcel to be surveyed due to ambiguity or calls for adjoining deeds, prior recorded survey plats, etc., it is the duty of the client (unless agreed upon otherwise) to furnish the additional information requested by the surveyor. This is not to be construed to indicate that the surveyor has an obligation to research the title of record.
 - B) A reproduction of the recorded subdivision plat that created the subject lot, block or parcel.
 - C) A reproduction of the Government Township Plat and pertinent Monument Records if the survey is of a section or aliquot part of a section.
 - D) Relevant data provided by the client regarding special circumstances, such as unrecorded easements, judgements or Court decrees that may influence the location of boundaries of the survey.
- 5) Monuments. Monuments set or called for, whether artificial or natural, bear witness to the footsteps of a surveyor and his/her professional opinion as to the proper marking of a desired position. Monumentation for public land survey systems corners shall be in accordance with the Land Survey Monuments Act. The following shall be considered acceptable types of artificial monuments for all other corners:
 - A) Types.
 - i) Iron bars or rods shall be a minimum of ½" in diameter by 24" in length. Iron pipes shall be a minimum of ½" in diameter by 24" in length, with a minimum wall thickness of ⅛". Where rocky soils prevent specified lengths, the

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- bar, rod or pipe should be driven to refusal at depths where it will remain stable.
- ii) Concrete monuments shall be a minimum size of 5" in diameter by 24" in length, or 4" square by 24" in length, and shall have a precise corner mark and shall be reinforced by at least a ¼" re-bar or ½" or larger iron pipe.
 - iii) Stone monuments shall be a minimum size of 4" square by 24" in length and shall have a precise corner mark.
 - iv) Commercial cast iron or aluminum survey markers no less than 24" in length. Non-ferrous markers shall have ceramic magnets attached to aid in recovery.
 - v) Other monuments, such as drill holes, chiseled marks in stone, concrete or steel, punch marks, precast bronze discs, nails or spikes, etc., shall be of sufficient size, diameter or depth to be definitive, stable and readily identified as a survey marker. Objects upon which the marks or markers are placed shall be of a stable and permanent nature.
- B) Requirements.
- i) Where placement of corner monuments is a condition of the survey and it is physically impossible or impractical to set a monument at the corner, a witness corner or corners will be set, or noted if existing witness corners are found. Witness corners shall be referenced to the survey corner or survey lines.
 - ii) Monuments must be set to a sufficient depth so as to retain a stable and distinctive location. Material and size for monuments shall be chosen in regard to the terrain and situation that exists at the site of the survey. All monuments shall be set vertically whenever possible.
- 6) Plats. On all boundary surveys the completed plat shall be drawn on a stable and durable medium with a minimum size of 8½" by 11" and shall

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contain the following:

- A) Firm name, address and registration number.
- B) Professional land surveyor seal, signature, date of signing, and license expiration date. Rubber-stamp signatures, computer generated signatures or other reproduced signatures are prohibited.
- C) Client's name.
- D) North arrow.
- E) Scale-written or graphic.
- F) Date of completion of field work.
- G) Legal description of the property.
- H) Legend for all symbols and abbreviations used on the plat.
- I) Monuments or witness corners, whether set or found, intended to represent or reference corners of the survey, shall be shown and described as to size, shape and material, and their positions noted in relation to the survey corners.
- J) Sufficient angles, bearings or azimuths, linear dimensions and curve data must be shown on the plat to provide a mathematically closed figure for the exterior of the survey. Where record angular dimensions, bearings or azimuths, linear dimensions or curve data exist, such data shall be shown on the plat and distinguished from measured dimensions or data. Area of the survey is to be shown on the face of the plat unless otherwise requested by the client.
- K) Where bearing, azimuth or coordinate systems are used, the basis or proper names of the system shall be noted on the plat.
- L) If the survey is a parcel in a recorded subdivision, any adjacent rights of way or easements and setback lines shown on the recorded plat that affect the subject parcel are to be shown and

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dimensioned.

- M) Visible physical evidence of possession or occupation either way from the exterior lines of the survey shall be shown and dimensioned.
 - N) Show visible evidence of improvements, rights of way, easements, or use when requested by the client.
 - O) Exculpatory statements that attempt to restrict the uses of boundary surveys shall not be affixed to any plat.
 - P) The following statement shall be placed near the professional land surveyor seal and signature: "This professional service conforms to the current Illinois minimum standards for a boundary survey."
- 7) Field Procedures. All field work shall be performed by a professional land surveyor or a person under his/her direct control and supervision in accordance with accepted methods of surveying theory, practice and procedures. It is the responsibility of the professional land surveyor to insure conformance with the following specific requirements:
- A) All surveying instruments shall be kept in proper adjustment and calibration.
 - B) All corners or monuments called for in the information provided or obtained under subsection (b)(4) that affect the location of the boundaries of the land to be surveyed shall be physically searched for in a methodical and meticulous fashion. Each corner or monument recovered shall be evaluated as to its agreement by description and location with the information in subsection (b)(4).
 - C) Other evidence that could influence the location of the lines or corners of the survey shall be located and evaluated.
 - D) When the survey is of an aliquot or divisional part of a larger tract, sufficient field work must be performed to ensure that the existence of excess or deficiency, if any, in the parent tract can be determined and distributed by the professional judgment of the

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surveyor.

- E) All field data, including electronic field notes, shall be retained in a legible and orderly fashion that will be understandable to other surveyors.
- 8) It shall be the responsibility of each professional land surveyor to monitor his/her work and that of those working under his/her supervision, so that the methods used to perform the survey and produce the plat and/or report will be of such quality that the accuracy, precision and positional tolerance of the final product delivered to his/her client will equal or exceed that which would be provided by another competent surveyor under similar circumstances.
- c) **Condominium Surveys.** Condominium surveys are a specialized class of boundary surveys and are governed by the Condominium Property Act [765 ILCS 605]. The plat requirements referred to in Section 5 of that Act must be the result of actual field measurements and are not to be transcribed from plans or other informational materials. The exterior boundaries of a condominium parcel shall be monumented as required by the Plat Act [765 ILCS 205]. Notes on the condominium plat must indicate whether the interior measurements shown are referring to finished or unfinished surfaces or planes and what data was used for any elevations depicted on the plat.
- d) **Subdivision Surveys.**
 - 1) Subdivision surveys are properly included in the boundary survey category and are primarily governed by the Plat Act. Subdivision surveys differ from the typical boundary survey in that monumentation for subdivision surveys is mandatory according to the statute. All exterior corners of the subdivision must be monumented prior to recordation of the subdivision plat. If, in the opinion of the subdividing surveyor, a disproportionate number of interior monuments would be destroyed by grading, utility installation, etc., monumentation of the interior corners may be delayed unless local regulations or ordinances specify otherwise. Interior corners of the subdivision must be monumented prior to the conveyance of any lot, block, parcel or unit within the subdivision and in all cases the monumentation must be in place within 12 months after the recording date of the subdivision plat. All of the interior corners subject to

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delayed staking shall be denoted on the record plat as "to be set", either by labeling or appropriate symbols. Upon completion of the monumentation the subdividing surveyor shall file an affidavit with the Recorder of the county in which the subdivision is located certifying that the monumentation of the subdivision has been completed. The affidavit shall include the name of the subdivision, date of plat recording and recording location information (book and page and/or document number).

- 2) Vertical subdivisions, i.e., subdivisions that divide property by horizontal, vertical, and oblique planes, require that all exterior boundary corners of the subdivision be monumented at its ground elevation prior to recordation of the subdivision plat. The physical features, if any, controlling the limits of the subdivided property must be defined on the subdivision plat. The datum used to control the dividing horizontal planes must be defined on the subdivision plat together with the benchmark used to determine the elevations of these planes. The interior corners or any lot or block corners other than those that are required for monumenting the exterior boundary corners do not require monumentation.
- e) Mortgage Inspection. A Mortgage Inspection does not approach the standards of other survey categories, though by the provisions of Section 5 of the Illinois Professional Land Survey Act of 1989 [225 ILCS 330/5] the services of an Illinois Professional Land Surveyor are required. A mortgage inspection is not a type of boundary survey or ALTA/ACSM survey and does not constitute a boundary survey of the subject real property. A mortgage inspection includes field investigation, measurements and graphic representation of improvements.
- 1) Purpose. The mortgage inspection is intended for use by a mortgage lender and/or title insurer and is only a professional opinion of the relationship of improvements with respect to the deed lines and the existence, location and type of building on the property, the intent of which is to assist in the determination of the property's suitability to serve as collateral for a mortgage. It is not an opinion as to deed, title or platted lines. It is not to be used in matters of boundary disputes, legal actions between landowners, or for construction purposes. No new legal descriptions can be created from a mortgage inspection.
 - 2) Product. A complete mortgage inspection will produce a drawing entitled "Mortgage Inspection" and, if required, a written report of the surveyor's

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findings and determinations.

- 3) Information.
 - A) The following information shall be furnished by the client and/or his/her agent:
 - i) Legal description and address for the tract of land.
 - ii) Copy of commitment of title insurance for the tract of land, if possible.
 - B) The following information shall be obtained by the surveyor:
 - i) Copy of recorded subdivision plats (if applicable).
 - ii) Recorded section corner tie monuments and original government surveys (if applicable).
 - iii) Other necessary surveying information.
- 4) Monuments. No monuments shall be set.
- 5) Tolerances. Tolerances cannot be mandated for a mortgage inspection since the very nature of recovering deed lines and other information for that purpose precludes a rigid adherence to any standard value.
- 6) Field Procedures. The following procedures should generally be considered as minimum, but deviations as dictated by specific conditions shall be allowed:
 - A) Preliminary search and recovery of existing monument evidence.
 - B) Field location of tract through measurement from some controlling locations, such as: street intersection, subdivision corner, section corners, etc., sufficient to eliminate the possibility of gross error in location of the premises.
 - C) Through field measurements, locate and dimension relevant

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improvements.

- D) If evidence of deed lines does not exist, the surveyor is obligated to refuse to perform a mortgage inspection until satisfactory evidence is obtained, either through a boundary survey or a land title survey.
 - E) If evidence exists of the possibility that the improvements on the subject property or adjoining property are on or very near the apparent deed lines, the surveyor is obligated to note his/her findings and recommend that a boundary survey or land title survey be performed.
- 7) Drawing.
- A) Minimum size: 8½" x 11".
 - B) The drawing shall be entitled:

MORTGAGE INSPECTION

THIS DOES NOT CONSTITUTE A BOUNDARY SURVEY

(The above two lines shall be of the same letter size and shall be twice the letter size of all other lettering on the drawing.)

- C) A North arrow, scale of drawing, date and drawing legend shall be included.
- D) Building dimensions and type of structure shall be shown.
- E) Boundary dimensions shown shall be based on the public record or description provided; field measurements do not need to be shown.
- F) No dimensional ties from structures or other improvements to apparent deed lines are required.
- G) The legal description of the tract shall be given on the face of the drawing.
- H) Use of the word "survey" in the title, or any implication in a

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certification that this drawing represents a "survey", is prohibited.

- I) Professional land surveyor seal, signature, date of signing, and license expiration date. Rubber-stamp signatures, computer-generated signatures or other reproduced signatures are prohibited.
- J) Address of the tract.
- K) No found corner, boundary line or other survey monumentation shall be shown on the drawing.
- L) Preceding the legal description and in the same size letters as the legal description the following statement shall appear:

"This mortgage inspection and drawing is not a boundary survey or plat of survey. This mortgage inspection was prepared to assist the mortgage company and title insurance company and is not to be used for any purposes of boundary disputes, location of actual deed, title or platted lines, or for construction of new improvements. Graphic representation shall be deemed approximate and no reliance should be placed on the scale of the drawing."

- M) The following statement shall be placed immediately above the signature of the surveyor and in the same size letters as the legal description:

"This professional service conforms to the current Illinois minimum standards of practice for a mortgage inspection and is not a boundary survey."

f) Topographic Survey.

- 1) Topographic Survey. A topographic survey is the delineation of horizontal and/or vertical locations of the existing natural or man-made features of a portion of the earth's surface, subsurface or airspace and the graphic representation of the results of such delineation. Topographic surveys that also depict land boundaries shall be entitled "Boundary and Topographic Survey" or "ALTA/ACSM Land Title and Topographic

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Survey", and shall be subject to the current minimum standards established for the ALTA/ACSM Land Title Surveys or Boundary Surveys by this Part, except where differing federal, State or local laws, ordinances or rules may be more stringent. When the position and/or extent of a topographic survey is not defined by land boundaries, enough information must be shown on the survey to enable the client to locate the survey on the ground. A licensed professional engineer knowledgeable in topographical survey may perform a topographic survey specific to his/her design project. A licensed professional engineer may not, however, offer topographic surveying services independent of his/her specific design project.

- 2) Information Research Required. Sufficient information to perform the survey shall be furnished by the client or his/her agent or obtained by the surveyor by agreement with the client. The following appropriate factors must be evaluated by the surveyor.
 - A) A specific description of the survey site, along with designated areas outside the actual survey site where topographic information is required.
 - B) The location, description, datum and elevation of all benchmarks to be used for the survey. The datum should be based on a nationally accepted datum whenever practical, unless instructed otherwise by the client or as mandated by a governmental organization having jurisdiction in the area the survey is located.
 - C) The location and description of all horizontal control points to be used for the survey.
 - D) If contour lines are required by the client, the contour interval should be agreed upon by the surveyor and client.
 - E) Location and elevations of utilities is often an important part of a topographic survey. The surveyor and client must have a clear understanding of which utilities are to be located and what information on each utility is to be shown.
 - F) The surveyor shall be furnished a clear, concise description of the

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intended use of the survey.

- 3) Field Requirements.
 - A) All surveying instruments shall be kept in proper adjustment and calibration.
 - B) The surveyor may apply procedures that most efficiently meet the requirements of the client without sacrificing the accuracy of the acquired information.
 - C) All field data, including electronic field notes, shall be retained in a legible and orderly fashion that will be understandable to other surveyors.
- 4) Plats. On all topographic surveys, the completed plat shall be drawn on a stable and durable medium with a minimum size of 8½" by 11" and shall contain the following:
 - A) Firm name, address and registration number.
 - B) Professional land surveyor seal, signature, date of signing, and license expiration date.
 - C) "This professional service conforms to the current Illinois minimum standards for topographic surveys." This statement shall be placed near the professional land surveyor seal and signature.
 - D) Client's name.
 - E) North arrow.
 - F) Date of completion of field work.
 - G) Scale as agreed upon by surveyor and client.
 - H) Location and elevation of benchmarks at or near the survey shall be shown, and the datum noted.

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- D) Legend for all symbols and abbreviations used on the plat.
 - J) If elevation points are to be shown, such elevations shall be shown to the nearest one-hundredth of a foot on hard surfaces and to the nearest tenth of a foot elsewhere, unless requested otherwise by the client.
 - K) Description of horizontal control points used in the survey, which shall be noted and shall be shown on the plat if possible.
 - L) The location of permanent structures, including buildings, retaining walls, bridges, culverts, street or road paving and sidewalks.
 - M) Existing contour lines indicating the relief of the entire parcel, unless required otherwise by the client. Elevation points, if shown, may be in a grid pattern or at high points, low points and grade changes, a combination of both methods, or at locations requested by the client.
 - N) Location and water surface elevations of lakes, rivers, streams and drainage courses on or near the surveyed parcel, and direction of flow if any.
 - O) If boundary line information is shown on the plat, the source of the boundary line information.
 - P) If topographic information is to be delivered via electronic media, a suitable format shall be agreed upon. In every case, the surveyor shall also provide a signed and sealed hard copy drawing or representation of the survey. This drawing shall be the official survey and shall be deemed to be correct and superior to the electronic data.
- g) Minimum Standards for Writing Parcel Legal Descriptions. A description defining land boundaries written for conveyance or describing the extent of a survey or for other purposes shall be complete, providing definite and unequivocal identification of the property lines or boundaries of a unique parcel. The description shall be sufficient to be platted, located on the ground, and

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mathematically closed. The description shall commence at or relate to a physically monumented corner or boundary control line of record.

- 1) If the land is located in a recorded subdivision, the description shall contain the number or other description of the lot, block or other part of the subdivision, or shall describe the parcel by reference to a known corner of the lot, block or other recorded reference.
- 2) If the parcel is not located within a recorded subdivision, the description shall state the section, township, range, principal meridian and county, and shall describe the parcel by reference to quarter section, quarter-quarter section, government lot, or metes and bounds, beginning/commencing at a monumented corner and referencing an established and monumented line in the United States Public Land Survey System.
- 3) In any case, when a new description is created or a previous description is rewritten enough of the original description should be maintained, including "recorded Book & Page or Document Number", so as to form a trail or chain to follow the history of the parcel.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Pharmacy Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1330
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1330.5	Repealed
1330.10	Repealed
1330.20	Repealed
1330.30	Repealed
1330.35	Repealed
1330.40	Repealed
1330.50	Repealed
1330.55	Repealed
1330.60	Repealed
1330.65	Repealed
1330.75	Repealed
1330.76	Repealed
1330.80	Repealed
1330.90	Repealed
1330.91	Repealed
1330.92	Repealed
1330.93	Repealed
1330.94	Repealed
1330.95	Repealed
1330.96	Repealed
1330.97	Repealed
1330.98	Repealed
1330.99	Repealed
1330.100	Repealed
1330.110	Repealed
1330.120	Repealed
1330.130	Repealed
1330.140	Repealed
- 4) Statutory Authority: Pharmacy Practice Act [225 ILCS 85]
- 5) A Complete Description of the Subjects and Issues Involved: As a result of the sunset review process, PA 95-689 completely rewrote the Act regulating the licensure of pharmacists and pharmacies in Illinois, including changing the name to the Pharmacy

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Practice Act. As a result of the extensive changes this entails, the current Part 1330 is being repealed, to be replaced with a new Part 1330 encompassing all aspects of pharmacy regulation in Illinois.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) 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: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

217/785-0813 FAX: 217/557-4451

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing pharmacy services
 - B) Reporting, bookkeeping or other procedures required for compliance: None

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- C) Types of professional skills necessary for compliance: Pharmacist skills are required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

The full text of the Proposed Repealer 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 1330

PHARMACY PRACTICE ACT (REPEALED)

Section

1330.5	Definitions
1330.10	Application for Certificate of Registration as a Pharmacy Technician
1330.20	Approval of Pharmacy Programs
1330.30	Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20
1330.40	Application for Examination
1330.50	Examination for Licensure
1330.55	Application for Licensure on the Basis of Examination
1330.60	Endorsement
1330.65	Patient Counseling
1330.70	Definitions (Renumbered)
1330.75	Security Requirements
1330.76	Reporting Theft or Loss of Controlled Substances
1330.80	Violations
1330.90	Divisions of Pharmacy Licenses
1330.91	Division I Pharmacies
1330.92	Division II Pharmacies
1330.93	Division III Pharmacies
1330.94	Division IV Pharmacies
1330.95	Division V Pharmacies
1330.96	Nonresident Pharmacies
1330.97	Division VI Pharmacies
1330.98	Automated Dispensing and Storage Systems
1330.99	Parenteral Product Standards
1330.100	Application for a Pharmacy License
1330.110	Granting Variances
1330.120	Renewals
1330.130	Restoration
1330.140	Continuing Education

AUTHORITY: Implementing the Pharmacy Practice Act [225 ILCS 85] and authorized by

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Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Pharmacy Practice Act, effective August 20, 1975; amended March 8, 1977; amended at 4 Ill. Reg. 1234, effective July 11, 1980; amended at 5 Ill. Reg. 2997, effective March 11, 1981; codified at 5 Ill. Reg. 11049; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 6496, effective June 30, 1983; amended at 9 Ill. Reg. 16918, effective October 23, 1985; amended at 10 Ill. Reg. 21913, effective December 17, 1986; transferred from Chapter I, 68 Ill. Adm. Code 330 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1330 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2957; amended at 12 Ill. Reg. 17394, effective October 14, 1988; amended at 16 Ill. Reg. 19811, effective December 7, 1992; amended at 21 Ill. Reg. 12600, effective August 29, 1997; amended at 22 Ill. Reg. 21959, effective December 1, 1998; amended at 23 Ill. Reg. 14131, effective November 18, 1999; amended at 24 Ill. Reg. 8548, effective June 9, 2000; amended at 26 Ill. Reg. 18338, effective December 13, 2002; amended at 27 Ill. Reg. 19389, effective December 11, 2003; emergency amendment at 29 Ill. Reg. 5586, effective April 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13639, effective August 25, 2005; amended at 30 Ill. Reg. 14267, effective August 21, 2006; amended at 30 Ill. Reg. 16930, effective October 12, 2006; emergency amendment at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days; amended at 32 Ill. Reg. 3262, effective February 21, 2008; amended at 32 Ill. Reg. 7116, effective April 16, 2008; repealed at 33 Ill. Reg. _____, effective _____.

Section 1330.5 Definitions

"Act" means the Pharmacy Practice Act of 1987 [225 ILCS 85].

"Authentication of Product History" means, but is not limited to, identifying the purchasing source, the ultimate disposition and any intermediate handling of any component of a radiopharmaceutical, diagnostic agent or device.

"Board" means the State Board of Pharmacy.

"Deliver" means the actual, constructive or attempted transfer of possession of a prescription medication.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

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"Dispense" means to interpret, verify computer entry of, select the prescribed product for, prepare and/or deliver a prescription medication to an ultimate consumer or to a person authorized to receive the prescription medication by or pursuant to the lawful order of a practitioner, including the compounding, packaging, and/or labeling necessary for delivery and any recommending, advising and counseling concerning the contents, therapeutic values, uses and any precautions, warnings and/or advice concerning consumption. Dispense does not mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier or the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

"Distribute" means to deliver, other than by dispensing, a prescription medication.

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

"Division I pharmacy" is any pharmacy that engages in general community pharmacy practice and that is open to, or offers pharmacy service to, the general public.

"Division II pharmacy" is any pharmacy whose primary pharmacy service is provided to patients or residents of facilities licensed under the Nursing Home Care Act [210 ILCS 45] or the Hospital Licensing Act [210 ILCS 85], or the University of Illinois Hospital Act [110 ILCS 330] and that is not located in the facility it serves.

"Division III pharmacy" is any pharmacy that is located in a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act, or the University of Illinois Hospital Act or a facility that is operated by the Department of Human Services or the Department of Corrections, and that provides pharmacy services to residents or patients of the facility, as well as employees, prescribers and students of the facility.

"Division IV pharmacy" is any pharmacy that provides and/or offers for sale radiopharmaceuticals.

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"Division V pharmacy" is any pharmacy that holds a license in Division II or Division III that also provides pharmacy services to the general public, or is any pharmacy that is located in or whose primary pharmacy service is to ambulatory care facilities or schools of veterinary medicine or other such institution or facility (e.g., a university infirmary).

"Division VI pharmacy" is any pharmacy that provides pharmacy services to patients of institutions served by pharmacies with a Division II or Division III license, without using the Division VI pharmacy's own supply of drugs.

"Medication Order" means an order that is issued by a physician for a resident or patient of a facility licensed under the Nursing Home Care Act or the Hospital Licensing Act.

"Nonresident Pharmacy" means a pharmacy that is located outside this State that ships, delivers, dispenses or distributes into Illinois by any means any drugs, medicines, pharmaceutical services or devices requiring a prescription.

"Nuclear Pharmacist" means a pharmacist who provides radiopharmaceutical services and has satisfied the requirements of Section 1330.94(i).

"On File" as used in Section 19 of the Act and this Part means the maintenance at the transferor pharmacy of the transferred prescription, whether previously filled or unfilled. For previously filled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of Section 18 of the Act. For previously unfilled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained in a readily retrievable format in a suitable book, file or recordkeeping system for a period of not less than 5 years. For previously filled and unfilled prescriptions at a transferor pharmacy located in a state other than Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of that state.

"Patient counseling" means the communication between a pharmacist or a student pharmacist under the direct supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of prescription medications or devices. The offer to counsel shall be made by the pharmacist or the pharmacist's designee, and subsequent patient counseling by the pharmacist or the student pharmacist shall be made in a face-to-face communication with the patient or the patient's

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representative, unless, in the professional judgment of the pharmacist, a face-to-face communication is deemed inappropriate or unnecessary. In that instance, the offer to counsel or patient counseling may be made in a written communication, by telephone or in a manner determined by the pharmacist to be appropriate.

"Patient profiles" or "patient drug therapy record" means the obtaining, recording and maintenance of patient prescription and personal information.

"Pharmacist" means a currently licensed pharmacist or registered assistant pharmacist.

"Prospective drug review" or "drug utilization evaluation" means the screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions and clinical abuse or misuse.

"Radiopharmaceutical" means any substance defined as a drug in Section 3(b) of the Pharmacy Practice Act that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds of potassium-containing salts that contain trace quantities of naturally occurring radionuclides. Radiopharmaceuticals include radioactive biological products as defined in the Federal Food, Drug and Cosmetic Act (21 USC 301 et seq. (1988)) and regulations promulgated under that Act.

"Radiopharmaceutical Quality Assurance" means, but is not limited to, the performance of appropriate chemical, biological, and physical tests on potential radiopharmaceuticals, and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment, authentication of product history and the keeping of proper records in these regards.

"Radiopharmaceutical Service" means the compounding, dispensing, labeling and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals as determined by the Illinois Emergency

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Management Agency; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or required, of diagnostic and therapeutic values, hazards and use of radioactive pharmaceuticals; and the offering or performance of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a Division IV Pharmacy.

"Registrant" means a licensed pharmacist, registered assistant pharmacist, or a registered pharmacy technician.

"Remote medication order processing" means receiving, interpreting or clarifying medication orders; data entry and transferring of medication order information; performing drug utilization review; interpreting clinical data; performing therapeutic interventions; and providing drug information concerning medication orders or drugs from a Division VI pharmacy.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Student Pharmacist" is a person registered as a pharmacy technician who is enrolled in a pharmacy program and is designated as a "student pharmacist" pursuant to Section 9 of the Act.

"Ultimate consumer" means the person for whom a drug is intended.

"Unique identifier" means an electronic signature, handwritten signature or initials, thumb print, or other acceptable individual biometric or electronic identification process as approved by the Division.

"Unprofessional conduct" under Section 30 of the Act shall include, but not be limited to, any act or practice related to the practice of pharmacy that is willful, wanton, repeated, or flagrant and likely to result in harm to an individual. In determining what constitutes unprofessional conduct, the Board shall consider, but shall not be limited to, the following standards as they relate to the person who is the subject of the proposed disciplinary action:

Violations set forth in Section 30(a) of the Act;

Repeated commission of an act or acts that are of a flagrant and obvious

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nature so as to constitute conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached;

Repeated commission of an act or acts in a relationship with a patient so as to violate common standards of decency or propriety;

Willful violation or knowing assistance in the violation of any law relating to the use of habit-forming drugs;

Willful preparation or signing false statements in order to induce payment for pharmacy services by the Department of Healthcare and Family Services, or any other local, state or federal department, agency or governmental body, or any private insurance program; and

Violating practice Standards of the American Pharmaceutical Association/American Association of Colleges of Pharmacy Standards of Practice for the Profession of Pharmacy, published March 1979, and the Principle of Practice for Pharmaceutical Care, 1996, which include no later editions or amendments, and which are herein incorporated by reference, in determining what is unprofessional conduct; however, non-compliance with these professional standards shall not alone be considered an act of unprofessional conduct unless these acts are of a flagrant, glaringly obvious nature constituting a substantial departure from these professional standards.

Section 1330.10 Application for Certificate of Registration as a Pharmacy Technician

- a) An applicant for a certificate of registration as a pharmacy technician shall file an application on forms supplied by the Division together with:
 - 1) A copy of high school diploma or its equivalent, or proof of current enrollment in a high school program; and
 - 2) The fee required by Section 1330.35 of this Part.
- b) Pursuant to Section 9 of the Act, an applicant may assist a registered pharmacist for 60 days upon submission of an application to the Division in accordance with subsection (a).

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Section 1330.20 Approval of Pharmacy Programs

- a) The Division shall, upon the recommendation of the State Board of Pharmacy (the Board), approve a pharmacy program in a school or college or department of pharmacy of a university or other institution as reputable and in good standing if it meets the following minimum criteria:
 - 1) Is legally recognized and authorized, through appropriate agencies such as a ministry of education or higher education governing board, by the jurisdiction in which it is located to confer a first professional degree in pharmacy;
 - 2) Has a faculty which comprises a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. Their facility must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions in disciplines reflective of the curricular requirements. (All of the pharmacist members of the clinical faculty and a majority of the faculty in the pharmaceutical sciences should be licensed pharmacists in that jurisdiction. The clinical faculty should be active practitioners.);
 - 3) Has a curricular offering of post-secondary instruction totalling at least 5 academic years including any preprofessional education requirements, and requiring a minimum of the following subject areas:
 - A) General Education (a minimum of 30 semester hours or its equivalent in courses in the humanities and behavioral and social sciences);
 - B) Preclinical Sciences (courses in the physical and biological sciences and mathematics which are prerequisites to professional studies and training. Course work should include general chemistry, organic chemistry, general biology, microbiology and mathematics);
 - C) Professional Studies and Training (in the following areas):
 - i) Biomedical sciences which include anatomy, physiology, immunology, biological chemistry, pathology and

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biostatistics;

- ii) Pharmaceutical sciences, which include pharmaceutical or medicinal chemistry, pharmaceuticals or dosage form design and evaluation, pharmacokinetics, synthetic and natural drug product chemistry, pharmacology, pharmaceutical administration and the social and behavioral sciences in pharmacy;
 - iii) Clinical sciences and practice, which include clinically applied courses based on the biomedical and pharmaceutical sciences such as didactic courses in clinical foundations, disease processes and diagnoses, clinical pharmacology and therapeutics and drug information research and literature retrieval; and
 - iv) Externship and clerkship: a minimum of 400 direct contact hours in clerkship and externship experience. These experiences should minimally include supervised training in inpatient environments providing for interdisciplinary experiences with other health professionals and including distributive aspects of pharmacy practice;
- 4) Has essential facilities including, but not limited to, administrative and faculty offices, teaching and research laboratories, lecture rooms, conference rooms, student activities areas and service and other programmatic support areas;
 - 5) Has a comprehensive library which contains a contemporary collection of periodicals, texts and reference books relevant to the biomedical, pharmaceutical and clinical aspects of health care and its systems of delivery;
 - 6) Has clinical facilities adequate in number and quality and with appropriate supervision to deliver the clinical clerkships and externships of the curriculum. Such facilities shall be available in inpatient and outpatient environments, including patient care areas of health care institutions, hospital pharmacies community pharmacies; and

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- 7) Maintains permanent retrievable and auditable student records that summarize the credentials for admission, attendance, grades and other records of performance for each student enrolled in the program.
- b) In determining whether a school or college should be approved, the Division shall take into consideration, but not be bound by, accreditation standards established by the American Council on Pharmaceutical Education.
- c) An applicant from a pharmacy program that has not been evaluated shall cause to be forwarded to the Division documentation concerning the criteria in this Section. If the documentation is insufficient to evaluate the program, the applicant will be required to provide such additional information as necessary. Once the Division has received the documentation or after 6 months have elapsed from the date of application, whichever is first, the Board will evaluate the program based on all documentation received from the school and any additional information the Division has received which will enable the Board to evaluate the program based on the criteria specified in this Section. In the event the program is not approved as reputable and in good standing by the Division, applicants from the program must successfully complete the preliminary diagnostic examination and all such other requirements as set forth in the Act and this Part.
- d) The Director shall, upon written recommendation submitted by the Board, withdraw, suspend or place on probation the approval of a pharmacy program when the Director determines, based upon the report of the Board, the quality of the program has been materially affected. In determining the existence of a material effect, the Board and the Director shall consider the existence of any of the following causes:
 - 1) Gross or repeated violations of any provision of the Act;
 - 2) Gross or repeated violations of any provision of this Part;
 - 3) Fraud or dishonesty in furnishing documentation for evaluation of the pharmacy program; or
 - 4) Failure to continue to meet the established criteria for an approved pharmacy program as set out in this Section.
- e) When approval of a pharmacy program is being reconsidered by the Division,

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written notice shall be given at least 15 days prior to any recommendation by the Board, and the officials in charge may either submit written comments or request an interview before the Board.

- f) The Division, upon the recommendation of the Board, has determined that all pharmacy programs accredited by the American Council on Pharmaceutical Education as of July 1, 1998, meet the minimum criteria set forth in subsection (a) and are, therefore, approved. The Board shall review the list of accredited programs published each year on July 1 by the American Council on Pharmaceutical Education in order to determine whether the programs continue to meet the minimum criteria.

Section 1330.30 Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20

- a) Applicants who are graduates of a first professional degree program in pharmacy of at least 5 academic years that is not approved pursuant to the provisions of Section 1330.20 shall submit proof of:
- 1) Passage of the preliminary diagnostic examination (Foreign Pharmacy Graduate Equivalency Exam (FPGEE)) designed to determine equivalence of education to programs approved pursuant to Section 1330.20;
 - 2) Passage of the Test of English as a Foreign Language (TOEFL) examination with a score of at least 550;
 - 3) Passage of the Test of Spoken English (TSE) examination with a score of 50; and
 - 4) Completion of a course of clinical instruction approved by the Board as required by Section 6 of the Act. The course of clinical instruction shall be conducted under the supervision of a pharmacist registered in the State of Illinois. The applicant shall obtain prior approval of the Board before enrolling in the course of clinical instruction. In approving a course of clinical instruction, the Board shall consider, but not be limited to, whether the course:
 - A) Enhances development of effective communication skills by enabling consultation between the applicant, the prescriber and the

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patient;

- B) Promotes development of medical data retrieval skills through exposure to patient medical charts, patient medication profiles and other similar sources of patient information;
 - C) Promotes development of the applicant's ability to research and analyze drug information literature; and
 - D) Promotes development of the applicant's ability to interpret laboratory test and physical examination results.
- b) Applicants who are graduates of a first professional degree program in pharmacy that is less than 5 academic years in length may contact an approved school of pharmacy and request that the curriculum be reviewed for qualifying credits. Any course deficiencies may be completed in an approved school of pharmacy in order to receive a first professional degree in pharmacy. Upon receipt of the first professional degree in pharmacy, an individual may apply to sit for the licensure examination.

Section 1330.35 Fees

The following fees are not refundable.

- a) Certificate of pharmacy technician.
 - 1) The fee for application for a certificate of registration as a pharmacy technician is \$40.
 - 2) The fee for the renewal of a certificate of registration as a pharmacy technician shall be calculated at the rate of \$25 per year.
- b) License as a pharmacist.
 - 1) The fee for application for a license is \$75.
 - 2) In addition, applicants for any examination as a registered pharmacist shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility

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and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

- 3) The fee for a license as a registered pharmacist registered or licensed under the laws of another state or territory of the United States is \$200.
 - 4) The fee for the renewal of a license shall be calculated at the rate of \$75 per year.
 - 5) The fee for the restoration of a license other than from inactive status is \$20 plus all lapsed renewal fees.
 - 6) Applicants for the preliminary diagnostic examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.
 - 7) The fee to have the scoring of an examination authorized by the Department reviewed and verified is \$20 plus any fee charged by the applicable testing service.
- c) License as a pharmacy.
- 1) The fee for application for a license for a pharmacy under this Act is \$100.
 - 2) The fee for the renewal of a license for a pharmacy under this Act shall be calculated at the rate of \$100 per year.
 - 3) The fee for the change of a pharmacist-in-charge is \$25.
- d) General Fees.

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- 1) 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 changes on Department records when no duplicate certification is issued.
- 2) The fee for a certification of a registrant's record for any purpose is \$20.
- 3) The fee to have the scoring of an examination administered by the Department reviewed and verified is \$20.
- 4) The fee for a wall certificate showing licensure or registration shall be the actual cost of producing the certificate.
- 5) The fee for a roster of persons registered as pharmacists or registered pharmacies in this State shall be the actual cost of producing the roster.
- 6) The fee for pharmacy licensing, disciplinary or investigative records obtained pursuant to a subpoena is \$1 per page.

Section 1330.40 Application for Examination

- a) An applicant for examination shall apply on forms approved by the Division, at least 30 days prior to an examination date. The application shall include:
 - 1) One of the following:
 - A) Certification of graduation from a first professional degree program in pharmacy totalling at least 5 academic years. The program must be approved by the Division upon recommendation of the Board of Pharmacy pursuant to the provisions of Section 1330.20; or
 - B) Certification, in the case of an applicant applying in the last half-year of the curriculum from the dean of an approved pharmacy program indicating the applicant is expected to graduate. It is the responsibility of the individual school to notify the Division of all the students who do not graduate; or

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- C) Proof of compliance with Section 1330.30 of this Part if the applicant is a graduate of a program not approved pursuant to the provisions of Section 1330.20 of this Part.
- 2) The fee as required by Section 1330.35.
- b) An applicant whose application is complete shall be scheduled for the next available examination.
- c) If the applicant has successfully completed the Theoretical and Applied Pharmaceutical Sciences examination and/or the Federal Law examination recognized by the Division in another jurisdiction, the applicant may have examination scores submitted to the Division from the reporting entity.

Section 1330.50 Examination for Licensure

- a) The examination for licensure as a registered pharmacist shall be divided into two portions:
 - 1) Theoretical and Applied Pharmaceutical Sciences portion which shall test the following subjects:
 - A) Medicinal Chemistry;
 - B) Pharmacology;
 - C) Pharmacy;
 - D) Pharmaceutical Calculations;
 - E) Interpreting and Dispensing Prescription Orders;
 - F) Compounding Prescription Orders; and
 - G) Monitoring Drug Therapy.
 - 2) Pharmaceutical Jurisprudence portion which consists of two parts and shall test:

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- A) Illinois Law related to pharmacy practice; and
 - B) Federal Law related to pharmacy practice.
- b) An applicant must score a minimum of 75 on the Theoretical and Applied Pharmaceutical Sciences portion and a minimum of 75 on the combined Pharmaceutical Jurisprudence portion in order to successfully pass the examination for licensure. An applicant who scores 75 or greater in either the Theoretical and Applied Pharmaceutical Sciences portion or on either of the combined Pharmaceutical Jurisprudence Portions will not be required to retake that portion of the examination. The reporting of scores to the candidates shall include the score obtained on the Theoretical and Applied Pharmaceutical Sciences, the score obtained on the Federal Law portion, a pass or fail score on the Illinois Law portion and the combined score consisting of the Federal Law portion and the State Law portion.
- c) Any applicant who fails any portion or all portions of the registered pharmacist examination three times in any jurisdiction will be required to furnish proof of remedial education in an approved program on the subjects of the portion failed in the third examination. Proof of additional remedial education in an approved program shall also be furnished each time the applicant fails any portion of the examination three times after undergoing remedial education (i.e., after the sixth exam, ninth exam, etc.).
- d) Pursuant to Section 7 of the Act, an applicant may work as a registered pharmacist for up to 60 days prior to the issuance of a certificate of registration upon receipt of a notice from the Division that the examination was successfully completed.
- e) For the purposes of this Section remedial training shall be defined as:
- 1) A course of study of at least 30 classroom hours in the subjects of the portions failed three times in an approved pharmacy college; or
 - 2) A tutorial or preceptorship with a faculty member in an approved pharmacy college or another pharmacist as a preceptor. The course of instruction must be deemed by the Board to be substantially equivalent to subsection (e)(1) and approved by the Division. Any remedial training must be approved by the Board and the Division prior to commencement.

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- f) The provisions of this Section shall apply to all applicants upon adoption without regard to where the applicant is in the application process.

Section 1330.55 Application for Licensure on the Basis of Examination

- a) An applicant for licensure on the basis of examination shall submit to the Division a properly completed application on forms provided by the Division along with the following:
- 1) The fee required by Section 1330.35;
 - 2) Certification of graduation from an approved program of pharmacy as set forth in Section 1330.20; and
 - 3) Proof of successful completion of the examination approved by the Division specified in Section 1330.50 of this Part.
- b) Upon receipt of the items required in subsection (a) of this Section, and upon the verification by the Division that the candidate meets all of the requirements for licensure as a Registered Pharmacist, the Division shall issue a license to practice pharmacy or notify the applicant of the reason for denial.

Section 1330.60 Endorsement

- a) An applicant who is currently licensed by examination under the laws of another U.S. jurisdiction or another country shall file an application with the Division, together with:
- 1) Certification of graduation from a 5 year pharmacy program approved pursuant to Section 6 of the Act and Section 1330.20 of this Part;
 - 2) For individuals licensed in another state prior to January 1, 1983, proof of having completed the hours of apprenticeship; or, if at least 1500 hours of apprenticeship were not required, an affidavit attesting to the period of the applicant's active experience as a pharmacist;
 - 3) A certification by the state or territory of original licensure, stating:

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- A) The time during which the applicant was licensed in that state;
 - B) Whether the file on the applicant contains any record of any disciplinary actions taken or pending;
 - C) A brief description of the examination and the applicant's grades; and
- 4) Proof of successful passage of the Illinois multi-state jurisprudence examination; and
 - 5) The fee as required by Section 1330.35.
- b) The Division and the Board shall examine each application to determine whether the requirements, at the time of licensure in the state where the applicant was licensed by examination, were substantially equivalent to the requirements then in force in this State.
 - c) If the requirements are found to be substantially equivalent and the applicant graduated from an approved college of pharmacy and meets all other requirements of Section 6 of the Act, the Division will notify the applicant of approval and/or denial and the reasons for the approval or denial within 30 days after receipt of the application and supporting documentation.

Section 1330.65 Patient Counseling

- a) Upon receipt of a new or refill prescription, a prospective drug review or drug utilization evaluation shall be performed. An offer to counsel shall be made on all prescriptions. If the offer to counsel is accepted, the pharmacist or the student pharmacist, as directed and supervised by the pharmacist, shall counsel the patient or patient's caregiver, with such counseling to include those matters listed in subsections (a)(1) through (a)(10) of this Section that, in the exercise of his or her professional judgment, the pharmacist considers significant as well as other matters the pharmacist considers significant:
 - 1) Name and description of medication;
 - 2) Dosage form and dosage;

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- 3) Route of administration;
 - 4) Duration of therapy;
 - 5) Techniques for self-monitoring;
 - 6) Proper storage;
 - 7) Refill information;
 - 8) Actions to be taken in cases of missed doses;
 - 9) Special directions and precautions for preparation, administration and use;
 - 10) Common severe side effects, or adverse effects, or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur.
- b) If in the pharmacist's professional judgment oral counseling is not practicable for the patient or patient's caregiver, the pharmacist shall use alternative forms of patient information. When used in place of oral counseling, alternative forms of patient information shall advise the patient or caregiver that the pharmacist may be contacted for consultation in person at the pharmacy by toll-free telephone service or collect telephone service.
- c) The pharmacist is responsible for maintaining patient profiles as defined in Section 3(s) of the Act. A reasonable effort shall be made to obtain information to include, but not limited to, the following:
- 1) Name, date of birth (age), gender, address and telephone number;
 - 2) Individual history, where significant, including disease state(s), known allergies, drug interactions, a comprehensive list of medications and relevant devices; and
 - 3) Pharmacist's comments relevant to the individual's therapy.
- d) Patient identifiable information obtained by the pharmacist or the pharmacist's designee for the purpose of patient record maintenance, prospective drug review,

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drug utilization review and patient counseling shall be considered confidential information, as defined in Section 3(q) of the Act. A reasonable effort should be made to provide counseling based on such confidential information in a discreet, supportive, informative and non- threatening manner.

- e) A pharmacist in a health care facility licensed under the Hospital Licensing Act or the Nursing Home Care Act shall comply with the requirements of this Section when medications are provided by the pharmacy upon the patient's discharge from the hospital or facility.
- f) The pharmacist shall not be required to counsel a patient or patient's caregiver when the patient or patient's caregiver refuses to accept the offer to counsel. A patient's or patient's caregiver's refusal to accept counseling shall be documented. The absence of any record of a refusal to accept the offer to counsel shall be presumed to signify that the offer was accepted and that counseling was provided.

Section 1330.75 Security Requirements

- a) Whenever the pharmacy (prescription area) is not occupied by a registrant, the pharmacy (prescription area) must be secured and inaccessible to non-licensed persons (employees and public). This may be accomplished by measures such as walling off, locking doors, electronic security equipment, as approved by the Division.
- b) Schedule II drugs shall be secured in rooms, vaults, safes, cabinets, etc., under lock, whether by key, combination or electronically.
- c) Schedule II drugs shall not be distributed among regular stock.
- d) All secured Schedule II drugs shall be accessible only when a pharmacist is physically present.
- e) A pharmacist shall be physically present whenever Schedule II drugs are not secured and are to be dispensed.

Section 1330.76 Reporting Theft or Loss of Controlled Substances

In every instance that a pharmacist-in-charge is required by federal law (21 CFR 1301.76) to file with the U.S. Drug Enforcement Agency a Report of Theft or Loss of Controlled Substances,

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Form 106, a copy shall be sent to the Division. Failure to do so may result in discipline of the pharmacist.

Section 1330.80 Violations

- a) A registrant shall not:
 - 1) Permit the dispensing or distributing of a prescription medication to an ultimate consumer unless a registered pharmacist is physically present, on duty and available for consultation.
 - 2) Engage in a professional association, with any place defined as a drug store or pharmacy in the Act, wherein the practice of pharmacy is engaged in by any person who is not authorized to practice under the Act or that is not operated and conducted in compliance with the Act.
 - 3) Compound, sell or offer for sale, or cause to be compounded, sold or offered for sale, any drug, medicine, poison, chemical or pharmaceutical preparation, under or by a name recognized in the United States Pharmacopeia/National Formulary for internal or external use which differs from standard of strength, quality, purity, or bioavailability as determined by the tests specified in the United States Pharmacopeia/National Formulary which is official at the time of such compounding, sale or offering for sale.
 - 4) Compound, sell or offer for sale, or willfully cause to be compounded, sold or offered for sale, any drug, medicine, poison, chemical or pharmaceutical preparation, the strength or purity of which shall fall below the professed standard of strength or purity under which it is sold.
 - 5) Purchase prescription drugs from any source that fails to meet provisions of the Wholesale Drug Distribution Licensing Act [225 ILCS 120].
- b) No registrant shall violate any of the following laws, or the rules or regulations promulgated pursuant thereto, which relate to the practice of pharmacy:
 - 1) Illinois Food, Drug and Cosmetic Act [410 ILCS 620].
 - 2) The Hypodermic Syringes and Needles Act [720 ILCS 635].

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- 3) Federal Food, Drug and Cosmetic Act (21 USC 301 et seq. (1976)).
- 4) Federal Controlled Substances Act ((21 USC 801 et seq. (1976)).
- 5) The Illinois Controlled Substances Act [720 ILCS 570].
- 6) Cannabis Control Act [720 ILCS 550].
- 7) Illinois Poison Prevention Packaging Act [430 ILCS 40].
- 8) Poison Prevention Packaging Act of 1970 (15 USC 1471, et seq. (1976)).
- 9) Wholesale Drug Distribution Licensing Act [225 ILCS 120].

Section 1330.90 Divisions of Pharmacy Licenses

- a) Each individual, partnership, corporation or any other applicant for a pharmacy license shall indicate, on forms supplied by the Division, the division designations for which a license is being requested.
- b) The Board shall have the authority to review and make recommendations to the Director regarding the appropriate division designation of an applicant.
- c) A pharmacy, whose scope of services requires it to be placed in more than one division designation, shall be issued one pharmacy license for each division designated and shall be charged the appropriate fee, as set forth in Section 1330.35, for each division license issued.
- d) A pharmacy shall designate a different pharmacist-in-charge for each division as established by Section 15 of the Act and shall comply with the designated division requirements of this Part.

Section 1330.91 Division I Pharmacies

- a) Retail pharmacies which engage in general community pharmacy practice and are open to, or offer pharmacy service to, the general public shall, in addition to any other requirements of the Act and this Part, comply with Section 1330.91. A retail pharmacy which, in addition to offering pharmacy services to the general

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public, provides pharmacy services to an institution or facility listed in Sections 1330.92(a) need not register as a Division II pharmacy if the sales do not exceed 49% of total sales, but the pharmacy shall comply with requirements of Sections 1330.92(b), (c) and (d).

- b) Recordkeeping Requirements for Filling Prescriptions
- 1) Every prescription filled or refilled shall contain the name, initials or other unique identifier of the Illinois licensed pharmacist who fills or refills the prescription. Additionally, the label affixed to the drug container must indicate the name, initials or other unique identifier of the Illinois licensed pharmacist who filled or refilled the prescription. No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription by the prescriber.
 - 2) Whenever a prescription is filled or refilled, by a registered pharmacy technician under the supervision of a pharmacist, the prescription shall contain the names, initials or other unique identifier of both the supervising pharmacist and the registered pharmacy technician who fills or refills the prescription.
 - 3) Refilling a Prescription
 - A) Each refilling of a prescription shall be entered on the prescription or on another appropriate, uniformly maintained, readily retrievable record, which indicates by the number of the prescription the following information:
 - i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;
 - iv) The name or initials of the pharmacist and the pharmacy technician, if applicable, in each refilling; and
 - v) The total number of refills for the prescription.

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- B) If the pharmacist doesn't otherwise indicate in a uniformly maintained record, he/she shall be deemed to have dispensed a refill for the full face amount of the prescription.
- 4) Presentation of a written prescription copy or prescription label shall be for information purposes only and has no legal status as a valid prescription order. The recipient pharmacist of the copy or prescription label shall contact the prescribing practitioner to obtain a new prescription order.
- 5) A pharmacist providing a copy of a prescription to an ultimate consumer for the purpose of transfer or any other purpose shall cancel the uniformly maintained record and record the date the copy is issued, to whom issued and his/her name, initials or unique identifier. Copies of prescriptions shall be marked "For Information Purposes Only" and require a new prescription from the prescriber.
- 6) Subject to Section 18 of the Act, any information which is required to be kept pursuant to this Section may be recorded and stored in a computerized pharmaceutical information system that meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306) (1998), and which contain no further amendments or editions, and shall include the capability to:
- A) Retrieve the original prescription order information for those prescription orders currently authorized for refilling;
- B) Retrieve the current prescription orders, including, at a minimum, name of drug, date of refill, quantity dispensed, name and identification code of the manufacturer in the case of a generically written prescription or a generic interchange, name or initials of the dispensing pharmacist and technician for each refill and the total number of refills dispensed to date;
- C) Supply documentation of refill information entered by the pharmacist using the system by way of a hard copy printout of each day's refill data that has been verified for correctness. This printout must include for each prescription filled at least the following information:

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- i) The name and dosage form of the drug;
- ii) The date of each refilling;
- iii) The quantity dispensed;
- iv) The name or initials of the pharmacist in each refilling and the pharmacy technician, if applicable;
- v) The patient's name;
- vi) The prescriber's name; and
- vii) The prescription number for the prescription.

In lieu of the printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in the dispensing shall sign a statement each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.

- 7) All refill data shall be maintained by the pharmacy on the premises for 5 years, in accordance with Section 18 of the Act. The pharmacy shall have the appropriate equipment on the premises to provide readily retrievable information in the course of an on-site inspection. A hard copy printout shall be provided to the Division, upon request, within 48 hours.
- c) Transfer of Prescription Information
- 1) A prescription may be transferred between pharmacies for the purpose of original fill or refill dispensing provided that:
 - A) The transferor pharmacist invalidates the prescription on file and records to whom transferred, the date of issuance of such copy and

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the name of the transferor pharmacist issuing the transferred prescription order; and

- B) The transferee pharmacist, upon receiving the prescription directly from another pharmacist, records the following:
 - i) The name, address and original prescription number of the pharmacy from which the prescription was transferred;
 - ii) All information constituting a prescription order including the following: name of the drug, original amount dispensed, date of original issuance of the prescription and number of valid refills remaining; and
 - C) The transferee pharmacist informs the patient that the original prescription has been cancelled at the pharmacy from which it has been transferred.
- 2) A prescription for Schedule III, IV and V drugs may be transferred only from the original pharmacy and only one time for the purpose of refill dispensing and may not be transferred further. However, a pharmacist who is electronically sharing real-time on line computerized systems may transfer up to the maximum refills permitted by law and the prescriber's authorization in accordance with CFR 1306.26(a).
- 3) Computerized systems must satisfy all information requirements of this subsection (c), including invalidation of the original prescription when transferred between pharmacies accessing the same prescription records or between pharmacies of the same ownership. If those systems that access the same prescription records have the capability of cancelling the original prescription, pharmacies using such a system are exempt from the requirements of this subsection (c) if the transferred prescription can always be tracked to the original prescription order from the prescribing practitioner and the original prescription can be produced.
- d) Staffing of the Pharmacy
- 1) Whenever the hours of the pharmacy (prescription department) differ from those of the establishment in which the pharmacy is located, there shall be

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compliance with the following:

- A) The schedule during which the practice of pharmacy is carried on in the pharmacy shall be conspicuously displayed.
 - B) Whenever an establishment housing a pharmacy is open and a pharmacist is not present and available to provide pharmaceutical services as defined in Section 3 of the Act, a sign shall be conspicuously displayed stating in all capital letters:
PHARMACIST NOT ON DUTY; STATE LAW PROHIBITS FILLING OF PRESCRIPTIONS IN THE ABSENCE OF A PHARMACIST.
 - C) No prescription may be dispensed when a pharmacist is not physically present in the establishment, or remotely supervising activities of pharmacy registrants, as permitted in this Part, and on duty. Notwithstanding any other provision of this Part, any registrant may dispense over the counter emergency contraception to persons 18 years of age or older without the supervision of a pharmacist.
- 2) The pharmacy must provide pharmaceutical services, as defined in Section 3 of the Act, to the public a minimum of 40 hours per week. A pharmacy is considered providing Pharmaceutical Services when a pharmacist is physically present in the establishment and available for consultation.
- e) Pharmacist-in-Charge
- 1) No pharmacy shall be granted a certificate of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist shall be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all activities of all employees as they relate to the practice of pharmacy;
 - B) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including

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maintenance of security provisions to be used when the pharmacy is closed as set forth in Section 1330.75; and

- C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs.
- 2) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.
 - 3) Within 10 days after the change of a pharmacist-in-charge, the Division shall be so notified in writing by the departing pharmacist-in-charge.
 - 4) In addition to notifying the Division within 10 days, the departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:
 - A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and
 - B) All other scheduled drugs, as defined in the Illinois Controlled Substance Act, by estimated count.
 - 5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the inventory record, bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge, shall be submitted to the Department of Financial and Professional Regulation-Division of Professional Regulation, at its principal office, within 10 days after the change in the pharmacist-in-charge.
 - 6) Failure on the part of a registrant to provide the information required in subsections (e)(4) and (5) shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based on the recommendation of

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the Board.

- 7) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the Division, because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
 - A) Provide such information as may be necessary; and/or
 - B) Explain the relevance or completeness during an oral interview; or
 - C) Appear for an oral interview before the Board when the information available to the Board is insufficient to evaluate compliance with this Section.
- f) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale any dispensed medications, chemicals, poisons or medical devices except for:
 - 1) Medical devices that can be properly sanitized prior to reuse, resale or rereuse; and
 - 2) Medications and medical devices that are dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current United States Pharmacopoeia (USP)/National Formulary or by the United States Pharmacopoeial Convention, Inc.
- g) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.
- h) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.
- i) Pharmacies shall develop and implement a procedure to be utilized in the event of a drug recall that can be readily activated to assure that all drugs included on the recall are returned to the pharmacy for proper disposition.

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- j) Duty of Retail Pharmacy to Dispense Contraceptives
- 1) Upon receipt of a valid, lawful prescription for a contraceptive, a retail pharmacy serving the general public must dispense the contraceptive, or a suitable alternative permitted by the prescriber, to the patient or the patient's agent without delay, consistent with the normal timeframe for filling any other prescription, subject to the remaining provisions of this subsection (j). If the contraceptive, or a suitable alternative, is not in stock, the pharmacy must obtain the contraceptive under the pharmacy's standard procedures for ordering contraceptive drugs not in stock, including the procedures of any entity that is affiliated with, owns, or franchises the pharmacy. However, if the contraceptive, or a suitable alternative, is not in stock and the patient prefers, the prescription must be transferred to a local pharmacy of the patient's choice under the pharmacy's standard procedures for transferring prescriptions for contraceptive drugs, including the procedures of any entity that is affiliated with, owns, or franchises the pharmacy. Under any circumstances an unfilled prescription for contraceptive drugs must be returned to the patient if the patient so directs.
 - 2) Each retail pharmacy serving the general public shall use its best efforts to maintain adequate stock of emergency contraception to the extent it continues to sell contraception (nothing in this subsection (j)(2) prohibits a pharmacy from deciding not to sell contraception). Whenever emergency contraception is out-of-stock at a particular pharmacy and a prescription for emergency contraception is presented, the pharmacist or another pharmacy registrant shall attempt to assist the patient, at the patient's choice and request, in making arrangements to have the emergency contraception prescription filled at another pharmacy under the pharmacy's standard procedures for transferring prescriptions for contraceptive drugs, including the procedures of any entity that is affiliated with, owns or franchises the pharmacy.
 - 3) Dispensing Protocol – In the event that a licensed pharmacist who objects to dispensing emergency contraception (an "objecting pharmacist") is presented with a prescription for emergency contraception, the retail pharmacy serving the general public shall use the following dispensing protocol:

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- A) All other pharmacists, if any, then present at the location where the objecting pharmacist works (the "dispensing pharmacy") shall first be asked to dispense the emergency contraception (any pharmacist that does not object to dispensing these medications is referred to as a "non-objecting pharmacist").
- B) If there is an objecting pharmacist and no non-objecting pharmacist is then available at the dispensing pharmacy, any pharmacy (the "remote pharmacy") or other non-objecting pharmacist shall provide "remote medication order processing" (RMOP) to the dispensing pharmacy. RMOP includes any and all services that a licensed pharmacist may provide, as well as authorizing a non-pharmacist registrant at the dispensing pharmacy, to dispense the emergency contraception to the patient under the remote supervision of a non-objecting pharmacist. For purposes of this subsection (j) and the Pharmacy Practice Act, a registered pharmacy technician is authorized to engage in RMOP involving emergency contraception.
- i) All remote pharmacies and other non-objecting pharmacists providing RMOP shall be licensed by the State of Illinois.
- ii) There shall be a secure, HIPAA-compliant, electronic communication system that shall include, but not necessarily be limited to, telephone and/or facsimile connections that allows communication between the remote pharmacy or other non-objecting pharmacist and the dispensing pharmacy. Any electronic communication system allowing the remote pharmacy or other non-objecting pharmacist providing RMOP to access a patient's emergency contraception prescription information and the National Drug Code number for the emergency contraception being dispensed shall constitute and be considered a sufficient communication system that is compliant with this subsection (j) and the Pharmacy Practice Act for purposes of RMOP involving emergency contraception. RMOP shall not be considered, or be subject to the requirements applicable to, telepharmacy as defined in the Pharmacy Practice Act or this Part.

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- iii) Nothing in this subsection (j) shall otherwise relieve the pharmacist-in-charge of each participating remote pharmacy and dispensing pharmacy, or other non-objecting pharmacist, of compliance with the Pharmacy Practice Act and this Part, provided that compliance with the protocols in this Section shall be considered by the Department to be in compliance.
- iv) Recordkeeping Requirements – A policy and procedure manual (which may be maintained in electronic form) shall be maintained by each participating dispensing and remote pharmacy that is accessible to each non-objecting pharmacist pertaining to the pharmacy's or pharmacist's (as applicable) operations with respect to RMOP. These RMOP policies and procedures need not be contained in a stand-alone manual applicable solely to RMOP, but rather may be incorporated as part of any existing pharmacy policy and procedure manual that any pharmacy or pharmacist performing RMOP can access. The manual shall:
- Be accessible to each participating dispensing and remote pharmacy's staff, or other non-objecting pharmacists, who are involved in RMOP and dispensing;
 - Be available for inspection by the Department;
 - Outline the responsibilities of the dispensing pharmacy staff and the remote pharmacy staff, or other non-objecting pharmacists, who are involved in RMOP;
 - Include a process to identify the name, address, telephone number, and license number of each pharmacist involved in RMOP;
 - Be reviewed by the owner or operator of the pharmacies on a regular basis; and

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- Include policies and procedures for:

Protecting the confidentiality and integrity of patient information;

Ensuring that pharmacists at the remote pharmacy, or other non-objecting pharmacist, performing prospective drug utilization review have access to appropriate drug information resources;

Ensuring that staff at the dispensing pharmacy understand how to contact a pharmacist who can perform RMOP;

Maintaining records to identify the name, initials, or identification code of each pharmacist who performs any RMOP function for a medication order; and

Complying with federal and State laws and regulations.

- v) Every pharmacist providing RMOP service at a remote pharmacy or otherwise shall ensure that the following information is recorded on the order, in the computer system, or on another appropriate, unalterable, uniformly maintained and readily retrievable record for every drug order or prescription for emergency contraception processed by the remote pharmacy or other non-objecting pharmacist on behalf of a dispensing pharmacy:
- The name, initials or other unique identifier of the non-objecting pharmacist who verifies the drug order or prescription;
 - The name of the patient;
 - The dose, dosage form, route of administration and dosing frequency of the drug;

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- The date and time of verification; and
 - The name of the prescribing/ordering physician.
- vi) The pharmacists-in-charge of the dispensing pharmacies shall maintain and have access to the following records for a minimum of 5 years:
- Records of emergency contraception medication orders processed;
 - Records of the electronic communication system maintenance, if any.
- vii) Staffing of the Remote Pharmacies
- The responsibilities of the pharmacist-in-charge at each participating remote pharmacy, or other non-objecting pharmacist, providing RMOP shall include (except to the extent otherwise set forth in this subsection (j) as to objecting pharmacists):

Supervision of all the activities of all employees as they relate to the practice of pharmacy.

Establishment and supervision of the recordkeeping system for all the documents, electronic communication and all the transfers of information between the dispensing and remote pharmacies or other non-objecting pharmacists participating in RMOP.

The operation of the pharmacy and maintenance of security provisions for the records and the electronic communication system of the pharmacy or other location from which a non-objecting pharmacist engages in RMOP. The owner of the pharmacy shall be equally responsible.

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- Within 30 days after the change of a pharmacist-in-charge, the Department shall be so notified in writing by the departing pharmacist-in-charge or by the owner of the pharmacy.
 - All pharmacies participating in RMOP shall be licensed in Illinois.
 - Only licensed pharmacists shall conduct the drug utilization evaluation or review and validation of any order processed.
- 4) A retail pharmacy that serves the general public is responsible for ensuring either that there is a non-objecting pharmacist scheduled at all times the pharmacy is open, or that there is a licensed pharmacist available to perform RMOP for emergency contraception at all times the pharmacy is open and no non-objecting pharmacist is available at the pharmacy.
- 5) For the purposes of this subsection (j), the term "contraceptive" shall refer to all FDA-approved drugs or devices that prevent pregnancy.
- 6) Nothing in this subsection (j) shall interfere with a pharmacist's screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, or clinical abuse or misuse, pursuant to 225 ILCS 85/3(q).
- k) Notice of rights regarding the dispensing of contraceptives.
- 1) Each Division I pharmacy must prominently display the notice described in subsection (k)(2) of this Section and include information regarding how to file a complaint with the Division. The notice must be on 8.5 inch by 11 inch paper and otherwise conform with the format prescribed by subsection (k)(2). The notice must be clearly visible from the area at which the pharmacy intakes prescriptions. The Department's website shall provide a template for approved format of the notice and that template shall include required information regarding how to file a complaint with

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the Division, in accordance with the Department's administrative hearing rules located at 68 Ill. Adm. Code 1110. The licensee shall be accorded all process provided for in 68 Ill. Adm. Code 1110.

- 2) Form and text of notice:

IF YOU USE CONTRACEPTIVES KNOW YOUR RIGHTS.

If this pharmacy dispenses prescription contraceptives, then you have the following rights under Illinois law:

The pharmacy must dispense your prescribed contraceptives without delay, consistent with the normal timeframe for filling any other prescription.

When your contraceptive is out of stock, you have the following options: the pharmacy must cooperate with your doctor to determine a suitable alternative, order the contraceptive, or transfer the prescription to another pharmacy of your choice.

You can instruct the pharmacy to return the prescription slip to you at any time prior to dispensing.

You may file a complaint with the Department of Financial and Professional Regulation-Division of Professional Regulation through the Department's website <http://www.idfpr.com>.

Section 1330.92 Division II Pharmacies

- a) Pharmacies that are not located in the facilities they serve and whose primary service is to provide services to patients or residents of facilities licensed under the Nursing Home Care Act or the Hospital Licensing Act, or the University of Illinois Hospital Act shall, in addition to any other requirements of the Act and this Part, comply with this Section.
- b) Recordkeeping Requirements for Filling Prescriptions or Orders
- 1) Every prescription or order dispensed shall be documented with the handwritten names, initials or other unique identifier of the pharmacist

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(and technician if one is used) authorized to practice pharmacy under the provisions of the Act who dispenses the prescription or order. For purposes of the Act, an authorized person is:

- A) A pharmacist licensed in the State of Illinois, or
 - B) A registered pharmacy technician or registered student pharmacist, under the supervision of a pharmacist.
- 2) Each pharmacy must maintain a recordkeeping system for 5 years, which contains the information in subsection (b)(3). This information shall be readily retrievable and in a format that provides enforcement agents a concise, accurate and comprehensive method of monitoring drug distribution via an audit trail. This system may require two or more documents that, when read together, will provide all the information required by federal (e.g., the regulations of the Drug Enforcement Administration, 21 CFR 1300 et seq. (1998)) and State law (e.g., the Pharmacy Practice Act of 1987 and the Illinois Controlled Substances Act).
- 3) In addition to the recordkeeping requirements of subsection (b)(2), a uniformly maintained, readily retrievable hard copy record or back-up documentation of each prescription or order dispensed shall be maintained by the pharmacy for 5 years and shall include:
- A) Name of resident;
 - B) Date of order;
 - C) Name, strength and dosage form of drug, or description of the medical device ordered;
 - D) Quantity dispensed (a separate record should be maintained when the quantity billed differs from the quantity dispensed, e.g., unit dose transfer systems);
 - E) Directions for use;
 - F) Quantity billed;

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- G) Prescriber's name;
 - H) Prescriber's signature and/or DEA number where required for controlled substances; and
 - I) The drug name and identification code or the manufacturer in case of a generically ordered medication or a generic interchange.
- 4) The label affixed to the drug container must indicate the initials or other unique identifier of the pharmacist who approves the dispensing of the medication order. However, if the pharmacy is utilizing a drug distribution system which re-issues the same label, a separate record must be maintained which identifies the pharmacist approving each dispensing of the prescription or medication order.
- 5) No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription or order by the prescriber.
- 6) Subject to Section 18 of the Act, any information required to be kept pursuant to this Section may be recorded and stored in a:
- A) computerized pharmaceutical information system that meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306) (1998), and that contain no further amendments or editions, and shall include the capability to:
 - i) Retrieve the original medication order information for those medication orders that are currently authorized;
 - ii) Retrieve the current history of medication orders that shall, at a minimum, include the name of drug, the date of filling, the quantity dispensed, the name and identification code of manufacturer in the case of a generically written prescription or a generic interchange, for each filling, and the total number of refills when read in conjunction with any off-line hard copy of the history of medication orders

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dispensed to date; and

- iii) Supply documentation of the correctness of filling information entered into a system must be provided by the pharmacist using the system by way of a hard copy printout of each day's filling data which has been verified, dated and signed by the dispensing pharmacist; or
- B) bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.
- c) In the event the long term care facility changes pharmacy provider services, their new provider must obtain the orders from the long term care facility and verify the authenticity and accuracy of the orders with the prescriber.
 - d) Staffing of the Pharmacy
 - 1) When the pharmacy is closed, the public and any employees not registered under the Act are to be prohibited access to the filling and dispensing area;
 - 2) The pharmacy must provide pharmaceutical services as defined in Section 3 of the Act a minimum of 40 hours per week. A pharmacy is considered to be providing pharmaceutical services when a pharmacist is on call and available for consultation.
 - e) Pharmacist-in-Charge
 - 1) No pharmacy shall be granted a certification of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all activities of all employees as they relate to the

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practice of pharmacy;

- B) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed, as set forth in Section 1330.75; and
 - C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs.
- 2) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.
 - 3) Within 10 days after the change of a pharmacist-in-charge, the Division shall be notified in writing by the departing pharmacist-in-charge.
 - 4) The departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:
 - A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and
 - B) All other scheduled drugs, as defined in the Illinois Controlled Substance Act, by estimated count.
 - 5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the inventory record, bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge, shall be submitted to the Division, at its principal office, within 10 days after the change in the pharmacist-in-charge.
 - 6) Failure on the part of a registrant to provide the information required in subsections (e)(4) and (5) shall be grounds for denying an application or

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renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based upon the recommendation of the Board.

- 7) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the Division, because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
 - A) Provide such information as may be necessary; and/or
 - B) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information given or clear up any discrepancies or conflicts in information.
- f) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale any dispensed medications, chemicals, poisons, or medical devices except for:
 - 1) Medical devices that can be properly sanitized prior to reuse, resale or rereuse; and
 - 2) Medications and medical devices that are dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current United States Pharmacopoeial (USP)/National Formulary, or by the United States Pharmacopoeial Convention, Inc.
- g) Labeling Requirements
 - 1) Medications for Future Use
 - A) Parenteral solutions to which a drug or diluent has been added or that are not in their original manufacturer's packaging, shall contain the following information on the outer label:
 - i) Name, concentration and volume of the base parenteral solution;

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- ii) Name and strength of drugs added;
 - iii) Expiration date and date of the admixture. Expiration date, unless otherwise specified in the individual compendia monograph, or beyond use date, shall be not later than the expiration date on the manufacturer's container or one year from the date the drug is repackaged, whichever is earlier; and
 - iv) Reference code to identify source and lot number of drugs added.
- B) Non-Parenterals repackaged for future use, shall be identified with the following information:
- i) Trade and/or generic name;
 - ii) Strength (if applicable);
 - iii) Expiration date. Unless otherwise specified in the individual monograph, the expiration date or beyond use date, shall be not later than the expiration date on the manufacturer's container or one year from the date the drug is repackaged, whichever is earlier; and
 - iv) Reference code to identify source and lot number.
- 2) Medications prepared for Immediate Use
- A) All medications prepared by the pharmacy for immediate dispensing to a specific resident or patient in the facility shall be dispensed in a container identified with:
- i) Name of the resident;
 - ii) Resident's room and bed number;
 - iii) Dispensing date;

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- iv) Name, strength and dosage form of drug, or description of the medical device ordered;
 - v) Quantity dispensed;
 - vi) Directions for use;
 - vii) Prescriber's name; and
 - viii) Expiration date if less than 60 days from date of dispensing.
- B) Pharmacies dispensing medications to a specific resident or patient in the facility via unit dose shall label each order with the following information:
- i) Name of the resident;
 - ii) Resident's room and bed number;
 - iii) Date of order;
 - iv) Name, strength and dosage form of drug, or description of the medical device ordered;
 - v) Directions for use; and
 - vi) Prescriber's name.
- h) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.
- i) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.

Section 1330.93 Division III Pharmacies

- a) Pharmacies located in facilities licensed under the Nursing Home Care Act, the

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Hospital Licensing Act, or the University of Illinois Hospital Act, or are operated by the Department of Human Services or the Department of Corrections, and that provide pharmacy services to residents, patients, employees, prescribers and students of these facilities, shall, in addition to other requirements of the Act and this Part, comply with this Section.

- b) Recordkeeping Requirements
- 1) Every prescription or drug order filled or refilled shall contain the name, initials or other unique identifier of the pharmacist (and technician if one is used) who fills or refills the prescription or drug order, or the name, initials or other unique identifier may be recorded on another appropriate, uniformly maintained and readily retrievable record that indicates, at least, the following information:
 - A) The name and dosage form of the drug;
 - B) The date of filling or refilling; and
 - C) The quantity dispensed.
 - 2) The label affixed to the drug container of any prescription to a non-inpatient of the facility or institution must indicate the initials or other unique identifier of the pharmacist (and technician if one is used) who filled or refilled the prescription. No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription by the prescriber.
 - 3) The pharmacist-in-charge shall maintain or have access to the following records for at least 5 years or as otherwise required by law:
 - A) Records of medication orders and medication administration to patients;
 - B) Procurement records for controlled substances;
 - C) Records of packaging, bulk compounding or manufacturing; and
 - D) Records of actions taken pursuant to drug recalls.

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- c) Labeling Requirements
- 1) All medication repackaged by the pharmacy for future use inside the institution or facility and not intended for immediate dispensing to a specific patient shall be identified with the following information:
 - A) Single dose or multi-dose drugs, except parenteral solutions to which a drug has been added, shall be labeled with:
 - i) Trade and/or generic name;
 - ii) Strength (if applicable);
 - iii) Expiration date; and
 - iv) Reference code to identify source and lot number.
 - B) Parenteral solutions to which drugs have been added shall contain on the outer label:
 - i) Name, concentration and volume of the base parenteral solution;
 - ii) Name and strength of drugs added;
 - iii) Expiration date and time of the admixture; and
 - iv) Reference code to identify source and lot number of drugs added.
 - 2) All medication prepared by the pharmacy for immediate dispensing to a specific patient or resident in the institution or facility shall be identified with the following information:
 - A) Single dose or multi-dose drugs, except parenteral solutions to which a drug has been added, shall be identified with:
 - i) Trade and/or generic name; and

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- ii) Strength (if applicable).
 - B) Parenteral solutions to which drugs have been added shall be identified with:
 - i) Name, concentration and volume of the base parenteral solution;
 - ii) Name and strength of drugs added; and
 - iii) Expiration date and time of the admixture.
 - C) All medication dispensed to a specific patient in the institution shall be dispensed in a container identified with the name of the patient and the patient's location. Those institutions or facilities utilizing unit-dose and medication cart system may identify the name of the patient and the patient's location on the outside of the bin of the medication cart, when those carts are filled by the pharmacy.
- 3) Labels on all medications dispensed by the pharmacy for immediate dispensing to a discharge patient, emergency room patient and/or employee shall contain the following:
- A) The name and dosage form of the drug;
 - B) The date filled;
 - C) The quantity dispensed; and
 - D) The name or initials of the pharmacist and the pharmacy technician, if applicable, in each refilling.
- 4) Investigational New Drugs, authorized by the United States Food and Drug Administration, shall be dispensed pursuant to a valid prescription order of the principal physician-investigator or his authorized clinician. All investigational drugs shall be stored in and dispensed from the pharmacy and shall be identified with the following information:

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- A) Name of drug and strength (if applicable);
 - B) Expiration date;
 - C) Reference code to identify source and lot number;
 - D) A label indicating "For Investigational Use Only"; and
 - E) Name and location of the patient. Those institutions or facilities utilizing unit-dose and medication cart system may identify the name of the patient and the patient's location on the outside of the bin of the medication cart, when those carts are filled by the pharmacy.
- 5) A pharmacist providing a copy of a prescription to an ultimate consumer for the purpose of transfer or any other purpose shall cancel the face of the original prescription and record the date the copy is issued, to whom issued, and his signature on the face of the original prescription. Copies of prescriptions shall be marked "For Information Purposes Only" and require prescriber authorization to fill.
- d) Staffing of the Pharmacy
- 1) No pharmacy shall be granted a certificate of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all the activities of all employees as they relate to the practice of pharmacy;
 - B) Establishment and supervision of the method and manner for storage, dispensing and safekeeping of pharmaceuticals in all areas of the institution or facility, including maintenance of security provisions to be used when the pharmacy is closed. The following security provisions shall be utilized:

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- i) The pharmacy shall be staffed at all times by a registered pharmacist during open hours; and
 - ii) There shall be no public access to the pharmacy, except as provided in Section 1330.93(e)(1);
 - C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs;
 - D) The development and implementation of a procedure to be utilized in the event of a drug recall that can be readily activated to assure that all drugs included on the recall are returned to the pharmacy for proper disposition;
 - E) Establishment of specifications for the procurement of all drugs that will be dispensed by the pharmacy; and
 - F) Establishment and supervision of a method of documenting an oral prescription from a licensed physician to a pharmacist and for transmission of that information to the appropriate members of the nursing staff of the institution or facility.
- 2) The operations of the pharmacy and the maintenance of security provisions are the responsibility of the pharmacist-in-charge whether the owner is a sole proprietor, partnership, association, corporation or any other entity.
- 3) Within 10 days after the change of a pharmacist-in-charge, the Division shall be notified in writing by the departing pharmacist-in-charge.
- 4) The departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substance:
- A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and
 - B) All other scheduled drugs, as defined in the Illinois Controlled Substance Act, by estimated count.

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- 5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion and preservation of the inventory record bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge shall be submitted to the Division, at its principal office, within 10 days after the change in the pharmacist-in-charge.
- 6) Failure on the part of a registrant to provide the affidavit required in subsections (d)(4) and (5) shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based on the recommendation of the Board.
- 7) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
 - A) Provide such information as may be necessary; and/or
 - B) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information given or clear up any discrepancies or conflicts in information.
- 8) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale dispensed medications, chemicals, poisons or medical devices except for:
 - A) Medical devices that can be properly sanitized prior to reuse, resale or rereuse; and
 - B) Medications that are dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by a current United States Pharmacopoeia/National Formulary published by the United States

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Pharmacopoeial Convention, Inc.

- e) Medication Dispensing in the Absence of a Pharmacist – the availability of necessary medications for immediate therapeutic use during those hours when the institutional pharmacy is not open shall be met in the following manner:
- 1) An after-hour cabinet, which is a locked cabinet or other enclosure located outside of the pharmacy area containing a minimal supply of the most frequently required medication, may be utilized provided that only personnel specifically authorized by the institution in which the pharmacy is located may obtain access and it is sufficiently secure to deny access to unauthorized persons. After-hour cabinets shall only be used in the absence of a pharmacist. When medication is removed from the cabinet or enclosure, written physician's orders authorizing the removal of the medication shall be placed in the cabinet or enclosure. A log shall be maintained within the cabinet or enclosure and authorized personnel removing medication shall indicate on the log the signature of the authorized personnel removing the medication, name of the medication removed, the strength (if applicable), the quantity removed and the time of removal.
 - 2) Emergency kits containing those drugs which may be required to meet the immediate therapeutic needs of the patient, and which are not available from any other source in sufficient time to prevent risk of harm to patients by delay resulting from obtaining the drugs from the other source, may be utilized. Emergency kits shall be supplied and maintained under the supervision of a pharmacist. Drugs shall be removed from emergency kits only by authorized pharmacy personnel, persons authorized to administer medication pursuant to a valid physician's order or a physician licensed to practice medicine in all of its branches in Illinois. Emergency kits shall be sealed in some manner which will indicate when the kit has been opened. A label shall be affixed to the outside of the emergency kit indicating the expiration date of the emergency kit. The expiration date of the emergency kit shall be the earliest expiration date of any drug contained in the kit. After an emergency kit has been used or upon discovery that the seal has been broken or upon the occurrence of the expiration date, the kit shall be returned to the pharmacy to be checked and/or restocked.
 - 3) Whenever any drug is not available from night cabinets or emergency kits,

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and the drug is required to treat the immediate needs of a patient, the drug may be obtained from the pharmacy in sufficient quantity to meet the immediate need by an authorized nurse. When medication is removed from the pharmacy by an authorized nurse, a copy of the physician's order authorizing the removal of said medication shall be conspicuously placed in the pharmacy with the container from which the drug was removed so that it will be found by a pharmacist and checked promptly. A form shall be available in the pharmacy upon which shall be recorded the signature of the authorized nurse who removed the medication, the name, strength (if applicable) and quantity of medication removed.

- 4) Drugs may be dispensed from the emergency room only by a practitioner licensed to prescribe and dispense, and only to patients treated in the institution. This shall occur only during hours in which outpatient institutional pharmacy services are not available. The quantity dispensed should be limited to no more than a 24 hour supply, except for unit use packages (e.g., inhalers, ophthalmics, otics, etc.) to meet the immediate needs of the patient until pharmacy services are available. Drugs dispensed in this manner must meet all labeling requirements pertaining to Division I pharmacies as specified in Section 1330.91. There shall be written policies and procedures, approved by the medical staff, regarding the dispensing of drugs from the emergency room.
- f) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.
- g) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.

Section 1330.94 Division IV Pharmacies

- a) Pharmacies which provide and/or offer for sale radiopharmaceuticals shall in addition to any other requirements of the Act and this Part comply with this Section 1330.94.
- b) Prior to issuance of a Division IV pharmacy license:
 - 1) The pharmacy shall provide a copy of their Illinois Radioactive Material License issued by the Illinois Emergency Management Agency in

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accordance with the Radiation Protection Act [420 ILCS 40].

- 2) The Division shall conduct an on-site inspection of the facility.
- c) The pharmacy shall have:
- 1) Space commensurate with the scope of services provided, but at least 300 square feet; and
 - 2) Radioactive storage and product decay facility, separate from and exclusive of the "hot" laboratory, compounding, dispensing quality assurance and office areas.
- d) Each Division IV Pharmacy shall have the following equipment:
- 1) Laminar Flow Hood;
 - 2) Fume Hood – minimum of 30 inches in height, which shall be vented through a filter with a direct outlet to the outside;
 - 3) Dose Calibrator;
 - 4) Refrigerator;
 - 5) Class A prescription balance or a balance of greater sensitivity;
 - 6) Single-channel or multi-channel gamma scintillation counter;
 - 7) Microscope;
 - 8) Low level, thin-window portable radiation survey meter;
 - 9) Drawing station – lead glass and lead lined;
 - 10) Syringe shields; and
 - 11) Energy Compensated Geiger Mueller (GM) Probe or ion chamber.
- e) Each Division IV Pharmacy shall have the following reference texts available:

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- 1) The current edition or revision of the United States Pharmacopoeia – Dispensing Information;
 - 2) The current edition or revision of the United States Pharmacopoeia/National Formulary;
 - 3) State and federal regulations governing the use of applicable radioactive material; and
 - 4) United States Public Health Service, Radiological Health Handbook.
- f) Pharmacist-in-Charge
- 1) Designation as a Division IV pharmacy shall only be granted if the pharmacist-in-charge is a nuclear pharmacist meeting the requirements set forth in subsection (i). No registered pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all the activities of all employees as they relate to the practice of nuclear pharmacy;
 - B) Establishment and supervision of the recordkeeping system for the purchase, acquisition, disposition, sale, delivery, possession, storage and safekeeping of radiopharmaceuticals; and
 - C) Establishment and maintenance of security provisions, which shall include the following:
 - i) There shall be no public access to the pharmacy hot lab/dispensing area; and
 - ii) In the absence of a nuclear pharmacist all radiopharmaceuticals shall be locked and accessible only to a nuclear pharmacist or an individual under direct supervision of the pharmacist; except, a licensed medical practitioner authorized to possess, use and administer radiopharmaceuticals may have access to

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radiopharmaceuticals in the absence of a nuclear pharmacist.

- 2) Within 10 days after the change of a pharmacist-in-charge, the Division shall be notified in writing by the departing pharmacist-in-charge.

g) Dispensing Radiopharmaceuticals

- 1) A radiopharmaceutical shall be dispensed only upon a prescription order from a licensed medical practitioner authorized to possess, use and administer radiopharmaceuticals.
- 2) No radiopharmaceutical shall be dispensed in the absence of a nuclear pharmacist except, a licensed medical practitioner authorized to possess, use, dispense, and administer radiopharmaceuticals may dispense in the absence of a nuclear pharmacist.
- 3) The amount of radioactivity in a preparation for dispensing shall be determined by radiometric methods for each individual preparation at the time of preparation, and calibrated for the anticipated time of administration.

h) Labeling Requirements

- 1) In addition to the labeling requirements of pharmaceuticals, as stipulated in the Act, the immediate outer container of a radioactive drug, diagnostic agent or device to be dispensed shall also be labeled to include:
 - A) The standard radiation symbol;
 - B) The words, "Caution-Radioactive Material";
 - C) The name of the radionuclide;
 - D) The name of the chemical form;
 - E) The amount of radioactive material contained, in millicuries or microcuries, in the container contents at the time of calibration;

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- F) If the container contents are in liquid form, the volume in milliliters;
 - G) The requested calibration time for the amount of radioactivity contained;
 - H) The prescription number; and
 - I) The name or initials of the nuclear pharmacist filling the prescription.
- 2) The immediate container shall be labeled with:
- A) The standard radiation symbol;
 - B) The words, "Caution-Radioactive Material";
 - C) The name and address of the pharmacy;
 - D) The prescription number;
 - E) Name of radionuclide; and
 - F) Name of chemical form.
- i) Nuclear Pharmacist Requirements – A nuclear pharmacist who serves as the pharmacist-in-charge of a Division IV pharmacy and all other pharmacists employed in the pharmacy shall provide evidence to the Division of the following:
- 1) Licensure as a Pharmacist in the State of Illinois; and
 - 2) That he/she is named as an authorized user or works under the supervision of a pharmacist who is named as an authorized user on a commercial nuclear pharmacy license issued by the Illinois Emergency Management Agency or in the case where a nuclear pharmacist, who works under a broad medical license at a university or research hospital, has been approved as a user by that institution's radiation safety committee in accordance with conditions of the license issued by the Illinois Emergency

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Management Agency.

- j) Nothing in this Part shall prohibit the operation of a nuclear medicine laboratory or any other department which is operated under the direct supervision of a licensed medical practitioner authorized to possess, use and administer radiopharmaceuticals.

Section 1330.95 Division V Pharmacies

- a) Pharmacies Required to Hold Division V Licenses
 - 1) Pharmacies which are located in or provide service to ambulatory care facilities, schools of veterinary medicine or other institutions or facilities. In addition to other requirements of the Act and this Part, these pharmacies shall comply with this Section.
 - 2) Pharmacies that hold Division II licenses and provide pharmacy services to the general public. In addition to other requirements of the Act and Rules, these pharmacies shall comply with Section 1330.92 and this Section.
 - 3) Pharmacies that hold Division III licenses and provide pharmacy services to the general public. In addition to other requirements of the Act and Rules, these pharmacies shall comply with Section 1330.93 and this Section.
- b) Recordkeeping Requirements for Filling Prescriptions
 - 1) Every prescription filled or refilled shall contain the handwritten name, initials or other unique identifier of the person authorized to practice pharmacy under the provisions of the Act who fills or refills the prescription. Additionally, the label affixed to the drug container must indicate the name, initials or other unique identifier of the person authorized to practice pharmacy in the State of Illinois who filled or refilled the prescription. No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription by the prescriber.
 - 2) Whenever a prescription, written or oral, is filled or refilled, by a

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registered pharmacy technician under the supervision of a pharmacist, the same shall contain the names, initials or other unique identifier of both the supervising pharmacist and the registered pharmacy technician who fills or refills the same. Additionally, the label affixed to the drug container must indicate the same initials.

- 3) Refilling a Prescription
 - A) Each refilling of a prescription shall be entered on the prescription or on another uniformly maintained, readily retrievable record, which indicates by the number of the prescription the following information:
 - i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;
 - iv) The name or initials of the pharmacist and the pharmacy technician, if applicable, in each refilling; and
 - v) The total number of refills for the prescription.
 - B) If the pharmacist doesn't otherwise indicate in a uniformly maintained record, he shall be deemed to have dispensed a refill for the full face amount of the prescription.
- 4) Presentation of a written prescription copy or prescription label shall be for information purposes only and has no legal status as a valid prescription order. The recipient pharmacist of the copy or prescription label shall contact the prescribing practitioner to obtain a new prescription order.
- 5) A pharmacist providing a copy of a prescription to an ultimate consumer for the purpose of transfer or any other purpose shall cancel the face of the original prescription and record the date the copy is issued, to whom issued, and his/her signature on the face of the original prescription. Copies of prescriptions shall be marked "For Information Purposes Only",

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and may neither be filled nor refilled.

- 6) Subject to Section 18 of the Act, any information which is required to be kept pursuant to this Section may be recorded and stored in a computerized pharmaceutical information system that meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306) (1998), and that contain no further amendments or editions, and shall include the capability to:
 - A) Retrieve the original prescription order information for those prescription orders currently authorized for refilling;
 - B) Retrieve the current prescription orders that shall, at a minimum, include name of drug, date of refill, quantity dispensed, name and identification code of the manufacturer in the case of a generically written prescription or a generic interchange, name or initials of the dispensing pharmacist and technician for each refill, and the total number of refills dispensed to date;
 - C) Supply documentation of the correctness of refill information entered into a system must be provided by the pharmacist using the system by way of a hard copy printout of each day's refill data that has been verified, dated and signed by the dispensing pharmacist. This printout must include for each script refilled at least the following information:
 - i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;
 - iv) The name or initials of the pharmacist in each refilling and the pharmacy technician, if applicable;
 - v) The patient's name;
 - vi) The prescriber's name; and

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- vii) The prescription number for the prescription.

In lieu of a printout, the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.

- 7) All refill data shall be maintained by the pharmacy on the premises for 5 years in accordance with Section 18 of the Act. The pharmacy shall have the appropriate equipment on the premises to provide readily retrievable information in the course of an on-site inspection. A hard copy printout shall be provided to the Division, upon request, within 48 hours.

- c) Transfer of Prescription Information

- 1) A prescription may be transferred between pharmacies for the purpose of original fill or refill dispensing provided that:
 - A) The transferor pharmacist invalidates the prescription on file and records to whom transferred, the date of issuance of the copy and the name of the transferor pharmacist issuing the transferred prescription order; and
 - B) The transferee pharmacist, upon receiving the prescription directly from another pharmacist, records the following:
 - i) The name, address and original prescription number of the pharmacy from which the prescription was transferred;
 - ii) All information constituting a prescription order, including the following: name of drug, original amount dispensed, date of original issuance of the prescription and number of valid refills remaining; and
 - C) The transferee pharmacist informs the patient that the original

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prescription has been cancelled at the pharmacy from which it has been transferred.

- 2) A prescription for Schedule III, IV and V drugs may be transferred from original pharmacy one time for the purpose of refill dispensing and may not be transferred further. However, a pharmacist who is electronically sharing real-time on line computerized systems may transfer up to the maximum refills permitted by law and the prescriber's authorization in accordance with CFR 1306.26(a).
 - 3) Computerized systems must satisfy all information requirements of subsection (c), including invalidation of the original prescription when transferred between pharmacies accessing the same prescription records or between pharmacies of the same ownership. If those systems that access the same prescription records have the capability of cancelling the original prescription, pharmacies using such a system are exempt from the requirements of subsection (c) if the transferred prescription can always be tracked to the original prescription order from the prescribing practitioner and the original prescription can be produced.
- d) Staffing of the Pharmacy
- 1) Whenever the hours of the pharmacy (prescription department) differ from those of the establishment in which the pharmacy is located, there shall be compliance with the following:
 - A) The schedule during which the practice of pharmacy is carried on in the pharmacy shall be conspicuously displayed.
 - B) When the pharmacy is closed, the public and any employees not registered under the Act are to be prohibited access to the area.
 - C) Whenever an establishment housing a pharmacy is open and a pharmacist is not present and available to provide pharmaceutical services as defined in Section 3 of the Act, a sign shall be conspicuously displayed stating in all capital letters:
PHARMACIST NOT ON DUTY; STATE LAW PROHIBITS
FILLING OF PRESCRIPTIONS IN THE ABSENCE OF A
PHARMACIST.

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- D) No prescription may be dispensed when a pharmacist is not physically present in the establishment and on duty.
- 2) The pharmacy must provide pharmaceutical services, as defined in Section 3 of the Act, to the public a minimum of 40 hours per week. A pharmacy is considered providing pharmaceutical services when a pharmacist is physically present in the establishment and available for consultation.
- e) Pharmacist-in-Charge
 - 1) No pharmacy shall be granted a certificate of licensure without a pharmacist being designated on the pharmacy license as pharmacist-in-charge. No pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all the activities of all employees as they relate to the practice of pharmacy;
 - B) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed, as set forth in Section 1330.75; and
 - C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs.
 - 2) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.
 - 3) Within 10 days after the change of a pharmacist-in-charge, the Division shall be notified in writing by the departing pharmacist-in-charge.
 - 4) In addition to notifying the Division within 10 days, the departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:

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- A) All Schedule II drugs, as defined in the Illinois Controlled Substance Act, by actual physical count; and
 - B) All other scheduled drugs, as defined in the Illinois Controlled Substance Act, by estimated count.
- 5) Such inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the inventory record, bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge, shall be submitted to the Division, at its principal office, within 10 days after the change in the pharmacist-in-charge.
- 6) Failure on the part of a registrant to provide the information required in subsections (e)(3), (4) and (5) shall be grounds for denying licensure application or renewal application for a pharmacy license or for disciplinary action against a registrant. Such action shall be based on the recommendation of the Board in accordance with Sections 30-39 of the Act and 68 Ill. Adm. Code 1110.
- 7) When the accuracy, relevance or completeness of any submitted documentation is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
- A) Provide such information as may be necessary; and/or
 - B) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information given or clear up any discrepancies or conflicts in information.
- f) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale any dispensed medications, chemicals, poisons or medical devices except for:

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- 1) Medical devices that can be properly sanitized prior to reuse, resale or rerepent; and
 - 2) Medications and medical devices that are dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current United States Pharmacopoeia (USP)/National Formulary or by the United States Pharmacopoeial Convention, Inc.
- g) Pharmacies that compound and dispense parenteral products shall comply with Section 1330.99 of this Part.
- h) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.98 of this Part.

Section 1330.96 Nonresident Pharmacies

- a) The Board shall require and provide for an annual nonresident special pharmacy registration for all pharmacies located outside of this State that dispense medications for Illinois residents and mail, ship or deliver prescription medications into this State. Nonresident special pharmacy registration shall be granted by the Board upon the disclosure and certification by a pharmacy:
- 1) That it is licensed in the state in which the dispensing facility is located and from which the drugs are dispensed;
 - 2) Of the location, names and titles of all principal corporate officers and all pharmacists who are dispensing drugs to residents of this State;
 - 3) That it complies with all lawful directions and requests for information from the board of pharmacy of each state in which it is licensed or registered, except that it shall respond directly to all communications from the Board concerning emergency circumstances arising from the dispensing of drugs to residents of this State;
 - 4) That it maintains its records of drugs dispensed to residents of this State so that the records are readily retrievable from the records of other drugs dispensed;

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- 5) That it cooperates with the Board in providing information to the board of pharmacy of the state in which it is licensed concerning matters related to the dispensing of drugs to residents of this State; and
 - 6) That during its regular hours of operation, but not less than 6 days per week, for a minimum of 40 hours per week, a toll-free telephone service is provided to facilitate communication between patients in this State and a pharmacist at the pharmacy who has access to the patients' records. The toll-free number must be disclosed on the label affixed to each container of drugs dispensed to residents of this State.
- b) To obtain nonresident special pharmacy registration in Illinois, an applicant shall file an application with the Division, on forms provided by the Division, that includes:
- 1) Disclosure and certification of information required in subsections (a)(1) through (6); and
 - 2) The required fee pursuant to Section 1330.35.
- c) Nonresident special pharmacy registration shall expire on March 31 of each even numbered year and may be renewed during the 60 days preceding the expiration date by paying the fee required by Section 1330.35.

Section 1330.97 Division VI Pharmacies

- a) Division VI pharmacies are pharmacies that provide remote medication order processing to patients of institutions that are serviced by pharmacies with a Division II or Division III license, but the Division VI pharmacy does not maintain a supply of drugs. Division VI pharmacies may provide pharmacy services only in cooperation with an institution's pharmacy or pharmacy provider.
- 1) Any nonresident pharmacy applying for a Division VI license shall first be registered in its resident state.
 - 2) There shall be a secure, HIPAA compliant, electronic communication system that shall include but not be limited to computer, telephone and facsimile connections.

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- 3) This system shall give remote access to the computer system of the Division II pharmacy or Division III pharmacy to allow the Division VI pharmacist to perform remote medication order processing and shall include all laboratory results and every patient's or resident's medication profile.
 - 4) The secure electronic communication system shall be maintained on a daily basis. If this system malfunctions, the Division VI pharmacy shall cease operations related to the institution affected.
 - 5) Nothing in this Section shall relieve the pharmacist-in-charge of Division II and Division III pharmacies of compliance with Sections 1330.92 and 1330.93, respectively.
- b) Recordkeeping Requirements
- 1) A policy and procedure manual shall be maintained by a Division VI pharmacy pertaining to the pharmacy's operations. The manual shall:
 - A) Be accessible to the Division VI pharmacy staff and the staff at the institution who are involved in remote medication order processing and dispensing;
 - B) Be available for inspection by the Department;
 - C) Outline the responsibilities of the Division VI pharmacy staff and the staff at the institution who are involved in remote medication order processing;
 - D) Include a current list of the name, address, telephone number, and license number of each pharmacist involved in remote medication order processing;
 - E) Include policies and procedures for:
 - i) Protecting the confidentiality and integrity of patient information;

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- ii) Ensuring that pharmacists performing prospective drug utilization review have access to appropriate drug information resources;
 - iii) Ensuring that medical and nursing staff understand how to contact a pharmacist;
 - iv) Maintaining records to identify the name, initials, or identification code of each pharmacist who performs any processing function for a medication order;
 - v) Complying with federal and state laws and regulations;
 - vi) Operating or participating in a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems;
 - vii) Reviewing the written policies and procedures and documenting the review annually.
- 2) Every pharmacist providing remote medication order processing services shall record on the order, in the computer system, or on another appropriate, unalterable, uniformly maintained and readily retrievable record the following information for every drug order or prescription processed on behalf of a Division II or III pharmacy:
- A) The name, initials or other unique identifier of the pharmacist who verifies the drug order or prescription;
 - B) The name of the patient or resident;
 - C) The name, dose, dosage form, route of administration, and dosing frequency of the drug;
 - D) The date and time of verification;

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- E) The name of the prescribing/ordering physician;
 - F) Any other information that is required by the institution being served for use in its own records.
- 3) The records for medications entered at the Division VI pharmacy must be distinguishable and readily retrievable from those entered at the institution being served.
 - 4) The pharmacist-in-charge of the Division VI pharmacy shall maintain and have access to the following records for a minimum of 5 years:
 - A) Records of medication orders processed;
 - B) Records of the electronic communication system maintenance.
 - 5) The Division VI pharmacy shall maintain a record containing the names and license numbers of all Division II and Division III pharmacies to which they are providing services and the number of hours per day the services are being provided.
- c) Staffing of the Pharmacy
- 1) No pharmacy shall be granted a certificate of licensure for a Division VI pharmacy without a pharmacist being designated on the pharmacy license application as pharmacist-in-charge. No pharmacist may be designated as a pharmacist-in-charge on more than one pharmacy license. The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all the activities of all employees as they relate to the practice of pharmacy.
 - B) Establishment and supervision of the recordkeeping system for all the documents, electronic communication and all the transfers of information between the pharmacy and the institution that is being provided services.
 - C) The operation of the pharmacy and maintenance of security provisions for the records and the electronic communication

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system of the pharmacy. The owner of the Division VI pharmacy shall be equally responsible.

- 2) Within 10 days after the change of a pharmacist-in-charge, the Division shall be so notified in writing by the departing pharmacist-in-charge.
- 3) All Division VI pharmacists shall be licensed in Illinois.
- 4) Only licensed pharmacists at a Division VI pharmacy shall conduct the drug utilization evaluation or review and validation of any order processed within the Division VI pharmacy.

Section 1330.98 Automated Dispensing and Storage Systems

- a) This Section sets forth standards for Divisions I, II, III and V pharmacies whose practice includes the use of automated dispensing and storage systems. Automated dispensing and storage systems shall not be used in Division IV pharmacies.
- b) Definitions
"Automated Dispensing and Storage Systems" include, but are not limited to, mechanical systems that perform operations or activities, other than counting, compounding, or administration, relative to the storage, packaging or dispensing of medications, and that collect, control, and maintain all transaction information.
- c) Automated Dispensing and Storage Systems
 - 1) Automated dispensing and storage systems may be utilized in Division I, Division II, Division III and Division V licensed pharmacies.
 - 2) When automated dispensing systems are used in health care facilities licensed under the Hospital Licensing Act, Nursing Home Care Act, the University of Illinois Hospital Act, or facilities operated by the Illinois Department of Corrections or Department of Human Services, only persons properly licensed under Illinois laws who have authority to administer medications or persons working under the direct supervision of those individuals shall have access for removal of prescription medications for patient use. When the systems are used within a licensed pharmacy, a pharmacist shall be responsible for dispensing the product.

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Automated dispensing and storage systems shall not be used for direct patient access to prescription medications.

- 3) Documentation as to type of equipment, serial numbers, content, policies and procedures, and locations shall be maintained on-site in the pharmacy for review by the Division. Such documentation shall include, but not be limited to:
 - A) Name and address of the pharmacy or facility where the automated dispensing and storage system is operational;
 - B) Manufacturer's name and model;
 - C) Quality assurance policy and procedures to determine continued appropriate use and performance of the automated device; and
 - D) Policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention or archival, definitions, downtime procedures, emergency or first dose procedures, inspection, installation requirements, maintenance, medication security, quality assurance, medication inventory, staff education and training, system set-up and malfunction.
- 4) Automated dispensing and storage systems shall be used only in settings that ensure medication orders are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.
- 5) Automated dispensing and storage systems shall have adequate security systems and procedures, evidenced by written pharmacy policies and procedures, to:
 - A) Prevent unauthorized access or use;
 - B) Comply with any applicable federal and State regulations; and
 - C) Maintain patient confidentiality.
- 6) Records and/or electronic data kept by automated dispensing and storage

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systems shall meet the following requirements:

- A) All events involving access to the contents of the automated dispensing and storage systems must be recorded electronically;
- B) Records must be maintained by the pharmacy and must be readily available to the Division. Such records shall include:
 - i) identity of system accessed;
 - ii) identification of the individual accessing the system;
 - iii) type of transaction;
 - iv) name, strength, dosage form and quantity of the drug accessed;
 - v) name of the patient for whom the drug was ordered;
 - vi) identification of the registrants stocking or restocking and the pharmacist checking for the accuracy of the medications to be stocked or restocked in the automated dispensing and storage system; and
 - vii) such additional information as the pharmacist-in-charge may deem necessary.
- 7) The stocking or restocking of all medications in the automated dispensing and storage systems shall be accomplished by registrants under the Act.
- 8) All containers of medications stored in the automated dispensing and storage systems shall be packaged as a unit of use for single patient use (e.g., unit dose tab/cap, tube of ointment, inhaler, etc.) and labeled as specified in this subsection (c)(8):
 - A) Parenteral solutions to which a drug or diluent has been added, or that are not in their original manufacturer's packaging, shall contain the following information on the outer label:

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- i) Name, concentration and volume of the base parenteral solution;
 - ii) Name and strength of drugs or diluent added;
 - iii) Date and expiration date of the admixture. The expiration date, unless otherwise specified in the individual compendia monograph, or beyond use date shall be no later than the expiration date on the manufacturer's container or one year from the date the drug is repackaged; and
 - iv) Reference code to identify source and lot number of drugs or diluent added.
- B) Non-parenterals repackaged for future use shall be identified with the following information:
- i) Trade and/or generic name;
 - ii) Strength (if applicable);
 - iii) Expiration date. Unless otherwise specified in the individual monograph, the expiration date or beyond use date shall be no later than the expiration date on the manufacturer's container or one year from the date the drug is repackaged; and
 - iv) Reference code to identify source and lot number.
- C) Exceptions to the "unit of use" requirements in subsections (c)(8)(A) and (B) are as follows:
- i) Injectable medications stored in their original multi-dose vial (e.g., insulin, heparin) where the medication may be withdrawn into a syringe or other delivery device for single patient use; or
 - ii) Over-the-counter (OTC) products stored in their original multi-dose container (e.g., antacids, analgesics) where the

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medication may be withdrawn and placed into an appropriate container for single patient use.

- 9) For medication removed from the system for on-site patient administration, the system must document the following information:
 - A) Name of the patient or resident;
 - B) Patient's or resident's unique and permanent identifier, such as admissions number or medical records number;
 - C) Date and time medication removed from the system;
 - D) Name, initials, or other unique identifier of the person removing the drug; and
 - E) Name, strength and dosage form of the drug or description of the medical device removed. The documentation may be on paper, via electronic media or via any other media or mechanisms as set forth by the Act or this Part or as approved by the Division.
- 10) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for medications once removed from and subsequently returned to the automated dispensing and storage systems (e.g., return bin). No medication or device shall be returned directly to the system for immediate reissue or reuse by a non-registrant under the Act. Medication or devices once removed shall not be reused or reissued except for:
 - A) Medical devices which can be properly sanitized prior to reuse or reissue; and
 - B) Medication that is dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current USP/National Formulary, or by the USP Conventions, Inc.
- 11) The automated dispensing and storage systems shall provide a mechanism

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for securing and accounting for wasted medications or discarded medications.

- 12) The quality assurance documentation for the use and performance of the automated dispensing and storage systems shall include at least the following:
 - A) Safety monitors (e.g., wrong medications removed and administered to patient);
 - B) Accuracy monitors (e.g., filling errors, wrong medications removed); and
 - C) Security monitors (e.g., unauthorized access, system security breaches, controlled substance audits).
- 13) Errors in the use or performance of the automated dispensing and storage systems resulting in patient or resident death shall be reported to the Division by the pharmacist-in-charge within 30 days after acquiring knowledge of the incident.
- 14) Policy and procedures for the use of the automated dispensing and storage systems shall include a requirement for pharmacist review of the prescription or medication order prior to the system profiling and/or removal of any medication from the system for immediate patient administration. This does not apply to the following situations:
 - A) The system is being used as an after hours cabinet for medication dispensing in the absence of a pharmacist as defined in Section 1330.93(e)(1);
 - B) The system is being used in place of an emergency kit as defined in Section 1330.93(e)(2);
 - C) The system is being used to provide access to medication required to treat the immediate needs of a patient as defined in Section 1330.93(e)(3). A sufficient quantity to meet the immediate needs of the patient may be removed until a pharmacist is on duty and available to review the prescription or medication order. A

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pharmacist shall check such orders promptly once on duty (e.g., floor stock system, emergency department, surgery, ambulatory care or same day surgery, observation unit, etc.).

- 15) Policies and procedures for the use of the automated dispensing and storage systems shall include the following:
 - A) List of medications to be stored in each system;
 - B) List of medications qualifying for emergency or first dose removal without pharmacist prior review of the prescription or medication order; and
 - C) List of medications qualifying for control purposes.
 - 16) The pharmacist-in-charge shall maintain or have access to all records or documentation specified in this Section for 5 years or as otherwise required by law.
 - 17) A copy of all pharmacy policies and procedures related to the use of an automated dispensing and storage system shall be maintained at all locations where the system is being used.
- d) Duties and Responsibilities of the Pharmacist-in-Charge
- 1) The pharmacist-in-charge shall be responsible for:
 - A) Assuring that the automated dispensing and storage system is in good working order and accurately provides the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate recordkeeping and security safeguards;
 - B) Establishment of a quality assurance program prior to implementation of an automated dispensing and storage system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of the automated dispensing and storage system, which is evidenced by written policies and procedures developed by the pharmacy;

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- C) Providing the Division with written notice 30 days prior to the installation of or at the time of removal of an automated storage and dispensing system. Such notice must include, but is not limited to:
 - i) the name and address of the pharmacy;
 - ii) the address of the location of the automated dispensing and storage system, if different from the address of the pharmacy;
 - iii) the automated dispensing and storage system's manufacturer and model;
 - iv) the pharmacist-in-charge; and
 - v) a written description of how the facility intends to use the automated storage and dispensing system;
 - D) Determining and monitoring access to and the limits on access (e.g., security levels) to the automated storage and dispensing system. Such access shall be defined by policies and procedures of the pharmacy and shall comply with State and federal regulations.
- 2) Additional responsibilities of the pharmacist-in-charge or pharmacist designated by the pharmacist-in-charge shall include:
- A) Authorizing the assigning of access to, discontinuing access to, or changing access to, the system;
 - B) Ensuring that access to the medications complies with State and federal regulations as applicable; and
 - C) Ensuring that the automated dispensing and storage system is stocked/restocked accurately and in accordance with established, written pharmacy policies and procedures.

Section 1330.99 Parenteral Product Standards

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- a) This Section sets forth standards for Divisions I, II, III, IV and V pharmacies whose practice includes the preparation, labeling and distribution of parenteral products pursuant to prescriptions or drug orders, as defined in the Act. These activities may include, but are not limited to:
- 1) Sterile preparation of parenteral therapy, parenteral nutrition; and
 - 2) Sterile preparations of cytotoxic or antineoplastic agents.
- b) Definitions

Barrier Isolation Chamber – an apparatus designed to provide a Class 100 environment for preparation of sterile products using solid walls rather than air movement (laminar air flow) to create a critical zone for product handling, a HEPA filtration system that conditions the air flowing through the unit to remove initial particles and particles generated within the controlled environment, and a means by which products are introduced and people interact with the product being prepared within the unit.

Biological Safety Cabinet – containment unit suitable for the preparation of low to moderate risk agents when there is a need for protection of the product, personnel and environment, according to National Sanitation Foundation (NSF) Standard 49.

Cytotoxic – a pharmaceutical that has the capability of killing living cells. These agents shall include, but are not limited to, agents classified as cancer chemotherapeutic, carcinogenic, mutagenic and antineoplastic.

Laminar Airflow Hood – apparatus designed to provide a Class 100 environment for preparation of sterile products using air circulation in a defined direction that passes through a HEPA filter to remove the initial particles and particles generated within the controlled environment.

Parenteral – sterile preparations of drugs for injection through one or more layers of the skin.

Terminal – a patient whose medical condition indicates his/her life expectancy to be 6 months or less.

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- c) Physical Requirements of Pharmacies Preparing Sterile Parenteral Products
- 1) The pharmacy shall have a designated area for preparing sterile parenteral products. The area shall be designed to minimize outside traffic and airflow disturbances from activity within the facility. It shall be of sufficient size to accommodate a laminar airflow hood, barrier isolation chamber or biological safety cabinet and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation and security. It shall be ventilated in a manner not interfering with the proper operation of the parenteral products preparation apparatus.
 - 2) The licensed pharmacy preparing sterile parenteral products shall have the following:
 - A) Laminar airflow hood
 - i) Laminar airflow equipment shall be certified annually in accordance with Federal Standard 209E (for horizontal laminar airflow equipment) or National Sanitation Foundation Standard 49 (for vertical laminar airflow equipment).
 - ii) In the event the preparation apparatus is moved from its site of certification, recertification shall occur.
 - iii) Prefilters must be replaced or cleaned monthly and documentation of this maintained;
 - B) Sink with hot and cold running water, which is convenient to the compounding area;
 - C) Environmental Protection Agency approved disposal containers for used needles, syringes, etc., and if applicable, cytotoxic waste from the preparation of chemotherapy agents and infectious wastes;
 - D) Biohazard cabinetry for environment control when cytotoxic drug products are prepared;

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- E) Refrigerator and/or freezer with a thermometer;
 - F) Temperature controlled container for off site deliveries.
- 3) The following current resource materials and texts shall be maintained in the pharmacy:
- A) United States Pharmacopoeia/National Formulary (USP/NF);
 - B) American Hospital Formulary Service;
 - C) Copies of the Illinois Pharmacy Practice Act and this Part, the Illinois Controlled Substances Act [720 ILCS 570] and Rules, 21 CFR and the Illinois Hypodermic Syringes and Needles Act [720 ILCS 635];
 - D) One compatibility reference such as:
 - i) Trissel's Handbook on Injectable Drugs;
 - ii) King's Guide to Parenteral Admixtures; or
 - iii) Any other Division approved publication;
 - E) A file on extended (more than 24 hours) stability data given to finished products.
- d) Staffing. A pharmacist shall be accessible at all times at each licensed facility to respond to patients' and health professionals' questions and needs. A 24-hour telephone number will be included on all labeling of compounded medication and medication infusion devices if off site.
- e) Drug Distribution and Control
- 1) Patient Profile or Medication Record System. A pharmacy generated patient profile or medication record system must be separate from the prescription file. The patient profile or medication record system shall contain, at a minimum:

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- A) Patient's full name;
 - B) Date of Birth or Age;
 - C) Sex;
 - D) Sterile products dispensed;
 - E) Date dispensed, if off site;
 - F) Drug content and quantity;
 - G) Patient directions, if off site;
 - H) Identifying number;
 - I) Identification of dispensing pharmacist and, if applicable, pharmacy technician;
 - J) Other drugs patient is receiving;
 - K) Known drug sensitivities and allergies to drugs and foods;
 - L) Diagnosis; and
 - M) Lot numbers of components or individual medicine if product is not used within 48 hours of preparation.
- 2) Labeling. Each parenteral product dispensed to patients shall be labeled with the following information with a permanent label:
- A) Name, address and telephone number of the licensed pharmacy, if not within facility;
 - B) Administration date and identifying number if used on site, date dispensed and identifying number if used off site;
 - C) Patient's full name and room number, if applicable;

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- D) Name of each drug, strength and amount;
 - E) Directions for use and/or infusion rate if used off site;
 - F) Prescriber's full last name if used off premises;
 - G) Required controlled substances transfer warnings, when applicable;
 - H) Expiration date and expiration hour;
 - I) Identity of pharmacist compounding and dispensing, or other authorized individual; and
 - J) Auxiliary labels, storage requirements if applicable.
- 3) The pharmacist-in-charge shall ensure that records are maintained for 5 years and are readily retrievable and in a format that provides enforcement agents an accurate and comprehensive method of monitoring distribution via an audit trail. The records shall include at least the following information:
- A) Patient profile;
 - B) Medication Record System;
 - C) Purchase records; and
 - D) Lot numbers of the components used in compounding sterile prescriptions/orders traceable to a specific patient, if not included on patient profile and if the product is not utilized within 48 hours after preparation.
- f) **Delivery Service.** The pharmacist-in-charge shall assure the environmental control of all products shipped or delivered off site. Therefore, any compounded, sterile pharmaceutical must be shipped or delivered to a patient in temperature controlled (as defined by USP Standards) delivery containers.
- g) **Cytotoxic Drugs.** The following additional requirements are necessary for those

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licensed pharmacies that prepare cytotoxic drugs:

- 1) Safety and containment techniques for compounding cytotoxic drugs shall be used.
- 2) Disposal of cytotoxic waste shall comply with all applicable local, State and federal requirements.
- 3) Prepared doses of cytotoxic drugs must be dispensed, labeled with proper precautions inside and outside and shipped in a manner to minimize the risk of accidental rupture of the primary container.
- 4) Must have as a reference Procedures for Handling Cytotoxic Drugs/American Society of Hospital Pharmacists (ASHP).

Section 1330.100 Application for a Pharmacy License

- a) Establishing, Relocating or Changing Ownership
 - 1) Any person who desires to establish, relocate or change the ownership of a pharmacy shall file an application on forms supplied by the Division, together with the fee required by Section 1330.35 and specify the applicable division as defined in Section 1330.05.
 - 2) Upon determination that the application is in good order, an inspection of the premises will be conducted to determine compliance with Section 14 of the Act. An application shall be in good order when it is signed, notarized and the license of the pharmacist-in-charge has been verified to be in good standing with the Division and that he/she is not a pharmacist-in-charge at another pharmacy.
 - 3) Upon recommendation of the Drug Compliance Coordinator, the Board may request the owner of the pharmacy and the pharmacist-in-charge to appear for an interview with the Board.
 - 4) No pharmacy license shall be issued unless the pharmacy meets the requirements of Section 14 of the Act and the requirements for each applicable division as set forth in Sections 1330.91, 1330.92, 1330.93, 1330.94 and/or 1330.95.

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- 5) No pharmacy license shall be issued if outdated drugs are in stock.
- b) For a change of name of pharmacist-in-charge only, the owner shall be required to file an application on forms supplied by the Department, together with the required fee and submit the present license. The Department shall evaluate the application and, if satisfactory, issue a new license.
- c) Within 30 days after issuance of a pharmacy license, the pharmacy for which the licensure was requested shall be open to the public for pharmaceutical services.

Section 1330.110 Granting Variances

- a) The Director may grant variances from this Part in individual cases where he/she finds that:
 - 1) The provision from which the variance is granted is not statutorily 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 State Board of Pharmacy of the granting of the variance, and the reasons for granting the variance, at the next meeting of the Board.

Section 1330.120 Renewals

- a) Every license issued under the Act except the certificate of registration as a pharmacy technician shall expire on March 31 of each even numbered year. Every certificate of registration as a pharmacy technician issued under the Act shall expire annually on March 31. The holder of a license or certificate of registration may renew the license or certificate during the 60 days preceding the expiration date by paying the required fee.
- b) It is the responsibility of each registrant to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute

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an excuse for failure to pay the renewal fee.

- c) Practicing or operating on a license or certificate that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 30 of the Act.

Section 1330.130 Restoration

- a) A registrant seeking restoration of a certificate of registration that has expired for 5 years or less shall have the license restored upon payment of all lapsed renewal fees required by Section 1330.35 and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.140 of this Part.
- b) A registrant seeking restoration of a certificate of registration that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.140 of this Part.
- c) A registrant seeking restoration of a certificate of registration after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee required by Section 1330.35 and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.140 of this Part. The registrant shall also submit either:
 - 1) Certification of active practice in another jurisdiction. Evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of active practice;
 - 2) An affidavit attesting to military service as specified in Section 12 of the Act. The applicant restoring a license shall be excused from the payment of any lapsed fee or any restoration fees.
 - 3) A registrant who is unable to submit proof of satisfaction of either subsection (c)(1) or (2) shall submit proof of completion of:

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- A) 15 clock hours of refresher courses or continuing education for each year the license was expired; or
- B) Up to 400 hours of clinical practice under the supervision of a pharmacist.

The course work or clinical training described in subsections (c)(3)(A) and (B) shall have the prior approval of the Board.

- d) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will 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 given or clear up any discrepancies in information.

Section 1330.140 Continuing Education

- a) Continuing Education Requirements
 - 1) Each person who applies for renewal of a license as a pharmacist shall complete 30 hours of continuing education (CE) during the 2 calendar years preceding the expiration date of the license in accordance with Section 12 of the Act.
 - 2) A renewal applicant is not required to comply with CE requirements for the first renewal after original licensure.
- b) Approved Continuing Education
 - 1) CE credit shall be based upon the completion of courses offered by providers approved by the American Council on Pharmaceutical Education. These courses may be completed outside the State of Illinois.
 - 2) Undergraduate coursework taken after completion of a first professional

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degree in pharmacy through a recognized college or approved school of pharmacy (in accordance with Section 1330.20 of this Part) may be used to fulfill the CE requirement if:

- A) Evidence of course completion through an official transcript and other documentation (e.g., certificate of completion or degree) of the university or college is submitted that indicates the number of course content hours completed; and
 - B) These courses are completed for college credit.
 - C) CE credit will be earned for each undergraduate course completed.
- c) Certification of CE Requirements
- 1) Each renewal applicant shall certify on the renewal application full compliance with CE requirements set forth in subsection (a).
 - 2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of the compliance (e.g., certificate of attendance or completion). Evidence shall be required in the context of the Division's random audit in accordance with Section 12 of the Act.
- d) The same CE hours cannot be used to fulfill the CE requirement for more than one renewal period.
- e) 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 Division a renewal application along with the required fee, a statement setting forth the facts concerning non-compliance and a request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from the affidavit or any other evidence submitted, that good cause has been shown for granting a waiver, the Division shall waive enforcement of such requirements for the renewal

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period for which the applicant has applied.

- 2) Good cause shall be defined as an inability to fulfill the CE requirements during the applicable period because of:
 - A) Full-time service in the armed forces of the United States of America during the applicable period; or
 - B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:
 - i) An incapacitating illness, documented by a currently licensed physician; or
 - ii) A physical inability to travel to the sites of approved programs, as documented by a currently licensed physician; or
 - iii) Any other similar extenuating circumstances (e.g., illness of family member).
- 3) An interview before the Board with respect to a request for waiver shall be granted only if the interview is requested at the time the request for the waiver is filed with the Division. The renewal applicant requesting a waiver shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.
- 4) Any renewal applicant who submits a request for waiver pursuant to subsection (d)(1) of this Section shall be deemed to be in good standing until the final Division decision on the application has been made.

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- 1) Heading of the Part: Pharmacy Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1330
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1330.10	New Section
1330.20	New Section
1330.30	New Section
1330.40	New Section
1330.50	New Section
1330.60	New Section
1330.70	New Section
1330.80	New Section
1330.90	New Section
1330.100	New Section
1330.200	New Section
1330.210	New Section
1330.220	New Section
1330.300	New Section
1330.310	New Section
1330.320	New Section
1330.330	New Section
1330.340	New Section
1330.350	New Section
1330.400	New Section
1330.410	New Section
1330.420	New Section
1330.500	New Section
1330.510	New Section
1330.520	New Section
1330.530	New Section
1330.540	New Section
1330.550	New Section
1330.560	New Section
1330.600	New Section
1330.610	New Section
1330.620	New Section
1330.630	New Section
1330.640	New Section

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1330.650	New Section
1330.660	New Section
1330.670	New Section
1330.680	New Section
1330.700	New Section
1330.710	New Section
1330.720	New Section
1330.730	New Section
1330.740	New Section
1330.750	New Section
1330.760	New Section
1330.770	New Section
1330.780	New Section
1330.790	New Section

- 4) Statutory Authority: Pharmacy Practice Act [225 ILCS 85/11(a)]
- 5) A Complete Description of the Subjects and Issues Involved: As a result of the sunset review process, PA 95-689 completely rewrote the Act regulating the licensure of pharmacists and pharmacies in Illinois, including changing the name to the Pharmacy Practice Act. As a result of the extensive changes this entails, the current Part 1330 is being repealed, to be replaced with a new Part 1330 encompassing all aspects of pharmacy regulation in Illinois. Probably the most significant changes are eliminating the divisions of pharmacy and adding which pharmacy services any licensed pharmacy, regardless of previous division, may provide. The current rules have also been overhauled to allow greater use of current technology in the course of recordkeeping and for the dispensing of prescription drugs remotely, while ensuring that the computer systems utilized protect private healthcare information. Section 1330.40 implements the registration of certified pharmacy technicians, including passage of an examination, while 1330.60 streamlines the application and acceptance process for pharmacists educated outside the United States, bringing us in line with the process utilized by most other states. Section 1330.270 sets the parameters under which telepharmacies are permitted, including remote automated pharmacy systems; pharmacy facility equipment and security requirements have also been updated. Section 1330.330 has been created to regulate the administration of vaccinations by pharmacists pursuant to standing orders. The Department has substituted the so-called "Plan B" rules with language modeled after rules promulgated in Washington State in 2007. The Washington rules are content neutral, apply to all FDA-approved drugs, and have survived constitutional challenge. *See Stormans, Inc. v. Selecky*, 571 F.3d 960 (9th Cir.

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2009). The overall effect of the rewrite of this Part is to enhance licensed pharmacists' role in providing pharmacy services to the public.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of this issue of the *Illinois Register* to:

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

217/785-0813 Fax #: 217/557-4451

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Licensed pharmacists, pharmacy technicians, and pharmacies may be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Licensure pursuant to the Pharmacy Practice Act.

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- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

The full text of the Proposed Rules 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 1330

PHARMACY PRACTICE ACT

SUBPART A: GENERAL PROVISIONS

Section	
1330.10	Definitions
1330.20	Fees
1330.30	Unprofessional/Unethical Conduct
1330.40	Violations
1330.50	Vaccinations/Immunizations
1330.60	Internet Pharmacies
1330.70	Granting Variances
1330.80	Renewals
1330.90	Restoration
1330.100	Continuing Education

SUBPART B: PHARMACY TECHNICIAN

Section	
1330.200	Application for Certificate of Registration as a Pharmacy Technician
1330.210	Pharmacy Technician Training
1330.220	Certified Pharmacy Technician

SUBPART C: PHARMACIST

Section	
1330.300	Approval of Pharmacy Programs
1330.310	Graduates of Programs Outside the United States
1330.320	Application for Examination
1330.330	Examination for Licensure
1330.340	Application for Licensure on the Basis of Examination
1330.350	Endorsement

SUBPART D: PHARMACY LICENSURE

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Section

- 1330.400 Application for a Pharmacy License
- 1330.410 Pharmacy Licenses
- 1330.420 Emergency Remote Temporary Pharmacy License

SUBPART E: TYPES OF PHARMACIES

Section

- 1330.500 Community Pharmacy Services
- 1330.510 Telepharmacy
- 1330.520 Offsite Institutional Pharmacy Services
- 1330.530 Onsite Institutional Pharmacy Services
- 1330.540 Nuclear Pharmacy Services
- 1330.550 Nonresident Pharmacies
- 1330.560 Remote Prescription/Medication Order Processing

SUBPART F: PHARMACY STANDARDS

Section

- 1330.600 Security Requirements
- 1330.610 Pharmacy Structural/Equipment Standards
- 1330.620 Electronic Equipment Requirements
- 1330.630 Sanitary Standards
- 1330.640 Pharmaceutical Compounding Standards
- 1330.650 Pharmacy Computer Regulations
- 1330.660 Pharmacist-in-Charge
- 1330.670 Compounded Sterile Preparation Standards
- 1330.680 Automated Dispensing and Storage Systems

SUBPART G: PHARMACY OPERATIONS

Section

- 1330.700 Patient Counseling
- 1330.710 Reporting Theft or Loss of Controlled Substances
- 1330.720 Transfer of Prescription
- 1330.730 Drug Prepackaging
- 1330.740 Multi-Med Dispensing Standards for Community Pharmacies
- 1330.750 Return of Drugs
- 1330.760 Electronic Transmission of Prescriptions

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- 1330.770 Centralized Prescription Filling
1330.780 Change of Ownership of a Pharmacy
1330.790 Closing a Pharmacy

AUTHORITY: Implementing the Pharmacy Practice Act [225 ILCS 85] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Adopted at 33 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 1330.10 Definitions

"Act" means the Pharmacy Practice Act [225 ILCS 85].

"Automated Dispensing and Storage Systems" include, but are not limited to, mechanical systems that perform operations or activities, other than counting, compounding or administration, relative to the storage, packaging or dispensing of medications, and that collect, control and maintain all transaction information.

"Board" means the State Board of Pharmacy.

"Community Pharmacy" means any pharmacy that engages in general community pharmacy practice and that is open to, or offers pharmacy service to, the general public.

"Deliver" means the actual, constructive or attempted transfer of possession of a prescription medication.

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

"Direct Supervision" means in the immediate physical presence of the person supervised.

"Director" means the Director of the Division of Professional Regulation with the authority delegated by the Secretary.

"Dispense" means to interpret, verify computer entry of, select the prescribed product for, prepare and/or deliver a prescription medication to an ultimate

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consumer or to a person authorized to receive the prescription medication by or pursuant to the lawful order of a practitioner, including the compounding, packaging and/or labeling necessary for delivery and any recommending, advising and counseling concerning the contents, therapeutic values, uses and any precautions, warnings and/or advice concerning consumption. Dispense does not mean the physical delivery to a patient or a patient's representative in a home or institution by a designee of a pharmacist or by common carrier or the physical delivery of a drug or medical device to a patient or patient's representative by a pharmacist's designee within a pharmacy or drugstore while the pharmacist is on duty and the pharmacy is open.

"Distribute" means to deliver, other than by dispensing, a prescription medication.

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

"Drug Regimen Review" means *and includes the evaluation of prescription drug orders and patient records for known allergies; drug or potential therapy contraindications; reasonable dose, duration of use, and route of administration, taking into consideration factors such as age, gender, and contraindications; reasonable directions for use; potential or actual adverse drug reactions; drug-drug interactions; drug-food interactions; drug-disease contraindications; therapeutic duplication; patient laboratory values when authorized and available; proper utilization (including over or under utilization) and optimum therapeutic outcomes; and abuse and misuse* [225 ILCS 85/3(y)].

"Electronic Transmission of Prescriptions" and "electronically transmitted prescriptions" means the communication of original prescriptions, refill authorizations, or medication orders, including controlled substances to the extent permitted by federal law, from an authorized licensed prescriber, or his or her authorized agent, to the pharmacy of the patient's choice by electronic means, including, but not limited to, telephone, facsimile machine, computer, computer modem or any other electronic device or authorized means.

"Institutional Pharmacy" means any pharmacy that is located in or outside a facility licensed under the Nursing Home Care Act, [210 ILCS 45] the Hospital Licensing Act [225 ILCS 85], or the University of Illinois Hospital Act [110 ILCS 330] or a facility that is operated by the Department of Human Services or the Department of Corrections, and that provides pharmacy services to residents or

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patients of the facility, as well as employees, prescribers and students of the facility.

"Medication Order" means a prescription issued by a physician or other authorized prescriber for a resident or patient of a facility served by an institutional pharmacy.

"Nonresident Pharmacy" means a pharmacy that is located outside this State that ships, delivers, dispenses or distributes into Illinois by any means any drugs, medicines, pharmaceutical services or devices requiring a prescription.

"Nuclear Pharmacist" means a pharmacist who provides radiopharmaceutical services and has satisfied the requirements of Section 1330.540(i).

"Nuclear Pharmacy" means any pharmacy that provides and/or offers for sale radiopharmaceuticals.

"On File" as used in Section 19 of the Act and this Part means the maintenance at the transferor pharmacy of the transferred prescription, whether previously filled or unfilled. For previously filled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of Section 18 of the Act. For previously unfilled prescriptions at a transferor pharmacy located in Illinois, the prescriptions shall be maintained in a readily retrievable format in a suitable book, file or recordkeeping system for a period of not less than 5 years. For previously filled and unfilled prescriptions at a transferor pharmacy located in a state other than Illinois, the prescriptions shall be maintained pursuant to the recordkeeping requirements of that state.

"Patient Counseling" means the communication between a pharmacist or a student pharmacist under the supervision of a pharmacist and a patient or the patient's representative about the patient's medication or device for the purpose of optimizing proper use of prescription medications or devices. *"Patient counseling" may include without limitation: obtaining a medication history; acquiring a patient's allergies and health conditions; facilitation of the patient's understanding of the intended use of the medication; proper directions for use; significant potential adverse events; potential food-drug interactions; and the need to be compliant with the medication therapy. A pharmacy technician may only participate in the following aspects of patient counseling under the supervision of a pharmacist: obtaining medication history; providing the offer for*

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counseling by a pharmacist or intern; and acquiring a patient's allergies and health conditions. [225 ILCS 85/3(r)]

"Patient Profiles" or "Patient Drug Therapy Record" means the obtaining, recording and maintenance of patient prescription and personal information.

"Pharmacist" means a currently licensed pharmacist or registered assistant pharmacist.

"Pharmacy Services" means the provision of any services listed within the definition of the "practice of pharmacy" found in Section 3(d) of the Act.

"Radiopharmaceutical" means any substance defined as a drug in Section 3(b) of the Act that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or nuclide generator that is intended to be used in the preparation of any such substance but does not include drugs such as carbon-containing compounds of potassium-containing salts that contain trace quantities of naturally occurring radionuclides. Radiopharmaceuticals include radioactive biological products as defined in the Federal Food, Drug and Cosmetic Act (21 USC 301 et seq.) and regulations promulgated under that Act.

"Radiopharmaceutical Quality Assurance" means, but is not limited to, the performance of appropriate chemical, biological and physical tests on potential radiopharmaceuticals, and the interpretation of the resulting data to determine their suitability for use in humans and animals, including internal test assessment, authentication of product history and the keeping of proper records in these regards.

"Radiopharmaceutical Service" means the compounding, dispensing, labeling and delivery of radiopharmaceuticals; the participation in radiopharmaceutical selection and radiopharmaceutical utilization reviews; the proper and safe storage and distribution of radiopharmaceuticals as determined by the Illinois Emergency Management Agency; the maintenance of radiopharmaceutical quality assurance; the responsibility for advising, where necessary or required, of diagnostic and therapeutic values, hazards and use of radioactive pharmaceuticals; and the offering or performance of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a nuclear pharmacy.

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"Registrant" means a licensed pharmacist, registered assistant pharmacist, certified pharmacy technician, student pharmacist, or registered pharmacy technician.

"Remote Medication Order Processing" means receiving, interpreting or clarifying medication orders; data entry and transferring of medication order information; performing drug utilization review; interpreting clinical data; performing therapeutic interventions; and providing drug information concerning medication orders or drugs from a remote pharmacy.

"Remote Pharmacy" means any pharmacy that provides pharmacy services at a location other than the home pharmacy.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Student Pharmacist" means a person registered as a pharmacy technician who is enrolled in a pharmacy program and is designated as a "student pharmacist" pursuant to Section 9 of the Act.

"Ultimate Consumer" means the person for whom a drug is intended.

"Unique Identifier" means an electronic signature, handwritten signature or initials, thumb print or other acceptable individual biometric or electronic identification process approved by the Division.

"Unprofessional Conduct" under Section 30 of the Act shall include, but not be limited to, any act or practice related to the practice of pharmacy that is willful, wanton, repeated or flagrant and likely to result in harm to an individual. In determining what constitutes unprofessional conduct, the Board shall consider, but shall not be limited to, the following standards as they relate to the person who is the subject of the proposed disciplinary action:

Violations set forth in Section 30(a) of the Act;

Repeated commission of an act or acts that are of a flagrant and obvious nature so as to constitute conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached;

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Repeated commission of an act or acts in a relationship with a patient so as to violate common standards of decency or propriety;

Willful violation or knowing assistance in the violation of any law relating to the use of habit-forming drugs;

Willful preparation or signing false statements in order to induce payment for pharmacy services by the Department of Healthcare and Family Services, or any other local, state or federal department, agency or governmental body, or any private insurance program; and

Violating the practice standards of the American Pharmaceutical Association (American Association of Colleges of Pharmacy Standards of Practice for the Profession of Pharmacy (March 1979)) and the Principles of Practice for Pharmaceutical Care (1996), which include no later editions or amendments, and which are herein incorporated by reference; however, non-compliance with these professional standards shall not alone be considered an act of unprofessional conduct unless these acts are of a flagrant, glaringly obvious nature constituting a substantial departure from these professional standards.

Section 1330.20 Fees

The following fees are not refundable

- a) Certificate of Pharmacy Technician
 - 1) The fee for application for a certificate of registration as a pharmacy technician is \$40.
 - 2) The fee for the renewal of a certificate of registration as a pharmacy technician shall be calculated at the rate of \$25 per year.

- b) License as a Pharmacist
 - 1) The fee for application for a license as a pharmacist is \$75.

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- 2) In addition, applicants for any examination as a registered pharmacist shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.
 - 3) The fee for a license as a registered pharmacist, registered or licensed under the laws of another state or territory of the United States, is \$200.
 - 4) The fee for the renewal of a license shall be calculated at the rate of \$75 per year.
 - 5) The fee for the restoration of a license other than from inactive status is \$20 plus all lapsed renewal fees.
 - 6) Applicants for the preliminary diagnostic examination shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.
 - 7) The fee to have the scoring of an examination authorized by the Division reviewed and verified is \$20 plus any fee charged by the applicable testing service.
- c) License as a Pharmacy
- 1) The fee for application for a license for a pharmacy under the Act is \$100.
 - 2) The fee for the renewal of a license for a pharmacy under the Act shall be calculated at the rate of \$100 per year.
 - 3) The fee for the change of a pharmacist-in-charge is \$25.

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- d) General Fees
 - 1) 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 changes on Division records when no duplicate certification is issued.
 - 2) The fee for a certification of a registrant's record for any purpose is \$20.
 - 3) The fee to have the scoring of an examination administered by the Division reviewed and verified is \$20.
 - 4) The fee for a wall certificate showing licensure or registration shall be the actual cost of producing the certificate.
 - 5) The fee for a roster of persons registered as pharmacists or registered pharmacies in this State shall be the actual cost of producing the roster.
 - 6) The fee for pharmacy licensing, disciplinary or investigative records obtained pursuant to a subpoena is \$1 per page.

Section 1330.30 Unprofessional/Unethical Conduct

Unprofessional and Unethical conduct shall include, but not be limited to:

- a) Failing to establish and maintain effective controls against diversion of prescription drugs.
- b) Making or filing a report or record that a pharmacist or pharmacy knows to be false or intentionally or negligently failing to file a report or keep records as required by the Act or this Part.
- c) Knowingly dispensing a prescription drug after the death of the person for whom the prescription was written.
- d) Billing or charging for quantities of drugs greater than that which was delivered or charging patients for a brand drug when a generic is dispensed.

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- e) Submitting fraudulent billing or reports to a third party payer.
- f) Filling a prescription when a pharmacist knows, or reasonably should know, that no valid physician-patient relationship exists.
- g) Failing to ensure that patient counseling is offered or refusing to respond to requests for patient counseling.
- h) Failing to use appropriate professional judgment when dispensing drugs.
- i) Unreasonably refusing to compound a valid prescription.
- j) Discriminating in any manner against a person or group based upon that person or group's religion, race, creed, color, gender, sexual orientation, age or national origin.
- k) Knowingly selling a prescription drug without a valid prescription.
- l) Failing to exercise sound professional judgment with respect to the accuracy and authenticity of any prescription drug order dispensed.
- m) Failure of a licensee or registrant to keep himself or herself and his or her apparel clean or to wear identification bearing his or her name and designation.
- n) Directly or indirectly furnishing to a medical practitioner prescription order-blanks that refer to a specific pharmacist or pharmacy in any manner.
- o) Actively or passively participating in any arrangement or agreement in which a prescription order-blank is prepared, written or issued in a manner that refers to a specific pharmacist or pharmacy.
- p) Claiming a fee for a service that is not performed or earned.
- q) Dividing a prescription order unless directed by the prescriber, payer or patient or when the full quantity of that prescription medication is not available at that location.

Section 1330.40 Violations

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- a) A registrant shall not:
- 1) Engage in a professional association, with any place defined as a drug store or pharmacy in the Act where the practice of pharmacy is engaged in by any person who is not authorized to practice under the Act or that is not operated and conducted in compliance with the Act.
 - 2) Compound, sell or offer for sale, or cause to be compounded, sold or offered for sale, any drug, medicine, poison, chemical or pharmaceutical preparation, under or by a name recognized in the United States Pharmacopeia/National Formulary for internal or external use that differs from standard of strength, quality, purity or bioavailability as determined by the tests specified in the United States Pharmacopeia/National Formulary that is official at the time of the compounding, sale or offering for sale.
 - 3) Compound, sell or offer for sale, or willfully cause to be compounded, sold or offered for sale, any drug, medicine, poison, chemical or pharmaceutical preparation the strength or purity of which falls below the professed standard of strength or purity under which it is sold.
 - 4) Purchase prescription drugs from any source that fails to meet provisions of the Wholesale Drug Distribution Licensing Act [225 ILCS 120].
- b) No registrant shall violate any of the following laws, or the rules or regulations promulgated pursuant to these laws, which relate to the practice of pharmacy:
- 1) Illinois Food, Drug and Cosmetic Act [410 ILCS 620].
 - 2) Hypodermic Syringes and Needles Act [720 ILCS 635].
 - 3) Federal Food, Drug and Cosmetic Act (21 USC 301 et seq.).
 - 4) Federal Controlled Substances Act (21 USC 801 et seq.).
 - 5) Illinois Controlled Substances Act [720 ILCS 570].
 - 6) Cannabis Control Act [720 ILCS 550].

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- 7) Illinois Poison Prevention Packaging Act [430 ILCS 40].
 - 8) Poison Prevention Packaging Act of 1970 (15 USC 1471 et seq.).
 - 9) Wholesale Drug Distribution Licensing Act [225 ILCS 120].
- c) If a licensee or registrant is disciplined in another state he or she must inform the Division.

Section 1330.50 Vaccinations/Immunizations

- a) Qualifications
- 1) A pharmacist, or student pharmacist under the direct supervision of a pharmacist, may administer vaccinations/immunizations to persons who are 14 years of age or older pursuant to a valid patient specific prescription or a standing order by a physician licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60].
 - 2) The pharmacist shall successfully complete a course of training accredited by the Accreditation Council on Pharmacy Education, or a similar health authority or professional body approved by the Division.
 - 3) The pharmacist shall maintain a current Basic Life Support Certification for Healthcare Providers issued by the American Heart Association or the American Red Cross.
 - 4) Each pharmacy or pharmacist functioning outside of a pharmacy shall have available a current copy or electronic version of the CDC reference "Epidemiology and Prevention of Vaccine – Preventable Diseases" at the location where vaccinations are administered.
 - 5) The administration of vaccines shall be done by a pharmacist or student pharmacist under the direct supervision of a pharmacist.
- b) Protocols, Policies and Procedures
- 1) Prior to administrating vaccinations/immunizations to persons who are 14 years of age or older, a pharmacist or student pharmacist under the direct

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supervision of a pharmacist must follow protocols written by a physician licensed to practice medicine in all of its branches for the administration of vaccines and treatment of severe adverse events following administration of vaccines

- 2) The pharmacy must maintain written policies and procedures for handling and disposal of all used supplies or contaminated equipment.
 - 3) The pharmacist or student pharmacist under the direct supervision of a pharmacist must give the appropriate vaccine information statement (VIS) to the patient or legal representative prior to each vaccination. The pharmacist or student pharmacist under the direct supervision of a pharmacist must ensure that the adult patient or minor (age 14 or older) patient's parent or legal representative is available and has the vaccine information statement.
 - 4) The pharmacy must report adverse events as required by the Vaccine Adverse Events Reporting System (VAERS) and to the primary care provider named by the patient.
- c) Record Keeping and Reporting
- 1) All records regarding each administration of a vaccine must be kept for 5 years. These records shall include:
 - A) The name, address and date of birth of the patient.
 - B) Date of administration and site of injection of the vaccine.
 - C) Name, dose, manufacturer, lot number and beyond use date of the vaccine.
 - D) Name and address of the patient's primary health care provider named by the patient.
 - E) The name or unique identifier of the administering pharmacist.
 - F) Which vaccine information statement (VIS) was provided.

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- 2) A pharmacist who administers any vaccine must report that administration, within 30 days after the date of administration, to the patient's primary healthcare provider named by the patient.

Section 1330.60 Internet Pharmacies

The provisions of the federal Ryan Haight Online Pharmacy Consumer Protection Act of 2008 (Ryan Haight Act) (21 USC 801/et seq.) and all federal regulations adopted under that Act, are expressly adopted by this Part.

Section 1330.70 Granting Variances

- a) The Director may grant variances from this Part in individual cases when he or she finds that:
 - 1) The provision from which the variance is granted is not statutorily 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, at the next meeting of the Board.

Section 1330.80 Renewals

- a) Every license issued under the Act, except the certificate of registration as a pharmacy technician, shall expire on March 31 of each even-numbered year. Every certificate of registration as a pharmacy technician issued under the Act shall expire annually on March 31. The holder of a license or certificate of registration may renew the license or certificate during the 60 days preceding the expiration date by paying the required fee.
- b) It is the responsibility of each registrant to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee.

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- c) Practicing or operating on a license or certificate that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 30 of the Act.

Section 1330.90 Restoration

- a) A registrant seeking restoration of a certificate of registration that has expired for 5 years or less shall have the license restored upon payment of all lapsed renewal fees required by Section 1330.20 and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.100 of this Part.
- b) A registrant seeking restoration of a certificate of registration that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.100 of this Part.
- c) A registrant seeking restoration of a certificate of registration after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee required by Section 1330.20 and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.100 of this Part.
 - 1) The registrant shall also submit either:
 - A) Certification of active practice in another jurisdiction. Evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of active practice; or
 - B) An affidavit attesting to military service as specified in Section 12 of the Act. The applicant restoring a license shall be excused from the payment of any lapsed fee or any restoration fees.
 - 2) A registrant who is unable to submit proof of satisfaction of either subsection (c)(1)(A) or (B) shall submit proof of completion of:
 - A) 15 clock hours of refresher courses or continuing education for

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each year the license was expired; or

- B) Up to 400 hours of clinical practice under the supervision of a pharmacist.
- 3) The course work or clinical training described in subsections (c)(2)(A) and (B) must have the prior approval of the Board.
- d) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience, is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be requested to:
 - 1) Provide information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information given, or clear up any discrepancies in information.

Section 1330.100 Continuing Education

- a) Continuing Education Requirements
 - 1) Each person who applies for renewal of a license as a pharmacist shall complete 30 hours of continuing education (CE) during the 24 months preceding the expiration date of the license, in accordance with Section 12 of the Act.
 - 2) A renewal applicant is not required to comply with CE requirements for the first renewal after original licensure.
- b) Approved Continuing Education
 - 1) CE credit shall be based upon the completion of courses offered by providers approved by the Accreditation Council for Pharmacy Education. These courses may be completed outside the State of Illinois.
 - 2) Undergraduate Coursework

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- A) Undergraduate coursework taken after completion of a first professional degree in pharmacy through a recognized college or approved school of pharmacy (in accordance with Section 1330.300 of this Part) may be used to fulfill the CE requirement if:
 - i) Evidence of course completion through an official transcript and other documentation (e.g., certificate of completion or degree) of the university or college is submitted that indicates the number of course content hours completed; and
 - ii) These courses are completed for college credit.
 - B) CE credit will be earned for each undergraduate course completed.
- c) Certification of CE Requirements
- 1) Each renewal applicant shall certify on the renewal application full compliance with CE requirements set forth in subsection (a).
 - 2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of the compliance (e.g., certificate of attendance or completion). Evidence shall be required in the context of the Division's random audit in accordance with Section 12 of the Act.
- d) The same CE hours cannot be used to fulfill the CE requirement for more than one renewal period.
- e) 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 Division a renewal application, along with the required fee, a statement setting forth the facts concerning noncompliance and a request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from the affidavit or any other

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evidence submitted that good cause has been shown for granting a waiver, the Division shall waive enforcement of the CE requirements for the renewal period for which the applicant has applied.

- 2) Good cause shall be defined as an inability to fulfill the CE requirements during the applicable period because of:
 - A) Full-time service in the armed forces of the United States of America during the applicable period; or
 - B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:
 - i) An incapacitating illness, documented by a currently licensed physician; or
 - ii) Physical inability to travel to the sites of approved programs, as documented by a currently licensed physician; or
 - iii) Any other similar extenuating circumstances (e.g., illness of family member).
- 3) An interview before the Board with respect to a request for waiver shall be granted only if the interview is requested at the time the request for the waiver is filed with the Division. The renewal applicant requesting a waiver shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.
- 4) Any renewal applicant who submits a request for waiver pursuant to subsection (e)(1) shall be deemed to be in good standing until the final Division decision on the application has been made.

SUBPART B: PHARMACY TECHNICIAN

Section 1330.200 Application for Certificate of Registration as a Pharmacy Technician

- a) An applicant for registration as a pharmacy technician shall file an application on forms supplied by the Division, together with:

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- 1) A copy of his or her high school diploma or its equivalent, or proof of current enrollment in a high school program; and
 - 2) The fee required by Section 1330.20 of this Part.
- b) Pursuant to Section 9 of the Act, an applicant may assist a registered pharmacist for 60 days upon submission of an application or, submission for reinstatement not due to disciplinary action, to the Division in accordance with subsection (a). A copy of the application must be maintained by the applicant at the site of employment during and until notice of registration or disqualification is received by the applicant and must be readily retrievable for review by the Drug Compliance Investigator.
 - c) A pharmacy technician must renew his or her registration with the Division on an annual basis.
 - d) Technician certificate of registration must be displayed and visible to the public in the pharmacy where the pharmacy technician is employed.
 - e) Every registered pharmacy technician shall notify the Division of any change in the address on record within 30 days after the change.
 - f) No pharmacist whose license has been denied, revoked, suspended or restricted for disciplinary purposes is eligible to be registered as a Pharmacy Technician.

Section 1330.210 Pharmacy Technician Training

- a) It shall be the joint responsibility of a pharmacy and its pharmacist-in-charge to have trained all of its pharmacy technicians or obtain proof of prior training in all of the following topics as they relate to the practice site:
 - 1) The duties and responsibilities of the technicians and pharmacists.
 - 2) Tasks and technical skills, policies and procedures.
 - 3) Compounding, packaging, labeling and storage.
 - 4) Pharmaceutical and medical terminology.

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- 5) Record keeping requirements.
- 6) The ability to perform and apply arithmetic calculations.
- b) Within 6 months after initial employment or changing the duties and responsibilities of a pharmacy technician, it shall be the joint responsibility of the pharmacy and the pharmacist-in-charge to train the pharmacy technician or obtain proof of prior training in the areas listed in subsection (a) as they relate to the practice site or to document that the pharmacy technician is making appropriate progress.
- c) All pharmacies shall maintain an up to date training program describing the duties and responsibilities of a pharmacy technician.
- d) All pharmacies shall create and maintain retrievable records of training or proof of training as required in this Section.

Section 1330.220 Certified Pharmacy Technician

- a) An individual may receive certification as a certified pharmacy technician if he or she:
 - 1) Has submitted a written application in the form and manner prescribed;
 - 2) Has attained the age of 18;
 - 3) Is of good moral character, as determined by the Division;
 - 4) Graduated from a pharmacy technician training program approved by a nationally recognized accrediting body or obtained documentation from the pharmacist-in-charge of the pharmacy where the applicant is employed verifying that he or she has successfully completed a training program as provided for in Section 1330.210(a);
 - 5) Has successfully passed an examination accredited by the National Organization for Competency Assurance (NOCA), as approved and required by the Board. The Division, upon the recommendation of the Board, has determined that the Exam for the Certification of Pharmacy

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Technicians offered by the Institute for the Certification of Pharmacy Technicians, and the Pharmacy Technician Certification Examination offered by the Pharmacy Technician Certification Board, are accredited by NOCA and are, therefore, approved examinations for certification; and

- 6) Has paid the required certification fees.
- b) No pharmacist whose license has been denied, revoked, suspended or restricted for disciplinary purposes may be eligible to be registered as a certified pharmacy technician.

SUBPART C: PHARMACIST

Section 1330.300 Approval of Pharmacy Programs

- a) The Division shall, upon the recommendation of the Board, approve a pharmacy program in a school or college or department of pharmacy of a university or other institution as reputable and in good standing if it meets the following minimum criteria:
 - 1) Is legally recognized and authorized, through appropriate agencies such as a ministry of education or higher education governing board, by the jurisdiction in which it is located to confer a first professional degree in pharmacy;
 - 2) Has a faculty comprised of a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. Their facility must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from professional colleges or institutions in disciplines reflective of the curricular requirements. (All of the pharmacist members of the clinical faculty and a majority of the faculty in the pharmaceutical sciences should be licensed pharmacists in that jurisdiction. The clinical faculty should be active practitioners.);
 - 3) Has a curricular offering of post-secondary instruction totaling at least 5 academic years, including any preprofessional education requirements, and requiring a minimum of the following subject areas:
 - A) General Education (a minimum of 30 semester hours or its

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equivalent in courses in the humanities and behavioral and social sciences);

- B) Preclinical Sciences (courses in the physical and biological sciences and mathematics that are prerequisites to professional studies and training; course work should include general chemistry, organic chemistry, general biology, microbiology and mathematics);
- C) Professional Studies and Training (in the following areas):
 - i) Biomedical sciences, which include anatomy, physiology, immunology, biological chemistry, pathology and biostatistics;
 - ii) Pharmaceutical sciences, which include pharmaceutical or medicinal chemistry, pharmaceuticals or dosage form design and evaluation, pharmacokinetics, synthetic and natural drug product chemistry, pharmacology, pharmaceutical administration and the social and behavioral sciences in pharmacy;
 - iii) Clinical sciences and practice, which include clinically applied courses based on the biomedical and pharmaceutical sciences, such as didactic courses in clinical foundations, disease processes and diagnoses, clinical pharmacology and therapeutics, and drug information research and literature retrieval; and
 - iv) Externship and clerkship, which include a minimum of 400 direct contact hours in clerkship and externship experience. These experiences should minimally include supervised training in inpatient environments providing for interdisciplinary experiences with other health professionals and distributive aspects of pharmacy practice.
- 4) Has essential facilities including, but not limited to, administrative and faculty offices, teaching and research laboratories, lecture rooms, conference rooms, student activities areas, service areas and other

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programmatic support areas;

- 5) Has a comprehensive library that contains a contemporary collection of periodicals, texts and reference books relevant to the biomedical, pharmaceutical and clinical aspects of health care and its systems of delivery;
 - 6) Has clinical facilities adequate in number and quality and with appropriate supervision to deliver the clinical clerkships and externships of the curriculum. The facilities shall be available in inpatient and outpatient environments, including patient care areas of health care institutions, hospital pharmacies and community pharmacies; and
 - 7) Maintains permanent retrievable and auditable student records that summarize the credentials for admission, attendance, grades and other records of performance for each student enrolled in the program.
- b) In determining whether a school or college should be approved, the Division shall take into consideration, but not be bound by, accreditation standards established by the Accreditation Council on Pharmacy Education.
 - c) An applicant from a pharmacy program that has not been evaluated shall cause to be forwarded to the Division documentation concerning the criteria in this Section. If the documentation is insufficient to evaluate the program, the applicant will be required to provide such additional information as necessary. Once the Division has received the documentation or after 6 months have elapsed from the date of application, whichever is first, the Board will evaluate the program based on all documentation received from the school and any additional information the Division has received that will enable the Board to evaluate the program based on the criteria specified in this Section. In the event the program is not approved as reputable and in good standing by the Division, applicants from the program must successfully complete the preliminary diagnostic examination and all other requirements set forth in the Act and this Part.
 - d) The Director shall, upon written recommendation of the Board, withdraw, suspend or place on probation the approval of a pharmacy program when the Director determines, based upon the report of the Board, the quality of the program has been materially affected. In determining the existence of a material effect, the Board and the Director shall consider:

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- 1) Gross or repeated violations of any provision of the Act;
 - 2) Gross or repeated violations of any provision of this Part;
 - 3) Fraud or dishonesty in furnishing documentation for evaluation of the pharmacy program; or
 - 4) Failure to continue to meet the established criteria for an approved pharmacy program set out in this Section.
- e) When approval of a pharmacy program is being reconsidered by the Division, written notice shall be given at least 15 days prior to any recommendation by the Board, and the officials in charge may either submit written comments or request an interview before the Board.
- f) The Division, upon the recommendation of the Board, has determined that all pharmacy programs accredited by the Accreditation Council on Pharmacy Education as of July 1, 1998 meet the minimum criteria set forth in subsection (a) and are, therefore, approved. The Board shall review the list of accredited programs published each year on July 1 by the Accreditation Council on Pharmacy Education in order to determine whether the programs continue to meet the minimum criteria.

Section 1330.310 Graduates of Programs Outside the United States

Applicants who are graduates of a first professional degree program in pharmacy located outside the United States or its territories that is not approved pursuant to the provisions of Section 1330.300 shall submit proof of:

- a) Submission of a Foreign Pharmacy Graduate Examination Committee (FPGEC) Certificate;
- b) Passage of the preliminary diagnostic examination (Foreign Pharmacy Graduate Equivalency Exam (FPGEE)) designed to determine equivalence of education to programs approved pursuant to Section 1330.300;
- c) Passage of the Test of English as a Foreign Language (TOEFL) examination with a score of at least 550;

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- d) Passage of the Test of Spoken English (TSE) examination with a score of 50; and
- e) Either:
 - 1) Completion of a course of clinical instruction totaling 1,200 clinical hours approved by the Board as required by Section 7 of the Act. The course of clinical instruction shall be conducted under the supervision of a pharmacist registered in the State of Illinois. The applicant shall obtain prior approval of the Board before enrolling in the course of clinical instruction. In approving a course of clinical instruction, the Board shall consider, but not be limited to, whether the course:
 - A) Enhances development of effective communication skills by enabling consultation among the applicant, the prescriber and the patient;
 - B) Promotes development of medical data retrieval skills through exposure to patient medical charts, patient medication profiles and other similar sources of patient information;
 - C) Promotes development of the applicant's ability to research and analyze drug information literature; and
 - D) Promotes development of the applicant's ability to interpret laboratory test and physical examination results; or
 - 2) Have been licensed in a U.S. jurisdiction or territory for at least 1 year with no disciplinary actions or encumbrances on their license or pending license.

Section 1330.320 Application for Examination

- a) An applicant for examination shall apply, on forms approved by the Division, at least 30 days prior to an examination date. The application shall include:
 - 1) One of the following:
 - A) Certification of graduation from a first professional degree

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program in pharmacy. The program must be approved by the Division upon recommendation of the Board of Pharmacy under the provisions of Section 1330.300; or

- B) Certification, in the case of an applicant applying in the last half-year of the curriculum, from the dean of an approved pharmacy program indicating the applicant is expected to graduate. It is the responsibility of the individual school to notify the Division of all the students who do not graduate; or
 - C) Proof of compliance with Section 1330.310 if the applicant is a graduate of a program located outside the United States.
- 2) The fee required by Section 1330.20.
- b) An applicant whose application is complete shall be scheduled for the next available examination.
 - c) If the applicant has successfully completed in another jurisdiction the examinations required by Section 1330.330(a)(1) and (2)(B), the applicant may have examination scores submitted to the Division from the reporting entity.

Section 1330.330 Examination for Licensure

- a) The examination for licensure as a registered pharmacist shall be divided into two portions:
 - 1) Theoretical and Applied Pharmaceutical Sciences portion, which shall test the following subjects:
 - A) Medicinal Chemistry;
 - B) Pharmacology;
 - C) Pharmacy;
 - D) Pharmaceutical Calculations;
 - E) Interpreting and Dispensing Prescription Orders;

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- F) Compounding Prescription Orders; and
 - G) Monitoring Drug Therapy.
- 2) Pharmaceutical Jurisprudence portion, which consists of 2 parts and shall test:
- A) Illinois Law related to pharmacy practice; and
 - B) Federal Law related to pharmacy practice.
- b) An applicant must score a minimum of 75 on the Theoretical and Applied Pharmaceutical Sciences portion and a minimum of 75 on the combined Pharmaceutical Jurisprudence portion in order to successfully pass the examination for licensure. An applicant who scores 75 or greater in either the Theoretical and Applied Pharmaceutical Sciences portion or on either of the combined Pharmaceutical Jurisprudence portions will not be required to retake that portion of the examination. The reporting of scores to the candidates shall include the score obtained on the Theoretical and Applied Pharmaceutical Sciences, the score obtained on the Federal Law portion, a pass or fail score on the Illinois Law portion and the combined score consisting of the Federal Law portion and the State Law portion.
- c) Any applicant who fails any portion or all portions of the registered pharmacist examination 3 times in any jurisdiction will be required to furnish proof of remedial education in an approved program on the subjects of the portion failed in the third examination. Proof of additional remedial education in an approved program shall also be furnished each time the applicant fails any portion of the examination 3 times after undergoing remedial education (i.e., after the sixth exam, ninth exam, etc.).
- d) Pursuant to Section 7 of the Act, an applicant may work as a registered pharmacist for up to 60 days prior to the issuance of a certificate of registration upon receipt of a notice from the Division that the examination was successfully completed.
- e) For the purposes of this Section remedial training shall be defined as:

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- 1) A course of study of at least 30 classroom hours in an approved pharmacy college in the subjects of the portions failed 3 times; or
 - 2) A tutorial or preceptorship with a faculty member in an approved pharmacy college or another pharmacist as a preceptor. The course of instruction must be deemed by the Board to be substantially equivalent to subsection (e)(1) and approved by the Division. Any remedial training must be approved by the Board and the Division prior to commencement.
- f) The provisions of this Section shall apply to all applicants upon adoption without regard to where the applicant is in the application process.

Section 1330.340 Application for Licensure on the Basis of Examination

- a) An applicant for licensure on the basis of examination shall submit to the Division a properly completed application on forms provided by the Division, along with the following:
 - 1) The fee required by Section 1330.20;
 - 2) Certification of graduation from an approved program of pharmacy (see Section 1330.300); and
 - 3) Proof of successful completion of the examination approved by the Division (see Section 1330.330).
- b) Upon receipt of the items required in subsection (a), and upon verification by the Division that the candidate meets all of the requirements for licensure as a Registered Pharmacist, the Division shall issue a license to practice pharmacy or notify the applicant of the reason for denial.

Section 1330.350 Endorsement

- a) An applicant who is currently licensed by examination under the laws of another U.S. jurisdiction or another country shall file an application with the Division, together with:
 - 1) Certification of graduation from a pharmacy program approved pursuant to Section 6 of the Act and Section 1330.300 of this Part;

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- 2) For individuals licensed in another state prior to January 1, 1983, proof of having completed the hours of apprenticeship, or, if at least 1500 hours of apprenticeship were not required, an affidavit attesting to the period of the applicant's active experience as a pharmacist;
 - 3) A certification by the state or territory of original licensure stating:
 - A) The time during which the applicant was licensed in that state;
 - B) Whether the file on the applicant contains any record of any disciplinary actions taken or pending; and
 - C) A brief description of the examination and the applicant's grades.
 - 4) Proof of successful passage of the Illinois multi-state jurisprudence examination; and
 - 5) The fee as required by Section 1330.20.
- b) The Division shall examine each application to determine whether the requirements, at the time of licensure in the state where the applicant was licensed by examination, were substantially equivalent to the requirements then in force in this State.
 - c) If the requirements are found to be substantially equivalent and the applicant graduated from an approved college of pharmacy and meets all other requirements of the Act, the Division will notify the applicant of approval and/or denial and the reasons for the approval or denial within 30 days after receipt of the application and supporting documentation.

SUBPART D: PHARMACY LICENSURE

Section 1330.400 Application for a Pharmacy License

- a) Establishing, Relocating or Changing Ownership
 - 1) Any person who desires to establish, relocate or change the ownership of a pharmacy shall file an application on forms supplied by the Division,

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together with the fee required by Section 1330.20, and specify the types of pharmacy services to be provided as described in Sections 1330.500, 1330.510, 1330.520, 1330.530, 1330.540, 1330.550 and 1330.560.

- 2) Upon determination that the application is in good order, an inspection of the premises will be conducted to determine compliance with Sections 1330.610, 1330.630, 1330.640 and 1330.670. An application shall be in good order when it is signed and notarized and the license of the pharmacist-in-charge has been verified to be in good standing with the Division.
 - 3) Upon recommendation of the Drug Compliance Coordinator, the Board may request the owner of the pharmacy and the pharmacist-in-charge to appear for an interview with the Board.
- b) For a change of name of pharmacist-in-charge only, the owner shall be required to file an application on forms supplied by the Division, together with the required fee, and submit the present license. The Division shall evaluate the application and, if satisfactory, issue a new license.
 - c) Within 30 days after issuance of a pharmacy license, the pharmacy for which the licensure was requested shall be open to the public for pharmaceutical services.

Section 1330.410 Pharmacy Licenses

- a) Each individual, partnership, corporation or any other applicant for a pharmacy license shall indicate, on forms supplied by the Division, the type of pharmacy services to be provided by the licensee.
- b) The Board may review and make recommendations to the Director regarding pharmacy applications filed with the Division.
- c) A pharmacy who provides more than one type of pharmacy service shall be issued one pharmacy license and shall be charged the appropriate fee, as set forth in Section 1330.20.
- d) A pharmacy shall designate a pharmacist-in-charge as provided for in Section 1330.660.

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- e) When a management company is hired to run a pharmacy, that management company shall be the license holder; however, the license may be issued in the name of the pharmacy or of the management company. The Illinois Controlled Substance license shall be issued in the name of the management company unless the management company and the pharmacy or hospital cosigns a pharmacy service agreement that assigns overall responsibility for controlled substances to the management company.

Section 1330.420 Emergency Remote Temporary Pharmacy License

- a) Definitions:
- 1) "Emergency remote temporary pharmacy" means a pharmacy not located at the same location as a home pharmacy at which pharmacy services are provided during an emergency situation.
 - 2) "Emergency situation" means an emergency caused by a natural or manmade disaster or any other exceptional situation that causes an extraordinary demand for pharmacy services.
- b) The following is applicable for the emergency remote temporary pharmacy:
- 1) The emergency remote temporary pharmacy will not be issued a separate pharmacy license but shall operate under the license of the home pharmacy. To qualify for an emergency remote temporary pharmacy license, the applicant must submit an application including the following information:
 - A) license number, name, address and phone number of the home pharmacy;
 - B) names, address and phone number of the emergency remote temporary pharmacy;
 - C) name and pharmacist license number of the pharmacist-in-charge of the home pharmacy and of the pharmacist-in-charge of the emergency remote temporary pharmacy; and
 - D) any other information required by the Board.

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- 2) The Division will notify the home pharmacy of the approval of an emergency remote temporary pharmacy license.
- 3) The emergency remote temporary pharmacy license shall be valid for a period determined by the Director not to exceed 6 months. The Director, in his or her discretion, may renew the emergency remote temporary pharmacy license for an additional 6 months if the emergency situation still exists and the holder of the license shows good cause for the emergency remote temporary pharmacy to continue operation.
- 4) The emergency remote temporary pharmacy shall have a written contract or agreement with the home pharmacy that outlines the services to be provided and the responsibilities and accountabilities of the remote and home pharmacy in fulfilling the terms of the contract or agreement in compliance with federal and State laws and regulations.
- 5) The home pharmacy shall designate a pharmacist to serve as the pharmacist-in-charge of the emergency remote temporary pharmacy.
- 6) The equipment and facility of the pharmacy must enable prescriptions to be filled accurately and properly compounded; it must be operated and maintained in a manner that will not endanger the health and safety of the public.
- 7) An onsite pharmacy can only provide service to patients, staff or families of that institution.

SUBPART E: TYPES OF PHARMACIES

Section 1330.500 Community Pharmacy Services

- a) Pharmacies that engage in general or specialty community pharmacy practice and are open to, or offer pharmacy service to, the general public shall, in addition to any other requirements of the Act and this Part, comply with this Section. A community pharmacy that, in addition to offering pharmacy services to the general public, provides institutional services shall also comply with Section 1330.520.

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- b) Staffing of the Pharmacy
 - 1) Whenever the hours of the pharmacy differ from those of the establishment in which the pharmacy is located, the schedule during which pharmacy services are provided shall be conspicuously displayed.
 - 2) Whenever a pharmacy is open and a pharmacist is not present and available to provide pharmacy services, a sign stating that situation shall be conspicuously displayed.
 - 3) No prescription may be dispensed when a pharmacist is not physically present in the establishment and on duty.

- c) Record Keeping Requirements for Dispensing Prescription Drugs
 - 1) For every prescription dispensed, the prescription record shall contain the name, initials or other unique identifier of the pharmacist who dispenses the prescription drugs. No prescription may be dispensed after one year from the date of the original issuance of the prescription by the prescriber.
 - 2) Whenever a prescription is dispensed by a registered pharmacy technician or certified registered pharmacy technician under the supervision of a pharmacist, the prescription record shall contain the names, initials or other unique identifier of both the supervising pharmacist and the registered pharmacy technician who dispenses the prescription.
 - 3) Refilling a Prescription
 - A) Each refilling of a prescription shall be entered on the prescription or on another appropriate, uniformly maintained, readily retrievable record that indicates, by the number of the prescription, the following information:
 - i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;

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- iv) The name or initials of the pharmacist and the pharmacy technician, if applicable, in each refilling; and
 - v) The total number of refills for the prescription.
- B) If the pharmacist doesn't otherwise indicate in a uniformly maintained record, he/she shall be deemed to have dispensed a refill for the full face amount of the prescription.
- 4) Presentation of a written prescription copy or prescription label shall be for information purposes only and has no legal status as a valid prescription order. The recipient pharmacist of the copy or prescription label shall contact the prescribing practitioner to obtain a new prescription order.
- 5) Copies of prescriptions given to an ultimate consumer shall be marked "For Information Purposes Only".
- 6) Subject to Section 18 of the Act, any information required to be kept pursuant to this Section may be recorded and stored in a computerized pharmaceutical information system that meets the standards of performance stated in the regulations of the Drug Enforcement Administration (21 CFR 1306; 1998, no further amendments or editions, except as provided in subsection (c)(7), and shall include the capability to:
- A) Retrieve the original prescription order information for those prescription orders currently authorized for refilling;
 - B) Retrieve the current prescription orders, including, at a minimum, name of drug, date of refill, quantity dispensed, name and identification code of the manufacturer in the case of a generically written prescription or a generic interchange, name or initials of the dispensing pharmacist and technician for each refill, and the total number of refills dispensed to date;
 - C) Supply documentation of refill information entered by the pharmacist using the system through a hard copy printout of each day's refill data that has been verified for correctness. This printout

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must include for each prescription filled at least the following information:

- i) The name and dosage form of the drug;
 - ii) The date of each refilling;
 - iii) The quantity dispensed;
 - iv) The name or initials of the pharmacist in each refilling and the pharmacy technician, if applicable;
 - v) The patient's name;
 - vi) The prescriber's name; and
 - vii) The prescription number for the prescription; or
- 7) In lieu of the printout required by subsection (c)(6), the pharmacy shall maintain a bound log book, or separate file, in which each individual pharmacist involved in the dispensing shall sign a statement each day, attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.
- 8) All refill data shall be maintained by the pharmacy on the premises for 5 years, in accordance with Section 18 of the Act. The pharmacy shall have the appropriate equipment on the premises to provide readily retrievable information in the course of an on-site inspection. A hard copy printout shall be provided to the Division, upon request, within 48 hours.
- d) No person shall establish or move to a new location any pharmacy unless the pharmacy is licensed with the Division and has on file with the Division a verified statement that:
- 1) The pharmacy is or will be engaged in the practice of pharmacy; and

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- 2) The pharmacy will have in stock and will maintain sufficient prescription drugs and materials to protect the public it serves within 30 days after opening of the pharmacy.
- e) All pharmacies that dispense drugs must maintain at all times a representative assortment of drugs in order to meet the pharmaceutical needs of their patients.
 - f) Pharmacies have a duty to deliver lawfully prescribed drugs or devices to patients and to distribute drugs and devices approved by the U.S. Food and Drug Administration for restricted distribution by pharmacies, or provide a therapeutically equivalent drug or device in a timely manner, except for the following or substantially similar circumstances:
 - 1) When, in the pharmacist's professional judgment, after screening for potential drug therapy problems due to therapeutic duplication, drug-disease contraindications, drug-drug interactions (including serious interactions with nonprescription or over-the-counter drugs), drug-food interactions, incorrect drug dosage or duration of drug treatment, drug-allergy interactions, or clinical abuse or misuse, pursuant to subsection 3(aa) of the Act, she or he determines that the drug should not be dispensed due to one of the foregoing clinical reasons;
 - 2) National or state emergencies or guidelines affecting availability, usage or supplies of drugs or devices;
 - 3) Lack of specialized equipment or expertise needed to safely produce, store or dispense drugs or devices, such as certain drug compounding or storage for nuclear medicine;
 - 4) Potentially fraudulent prescriptions; or
 - 5) Unavailability of drug or device despite good faith compliance with subsection (e).
 - g) Nothing in this Section requires pharmacies to deliver a drug or device without payment of their usual and customary or contracted charge.
 - h) If, despite good faith compliance with subsection (e), the lawfully prescribed drug or device is not in stock, or the prescription cannot be filled pursuant to

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subsection (f)(1), the pharmacy shall provide the patient or agent a timely alternative for appropriate therapy that, consistent with customary pharmacy practice, may include obtaining the drug or device. These alternatives include but are not limited to:

- 1) Contact the prescriber to address concerns such as those identified in subsection (f)(1) or to obtain authorization to provide a therapeutically equivalent product;
 - 2) If requested by the patient or his or her agent, return unfilled lawful prescriptions to the patient or agent; or
 - 3) If requested by the patient or his or her agent, communicate or transmit, as permitted by law, the original prescription information to a pharmacy of the patient's choice that will fill the prescription in a timely manner.
- i) Engaging in or permitting any of the following shall constitute grounds for discipline or other enforcement actions:
- 1) Destroying unfilled lawful prescriptions;
 - 2) Refusing to return unfilled lawful prescriptions;
 - 3) Violating a patient's privacy;
 - 4) Discriminating against patients or their agents in a manner prohibited by State or federal laws;
 - 5) Intimidating or harassing a patient; or
 - 6) Failing to comply with the requirements of this Section.

Section 1330.510 Telepharmacy

- a) Telepharmacy shall be limited to the following types of operations. Each site where such operations occur shall be a separately licensed pharmacy.
- b) Operations

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- 1) Remote Dispensing Site
 - A) Written prescriptions presented to the remote dispensing site shall be scanned into the electronic data processing equipment to ensure initial dispensing and each refill and the original prescription may be viewed on the monitor at both the remote dispensing site and home pharmacy site. All written prescriptions shall be delivered to the home pharmacy for filing within 72 hours. Records shall be maintained at the home pharmacy in files separate from the home pharmacy files.
 - B) A remote site is considered to be under the supervision of the pharmacist-in-charge of the home pharmacy.
 - C) The remote site shall use its home pharmacy and pharmacy management system.
 - i) The system shall assign consecutive prescription numbers.
 - ii) All records must be maintained at the home pharmacy.
 - iii) Prescriptions dispensed at the remote site shall be distinguishable from those dispensed from the home pharmacy.
 - iv) Daily reports must be separated for the home and remote site.
 - D) A pharmacist at the home pharmacy must verify each prescription before it leaves the remote site.
 - i) Pharmacist and pharmacy technician initials or unique identifiers must appear on the prescription record and the prescription label.
 - ii) A pharmacist shall electronically compare via video link the stock bottle, drug dispensed, the strength and its beyond use date. The entire label must be checked for accuracy on the video link.

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- iii) The remote dispensing site shall utilize a barcode system that prints the barcode of the stock bottle on the label of the dispensed drug. The technician shall scan both the stock bottle and the label of the dispensed drug to verify that the drug dispensed is the same as the drug in the stock bottle for each prescription dispensed.
 - iv) A pharmacy may utilize a different electronic verification system that accomplishes the same purpose after review and approval of the Division.
- E) Counseling must be done by a pharmacist via video link and audio link before the script is released. The pharmacist must counsel the patient or the patient's agent on all new prescriptions and refills.
- F) A pharmacist-in-charge or his or her designated pharmacist must complete monthly inspections of the remote site. Inspection criteria must be included in the policies and procedures for the site. The inspection report must be available on site for pharmacy investigator inspection.
- G) Controlled substances shall be kept at the remote site in accordance with the Act and this Part. All records must be stored at the home pharmacy and at the remote site.
- H) There shall be a working computer link, video link and audio link to a pharmacist at a home pharmacy whenever the prescription area is open to the public. The communication link must be checked daily and the remote site pharmacy must be closed if the link malfunctions, unless a pharmacist is physically present at the remote site.
- i) The pharmacy technician must have one year experience after certification by a nationally recognized certification organization to work in a remote facility.
 - ii) New prescriptions received at the remote dispensing site may be entered into the remote computer system with all

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verification, interaction, checking and profile review by the pharmacist at the home pharmacy.

iii) Each pharmacist at the home pharmacy may electronically supervise no more than 3 remote sites that are simultaneously open.

D) The facility must have a sign clearly identifying it as a remote dispensing site.

2) Remote Consultation Site

A) These sites have no prescription inventory.

B) Only filled prescriptions, filled at the home pharmacy, with final patient labeling attached are allowed at these sites.

C) These sites must be staffed with a pharmacy technician or certified pharmacy technician who has the knowledge necessary to use computer audio/video link for dispensing and consultation to occur.

D) Written prescriptions may be received at a remote consultation site. All written prescriptions presented at a remote consultation site shall be delivered to the home pharmacy within 72 hours.

E) Security of filled prescriptions must be maintained by a separate lock drawer or cabinet.

F) Record keeping shall be conducted by the pharmacist (time/date) when dispensing and counseling occurred.

G) The facility shall have a room for patient consultation exclusive of any waiting area.

H) The facility must have a sign clearly identifying it as a remote consultation site.

3) Remote Automated Pharmacy Systems (RAPS)

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- A) These sites have prescription inventory, which must be secured in an automated dispensing device connected to the home pharmacy.
 - B) A pharmacist, or prescriber when the RAPS is located on the same premises as the prescriber, must approve all the prescription orders before they are released from the automated dispensing device.
 - C) Dispensing and counseling are performed by a pharmacist employed by the home pharmacy via audio link and video link or by the prescriber when the RAPS is located on the same premises as the prescriber.
 - D) All filled prescription must have a label that meets the requirements of the Act attached to the final drug container.
 - E) The pharmacist-in-charge of the home pharmacy, or a designated registrant, shall conduct and complete monthly inspections of the remote telepharmacy dispensing machine site. Inspection criteria must be included in the policies and procedures for the site. The report must be available to the pharmacy investigators when requested.
 - F) The RAPS must be licensed with the Division and will be subject to random inspection by pharmacy investigators. For purposes of random inspections, a pharmacist with access to the system must be available at the site within one hour.
 - G) No controlled substances shall be stocked in the automatic dispensing unit.
- 4) Medication dispensed at the automated pharmacy system site may only be packaged by a licensed manufacturer or repackager. Prepackaging must occur at the home pharmacy in compliance with Section 1330.730.
- c) All pharmacists performing services in support of the remote sites must display a copy of their licenses in any remote site where they provide services.
 - d) Each remote site must display a sign, easily viewable by the customer, that states:

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- 1) The facility is a telepharmacy supervised by a pharmacist located at (address); and
 - 2) The pharmacist is required to talk to you, over an audio/visual link, each time you pick up a prescription.
- e) No remote site may be open when the home pharmacy is closed, unless the pharmacist is present at the remote site. No employees are allowed access to the remote site when the home pharmacy is closed. The security system must allow for tracking of entries into a pharmacy. The pharmacist-in-charge must review the log of entries when conducting the weekly inspection.

Section 1330.520 Offsite Institutional Pharmacy Services

- a) Pharmacies that are not located in the facilities they serve and whose primary purpose is to provide services to patients or residents of facilities licensed under the Nursing Home Care Act, the Hospital Licensing Act, or the University of Illinois Hospital Act shall, in addition to any other requirements of the Act and this Part, comply with this Section.
- b) Recordkeeping Requirements for Dispensing Prescriptions or Orders
 - 1) Every prescription or order dispensed shall be documented with the name, initials or other unique identifies of the pharmacist (and pharmacy technician if one is used) authorized to practice pharmacy under the provisions of the Act who dispenses the prescription or order. For purposes of the Act, an authorized person is:
 - A) A pharmacist licensed in the State of Illinois; or
 - B) A registered pharmacy technician, certified pharmacy technician or student pharmacist under the supervision of a pharmacist.
 - 2) Each pharmacy must maintain records for 5 years that contains the information in subsection (b)(3). This information shall be readily retrievable and in a format that provides enforcement agents a concise, accurate and comprehensive method of monitoring drug distribution via an audit trail. This system may require two or more documents that, when

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read together, will provide all the information required by federal (e.g., the regulations of the Drug Enforcement Administration (21 CFR 1300 et seq.; 1998) and State statute (e.g., the Pharmacy Practice Act and the Illinois Controlled Substances Act [720 ILCS 570]).

- 3) In addition to the record keeping requirements of subsection (b)(2), a uniformly maintained, readily retrievable hard copy record or back-up documentation of each prescription or order dispensed shall be maintained by the pharmacy for 5 years and shall include:
 - A) Name of resident;
 - B) Date of order;
 - C) Name, strength and dosage form of drug, or description of the medical device ordered;
 - D) Quantity dispensed (a separate record should be maintained when the quantity billed differs from the quantity dispensed, e.g., unit dose transfer systems);
 - E) Directions for use;
 - F) Quantity billed;
 - G) Prescriber's name;
 - H) Prescriber's signature and/or DEA number when required for controlled substances; and
 - I) The drug name and identification code or the manufacturer in case of a generically ordered medication or a generic interchange.
- 4) No prescription may be filled or refilled for a period in excess of one year from the date of the original issuance of the prescription or order by the prescriber.
- 5) Subject to Section 18 of the Act, any information required to be kept pursuant to this Section may be recorded and stored in a:

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- A) computerized pharmaceutical information system that meets the standards of performance required by the regulations of the Drug Enforcement Administration (21 CFR 1306; 1998) and shall include the capability to:
- i) Retrieve the original medication order information for those medication orders that are currently authorized;
 - ii) Retrieve the current history of medication orders that shall, at a minimum, include the name of drug, the date of filling, the quantity dispensed, the name and identification code of manufacturer in the case of a generically written prescription or a generic interchange, for each filling, and the total number of refills when read in conjunction with any off-line hard copy of the history of medication orders dispensed to date; and
 - iii) Supply documentation of the correctness of filling information entered into a system must be provided by the pharmacist using the system by way of a hard copy printout of each day's filling data that has been verified, dated and signed by the dispensing pharmacist; or
- B) bound log book, or separate file, in which each individual pharmacist involved in dispensing shall sign a statement each day attesting to the fact that the refill information entered into the computer that day has been reviewed by him/her and is correct as shown. The book or file must be maintained at the pharmacy employing the system for a period of 5 years after the date of dispensing the appropriately authorized refill.
- c) In the event the long term care facility changes pharmacy provider services, their new provider must obtain the orders from the long term care facility and verify the authenticity and accuracy of the orders with the prescriber.
- d) Staffing of the Pharmacy. When the pharmacy is closed, the public and any employees not registered under the Act are to be prohibited access to the filling and dispensing area.

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- e) Labeling Requirements
 - 1) Medications for Future Use
 - A) Parenteral solutions to which a drug or diluent has been added or that are not in their original manufacturer's packaging shall contain the following information on the outer label:
 - i) Name, concentration and volume of the base parenteral solution;
 - ii) Name and strength of drugs added;
 - iii) Beyond use date and date of the admixture. Beyond use date, unless otherwise specified in the individual compendia monograph shall be not later than the beyond use date on the manufacturer's container or one year from the date the drug is repackaged, whichever is earlier; and
 - iv) Reference code to identify source and lot number of drugs added.
 - B) Non-parenterals repackaged for future use shall be identified with the following information:
 - i) Brand and/or generic name;
 - ii) Strength (if applicable);
 - iii) Beyond use date. Unless otherwise specified in the individual monograph, the beyond use date shall be not later than the beyond use date on the manufacturer's container or one year from the date the drug is repackaged, whichever is earlier; and
 - iv) Reference code to identify source and lot number.
 - 2) Medications Prepared for Immediate Use

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- A) All medications prepared by the pharmacy for immediate dispensing to a specific resident or patient in the facility shall be dispensed in a container identified with:
- i) Name of the resident;
 - ii) Resident's room and bed number;
 - iii) Dispensing date;
 - iv) Name, strength and dosage form of drug, or description of the medical device ordered;
 - v) Quantity dispensed;
 - vi) Directions for use;
 - vii) Prescriber's name; and
 - viii) Beyond use date if less than 60 days from date of dispensing.
- B) Pharmacies dispensing medications to a specific resident or patient in the facility via unit dose shall label each order with the following information:
- i) Name of the resident;
 - ii) Resident's room and bed number;
 - iii) Date of order;
 - iv) Name, strength and dosage form of drug, or description of the medical device ordered;
 - v) Directions for use; and
 - vi) Prescriber's name.

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- f) Pharmacies that compound and dispense sterile products shall comply with Sections 1330.640 and 1330.670.

Section 1330.530 Onsite Institutional Pharmacy Services

- a) Pharmacies located in facilities licensed under the Nursing Home Care Act, the Hospital Licensing Act, or the University of Illinois Hospital Act, or that are operated by the Department of Human Services or the Department of Corrections, and that provide pharmacy services to residents, patients, employees, prescribers and students of these facilities, shall, in addition to other requirements of the Act and this Part, comply with this Section.
- b) Recordkeeping Requirements
- 1) Every prescription or medication order filled or refilled shall contain the name, initials or other unique identifier of the pharmacist (and pharmacy technician if one is used) who fills or refills the prescription or medication order, or the name, initials or other unique identifier may be recorded on another appropriate, uniformly maintained and readily retrievable record that indicates, at least, the following information:
 - A) The name and dosage form of the drug;
 - B) The date of filling or refilling; and
 - C) The quantity dispensed.
 - 2) No prescription may be dispensed for a period in excess of one year from the date of the original issuance of the prescription by the prescriber.
 - 3) The pharmacist-in-charge shall maintain or have access to the following records for at least 5 years or as otherwise required by law:
 - A) Records of medication orders and medication administration to patients;
 - B) Procurement records for controlled substances;

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- C) Records of packaging, bulk compounding or manufacturing; and
 - D) Records of actions taken pursuant to drug recalls.
- c) Labeling Requirements
- 1) All medication repackaged by the pharmacy for future use inside the institution or facility and not intended for immediate dispensing to a specific patient shall be identified as follows:
 - A) Single dose or multi-dose drugs, except sterile solutions to which a drug has been added, shall be labeled with:
 - i) Brand and/or generic name;
 - ii) Strength (if applicable);
 - iii) Beyond use date; and
 - iv) Reference code to identify source and lot number.
 - B) Sterile solutions to which drugs have been added shall contain on the outer label:
 - i) Name, concentration and volume of the base sterile solution;
 - ii) Name and strength of drugs added;
 - iii) Beyond use date and time of the admixture; and
 - iv) Reference code to identify source and lot number of drugs added.
 - 2) All medication prepared by the pharmacy for immediate dispensing to a specific patient or resident in the institution or facility shall be identified as follows:

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- A) Single dose or multi-dose drugs, except parenteral solutions to which a drug has been added, shall be identified with:
 - i) Brand and/or generic name; and
 - ii) Strength (if applicable).
 - B) Sterile solutions to which drugs have been added shall be identified with:
 - i) Name, concentration and volume of the base sterile solution;
 - ii) Name and strength of drugs added; and
 - iii) Beyond use date and time of the admixture.
 - C) All medication dispensed to a specific patient in the institution shall be dispensed in a container identified with the name of the patient and the patient's location. Those institutions or facilities utilizing a unit-dose and medication cart system may identify the name of the patient and the patient's location on the outside of the bin of the medication cart, when those carts are filled by the pharmacy.
- 3) Labels on all medications dispensed by the pharmacy for immediate dispensing to a patient being discharged, emergency room patient and/or employee shall contain the following:
- A) The name and dosage form of the drug;
 - B) The date filled; and
 - C) The quantity dispensed.
- 4) Investigational new drugs, authorized by the U.S. Food and Drug Administration, shall be dispensed pursuant to a valid prescription order of the principal physician-investigator or his authorized clinician. All

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investigational drugs shall be stored in and dispensed from the pharmacy and shall be identified with the following information:

- A) Name of drug and strength (if applicable);
 - B) Beyond use date;
 - C) Reference code to identify source and lot number;
 - D) A label indicating "For Investigational Use Only"; and
 - E) Name and location of the patient. Those institutions or facilities utilizing a unit-dose and medication cart system may identify the name of the patient and the patient's location on the outside of the bin of the medication cart, when those carts are filled by the pharmacy.
- 5) A pharmacist providing a copy of a prescription to an ultimate consumer for the purpose of transfer or any other purpose shall cancel the face of the original prescription and record the date the copy is issued, to whom issued, and the pharmacist's signature on the face of the original prescription. Copies of prescriptions shall be marked "For Information Purposes Only" and require prescriber authorization to fill.
- d) Staffing of the Pharmacy
- 1) The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all the activities of all employees as they relate to the practice of pharmacy;
 - B) Establishment and supervision of the method and manner for storage, dispensing and safekeeping of pharmaceuticals in all areas of the institution or facility, including maintenance of security provisions to be used when the pharmacy is closed. The following security provisions shall be utilized:
 - i) The pharmacy shall be staffed at all times by a registered pharmacist during open hours; and

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- ii) Only registrants and licensees shall have access to the pharmacy, except as provided in Section 1330.530(e)(1);
 - C) Establishment and supervision of the recordkeeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs;
 - D) The development and implementation of a procedure to be utilized in the event of a drug recall that can be readily activated to assure that all drugs included on the recall are returned to the pharmacy for proper disposition;
 - E) Establishment of specifications for the procurement of all drugs that will be dispensed by the pharmacy; and
 - F) Establishment and supervision of a method of documenting an oral prescription from a licensed physician to a pharmacist and for transmission of that information to the appropriate members of the nursing staff of the institution or facility.
- 2) The operations of the pharmacy and the maintenance of security provisions are the responsibility of the pharmacist-in-charge whether the owner is a sole proprietor, partnership, association, corporation or any other entity.
 - 3) Within 30 days after the change of a pharmacist-in-charge, the Division shall be notified in writing by the departing pharmacist-in-charge.
 - 4) The departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:
 - A) All Schedule II drugs, as defined in the Illinois Controlled Substances Act, by actual physical count; and
 - B) All other scheduled drugs, as defined in the Illinois Controlled Substances Act, by estimated count.

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- 5) The inventory shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion and preservation of the inventory record bearing the date of the inventory and the signatures of the departing and incoming pharmacist-in-charge shall be submitted to the Division, at its principal office, within 30 days after the change in the pharmacist-in-charge.
- 6) Failure on the part of a registrant to provide the affidavit required in subsections (d)(4) and (5) shall be grounds for denying an application or renewal application for a pharmacy license or for disciplinary action against a registrant. Denial shall be based on the recommendation of the Board.
- 7) In the event the departing pharmacist-in-charge refuses to complete the inventory as provided for in subsection (d)(4), or that pharmacist-in-charge is incapacitated or deceased, the initial inventory for the incoming pharmacist-in-charge shall be the inventory as completed by the incoming pharmacist-in-charge. The incoming pharmacist-in-charge will not be responsible for any discrepancy that may exist in the inventory prior to his or her initial inventory.
- 8) When the accuracy, relevance or completeness of any submitted documentation is reasonably questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
 - A) Provide information as may be necessary; and/or
 - B) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information given or clear up any discrepancies or conflicts in information.
- 9) Pharmacists and pharmacies are prohibited from accepting from patients or their agents for reuse, reissue or resale dispensed medications, chemicals, poisons or medical devices, except for:

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- A) Medical devices that can be properly sanitized prior to reuse, resale or re-rent; and
 - B) Medications that are dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by a current United States Pharmacopoeia/National Formulary published by the United States Pharmacopoeial Convention, Inc.
- e) Medication Dispensing in the Absence of a Pharmacist. The availability of necessary medications for immediate therapeutic use during those hours when the institutional pharmacy is not open shall be met in the following manner:
- 1) An after-hour cabinet, which is a locked cabinet or other enclosure located outside of the pharmacy area containing a minimal supply of the most frequently required medication, may be utilized provided that only personnel specifically authorized by the institution in which the pharmacy is located may obtain access and it is sufficiently secure to deny access to unauthorized persons. After-hour cabinets shall only be used in the absence of a pharmacist. When medication is removed from the cabinet or enclosure, written physician's orders authorizing the removal of the medication shall be placed in the cabinet or enclosure. A log shall be maintained within the cabinet or enclosure and authorized personnel removing medication shall indicate on the log the signature of the authorized personnel removing the medication, name of the medication removed, the strength (if applicable), the quantity removed and the time of removal.
 - 2) Emergency kits containing those drugs that may be required to meet the immediate therapeutic needs of the patient, and that are not available from any other source in sufficient time to prevent risk of harm to patients by delay resulting from obtaining the drugs from the other source, may be utilized. Emergency kits shall be supplied and maintained under the supervision of a pharmacist. Drugs shall be removed from emergency kits only by authorized pharmacy personnel, persons authorized to administer medication pursuant to a valid physician's order of a physician licensed to practice medicine in all of its branches in Illinois. Emergency kits shall be sealed in some manner that will indicate when the kit has been opened. A

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label shall be affixed to the outside of the emergency kit indicating the beyond use date of the emergency kit. The beyond use date of the emergency kit shall be the earliest beyond use date of any drug contained in the kit. After an emergency kit has been used or upon discovery that the seal has been broken or upon the occurrence of the beyond use date, the kit shall be secured and returned to the pharmacy to be checked and/or restocked by the last authorized user. If the pharmacy is closed at such time, the kit shall be returned when it opens.

- 3) Whenever any drug is not available from night cabinets or emergency kits, and the drug is required to treat the immediate needs of a patient, the drug may be obtained from the pharmacy in sufficient quantity to meet the immediate need by an authorized nurse. When medication is removed from the pharmacy by an authorized nurse, a copy of the physician's order authorizing the removal of the medication shall be conspicuously placed in the pharmacy with the container from which the drug was removed so that it will be found by a pharmacist and checked promptly. A form shall be available in the pharmacy upon which shall be recorded the signature of the authorized nurse who removed the medication, the name, strength (if applicable) and quantity of medication removed.
- 4) Drugs may be dispensed from the emergency room only by a practitioner licensed to prescribe and dispense, and only to patients treated in the institution. This shall occur only during hours in which outpatient institutional pharmacy services are not available. The quantity dispensed should be limited to no more than a 72 hour supply, except for unit use packages (e.g., inhalers, ophthalmic, otics, etc., or as provided for in Section 1330.510(b)(3)) to meet the immediate needs of the patient until pharmacy services are available. Drugs dispensed in this manner must meet all labeling requirements pertaining to community pharmacies as specified in Section 1330.500. There shall be written policies and procedures, approved by the medical staff, regarding the dispensing of drugs from the emergency room.
- f) Pharmacies that compound and dispense sterile products shall comply with Sections 1330.640 and 1330.670 of this Part.
- g) Pharmacies that utilize automated dispensing and storage systems shall comply with Section 1330.680 of this Part.

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Section 1330.540 Nuclear Pharmacy Services

- a) Pharmacies that provide and/or offer for sale radiopharmaceuticals shall, in addition to any other requirements of the Act and this Part, comply with this Section.
- b) Prior to issuance of a pharmacy license to practice as a nuclear pharmacy:
 - 1) The pharmacy shall provide a copy of its Illinois Radioactive Material License issued by the Illinois Emergency Management Agency in accordance with the Radiation Protection Act [420 ILCS 40].
 - 2) The Division shall conduct an on-site inspection of the facility.
- c) The pharmacy shall have:
 - 1) Space commensurate with the scope of services provided, but at least 300 square feet; and
 - 2) A radioactive storage and product decay facility separate from and exclusive of the "hot" laboratory, compounding, dispensing, quality assurance and office areas.
- d) Each nuclear pharmacy shall have the following equipment:
 - 1) Laminar flow hood;
 - 2) Fume hood – minimum of 30 inches in height, which shall be vented through a filter with a direct outlet to the outside;
 - 3) Dose calibrator;
 - 4) Refrigerator;
 - 5) Class A prescription balance or a balance of greater sensitivity;
 - 6) Single-channel or multi-channel gamma scintillation counter;

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- 7) Microscope;
 - 8) Low level, thin-window portable radiation survey meter;
 - 9) Drawing station – lead glass and lead lined;
 - 10) Syringe shields; and
 - 11) Energy Compensated Geiger Mueller (GM) Probe or ion chamber.
- e) Each nuclear pharmacy shall have the following reference texts available:
- 1) The current edition or revision of the United States Pharmacopoeia – Dispensing Information;
 - 2) The current edition or revision of the United States Pharmacopoeia/National Formulary;
 - 3) State and federal regulations governing the use of applicable radioactive material; and
 - 4) U.S. Public Health Service Radiological Health Handbook.
- f) Pharmacist-in-Charge
- 1) The pharmacist-in-charge for a nuclear pharmacy shall meet the requirements set forth in subsection (i). The responsibilities of the pharmacist-in-charge shall include:
 - A) Supervision of all the activities of all employees as they relate to the practice of nuclear pharmacy;
 - B) Establishment and supervision of the record keeping system for the purchase, acquisition, disposition, sale, delivery, possession, storage and safekeeping of radiopharmaceuticals; and
 - C) Establishment and maintenance of security provisions, which shall include the following:

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- i) There shall be no public access to the pharmacy hot lab/dispensing area; and
 - ii) In the absence of a nuclear pharmacist, all radiopharmaceuticals shall be locked and accessible only to a nuclear pharmacist or an individual under direct supervision of the pharmacist; except, a licensed medical practitioner authorized to possess, use and administer radiopharmaceuticals may have access to radiopharmaceuticals in the absence of a nuclear pharmacist.
- 2) Within 30 days after the change of a pharmacist-in-charge, the Division shall be notified in writing by the departing pharmacist-in-charge.
- g) Dispensing Radiopharmaceuticals
- 1) A radiopharmaceutical shall be dispensed only upon a prescription order from a licensed medical practitioner authorized to possess, use and administer radiopharmaceuticals.
 - 2) No radiopharmaceutical shall be dispensed in the absence of a nuclear pharmacist except, a licensed medical practitioner authorized to possess, use, dispense and administer radiopharmaceuticals may dispense in the absence of a nuclear pharmacist.
 - 3) The amount of radioactivity in a preparation for dispensing shall be determined by radiometric methods for each individual preparation at the time of preparation, and calibrated for the anticipated time of administration.
- h) Labeling Requirements
- 1) In addition to the labeling requirements of pharmaceuticals, as stipulated in the Act, the immediate outer container of a radioactive drug, diagnostic agent or device to be dispensed shall also be labeled to include:
 - A) The standard radiation symbol;

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- B) The words "Caution – Radioactive Material";
 - C) The name of the radionuclide;
 - D) The name of the chemical form;
 - E) The amount of radioactive material contained, in milliCuries or microCuries, in the container contents at the time of calibration;
 - F) If the container contents are in liquid form, the volume in milliliters;
 - G) The requested calibration time for the amount of radioactivity contained;
 - H) The prescription number; and
 - I) The name or initials of the nuclear pharmacist filling the prescription.
- 2) The immediate container shall be labeled with:
- A) The standard radiation symbol;
 - B) The words "Caution – Radioactive Material";
 - C) The name and address of the pharmacy;
 - D) The prescription number;
 - E) Name of radionuclide; and
 - F) Name of chemical form.
- i) Nuclear Pharmacist Requirements. A nuclear pharmacist who serves as the pharmacist-in-charge of a nuclear pharmacy and all other pharmacists employed in the pharmacy shall provide evidence to the Division of the following:
- 1) Licensure as a pharmacist in the State of Illinois; and

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- 2) That he/she is named as an authorized user, or works under the supervision of a pharmacist who is named as an authorized user, on a commercial nuclear pharmacy license issued by the Illinois Emergency Management Agency (IEMA) or, when a nuclear pharmacist who works under a broad medical license at a university or research hospital has been approved as a user by that institution's radiation safety committee in accordance with conditions of the license issued by IEMA.
- j) Nothing in this Part shall prohibit the operation of a nuclear medicine laboratory or any other department that is operated under the direct supervision of a licensed medical practitioner authorized to possess, use and administer radiopharmaceuticals.

Section 1330.550 Nonresident Pharmacies

- a) The Division shall require and provide for an annual nonresident special pharmacy registration for all pharmacies located outside of this State that dispense medications for Illinois residents and mail, ship or deliver prescription medications into this State. Nonresident special pharmacy registration shall be granted by the Division upon the disclosure and certification by a pharmacy:
 - 1) That it is licensed in the state in which the dispensing facility is located and from which the drugs are dispensed;
 - 2) Of the location, names and titles of all principal corporate officers and all pharmacists who are dispensing drugs to residents of this State;
 - 3) That it complies with all lawful directions and requests for information from the board of pharmacy of each state in which it is licensed or registered, except that it shall respond directly to all communications from the Division concerning emergency circumstances arising from the dispensing of drugs to residents of this State;
 - 4) That it maintains its records of drugs dispensed to residents of this State so that the records are readily retrievable from the records of other drugs dispensed;
 - 5) That it cooperates with the Division in providing information to the board

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of pharmacy of the state in which it is licensed concerning matters related to the dispensing of drugs to residents of this State; and

- 6) That, during its regular hours of operation, but not less than 6 days per week for a minimum of 40 hours per week, a toll-free telephone service is provided to facilitate communication between patients in this State and a pharmacist at the pharmacy who has access to the patients' records. The toll-free number must be disclosed on the label affixed to each container of drugs dispensed to residents of this State.
- b) To obtain nonresident special pharmacy registration in Illinois, an applicant shall file an application with the Division, on forms provided by the Division, that includes:
 - 1) Disclosure and certification of information required in subsection (a); and
 - 2) The fee required by Section 1330.20.
- c) Nonresident special pharmacy registration shall expire on March 31 of each even-numbered year and may be renewed during the 60 days preceding the expiration date by paying the fee required by Section 1330.20.

Section 1330.560 Remote Prescription/Medication Order Processing

- a) Any pharmacy may provide remote prescription/medication order processing services to any other pharmacy as provided in Section 25.10 of the Act and the following further requirements:
 - 1) Any nonresident pharmacy remote prescription/medication order processing services shall first be registered in its resident state.
 - 2) There shall be a secure, HIPAA compliant, electronic communication system that shall include but not be limited to computer, telephone and facsimile connections.
 - 3) The communication system shall give remote access to all relevant patient information to allow the pharmacist of the remote pharmacy to perform remote medication order processing that shall include all laboratory results and every patient's or resident's medication profile, if appropriate.

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- 4) The secure electronic communication system shall be maintained on a daily basis. If this system malfunctions, the remote processing pharmacy shall cease operations related to the institution affected.
 - 5) Nothing in this Section shall relieve the pharmacist-in-charge of dispensing pharmacies of compliance with Sections 1330.520 and 1330.530.
- b) Record Keeping Requirements
- 1) A policy and procedure manual shall be maintained by the remote prescription/medication order processing pharmacy pertaining to the pharmacy's operations. The manual shall:
 - A) Be accessible to the remote prescription/medication order processing pharmacy staff and the staff at the dispensing pharmacy;
 - B) Be available for inspection by the Division;
 - C) Outline the responsibilities of the remote prescription/medication order processing pharmacy staff and the staff at the dispensing pharmacy;
 - D) Include a current list of the name, address, telephone number and license number of each pharmacist involved in remote prescription/medication order processing;
 - E) Include policies and procedures for:
 - i) Protecting the confidentiality and integrity of patient information;
 - ii) Ensuring that pharmacists performing remote prescription /medication order processing have access to appropriate drug information resources;

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- iii) Ensuring that medical and nursing staff when appropriate, understand how to contact a pharmacist;
 - iv) Maintaining records to identify the name, initials or identification code of each pharmacist who performs any processing function;
 - v) Complying with federal and State laws and regulations;
 - vi) Operating or participating in a continuous quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems;
 - vii) Reviewing the written policies and procedures and documenting the review annually.
- 2) Every pharmacist providing remote prescription/medication order processing services shall record on the order, in the computer system, or on another appropriate, unalterable, uniformly maintained and readily retrievable record the following information for every medication order or prescription processed on behalf of a dispensing pharmacy:
- A) The name, initials or other unique identifier of the pharmacist who verifies the medication order or prescription;
 - B) The name of the patient or resident;
 - C) The name, dose, dosage form, route of administration and dosing frequency of the drug;
 - D) The date and time of verification;
 - E) The name of the prescribing/ordering practitioner;
 - F) Any other information that is required by the dispensing pharmacy being served for use in its own records.

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- 3) The records for medications entered at the remote prescription/medication order processing pharmacy must be distinguishable and readily retrievable from those entered at the institution being served.
 - 4) The pharmacist-in-charge of the remote prescription/medication order processing pharmacy shall maintain and have access to the following records for a minimum of 5 years:
 - A) Records of medication orders processed;
 - B) Records of the electronic communication system maintenance.
 - 5) The remote prescription/medication order processing pharmacy shall maintain a record containing the names and license numbers of all pharmacies to which they are providing services and the number of hours per day the services are being provided.
- c) All pharmacists practicing at a remote pharmacy shall be licensed in Illinois. However, when pharmacists are providing remote prescription/medication order processing for a community pharmacy licensed in Illinois from a community pharmacy licensed in Illinois but located out-of-state, only the pharmacist-in-charge of the remote pharmacy must be licensed in Illinois.
 - d) Only licensed pharmacists at the pharmacy providing remote pharmacy services shall conduct the drug utilization evaluation or review and validation of any order processed within the remote pharmacy, except as provided for in subsection (c).

SUBPART F: PHARMACY STANDARDS

Section 1330.600 Security Requirements

- a) Whenever the pharmacy (prescription area) is not occupied by a registrant, the pharmacy (prescription area) must be secured and inaccessible to non-licensed persons (employees and public). This may be accomplished by measures such as walling off, locking doors or electronic security equipment, as approved by the Division.

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- b) Schedule II drugs shall be secured in rooms, vaults, safes, cabinets, etc., under lock, whether by key, combination or electronically.
- c) Schedule II drugs shall not be distributed among regular stock.
- d) All secured Schedule II drugs shall be accessible only when a pharmacist is physically present, except as provided for in Section 1330.530(e).
- e) A pharmacist shall be physically present whenever Schedule II drugs are not secured and are to be dispensed, except as provided for in Section 1330.530(e).

Section 1330.610 Pharmacy Structural/Equipment Standards

Any new pharmacy or any existing pharmacy that is remodeled, other than institutional pharmacies, must comply with the following provisions:

- a) Notification shall be submitted to the Division that an existing pharmacy will be remodeled.
- b) All dispensing and drug storage areas of the pharmacy must be contiguous.
- c) The pharmacy area and all store rooms shall be well-lighted and properly ventilated.
- d) Refrigerators shall be for the exclusive use of prescription drugs. No personal or food items shall be stored in the refrigerator. Refrigeration shall be capable of maintaining temperature within a range compatible with the proper storage of drugs requiring refrigeration or freezing.
- e) The pharmacy area shall not be used for storage of merchandise that interferes with the practice of pharmacy.
- f) Suitable current reference sources, either in book or electronic data form (available in the pharmacy or on-line), which shall include the United States Pharmacopedia/National Formulary, the United States Pharmacopeia Dispensing Information, Facts and Comparisons, or other suitable references determined by the Division that are pertinent to the practice carried on in the licensed pharmacy.
- g) A telephone shall be immediately accessible in the pharmacy area.

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- h) These requirements are in addition to any other requirements found in this Part.
- i) At a minimum, the equipment and references listed in Section 1330.640 must be maintained at all dispensing pharmacies.

Section 1330.620 Electronic Equipment Requirements

All remote pharmacies operating in Illinois shall meet the following equipment requirements:

- a) The pharmacy shall have a computer, scanner, fax capability and printer.
- b) All prescriptions shall be scanned and sequentially numbered, and the prescription labels shall be produced on site and viewed at the home pharmacy.
- c) Scanned prescriptions shall be displayable on a computer terminal at both the remote pharmacy and home pharmacy.
- d) All patient's demographic and prescription information shall be viewable at both the remote and home pharmacy in real time.
- e) Prescriptions dispensed at the remote pharmacy site must be distinguishable from those dispensed at the home pharmacy.
- f) In all cases in which electronic data processing equipment is used, the original prescription (either hard copy or an exact, unalterable image) shall be retained on file according to law to assure access to the information contained on the prescription in the event of a computer malfunction.

Section 1330.630 Sanitary Standards

- a) All pharmacies and equipment in the pharmacy shall be maintained in a clean condition and in good repair.
- b) All waste material shall be immediately deposited in an appropriate waste receptacle.

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- c) There shall be a sink with hot and cold running water for the purposes of hand washing and drug dispensing. No sink shall be required for pharmacies that do not maintain drug inventory.
- d) The pharmacy area shall be dry and free from vermin.
- e) Food and/or beverages shall only be placed in a designated area away from dispensing activities.
- f) Personal items shall not be placed in an area where they will interfere with dispensing activities.

Section 1330.640 Pharmaceutical Compounding Standards

The minimum standards and technical equipment considered adequate for compounding drugs shall include:

- a) A storage area separate for materials used in compounding.
- b) Scales and balances for the compounding done in the pharmacy.
- c) An area of the pharmacy used for compounding activities.
- d) A heating apparatus.
- e) A logbook or record keeping system to track each compounded prescription and the components used.
- f) A book or reference containing formulas with directions for compounding. The books and references may be in electronic format and/or available via the Internet.
- g) The pharmacy operations manual shall contain the policies and procedures pertinent to the level of complexity and the size of the compounding operations of the practice at that specific pharmacy. Electronic versions are acceptable.
- h) Consumable materials, as appropriate to the pharmacy services provided at that specific pharmacy, such as filter paper, powder papers, empty capsules, ointment jars, bottles, vials, safety closures, powder boxes, labels and distilled water.

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- i) The pharmacy may compound drug products to be used by practitioners in their office for administration to patients.
- j) Sales of compounded drugs to other pharmacies not under common ownership, or to clinics, hospitals or manufacturers are not allowed, except for sales provided by pharmacies contracted to provide centralized prescription filling services pursuant to Section 25.5 of the Act, including compounding in anticipation of receiving a prescription or order based on routine, readily observed dispensing patterns.

Section 1330.650 Pharmacy Computer Regulations

- a) When electronic data processing equipment is employed by a pharmacy, input of drug information shall be performed by a pharmacist, or by a pharmacy technician or a certified pharmacy technician under the supervision of a pharmacist. When orders are entered by pharmacy technicians or certified pharmacy technicians, the supervising pharmacist must verify the accuracy of the information entered. The identity of the supervising pharmacist and the technician shall be maintained in the prescription record.
- b) Electronic data processing equipment or media, when used to store or process prescription information, shall meet the following requirements:
 - 1) Must guarantee the confidentiality of the information contained in the database.
 - 2) Must require that the transmission of electronic prescriptions from prescriber to pharmacist not be compromised by interventions, control or manipulation of the prescription by any other party.

Section 1330.660 Pharmacist-in-Charge

- a) No pharmacy shall be granted a license without a pharmacist being designated on the pharmacy license as pharmacist-in-charge.
- b) A pharmacy shall have one pharmacist-in-charge who shall be routinely and actively involved in the operation of the pharmacy.

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- c) A pharmacist may be the pharmacist-in-charge for more than one pharmacy; however, the pharmacist-in-charge must work an average of at least 8 hours per week at each location where he or she is the pharmacist-in-charge.
- d) The responsibilities of the pharmacist-in-charge shall include:
 - 1) Supervision of all activities of all employees as they relate to the practice of pharmacy;
 - 2) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed (see Section 1330.600); and
 - 3) Establishment and supervision of the record keeping system for the purchase, sale, delivery, possession, storage and safekeeping of drugs.
- e) The operations of the pharmacy and the establishment and maintenance of security provisions are the dual responsibility of the pharmacist-in-charge and the owner of the pharmacy.
- f) Within 30 days after a change of a pharmacist-in-charge, the Division shall be notified in writing by the departing pharmacist-in-charge.
- g) In addition to notifying the Division within 30 days, the departing pharmacist-in-charge shall, on the effective date of the change, inventory the following controlled substances:
 - 1) All Schedule II drugs, as defined in the Illinois Controlled Substances Act, by actual physical count; and
 - 2) All other scheduled drugs, as defined in the Illinois Controlled Substances Act, by estimated count.
- h) The inventory described in subsection (g) of this Section shall constitute, for the purpose of this Section, the closing inventory of the departing pharmacist-in-charge and the initial inventory of the incoming pharmacist-in-charge. This inventory record shall be preserved in the pharmacy for a period of 5 years. An affidavit attesting to the completion of the inventory and preservation of the

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inventory record, bearing the date of the inventory and the name and signatures of the departing and the incoming pharmacist-in-charge, shall be submitted to the Division at its principal office within 30 days after the change in the pharmacist-in-charge.

- i) Failure on the part of a registrant to provide the information required in subsections (g) and (h) shall be grounds for denying an application or renewal application for a pharmacy license by that registrant or for disciplinary action against the registrant. Disciplinary action shall be based on the recommendation of the Board.
- j) In the event the departing pharmacist-in-charge refuses to complete the inventory as provided for in subsection (g), or that pharmacist-in-charge is incapacitated or deceased, the initial inventory for the incoming pharmacist-in-charge shall be the inventory as completed by the incoming pharmacist-in-charge. The incoming pharmacist-in-charge will not be responsible for any discrepancy that may exist in the inventory prior to his or her initial inventory.
- k) When the accuracy, relevance or completeness of any submitted documentation is questioned by the Division, because of a lack of information, discrepancies or conflicts in information given, or a need for clarification, the registrant will be required to:
 - 1) Provide information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information given, or clear up any discrepancies or conflict of information.
- l) Records shall be retained as provided for in Section 18 of the Act. Invoices for all legend drugs shall be maintained for a period of 5 years either on site or at a central location where records are readily retrievable. Invoices shall be maintained on site for at least one year from the date of the invoice.
- m) Whenever a pharmacy intends on changing or adding to the type of pharmacy services it offers, as listed in Sections 1330.500, 1330.510, 1330.520, 1330.530, 1330.540 and 1330.560, it shall notify the Division no less than 30 days prior to the change or addition.

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Section 1330.670 Compounded Sterile Preparation Standards

- a) This Section sets forth standards for pharmacies whose practice includes the preparation, labeling and distribution of compounded sterile preparations pursuant to prescriptions or medication orders, as defined in the Act. These activities may include, but are not limited to:
- 1) Sterile preparation of parenteral therapy and parenteral nutrition;
 - 2) Sterile preparations of cytotoxic or antineoplastic agents; and
 - 3) Other sterile preparations to be used topically or internally by humans or animals.
- b) Definitions
- 1) "Barrier Isolation Chamber" means an apparatus designed to provide a Class 5, 6 or 7 environment, as spelled out in ISO (International Organization for Standardization) 14644-1, for preparation of sterile preparations using solid walls rather than air movement (laminar air flow) to create a critical zone for preparation handling, a high efficiency particulate air (HEPA) filtration system that conditions the air flowing through the unit to remove initial particles and particles generated within the controlled environment, and a means by which preparations are introduced and people interact with the preparation being prepared within the unit.
 - 2) "Biological Safety Cabinet" or "BSC" means a containment unit suitable for the preparation of low to moderate risk agents when there is a need for protection of the preparation, personnel and environment, according to ISO 14644-1.
 - 3) "Compounded Sterile Preparation" or "CSP" means a sterile pharmaceutical that has been prepared by a pharmacist, or under the supervision of a pharmacist. It shall be a preparation prepared for or in anticipation of a specific patient prescription or medication order issued by a prescribing practitioner. The preparation may include commercially available dosage forms that may need to be altered by the pharmacist to meet a specific patient's need.

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- 4) "Cytotoxic" means a pharmaceutical that has the capability of killing living cells. These agents shall include, but are not limited to, agents classified as cancer chemotherapeutic, carcinogenic, mutagenic and antineoplastic.
 - 5) "Laminar Airflow Hood" means an apparatus designed to provide a Class 5, 6 or 7 environment, as spelled out in ISO 14644-1 for preparation of sterile products using air circulation in a defined direction that passes through a HEPA filter to remove the initial particles and particles generated within the controlled environment.
 - 6) "Parenteral" means sterile preparations of drugs for injection through one or more layers of the skin.
 - 7) "Terminal" means a patient whose medical condition indicates his or her life expectancy to be 6 months or less.
- c) Physical Requirements of Pharmacies Preparing Compounded Sterile Preparations
- 1) The pharmacy shall have a designated area for preparing compounded sterile preparations. The area shall be designed to minimize outside traffic and airflow disturbances from activity within the facility. It shall be of sufficient size to accommodate a laminar airflow hood (LAF), barrier isolation chamber or BSC and to provide for the proper storage of drugs and supplies under appropriate conditions of temperature, light, moisture, sanitation, ventilation and security. It shall be ventilated in a manner not interfering with the proper operation of the compounded sterile preparations.
 - 2) The licensed pharmacy preparing compounded sterile preparations shall have the following:
 - A) workstation
 - i) LAF shall be certified annually in accordance with ISO 14644-1;

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- ii) In the event the preparation apparatus is moved from its site of certification, recertification shall occur prior to resumption of use for compounding sterile preparations;
 - iii) Prefilters shall be inspected, replaced or cleaned per manufacturer specifications monthly and documentation of this maintained;
 - B) Sink with hot and cold running water, which is convenient to, but apart from, the compounding area;
 - C) National Institute for Occupational Safety and Health (NIOSH) approved disposal containers for used needles, syringes, etc., and, if applicable, cytotoxic waste from the preparation of chemotherapy agents;
 - D) Biohazard cabinetry for environment control when cytotoxic compounded sterile preparations are prepared;
 - E) Refrigerator and/or freezer with a thermometer or temperature recording device; and
 - F) Temperature controlled containers for off site deliveries.
- 3) The following current resource materials and texts shall be maintained in the pharmacy:
- A) United States Pharmacopoeia/National Formulary (USP/NF);
 - B) American Hospital Formulary Service;
 - C) Copies of the Act and this Part, the Illinois Controlled Substances Act and rules adopted under that Act, 21 CFR and the Illinois Hypodermic Syringes and Needles Act [720 ILCS 635];
 - D) One compatibility reference such as:
 - i) Trissel's Handbook on Injectable Drugs;

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- ii) King's Guide to Parenteral Admixtures; or
 - iii) Any other Division approved publication;
- E) A file or reference on extended (more than 24 hours) stability data given to finished preparations.
- d) Staffing. A pharmacist shall be accessible at all times at each licensed facility to respond to patients' and health professionals' questions and needs. A 24-hour telephone number will be included on all labeling of compounded medication and medication infusion devices if used off site.
- e) Drug Distribution and Control
- 1) Patient Profile or Medication Record System. A pharmacy generated patient profile or medication record system shall be maintained in addition to the prescription file. The patient profile or medication record system shall contain, at a minimum:
 - A) Patient's full name;
 - B) Date of birth or age;
 - C) Gender;
 - D) Compounded sterile preparations dispensed;
 - E) Date dispensed, if off site;
 - F) Drug content and quantity;
 - G) Patient directions, if preparation being administered off site;
 - H) Identifying number;
 - I) Identification of dispensing pharmacist and, if applicable, pharmacy technician;

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- J) Other drugs or supplements the patient is receiving, if provided by the patient or his or her agent;
 - K) Known drug sensitivities and allergies to drugs and foods;
 - L) Diagnosis; and
 - M) Lot numbers of components or individual medicine if the compounded sterile preparation is not used within 48 hours after preparation.
- 2) Labeling. Each compounded sterile preparation dispensed to patients shall be labeled with the following information, using a permanent label:
- A) Name, address and telephone number of the licensed pharmacy, if not used within facility;
 - B) Administration date and identifying number if used on site, date dispensed, and identifying number if used off site;
 - C) Patient's full name and room number, if applicable;
 - D) Name of each drug, strength and amount;
 - E) Directions for use and/or infusion rate if used off site;
 - F) Prescriber's full last name if used off site;
 - G) Required controlled substances transfer warnings, when applicable;
 - H) Beyond use date and time;
 - I) Identity of pharmacist compounding and dispensing, or other authorized individual; and
 - J) Auxiliary labels storage requirements, if applicable.

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- 3) The pharmacist-in-charge shall ensure that records are maintained for 5 years and are readily retrievable and in a format that provides enforcement agents an accurate and comprehensive method of monitoring distribution via an audit trail. The records shall include at least the following information:
 - A) Patient profile;
 - B) Medication record system;
 - C) Purchase records; and
 - D) Lot numbers of the components used in compounding sterile prescriptions/orders traceable to a specific patient, if not included on patient profile and if the preparation is not utilized within 48 hours after preparation.
- f) **Delivery Service.** The pharmacist-in-charge shall assure the environmental control of all preparations shipped or delivered off site. Therefore, any compounded, sterile pharmaceutical must be shipped or delivered to a patient in temperature controlled (as defined by USP Standards) delivery containers.
- g) **Cytotoxic Drugs.** The following additional requirements are necessary for those licensed pharmacies that prepare cytotoxic drugs:
 - 1) Safety and containment techniques or devices for compounding cytotoxic drugs shall be used.
 - 2) Disposal of cytotoxic waste shall comply with all applicable local, State and federal requirements.
 - 3) Prepared doses of cytotoxic drugs shall be dispensed, labeled with proper precautions inside and outside, and shipped in a manner to minimize the risk of accidental rupture of the primary container.
 - 4) The pharmacy must have as a reference Procedures for Handling Cytotoxic Drugs (American Society of Hospital Pharmacists (ASHP)).

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- h) Emergency Medications. Pharmacies that dispense compounded sterile preparations to patients in facilities off site or in the patient's residence shall stock supplies and medications appropriate for treatment of allergic or other common adverse effects, to be dispensed upon the prescription or order of an authorized prescriber.

Section 1330.680 Automated Dispensing and Storage Systems

- a) This Section sets forth standards for pharmacies whose practice includes the use of automated dispensing and storage systems. Automated dispensing and storage systems shall not be used in nuclear pharmacies.
- b) Automated Dispensing and Storage Systems
 - 1) Automated dispensing and storage systems may be utilized in licensed community or institutional pharmacies.
 - 2) Documentation as to type of equipment, serial numbers, content, policies and procedures, and locations shall be maintained on-site in the pharmacy for review by the Division. Documentation shall include, but not be limited to:
 - A) Name and address of the pharmacy or facility where the automated dispensing and storage system is operational;
 - B) Manufacturer's name and model;
 - C) Quality assurance policy and procedures to determine continued appropriate use and performance of the automated device; and
 - D) Policies and procedures for system operation, safety, security, accuracy, patient confidentiality, access, controlled substances, data retention or archival, definitions, downtime procedures, emergency or first dose procedures, inspection, installation requirements, maintenance, medication security, quality assurance, medication inventory, staff education and training, system set-up and malfunction.

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- 3) Automated dispensing and storage systems shall be used only in settings that ensure medication orders and prescriptions are reviewed by a pharmacist in accordance with established policies and procedures and good pharmacy practice.
- 4) Automated dispensing and storage systems shall have adequate security systems and procedures, evidenced by written pharmacy policies and procedures, to:
 - A) Prevent unauthorized access or use;
 - B) Comply with any applicable federal and State regulations; and
 - C) Maintain patient confidentiality.
- 5) Records and/or electronic data kept by automated dispensing and storage systems shall meet the following requirements:
 - A) All events involving access to the contents of the automated dispensing and storage systems must be recorded electronically;
 - B) Records must be maintained by the pharmacy and must be readily available to the Division. The records shall include:
 - i) identity of system accessed;
 - ii) identification of the individual accessing the system;
 - iii) type of transaction;
 - iv) name, strength, dosage form and quantity of the drug accessed;
 - v) name of the patient for whom the drug was ordered;
 - vi) identification of the registrants stocking or restocking and the pharmacist checking for the accuracy of the medications to be stocked or restocked in the automated dispensing and storage system; and

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- vii) such additional information as the pharmacist-in-charge may deem necessary.
- 6) The stocking or restocking of all medications in the automated dispensing and storage systems shall be accomplished by registrants under the Act.
- 7) All containers of medications stored in the automated dispensing and storage systems shall be packaged as a unit of use for single patient use (e.g., unit dose tab/cap, tube of ointment, inhaler, etc.) and labeled as specified in this subsection (b)(7):
- A) Sterile solutions to which a drug or diluent has been added, or that are not in their original manufacturer's packaging, shall contain the following information on the outer label:
 - i) Name, concentration and volume of the base sterile solution;
 - ii) Name and strength of drugs or diluent added;
 - iii) Date and beyond use date of the admixture. The beyond use date, unless otherwise specified in the individual compendia monograph, shall be no later than the beyond use date on the manufacturer's container or one year from the date the drug is repackaged; and
 - iv) Reference code to identify source and lot number of drugs or diluent added.
 - B) Non-parenterals repackaged for future use shall be identified with the following information:
 - i) Brand and/or generic name;
 - ii) Strength (if applicable);
 - iii) Beyond use date. Unless otherwise specified in the individual monograph, the beyond use date shall be no later

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than the beyond use date on the manufacturer's container or one year from the date the drug is repackaged; and

- iv) Reference code to identify source and lot number.
- C) Exceptions to the "unit of use" requirements in subsections (b)(7) are as follows:
- i) Injectable medications stored in their original multi-dose vial (e.g., insulin, heparin) when the medication may be withdrawn into a syringe or other delivery device for single patient use; or
 - ii) Over-the-counter (OTC) products stored in their original multi-dose container (e.g., antacids, analgesics) when the medication may be withdrawn and placed into an appropriate container for single patient use.
- 8) For medication removed from the system for on-site patient administration, the system must document the following information:
- A) Name of the patient or resident;
 - B) Patient's or resident's unique and permanent identifier, such as admissions number or medical records number;
 - C) Date and time medication was removed from the system;
 - D) Name, initials or other unique identifier of the person removing the drug; and
 - E) Name, strength and dosage form of the drug or description of the medical device removed. The documentation may be on paper, via electronic media or via any other media or mechanisms as set forth by the Act or this Part or as approved by the Division.
- 9) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for medications once removed from and subsequently returned to the automated dispensing and storage systems

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(e.g., return bin). No medication or device shall be returned directly to the system for immediate reissue or reuse by a non-registrant under the Act. Medication or devices once removed shall not be reused or reissued except for:

- A) Medical devices that can be properly sanitized prior to reuse or reissue; and
 - B) Medication that is dispensed and stored under conditions defined and supervised by the pharmacist and are unopened in sealed, intact and unaltered containers that meet the standards for light, moisture and air permeation as defined by the current USP/NF, or by the USP Conventions, Inc.
- 10) The automated dispensing and storage systems shall provide a mechanism for securing and accounting for wasted medications or discarded medications.
- 11) The quality assurance documentation for the use and performance of the automated dispensing and storage systems shall include at least the following:
- A) Safety monitors (e.g., wrong medications removed and administered to patient);
 - B) Accuracy monitors (e.g., filling errors, wrong medications removed); and
 - C) Security monitors (e.g., unauthorized access, system security breaches, controlled substance audits).
- 12) Errors in the use or performance of the automated dispensing and storage systems resulting in patient or resident death shall be reported to the Division by the pharmacist-in-charge within 30 days after acquiring knowledge of the incident.
- 13) Policy and procedures for the use of the automated dispensing and storage systems shall include a requirement for pharmacist review of the prescription or medication order prior to the system profiling and/or

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removal of any medication from the system for immediate patient administration. This does not apply to the following situations:

- A) The system is being used as an after-hours cabinet for medication dispensing in the absence of a pharmacist (see Section 1330.530(e)(1));
 - B) The system is being used in place of an emergency kit (see Section 1330.530(e)(2));
 - C) The system is being used to provide access to medication required to treat the immediate needs of a patient (see Section 1330.530(e)(3)). A sufficient quantity to meet the immediate needs of the patient may be removed until a pharmacist is on duty and available to review the prescription or medication order. A pharmacist shall check the orders promptly once on duty (e.g., floor stock system, emergency department, surgery, ambulatory care or same day surgery, observation unit, etc.).
- 14) Policies and procedures for the use of the automated dispensing and storage systems shall include the following:
- A) List of medications to be stored in each system;
 - B) List of medications qualifying for emergency or first dose removal without pharmacist prior review of the prescription or medication order; and
 - C) List of medications qualifying for control purposes.
- 15) The pharmacist-in-charge shall maintain or have access to all records or documentation specified in this Section for 5 years or as otherwise required by law.
- 16) A copy of all pharmacy policies and procedures related to the use of an automated dispensing and storage system shall be maintained at all locations where the system is being used.
- c) Duties and Responsibilities of the Pharmacist-in-Charge

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- 1) The pharmacist-in-charge shall be responsible for:
 - A) Assuring that the automated dispensing and storage system is in good working order and accurately provides the correct strength, dosage form and quantity of the drug prescribed while maintaining appropriate record keeping and security safeguards;
 - B) Establishment of a quality assurance program prior to implementation of an automated dispensing and storage system and the supervision of an ongoing quality assurance program that monitors appropriate use and performance of the automated dispensing and storage system, evidenced by written policies and procedures developed by the pharmacy;
 - C) Providing the Division with written notice 30 days prior to the installation of, or at the time of removal of, an automated storage and dispensing system. The notice must include, but is not limited to:
 - i) the name and address of the pharmacy;
 - ii) the address of the location of the automated dispensing and storage system, if different from the address of the pharmacy;
 - iii) the automated dispensing and storage system's manufacturer and model;
 - iv) the pharmacist-in-charge; and
 - v) a written description of how the facility intends to use the automated storage and dispensing system;
 - D) Determining and monitoring access to and the limits on access (e.g., security levels) to the automated storage and dispensing system. Access shall be defined by policies and procedures of the pharmacy and shall comply with State and federal regulations.

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- 2) Additional responsibilities of the pharmacist-in-charge or pharmacist designated by the pharmacist-in-charge shall include:
 - A) Authorizing the assigning of access to, discontinuing access to, or changing access to the system;
 - B) Ensuring that access to the medications complies with State and federal regulations, as applicable; and
 - C) Ensuring that the automated dispensing and storage system is stocked/restocked accurately and in accordance with established, written pharmacy policies and procedures.
- d) Kiosk
 - 1) A pharmacy may use automated dispensing and storage systems to deliver prescriptions to a patient when the device:
 - A) Allows a patient to choose whether or not to use the system;
 - B) Is located within the physical premises at which the licensed pharmacy is located. The automated dispensing and storage system shall be secured against a wall or floor in such a manner as to prevent the unauthorized removal of the system;
 - C) Contains only prescriptions that have been processed, verified and completed in the same manner as if the prescriptions were going to be delivered manually by the pharmacy;
 - D) Can deliver any one, any combination of, or all of the prescriptions available to a patient at the option of the patient at the time the patient picks up his prescriptions;
 - E) Provides a method to identify the patient and delivers the prescription only to that patient or the patient's authorized agent;
 - F) Has adequate security systems and procedures to prevent unauthorized access, to comply with federal and State regulations, and to maintain patient confidentiality;

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- G) Records the time and date that the patient removed the prescription from the system;
 - H) Informs a patient, if he or she is using the device when the pharmacy is open, that the patient may address questions and concerns regarding the prescription to a pharmacist at the pharmacy;
 - I) Informs a patient, if he is using the device when the pharmacy is closed, that he or she may immediately direct any questions and concerns regarding the prescription to a licensed pharmacist via a pharmacy provided audio/video link;
 - J) Informs a patient that a prescription is not available to be delivered by the device if the pharmacist has determined that he or she desires to counsel the patient in person regarding the prescription.
- 2) The system must be approved by the Board prior to its operation.
 - 3) The Board may prohibit a pharmacy from using an automated dispensing and storage system to deliver prescriptions to a patient if the Board determines that the device does not comply with this Section or that the pharmacy's use of the device does not comply with this Section.

SUBPART G: PHARMACY OPERATIONS

Section 1330.700 Patient Counseling

- a) Upon receipt of a new or refill prescription, a prospective drug regimen review or drug utilization evaluation shall be performed. An offer to counsel shall be made on all prescriptions. If the offer to counsel is accepted, the pharmacist or the student pharmacist, as directed and supervised by the pharmacist, shall counsel the patient or patient's agent using his or her professional judgment. Counseling shall include, but is not limited to:
 - 1) Name and description of medication;
 - 2) Dosage form and dosage;

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- 3) Route of administration;
 - 4) Duration of therapy;
 - 5) Techniques for self-monitoring;
 - 6) Proper storage;
 - 7) Refill information;
 - 8) Actions to be taken in cases of missed doses;
 - 9) Special directions and precautions for preparation, administration and use;
 - 10) Common severe side effects, adverse effects, or interactions and therapeutic contraindications that may be encountered, including their avoidance and the action required if they occur.
- b) If, in the pharmacist's professional judgment, oral counseling is not practicable for the patient or patient's agent, the pharmacist shall use alternative forms of patient information. When used in place of oral counseling, alternative forms of patient information shall advise the patient or agent that the pharmacist may be contacted for consultation in person at the pharmacy or by toll-free or collect telephone service.
- c) The pharmacist is responsible for maintaining patient profiles as defined in Section 3(s) of the Act. A reasonable effort shall be made to obtain information, including, but not limited to, the following:
- 1) Name, date of birth (age), gender, address and telephone number;
 - 2) Individual history, when significant, including disease state, known allergies, drug interactions, and a comprehensive list of medications and relevant devices; and
 - 3) Pharmacist's comments relevant to the individual's therapy.

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- d) Patient identifiable information obtained by the pharmacist or the pharmacist's designee for the purpose of patient record maintenance, prospective drug review, drug utilization review and patient counseling shall be considered protected health information, as defined in Section 3(cc) of the Act. A pharmacist shall provide counseling related to protected health information in a discreet, supportive and informative manner.
- e) A pharmacist at an institutional pharmacy shall provide patient counseling as required in this Section when drugs are dispensed by the pharmacy upon a patient's discharge from the institution.
- f) When a patient or patient's agent refuses to accept patient counseling as provided in this Section, that refusal shall be documented. The absence of any record of a refusal to accept the offer to counsel shall be presumed to signify that the offer was accepted and that counseling was provided.
- g) A pharmacist operating a remote pharmacy shall comply with the requirements of this Section. Counseling in those circumstances shall be done by both video and audio means.

Section 1330.710 Reporting Theft or Loss of Controlled Substances

In every instance that a pharmacy is required by federal regulation (21 CFR 1301.76) to file with the U.S. Drug Enforcement Agency a Report of Theft or Loss of Controlled Substances (Form 106) a copy shall be sent to the Division, along with the printed name of the person who signed the form. Failure to do so may result in discipline of the pharmacy.

Section 1330.720 Transfer of Prescription

- a) A prescription may be transferred between pharmacies for the purpose of original fill or refill dispensing, provided that:
 - 1) The pharmacist transferring the prescription invalidates the prescription on file and records to which pharmacy the prescription was transferred, the date of issuance of the copy and the name of the pharmacist issuing the transferred prescription order; and
 - 2) The pharmacist receiving the transferred prescription directly from the other pharmacist records the following:

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- A) The name, address and original prescription number of the pharmacy from which the prescription was transferred;
 - B) All information constituting a prescription order, including the following: name of the drug, original amount dispensed, date of original issuance of the prescription, and number of valid refills remaining; and
 - C) The pharmacist receiving the transferred prescription informs the patient that the original prescription has been cancelled at the pharmacy from which it has been transferred.
- b) A prescription for Schedule III, IV and V drugs may be transferred only from the original pharmacy and only one time for the purpose of original fill or refill dispensing and may not be transferred further. However, a pharmacist who is electronically sharing real-time on-line computerized systems may transfer up to the maximum refills permitted by law and the prescriber's authorization in accordance with CFR 1306.26(a).
 - c) Computerized systems must satisfy all information requirements of this Section, including invalidation of the original prescription when transferred between pharmacies accessing the same prescription records or between pharmacies of the same ownership. If those systems that access the same prescription records have the capability of cancelling the original prescription, pharmacies using such a system are exempt from the requirements of this subsection if the transferred prescription can always be tracked to the original prescription order from the prescribing practitioner and the original prescription can be produced.
 - d) When prescription information is transferred to another pharmacy for the purposes of original fill, the transferring pharmacy must enter a prescription into its system as if that prescription were filled at that pharmacy.
 - e) Nothing in this Section shall apply to transactions described in Section 20 of the Act.
 - f) A prescription shall only be transferred upon the request or authorization of the person for whom the prescription was issued, except upon closure of a pharmacy,

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in which case notice shall be made to that person, orally or in writing, of the closure and the location where the prescription is transferred.

Section 1330.730 Drug Prepackaging

- a) The term prepackaged, as used in this Section, is defined as any drug being removed from the original manufacturer container and placed in a dispensing container for other than immediate dispensing to a patient.
- b) Any prepackaged drugs must have a label affixed that contains, at a minimum, the name and strength of the drug, the name of manufacturer or distributor, beyond use date, and lot number. Maximum beyond use date allowed for prepackaged drugs shall be the manufactured beyond use date or 12 months, whichever is less. Pharmacies that store drugs with an automated counting device may, in place of the required labels, maintain records of lot numbers and beyond use dates that are required on the label as long as it is fully traceable and is readily retrievable during an inspection.
- c) Automatic counting cassettes must have a label affixed to the cassette containing the information required in subsection (b).

Section 1330.740 Multi-Med Dispensing Standards for Community Pharmacies

- a) In lieu of dispensing 2 or more prescribed drug products in separate containers, a pharmacist may, with the consent of the patient, the patient's caregiver, or a prescriber, provide a customized patient medication package (patient med pak).
- b) A patient med pak is a package prepared by a pharmacist for a specific patient comprising a series of containers and containing 2 or more prescribed solid oral dosage forms. The patient med pak is designed, or each container is labeled, to indicate the day and time or period of time when the contents within each container are to be taken.
 - 1) The patient med pak shall include information stating:
 - A) The name of the patient;
 - B) A serial number for the patient med pak itself and a separate identifying serial number for each of the prescription orders for

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each of the drug products contained in the med pak;

- C) The name, strength, physical description or identification, and total quantity of each drug product contained in the med pak;
 - D) The directions for use and cautionary statements, if any, contained in the prescription order for each drug product contained in the med pak;
 - E) Any storage instructions;
 - F) The name of the prescriber of each drug product;
 - G) The date of preparation of the patient med pak; and
 - H) The name, address and telephone number of the pharmacist and any other registrant involved in dispensing.
- 2) Once a patient med pak has been delivered to an institution or to a patient, the drugs dispensed in the med pak shall not be accepted for return to the pharmacy.
 - 3) A pharmacy is prohibited from creating a patient med pak utilizing drugs dispensed from a different pharmacy.

Section 1330.750 Return of Drugs

- a) Once a dispensed drug is removed from the premises by a patient or the patient's agent, that drug shall not be accepted for return or exchange by a pharmacy or pharmacist.
- b) The provision of subsection (a) shall not apply to a drug dispensed to a patient of an institutional healthcare facility where a licensed healthcare professional administers the drug and the pharmacist ensures that:
 - 1) the drugs were stored in compliance with Sections 1330.610 and 1330.630;
 - 2) the drugs are not contaminated, deteriorated or beyond their use date; and

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- 3) the returns are properly documented.
- c) The provisions of subsection (a) shall not apply to drugs returned for purposes of destruction. The returned drugs must be stored separately from the pharmacy's active stock.

Section 1330.760 Electronic Transmission of Prescriptions

Electronic transmission of prescriptions shall be allowed, provided the following conditions are met:

- a) The prescription shall be transmitted directly, or through an intermediary, from the authorized licensed prescriber to the pharmacy of the patient's choice. No intermediary shall alter the prescription information or content of the prescription.
- b) The prescriptions shall comply with all applicable statutes and rules regarding the form, content, record keeping and processing of a prescription drug.
- c) The electronically transmitted prescription shall include the following:
 - 1) The transmitting prescriber's facsimile number, if applicable;
 - 2) The time and date of the transmission;
 - 3) The identity of the person sending the prescription;
 - 4) The address and contact information of the person transmitting the prescription.
- d) The electronic device in the pharmacy that receives the electronically transmitted prescription shall be located within the pharmacy area.
- e) A facsimile of an electronically transmitted prescription shall be non-fading and remain legible.
- f) The facsimile of the electronically transmitted prescription shall be stored in the pharmacy as required by State and federal laws or rules and may serve as the record of the prescription.

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- g) The electronically transmitted prescription shall serve as the record of the prescription so long as the electronically submitted prescription can be stored and is readily retrievable so as to comply with federal and State record keeping requirements.
- h) To maintain confidentiality, adequate security and systems safeguards designed to prevent and detect unauthorized access, modification or manipulation of electronically transmitted prescriptions is required.
- i) A pharmacy or pharmacist shall not enter into an agreement with a practitioner or healthcare facility concerning the provision of any means for the electronic transmission of prescriptions that would adversely affect a patient's freedom to select the pharmacy or pharmacy department of his or her choice.
- j) Electronically transmitted prescriptions for controlled substances may be dispensed only as provided by federal law.

Section 1330.770 Centralized Prescription Filling

Pharmacies providing centralized prescription filling shall:

- a) Share a common electronic file to allow access to sufficient information necessary or required to fill or refill a prescription order.
- b) Maintain appropriate records to identify the responsible pharmacist in the dispensing process.
- c) Maintain a mechanism for tracking the prescription drug order during each step in the process.

Section 1330.780 Change of Ownership of a Pharmacy

A new pharmacy application must be filed whenever:

- a) 10% or more of the ownership of the business, other than a publicly traded business, to which the pharmacy licensee was issued is sold or otherwise transferred to a person or entity that does not hold any interest in the business issued the pharmacy license prior to the sale or transfer; or

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- b) more than half the board of directors or executive officers of a business issued a pharmacy license change.

Section 1330.790 Closing a Pharmacy

Whenever a pharmacy intends to close, the following procedures must be followed:

- a) Notify the Division in writing 30 days in advance of the closing date.
- b) Notify customers of the closure at least 15 days in advance of the closing date and where the customer's records will be maintained.
- c) Comply with all DEA requirements for closing a pharmacy.
- d) On the day the pharmacy closes:
 - 1) Conduct an inventory of the pharmacy's controlled substances and maintain the inventory record for inspection by the Division for 5 years.
 - 2) Return the pharmacy license to the Division's drug compliance investigator or other authorized Division personnel.
 - 3) Notify the Division in writing as to where the controlled substances inventory and records will be kept and how the controlled substances were transferred or destroyed. Records involving controlled substances must be kept available for 5 years for inspection by the Division.
 - 4) Notify the Division in writing of the name of the person responsible for and the location where the closing pharmacy's prescription files and patient profiles will be maintained. These records shall be kept for a minimum of 5 years from the date the last original or refill prescription was dispensed.
- e) The pharmacy acquiring prescription records from a closing pharmacy must inform the Division prior to the date when the transaction is going to take place.
- f) After the closing date, only the pharmacist in-charge, or other designated pharmacist, of the pharmacy discontinuing business shall have access to the

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prescription drugs until those drugs are transferred to the new owner or other purchaser or are properly destroyed.

- g) Cover all signage indicating "Drug Store" or "Pharmacy" as soon as practicable. The signage shall be removed in a timely manner. A sign shall be prominently posted that the pharmacy is closed.

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- 1) Heading of the Part: The Structural Engineering Practice Act of 1989
- 2) Code Citation: 68 Ill. Adm. Code 1480
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1480.110	Amendment
1480.120	Amendment
1480.130	Amendment
1480.135	Amendment
1480.140	Amendment
1480.150	Amendment
1480.160	Amendment
1480.170	Amendment
1480.175	Amendment
1480.180	Amendment
1480.185	Amendment
1480.190	Amendment
1480.195	Amendment
1480.200	Amendment
1480.205	Amendment
1480.210	Amendment
1480.215	Amendment
1480.220	Amendment
- 4) Statutory Authority: Structural Engineering Practice Act of 1989 [225 ILCS 340]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking is primarily clean-up. Section 1480.110 provides clarification and increases the possible credit that may be granted for post-graduate degrees towards the experience requirement. It also clarifies procedures for the review of application files. Section 1480.175 clarifies which examinations would meet the seismic requirements and provides an additional means of meeting the seismic requirements. Acceptable activities for continuing education are also clarified. The Test of English as a Foreign Language Internet Based Test (TOEFL-iBT) has been added as an acceptable alternative for applicants educated in a foreign country. The amendment makes various non-substantive changes, including changing references throughout the entire Part 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. Other obsolete language is also being removed.

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- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking has no impact on local governments.
- 12) 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: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
Fax #: 217/557-4451

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing structural engineering services
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Structural engineering skills are required for licensure.

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- 14) Regulatory Agenda on which this rulemaking was summarized: January 2009

The full text of the Proposed 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 1480

THE STRUCTURAL ENGINEERING PRACTICE ACT OF 1989

Section

1480.10	Statutory Authority (Repealed)
1480.20	Licensure (Repealed)
1480.30	Approved Education Qualifications (Repealed)
1480.40	Approved Experience Qualifications (Repealed)
1480.45	Renewals (Renumbered)
1480.50	Restoration of Expired Certificate (Repealed)
1480.60	Granting Variances (Renumbered)
1480.110	Approved Structural Engineering Curriculum
1480.120	Definition of Degree in Related Science
1480.130	Approved Experience
1480.135	Application for Enrollment as a Structural Engineer Intern by Examination
1480.140	Application for Licensure by Examination
1480.150	Examination
1480.160	Restoration
1480.170	Endorsement
1480.175	Seismic Design Requirement
1480.180	Inactive Status
1480.185	Continuing Education
1480.190	Renewals
1480.195	Fees
1480.200	Professional Design Firm
1480.205	Acts Constituting the Practice of Structural Engineering Pursuant to Section 5 of the Act
1480.210	Standards of Professional Conduct
1480.215	Structural Engineer Complaint Committee
1480.220	Granting Variances (Renumbered)

AUTHORITY: Implementing the Structural Engineering Practice Act of 1989 [225 ILCS 340] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

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SOURCE: Adopted at 4 Ill. Reg. 22, p. 242, effective May 15, 1980; amended at 4 Ill. Reg. 44, p. 475, effective October 20, 1980; codified at 5 Ill. Reg. 11068; codified and amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; transferred from Chapter I, 68 Ill. Adm. Code 480 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1480 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2947; emergency amendment at 13 Ill. Reg. 5781, effective April 5, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 13891, effective August 22, 1989; amended at 15 Ill. Reg. 7081, effective April 29, 1991; amended at 17 Ill. Reg. 11162, effective July 1, 1993; amended at 18 Ill. Reg. 14751, effective September 19, 1994; amended at 19 Ill. Reg. 2309, effective February 14, 1995; amended at 19 Ill. Reg. 16081, effective November 17, 1995; amended at 21 Ill. Reg. 13844, effective October 1, 1997; amended at 24 Ill. Reg. 639, effective December 31, 1999; amended at 24 Ill. Reg. 13734, effective August 28, 2000; amended at 26 Ill. Reg. 12271, effective July 24, 2002; emergency amendment at 27 Ill. Reg. 12114, effective July 14, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18990, effective December 5, 2003; amended at 33 Ill. Reg. _____, effective _____.

Section 1480.110 Approved Structural Engineering Curriculum

- a) The Department of Financial and Professional Regulation-Division of Professional Regulation (~~Division~~the "Department") shall, upon the recommendation of the Structural Engineering Board (the "Board") approve an applicant's engineering or architecture curriculum if the degree is from an educational institution that is legally recognized and authorized by the jurisdiction in which it is located to confer a baccalaureate degree in engineering or architecture.
- b) The curriculum shall be at least 4 academic years, lead to the awarding of the baccalaureate degree, and provide integration of the educational experience with the ability to apply the knowledge gained to the identification and solution of practical problems.
- c) The curriculum of each applicant shall include a minimum of 18 semester hours of courses in the analysis, behavior, and design of structural elements and systems. These courses may include, but not be limited to:
 - 1) Structural analysis courses such as determinate and indeterminate structures and stability; and

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- 2) A minimum of 9 semester hours are required in structural design courses that may include structural steel, reinforced concrete, prestressed concrete, foundation, masonry and wood engineering.
- 3) Courses such as mechanics (statics and dynamics), mechanics of materials, properties of materials, and soil mechanics shall not be included in the minimum 18 semester hours.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.120 Definition of Degree in Related Science

- a) A Degree in Related Science is a four-year curriculum resulting in a baccalaureate degree:
 - 1) from an Accreditation Board for Engineering and Technology (ABET) engineering program; or
 - 2) that includes the indicated minimum number of semester hours in at least the following subjects:
 - Mathematics (beyond trigonometry) – 15 hours.
 - Basic Sciences (Physics and Chemistry) – 15 hours.
 - Additional Sciences and/or Engineering Sciences – 30 hours.
- b) In evaluating the acceptability of an applicant's related science curriculum of a baccalaureate degree, the Board shall consider courses taken to attain a graduate degree in engineering and/or additional course credits in mathematics, science or engineering as education, when the course work of an applicant with a baccalaureate degree fails to satisfy the requirements of subsection (a). Not more than 15 hours may be made up in mathematics and basic sciences. Education considered in this manner shall not also be credited as engineering experience.
- c) The ~~Division~~Department shall not accept educational courses in engineering technology as meeting the requirements for basic engineering or related science in accordance with this Section.
- d) Mathematics shall be beyond trigonometry, and include differential and integral

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calculus, and differential equations at the baccalaureate level. Mathematics may also include, but not be limited to, the study of probability, statistics, numerical analysis, and advanced calculus. Courses in computer usage and/or programming may not be used to satisfy the mathematics requirement.

- e) Basic sciences shall include basic physics and chemistry, and may also include life sciences, earth sciences, and/or advanced physics and chemistry, as appropriate to the engineering discipline being studied.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.130 Approved Experience

- a) Every application shall be reviewed by the Board to determine whether the applicant's experience meets the requirements described in this Section. Approved experience, other than in accordance with subsection (a)(3), shall have been acquired after receipt of the baccalaureate degree.

- 1) Credit for Graduate Study:

A) One~~+~~ year of experience shall be given for completion of graduate study resulting in a master's ~~or doctor's~~ degree with an emphasis in structural engineering. The course of study shall include a minimum of 8 semester hours, or their equivalent (e.g., 12 quarter hours), of structural analysis, behavior or design courses.

B) One year of experience shall be given for completion of graduate study resulting in a doctoral degree with an emphasis in structural engineering, and a course of study that includes a minimum of 8 semester hours, or their equivalent (e.g., 12 quarter hours), of structural analysis, behavior or design courses beyond a master's degree. Two years of experience shall be given for completion of graduate study resulting in a doctoral degree with an emphasis in structural engineering, and a course of study that includes a minimum of 16 semester hours, or their equivalent (e.g., 24 quarter hours), of structural analysis, behavior or design courses without a master's degree.

- 2) The maximum credit for graduate study shall be 2 years~~1 year~~.

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- 3) Credit for structural engineering experience shall be given for a graduate of a university certified cooperative program that is a supervised industrial or field experience of at least one calendar year ~~that~~^{which} alternates with periods of full-time academic training. ~~Supervision~~^{Such supervision} shall be by a U.S. licensed engineer legally practicing structural engineering.
 - A) A maximum of one year of experience credit may be given for one year or more of actual work experience acquired through participation in a university cooperative program;
 - B) Applicants claiming credit for participation in the university cooperative program shall submit an official transcript from the university reflecting the university credit for completion of the program; and
 - C) All experience shall be structural engineering experience and must be verified, on forms provided by the ~~Division~~^{Department}, by the supervising engineer.
- 4) Credit for all required experience or any remaining experience as set forth in Section 1480.140 shall be given for actual experience in the practice of structural engineering under the employ or immediate supervision of ~~ana licensed~~ engineer legally practicing structural engineering. ~~The~~^{Such} experience shall require the application of technical knowledge and structural engineering principles.
- 5) Each applicant shall submit evidence of at least 2 years of engineering experience in a position of responsible charge while in the employ of or under the immediate personal supervision of a licensed engineer legally practicing structural engineering. In this category the applicant shall have directed the work, with responsibility for the successful accomplishment of the work, including demonstrated capability of making independent technical decisions to fulfill a structural engineering duty and being accountable for the performance of those duties.
- 6) Credit for a maximum of 3 years of the experience required for licensure shall be given for the full-time teaching of upper division junior/senior courses or graduate courses in structural engineering as a part of, or in

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conjunction with, an approved engineering curriculum as set forth in Section 1480.110. An academic year of full-time teaching (2 semesters, or 3 quarters) at a level of assistant professor, or higher, shall be considered equivalent to 6 months of the experience required for licensure. This teaching experience shall be fully documented, and certified by an affidavit from the department chairman, or dean, of the engineering curriculum involved. Applicants qualifying under this subsection are exempt from the requirement of subsection (a)(5)-~~of this Section.~~

- b) While an applicant may receive either experience credit, education credit, teaching credit, or a combination of these, such applicant shall not receive more than ~~one+~~ year's total credit for any ~~one+~~ year (i.e., overlapping experience, education or teaching shall be credited to only ~~one+~~ category).

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.135 Application for Enrollment as a Structural Engineer Intern by Examination

- a) An applicant for enrollment as ~~a structural engineer intern~~~~Structural Engineer Intern~~ shall file an application on forms supplied by the ~~Division~~~~Department~~ by November 15 for the spring examination or by May 15 for the fall examination.

1) The application shall include:

A+) Either:

iA) Proof of aA degree from an approved structural engineering or architecture curriculum as set forth in Section 1480.110. Official college transcript showing all coursework completed and conferral of a baccalaureate degree from an approved structural engineering or architecture curriculum as set forth in Section 1480.110; or

iiB) Proof of aA degree in a related science as set forth in Section 1480.120. Official college transcript showing all coursework completed and conferral of a bachelor of science degree in a related science; and completed experience verification ~~forms~~~~form(s)~~, indicating the

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required 4 years of approved experience;

- ~~B2)~~ The required fee specified in Section 1480.195;
- ~~C3)~~ For an applicant claiming credit for participation in a cooperative program, as described in Section 1480.130(a)(3), certification of ~~such~~ participation, with a brief description of the program, from the university and verification of supervision;
- ~~D4)~~ ~~A complete work history indicating all employment since receipt of a baccalaureate degree;~~ Proof of passage of the Test of English as a Foreign Language (TOEFL) ~~with a minimum score of 550 or 213 on the TOEFL computer-based test~~ and the Test of Spoken English (TSE) ~~with a minimum score of 50~~, for applicants who apply after January 1, 1997, who graduated from an engineering program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the engineering program from which the applicant graduated was taught in English. The minimum acceptable scores are 550 for the paper TOEFL and 50 for the paper TSE, or 213 for the computer-based TOEFL and TSE combination, or 88 for the Internet-based TOEFL iBT with a minimum score of 26 on the speaking module.;
- ~~2)6)~~ An applicant shall have acquired the experience required by subsection (a)(1)(B) this Section after conferral of the degree and prior to applying to the Division.~~Department;~~
- ~~3)7)~~ Applicants who received their education in a foreign country shall have the education evaluated at their expense. Applicants shall obtain the forms from Engineering Credentials Evaluation International (ECEI), ~~211 East Lombard Street #357~~, Baltimore, Maryland, or NCEES Engineering and Surveying Credentials Evaluations, 10305 NW 41st Street, Suite 223, Miami FL 33178-21202. The Board will review all transcripts and the evaluation submitted to the Division~~Department~~ to determine if the education meets the requirements set forth in this Section and 68 Ill. Adm. Code Section 1270.15.

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- b) Upon receipt of the application and all supporting documentation in complete order, ~~all:1)Persons with degrees from an engineering program that has been reviewed and approved by the Board will be reviewed by the Board and notified of their eligibility to register for the Fundamentals of Engineering Examination.2)The files of persons with degrees in basic engineering or related science~~ will be presented to the Board for evaluation of the required education and experience based on the criteria specified in Sections 1480.110 and 1480.130. Once the applications have been approved, those persons will be notified of their eligibility to register for the Fundamentals of Engineering Examination, the examination filing deadline and the required examination fee as provided for in Section 1480.195.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.140 Application for Licensure by Examination

- a) Applicant ~~Enrolled~~enrolled as a Structural Engineer Intern or Engineer Intern
- 1) An applicant shall have acquired all experience required by Section 1480.130 prior to making application to the ~~Division~~Department.
 - 2) An applicant for licensure as a structural engineer who is enrolled as a ~~structural engineer intern~~Structural Engineer Intern or ~~engineer intern~~Engineer Intern shall file an application on forms supplied by the ~~Division~~Department by November 15 for the spring examination or by May 15 for the fall examination. The application shall include, in addition to the requirements of Section 9 of the Act, the following:
 - A) Experience verification forms completed by the supervisor, indicating the required 4 years of experience earned. For ~~engineer interns~~Engineer Interns enrolled with a degree in a related science, experience verification forms shall be completed for the entire 8 years of required experience as set forth in Section 1480.130.
 - B) For persons who were certified or enrolled as an ~~engineer intern~~Engineer Intern or ~~engineer~~Engineer-in-training in Illinois or another state or territory:
 - i) A certification of ~~such~~ enrollment from the appropriate

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state board, including the date of the examination; and

- ii) Official college transcripts showing coursework completed and degree received.
 - C) The required fee specified in Section 1480.195.
 - D) For an applicant claiming credit for participation in a cooperative program, as described in Section 1480.130(a)(3), certification of ~~such~~ participation with a brief description of the program, from the university and verification of supervision.
 - E) ~~A complete work history indicating all employment since receipt of a baccalaureate degree and verification of supervision.~~
- b) Applicant ~~Not Enrolled~~~~not enrolled~~ as a Structural Engineer Intern or an Engineer Intern
- 1) An applicant shall have acquired all experience as required in Section 1480.130 prior to making application to the ~~Division~~~~Department~~.
 - 2) An applicant for registration as a structural engineer who is not enrolled or certified as a Structural Engineer Intern shall file an application on forms supplied by the ~~Division~~~~Department~~ by November 15 for the spring examination or by May 15 for the fall examination. The application shall include, in addition to the requirements of Section 9 of the Act, the following:
 - A) Verification of experience indicating the approved experience as set forth in Section 1480.130 ~~of this Part~~;
 - B) Certification of education of one of the following:
 - i) A degree from an approved structural engineering or architecture curriculum as set forth in Section 1480.110. An official transcript of educational credit showing receipt of a baccalaureate degree from an approved structural engineering or architecture curriculum as set forth in Section 1480.110; an official transcript of educational

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credit; and completed experience certification forms indicating the required 4 years of approved experience, except as provided in subsection (c) of this Section; or

- ii) A degree in a related science as set forth in Section 1480.120. An official transcript of educational credit showing receipt of a bachelor of science degree in a related science; an official transcript of educational credit; and completed experience certification forms, indicating the required 8 years of approved experience;

C) ~~A complete work history, on forms provided by the Department, indicating all employment since receipt of a baccalaureate degree; and D)~~ The required fee specified in Section 1480.195.

- c) If an applicant has ever been licensed to practice engineering in another jurisdiction, certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, including the following:
 - 1) The date of issuance of the applicant's license and the current status of ~~the~~such license;
 - 2) The basis of licensure and a description of the examination by which the applicant was licensed, if any; and
 - 3) Whether the records of the licensing authority contain any record of disciplinary action taken or pending against the applicant.
- d) Applicants not enrolled as a structural engineer intern in Illinois who received their education in a foreign country shall have the education evaluated at their expense. Applicants shall obtain the forms from Engineering Credentials Evaluation International (ECEI), ~~211 East Lombard Street #357~~, Baltimore, Maryland or Center for Professional Engineering Education Services (CPEES), 10305 NW 41st St., Suite 223, Miami, Florida 3317821202. The Board will review all transcripts and the evaluation submitted to the ~~Division~~Department to determine if the education meets the requirements set forth in Sections 1480.110 and 1480.120.

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- e) Applicants not enrolled as a structural engineer intern in Illinois shall submit proof~~Proof~~ of passage of the Test of English as a Foreign Language (TOEFL) with a minimum score of 550 or 213 on the TOEFL computer-based test and the Test of Spoken English (TSE) with a minimum score of 50, for applicants who apply after January 1, 1997, who graduated from a structural engineering, architecture or related science program outside the United States or its territories and whose first language is not English. In order to determine applicants whose first language is English, the applicant shall submit verification from the school that the structural engineering, architecture or related science program from which the applicant graduated was taught in English. The minimum acceptable scores are 550 for the paper TOEFL and 50 for the paper TSE, or 213 for the computer-based TOEFL and TSE combination, or 88 for the Internet-based TOEFL iBT with a minimum score of 26 on the speaking module.
- f) Upon receipt of the application and all supporting documentation in complete order, the applicant's file will be presented to the Board for evaluation of the required education and experience as specified in ~~Sections~~Section 1480.110 and 1480.130. Once the application has been approved, those persons will be notified of their eligibility to register for the Fundamentals of Engineering, Structural I and Structural II examinations, the examination filing deadline and the required examination fee as provided for in Section 1480.195.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.150 Examination

- a) The examination for licensure as a structural engineer shall be divided into 3 Parts~~parts~~.
- 1) Fundamentals of Engineering. This examination shall be 8 hours in duration and shall consist of problems or other examining techniques designed to evaluate the applicant's knowledge of the basic and engineering sciences and related subjects normally considered as the fundamentals of engineering.
 - 2) Structural I Examination. This examination shall be 8 hours in duration and shall consist of problems or other examining techniques relating to designs in or to the practice of structural engineering as described in Section 5 of the Act.

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- 3) Structural II Examination. This examination shall be 8 hours in duration and shall consist of problems or other examining techniques relating to designs in structural engineering, including seismic design. Such problems may include, but not be limited to, bridges, buildings, foundations, and seismic and lateral forces.
- b) The examination administered by the ~~Division~~Department shall be provided by the National Council of Examiners for Engineering and Surveying (NCEES). The specific examination content shall be as determined by periodic evaluations of the test specifications by NCEES.
- c) The scoring of the examinations and determination of scores shall be as approved by NCEES.
- d) Separate scores shall be given for the Fundamentals of Engineering, Structural I and Structural II. All scores shall be graded as pass or fail. Once an applicant fails a Part of the examination, that Part shall not be waived.
- e) Candidates ~~who fail an examination~~ may not review their examination booklet or the associated answer sheets. Rescoring of the examination or any individual problem is not permitted; however, a retabulation of the numerical score will be permitted.
- f) Retake of Examination:
 - 1) Applicants shall be required to retake only the Part on which a passing score was not achieved.
 - 2) If an applicant neglects, fails without an approved excuse (illness, military service, motor vehicle accident occurring on date of examination, etc.), or refuses to take the next available examination offered for licensure under this Act, the fee paid by the applicant shall be forfeited and the application denied. If an applicant fails to pass an examination for licensure under this Act within 3 years after filing the application, the application shall be denied. However, ~~the~~sueh applicant may thereafter make a new application for examination, accompanied by the required fee (Section ~~1480.19510 of the Act~~). New applications shall include proof of meeting the qualifications for examination in effect at the time of ~~the~~sueh new

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application except as provided for in subsection (f).

- g) Successful scores of previously passed Parts of the examination shall be accepted for the purpose of licensure provided the applicant has met all other requirements for licensure as outlined in the Act. For ~~these~~~~such~~ purposes, the most recent score on a Part shall be the score of record. In no circumstances shall the ~~Division~~~~Department~~ accept a previous passing score on a Part for an applicant whose score of record is a failing score.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.160 Restoration

- a) A licensee seeking restoration of ~~ahis~~ license ~~that~~~~which~~ has expired for less than 5 years shall have the license restored upon application to the ~~Division~~~~Department~~, proof of 30 hours of continuing education completed in accordance with Section 1480.185 within 2 years prior to application, and payment of the required fee specified in Section 1480.195.
- b) A licensee seeking restoration of a license ~~that~~~~which~~ has been placed on inactive status for less than 5 years shall have the license restored upon application to the ~~Division~~~~Department~~, proof of 30 hours of continuing education completed in accordance with Section 1480.185 within 2 years prior to application, and payment of the current renewal fee specified in Section 1480.195.
- c) A licensee seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the ~~Division~~~~Department~~ for review by the Board ~~and~~, proof of 30 hours of continuing education completed in accordance with Section 1480.185 within 2 years prior to application, together with the fee required by Section 1480.195. The licensee shall also submit ~~either~~:
- 1) Sworn evidence of active practice in another jurisdiction for at least the last 2 years. ~~The~~~~Such~~ evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of ~~thesaid~~ active practice;
 - 2) An affidavit attesting to military service, as provided in Section 14 of the

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Act;

- 3) Proof of passage of the NCEES Structural II examination~~Part II of the examination provided in~~ (see Section 1480.150) within the 5 years preceding restoration; or
- 4) Other evidence of continued competence in structural engineering, ~~including shall include~~, but not be limited to:
 - A) Employment in a responsible capacity by a licensed structural engineer ~~as determined by the Board~~;
 - B) Lawfully practicing structural engineering as an employee of a governmental agency;
 - C) Teaching structural engineering in a college or university; ~~or~~
 - D) Performing structural engineering research; or
 - E) Attendance at educational programs in structural engineering or a related field, including, but not limited to, attendance at graduate level engineering courses, professionally oriented continuing education classes or special seminars.
- d) Any person seeking restoration of a license within 2 years after discharge from military service ~~pursuant to~~ (see Section 14 of the Act) will be required to pay only the current renewal fee.
- e) A restoration applicant shall meet the requirement for seismic design set forth in Section 1480.175.
- f) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience required by subsection (c)(4) ~~above~~ is questioned by the ~~Division~~Department because of discrepancies or conflicts in information, information needing further clarification, and/or missing information, the licensee seeking restoration of ~~ahis~~ license shall be requested to:
 - 1) Provide ~~such~~ information as may be necessary; and/or

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- 2) Appear for an interview before the Board to explain ~~thesueh~~ relevance or sufficiency when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act. Upon recommendation of the Board, and approval by the Director of the Division of Professional Regulation (Director) with the authority delegated by the Secretary, an applicant shall have the license restored or shall be notified of the reason for the denial of ~~thesueh~~ application for restoration.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.170 Endorsement

- a) Any person who holds an unexpired certificate of registration or license to practice structural engineering; issued under the laws of another state or territory and who desires to become licensed by endorsement shall file an application, on forms provided by the ~~Division~~Department, together with:
 - 1) Proof of meeting requirements substantially equivalent to those in force in this State at the time of original or subsequent licensure by examination in the other jurisdiction (i.e., a separate written 16 hour structural engineering examination and the Fundamentals of Engineering examination), including certification of education; and verification of experience;
 - 2) A certification by the jurisdiction of original licensure and certification from the jurisdiction of predominant active practice, including the following:
 - A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license;
 - B) The basis of licensure and a description of all examinations by which the applicant was licensed in that jurisdiction and the date of passage of any such examinations; and
 - C) Whether the records of the licensing authority contain any disciplinary action taken ~~or pending~~ against the applicant;

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- 3) If the qualifications of the applicant at the time of original licensure did not meet the requirements for licensure in this State at that time, the applicant may submit additional certifications of other jurisdictions to indicate meeting the qualifications in effect in this State at the time of any later licensure;
- 4) ~~A complete work history, on forms provided by the Department, indicating all employment since receipt of the baccalaureate degree;~~⁵⁾The required fee set forth in Section 1480.195;
- ~~5)~~⁶⁾ Applicants who received their education in a foreign country and who were originally licensed after January 1, 1997 shall have the education evaluated at their expense. Applicants shall obtain the forms from Engineering Credentials Evaluation International (ECEI), ~~211 East Lombard Street #357, Baltimore, Maryland, or NCEES Engineering and Surveying Credentials Evaluations, 10305 NW 41st Street, Suite 223, Miami FL 33178-21202.~~ The Board will review all transcripts and the evaluation submitted to the ~~Division~~^{Department} to determine if the education meets the requirements set forth in Section 1480.110 and 1480.120; and
- ~~6)~~⁷⁾ Proof of passage of the Test of English as a Foreign Language (TOEFL) ~~with a minimum score of 550 or 213 on the computer-based test~~ and the Test of Spoken English (TSE) ~~with a minimum score of 50~~, for applicants who were originally licensed in another jurisdiction after January 1, 1997, who graduated from a structural engineering, architecture or related science program outside the United States or its territories and whose first language is not English. In order to determine whose first language is English, the applicant shall submit verification from the school that the structural engineering, architecture or related science program from which the applicant graduated was taught in English. The minimum acceptable scores are 550 for the paper TOEFL and 50 for the paper TSE, or 213 for the computer-based TOEFL and TSE combination, or 88 for the internet-based TOEFL iBT with a minimum score of 26 on the speaking module.
- b) An endorsement applicant shall meet the requirements for seismic design set forth in Section 1480.175.

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- c) The ~~Division~~Department may, in individual cases, upon the recommendation of the Board, waive a portion of the examination requirements after consideration of the quality of an applicant's engineering education and experience, including whether he ~~or she~~ has graduated from an approved engineering curriculum, has achieved special honors or awards, has had numerous articles published in professional journals, has participated in the writing of textbooks relating to structural engineering, and any other attribute ~~which~~ the Board accepts as evidence that ~~the~~~~such~~ applicant has outstanding and proven ability in the practice of structural engineering.
- d) In order to provide background in structural engineering experience, an applicant licensed as a structural engineer in another state or territory; and who has met all previously stated requirements may be requested to appear before the Board for an oral interview at which questions will be asked to determine the applicant's qualifications and knowledge of structural engineering (see Section 1480.160(e)). Specifically, questions may explore the applicant's knowledge concerning the design of concrete, structural steel, timber, masonry and foundations and analysis procedures, design codes, materials and recommended practices for design and construction.
- e) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work 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 a license will be requested to:
- 1) Provide information as may be necessary;
 - 2) Appear for oral interviews before the Board; and/or
 - 3) ~~If Applicants who were~~ licensed prior to January 1, 1997, upon review of the educational requirements, ~~may be required to~~ have ~~his or her~~~~their~~ education evaluated at ~~his or her~~~~their~~ expense as set forth in subsection (a)(~~56~~).
- f) The ~~Division~~Department shall examine each endorsement application to determine whether the qualifications of the applicant₁, at the time of original or subsequent licensure₂, were substantially equivalent to the requirements then in force in this State. After review of the application₃, the ~~Division~~Department shall

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either issue a license by endorsement to the applicant or notify ~~the~~ applicant of the reasons for the denial of the application. An applicant not qualified for licensure by endorsement shall automatically be reviewed under the provisions of Section 1480.140.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.175 Seismic Design Requirement

All restoration or endorsement applicants applying for licensure pursuant to Sections 1480.160 and 1480.170 must submit satisfactory evidence of knowledge in seismic design at the time of application ~~or at the first renewal of the license.~~

- a) The seismic design requirement can be satisfied by passage of one of the following:
- 1) The NCEES Structural II examination beginning with the April 2004 administration;
 - 2) The NCEES Structural II PM examination administered by Illinois from April 1991 through October 2003;
 - 3) The NCEES Structural II PM examination administered by all other jurisdictions from April 1993 through October 2003;
 - 4) The Western States Structural Examination administered from Spring 1993 to Fall 2003;-
 - 5) Satisfactory completion of a Board approved course of instruction dealing with seismic design that is part of an approved engineering curriculum. The licensee shall submit the course title and catalog course description to the Board for approval prior to taking the course. Evidence of completion shall be a college transcript. Audited courses are not acceptable;
 - 6) Satisfactory completion of a Board approved professional seminar dealing with seismic design and involving a minimum of 16 contact hours (1.6 continuing education units or one+ semester hour of university credit) of lectures. Evidence of completion shall be by means of a valid certificate of completion signed by the providers of the seminar or an official

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transcript from the university. Audited courses are not acceptable. A 15 contact hour course may be substituted, in which case, the applicant shall also submit a short essay to be reviewed by the Board on Illinois seismic conditions and requirements; or

- 7) Evidence that the licensee has taught a Board approved professional seminar or course dealing with seismic design that is part of an approved engineering curriculum or has conducted significant research into the problems of seismic resistance of structures and published the results of the significant research.
- b) Evidence of passage of one of the examinations identified in subsections (a)(1) through (4) shall be submitted by the licensee and may be a copy of the licensee's pass notice.
- c) The Board shall utilize, but not be limited to, the following standards when approving a course or seminar in subsection (a):
 - 1) Effects of earthquakes on buildings or bridges;
 - 2) Structural standards and specifications for buildings or bridges;
 - 3) Concepts in structural dynamics;
 - 4) Seismic loading, including seismicity;
 - 5) Seismic response analysis; and
 - 6) Seismic design concepts, including concrete, steel, other structural materials and foundations.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.180 Inactive Status

- a) Any licensed structural engineer who notifies the ~~Division~~Department in writing on forms prescribed by the ~~Division~~Department may elect to place his or her license on inactive status and shall be excused from the payment of renewal fees until he or she notifies the ~~Division~~Department in writing of ahis desire to resume

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active status.

- b) Any licensee seeking restoration from inactive status shall do so in accordance with Section 1480.160 ~~of this Part~~.
- c) Any licensed structural engineer whose license is on inactive status shall not practice engineering in the State of Illinois. Practicing or offering to practice on a license ~~that~~ ~~which~~ is on inactive status shall be considered unlicensed activity and shall be grounds for discipline ~~underpursuant to~~ Section 20 of the Act.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.185 Continuing Education

The continuing education required as a condition for license renewal under ~~the~~ ~~this~~ Act is set forth in this Section. All structural engineers shall meet these requirements.

- a) Continuing Education Requirements
 - 1) Beginning with the November 30, 2004 renewal and for every renewal thereafter, renewal applicants shall complete 30 hours of Continuing Education (CE) relevant to the practice of structural engineering during each prerenewal period. The prerenewal period is the 24 months preceding the expiration date of the license. Failure to comply with these requirements may result in non-renewal of the structural engineer's license or other disciplinary action, or both.
 - 2) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
 - 3) Structural engineers licensed in Illinois but residing and practicing in another state must comply with the CE requirements set forth in this Section. Continuing education credit hours used to satisfy the CE requirements of another state and meeting the requirements of this Section may be submitted toward fulfillment of the CE requirements of the State of Illinois.
 - 4) The minimum length of the technical portion of any single CE activity is ~~one~~ ~~+~~ hour. After completion of the initial CE hour, credit may be given in

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one-half hour increments.

- 5) Nontechnical portions of a program, such as receptions, dinners, etc., do not qualify for credit as CE.
- b) Activities for which CE credit may be earned are as follows:
- 1) Course work relevant to structural engineering completed at an accredited college or university. One semester credit hour of course work is equivalent to 15 hours of CE and one quarter credit hour of course work is equivalent to 10 hours of CE.
 - 2) A maximum of 10 CE credit hours per prerenewal period may be earned for the completion of a self-administered course. Each self-administered course shall include an examination that will be graded by the sponsor.
 - 3) Successful completion of continuing education courses. Credit for courses will be based on one CE credit hour for each hour of attendance.
 - 4) A maximum of 10 CE credit hours per prerenewal period may be earned for attending in-house courses. Credit for in-house courses will be based on one CE credit for each hour of attendance. For courses presented in-house by outside individuals, see subsection (b)(3).
 - 5) Attending workshops or professional or technical meetings, conventions or conferences. Attendance at qualifying programs, professional and/or technical society meetings will earn CE credits for the actual time of each program. Visiting exhibitor booths or similar activities shall not qualify for CE credit.
 - 6) Teaching or presenting in the activities described in subsections (b)(1) through (5). CE credit will be applied at the rate of 3 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).
 - 7) Authoring published papers, articles or books. The preparation of each published paper or book chapter dealing with structural engineering may be claimed as 10 hours of CE credit.

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- 8) Two hours ~~per committee membership~~ of CE credit may be earned by active participation on a committee in a professional or technical society ~~per committee membership~~. A maximum of 10 CE credit hours earned through participation on committees ~~total~~ will be accepted per prerenewal period.
- c) All programs or courses shall:
- 1) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in practice of structural engineering;
 - 2) Foster the enhancement of general or specialized practice and values of structural engineering;
 - 3) Be developed and presented by persons with education and/or experience in the subject matter of the program; and
 - 4) Specify the course objectives, course content and teaching methods to be used.
- d) Acceptable providers for programs or course activities shall include, but not be limited to:
- 1) Technical or professional societies or organizations relating to structural engineering; ~~or~~
 - 2) Colleges, universities or other accredited educational institutions; ~~or~~
 - 3) Providers of services or products used by or specified by structural engineers.
- e) It shall be the responsibility of a licensee to maintain a record of CE for 45 years after the renewal that includes the following:
- 1) The name and address of the sponsor or presenter;
 - 2) A brief statement of the subject matter, printed program schedules, registration receipts or other proof of participation;

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- 3) The number of hours attended in each program;
 - 4) The date and place of the program; or
 - 5) Certificate of attendance, transcript or records of CE credits maintained by an acceptable provider of continuing education or a records administrator, or log of activities that include activities for CE credit not given by a CE provider.
- f) 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 subsection (a).
 - 2) The ~~Division~~Department may require additional documentation in order to demonstrate compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance. ~~The~~Such additional documentation will be required in the context of a ~~Division~~Department audit.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified 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].
- g) The ~~Division~~Department may conduct random audits to verify compliance with continuing education requirements.
- h) ~~Restoration of Nonrenewed License. Upon evidence of compliance with CE requirements, the Department may restore the license upon payment of the required fee.~~i) 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 ~~Division~~Department a renewal application, the required renewal fee, a statement setting forth the facts concerning ~~the~~such non-compliance, ~~and~~ a request for waiver of the CE requirements on the basis of these facts, and

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proof of CE that was completed during the prerenewal period. The applicant may request an interview with the Board at the time of the waiver request. If the Division~~Department~~, upon the written recommendation of the Board, finds from the applicant's affidavit or any other evidence submitted that extreme hardship has been shown to substantiate granting of a waiver, the Division~~Department~~ shall waive enforcement of the CE~~such~~ requirements for the renewal period for which the applicant has applied.

- 2) If an interview with the Board is requested at the time the request for such waiver is filed with the Division~~Department~~, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the~~such~~ interview by certified mail, return receipt requested.
- 3) Extreme hardship shall be determined by the Board on an individual basis 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 medical condition~~illness~~, documented by 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 (i.e., family illness and prolonged hospitalization).
- 4) Any renewal applicant who, prior to the expiration date of his/her license, submits a request for a waiver, pursuant to the provisions of this subsection (h)~~Section~~, shall be deemed to be in good standing and may practice until the Division's~~Department's~~ final decision on the waiver has been made.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.190 Renewals

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- a) Every license issued to an individual under the Act shall expire on November 30 of each even-numbered year. The holder of a license may renew ~~the~~such license during the month preceding the expiration date by completing the continuing education requirements in accordance with Section 1480.185 and paying the required fee set forth in Section 1480.195.
- 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) Every license issued to a professional design firm under the Act shall expire on April 30 of each odd-numbered year. The holder of ~~the~~such license may renew that license for a 2-year period during the month preceding the expiration date ~~thereof~~ by paying the required fee ~~and submitting a current listing of structural engineers licensed in Illinois that are employed by the firm.~~
- d) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline ~~under~~pursuant to Section 20 of the Act.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.195 Fees

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

- a) Application Fees-
- 1) The fee for application for a license as a structural engineer is \$100. ~~In~~in addition, applicants for an examination shall be required to pay the examination fee, either to the Department or to the designated testing service, ~~a fee covering the cost of determining an applicant's eligibility and providing the examination.~~ Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

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- 2) The application fee for a license as a structural engineer intern is \$50.
- 3) The application fee for a certificate of registration as a professional design firm is \$75.

| b) ~~Renewal Fees-~~

- 1) The fee for the renewal of a structural engineer license shall be calculated at the rate of \$30 per year.
- 2) The fee for renewal of a certificate of registration as a professional design firm is \$75 for the renewal period (see Section 1480.190(c)).

| 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.
- 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 changes on ~~Division~~Department records when no duplicate license is issued.
- 3) The fee for a certification of a licensee's record for any purpose is \$20.
- 4) The fee to have the tabulation of the score of an examination administered by the ~~Division~~Department reviewed and verified is \$20 plus any fee charged by the testing service.
- 5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.
- 6) The fee for a roster of persons licensed as structural engineers or structural engineer interns in this State shall be the actual cost of producing the roster.

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- d) All of the fees collected pursuant to this Section shall be deposited in the Design Professionals Administration and Investigation Fund.
- e) Additional Fees
- 1) Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fee of \$50.
 - 2) If the check or other payment was for a renewal or issuance fee and that person practices without paying the renewal fee or issuance fee and the fee for a returned check, an additional fee of \$100 shall be imposed.
 - 3) The fees imposed by this Section are in addition to any other discipline provided under the Act for unlicensed practice or practice on a nonrenewed license. The ~~Division~~Department shall notify the person that payment of fees shall be paid to the Department by certified check or money order within 30 calendar days after the notification.
 - 4) If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the ~~Division~~Department shall automatically terminate the license or certificate or deny the application, without hearing.
 - 5) If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the ~~Division~~Department for restoration or issuance of the license or certificate and pay all fees due to the ~~Division~~Department. The ~~Division~~Department may establish a fee for the processing of an application for restoration of a license or certificate to pay all expenses of processing this application.
 - 6) The Director may waive the fees due under this Section in individual cases ~~in which~~where the Director finds that the fees would be unreasonable or unnecessarily burdensome.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.200 Professional Design Firm

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- a) Persons who desire to practice structural engineering in this State in the form of a corporation, professional service corporation, partnership, limited liability company, limited liability partnership, or sole proprietorship (if the sole proprietorship is conducting or transacting business under an assumed name in accordance with the Assumed Business Name Act [805 ILCS 405]) shall, in accordance with Section 19 of the Act, file an application with the ~~Division~~~~Department~~ on forms provided by the ~~Division~~~~Department~~, together with the following:
- 1) For Corporations or Professional Service Corporations: (Registration as a professional design firm shall meet the registration requirements of Section 12 of the Professional Service Corporation Act [805 ILCS 10/12].)
 - A) The name of the corporation and its registered address, the names of all members of the board of directors, and the name of the state and license number for each director who is a licensed design professional.
 - B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State issued by the Secretary of State is also required. The purpose clause of the Articles of Incorporation or the certificate of authority shall designate that the corporation is authorized to provide structural engineering services. Each corporation shall remain active and in good standing with the Secretary of State in order to maintain professional design firm registration.
 - C) A signed and dated resolution of the board of directors of the corporation designating a regular full-time employee of the corporation who ~~has~~ an active Illinois ~~licensed~~ structural engineer license as the managing agent in charge of the structural engineering activities in Illinois. The Illinois license number of the structural engineer designated as the managing agent shall also be included in the resolution.

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- D) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the corporation, if applicable.
- E) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.

2) For Partnerships-

A) General

- i) A copy of the signed and dated partnership agreement authorizing the partnership to provide structural engineering services. The agreement shall contain the name of the partnership, its business address and the names of all general partners. The name of the state in which each partner is licensed as a design professional and the license number shall be listed on the application.
- ii) A signed and dated resolution adopted by the general partners designating a regular full-time employee of the partnership who ~~has~~ an active Illinois ~~licensed~~ structural engineer license as the managing agent in charge of the structural engineering activities in this State. The license number of the managing agent shall be included in the resolution.
- iii) A copy of the partnership documentation bearing the stamp of the county clerk where the partnership has been filed.
- iv) A letter or certificate from the county clerk where an assumed name has been filed, if applicable.

B) Limited Partnership~~partnership~~

- i) A signed and dated copy of the partnership agreement indicating that it has been filed with the Secretary of State authorizing the partnership to provide structural engineering services. The partnership agreement shall

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contain the name of the partnership, its business address and the name of each partner. The name of the state in which each partner is licensed and the license number shall be listed on the application.

- ii) A signed and dated resolution adopted by the partners designating a full-time employee of the partnership who has an active Illinois ~~licensed~~-structural engineer license in this State. The Illinois license number of the structural engineer designated as the managing agent shall also be included in the resolution.
- iii) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.
- iv) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the partnership, if applicable.

3) For Limited Liability Companies or Limited Liability Partnerships-

- A) An application containing the name of the limited liability company or partnership, the business address and the members/partners of the company/partnership, the name of the state and the license number of each design professional who is a member or partner.
- B) A copy of the resolution of the members' or partners' operating agreement or partnership agreement filed with the Secretary of State stating the company or partnership is authorized to offer engineering services.
- C) A signed and dated resolution of the members or partners designating a regular full-time employee of the company who is an Illinois licensed structural engineer as the managing agent in charge of the structural engineering activities in this State. The license number of the managing agent shall also be included in the resolution.

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- D) A copy of the authority to transact business under the Assumed Business Name Act issued by the Secretary of State for any assumed names of the limited liability company or partnership, if applicable.
 - E) A certificate of good standing from the Secretary of State and a copy of the latest annual report, if applicable.
- 4) For Sole Proprietorships with an Assumed Name:
- A) An application containing the name of the sole proprietorship and its business address and the name and Illinois license number of the structural engineer who owns and operates the business.
 - B) A letter or certificate from the county clerk where an assumed name has been filed.
- 5) A list of all office locations in Illinois at which the corporation, professional service corporation, limited liability company or partnership, partnership or sole proprietorship provides structural engineering services.
- 6) The fee required in Section 1480.195.
- b) A professional design firm may designate more than one managing agent in charge of structural engineering activities. However, a licensee designated as the managing agent may not serve as a managing agent for more than one corporation, professional service corporation, limited liability company/partnership, or partnership doing business in Illinois, except when an entity is created as a joint venture of 2 or more professional design firms for a specific project. The managing agents designated by the professional design firms may be designated as the managing agents for the participating firms in the joint venture.
- c) Upon receipt of the ~~above~~ documents required by subsection (a) and review of the application, the ~~Division~~Department shall issue a registration authorizing the corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship to engage in the practice of structural engineering or notify the applicant of the reason for the denial of the

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application.

- d) Each corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship shall be responsible for notifying the DivisionDepartment within 30 days after any changes in:
- 1) The membership of the board of directors, members/partners of the limited liability company/partnership or the general partners;
 - 2) The licensure status of the general partners, members/partners of the limited liability company/partnership or any of the licensed structural engineer members of the board of directors; and
 - 3) An assumed name.
- e) Each corporation, limited liability company/partnership, professional service corporation or partnership shall be responsible for notifying the DivisionDepartment in writing, by certified mail, within 10 business days after the termination or change in status of the managing agent. Thereafter, the corporation, professional service corporation, limited liability company/partnership or partnership, if it has so informed the DivisionDepartment, has 30 days to notify the DivisionDepartment of the name and license number of the structural engineer licensed in Illinois who is the newly designated managing agent.
- f) Any failure to notify the DivisionDepartment as required in subsections (d) and (e) or any failure of the corporation, professional service corporation, limited liability company/partnership, partnership or sole proprietorship to continue to comply with the requirements of Section 19 of the Act will subject the corporation, limited liability company or partnership to the loss of its registration to practice structural engineering in Illinois.
- g) Sole Proprietorships. Any sole proprietorship owned and operated by a structural engineer who has an active Illinois license is exempt from the registration requirements of a professional design firm. However, if the sole proprietorship operates under an assumed name, the sole proprietor shall file an application in accordance with subsection (a)(4) with the DivisionDepartment. A sole proprietorship shall notify the DivisionDepartment of all assumed name changes. Any sole proprietorship not owned and operated by an Illinois licensed structural

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engineer shall be prohibited from offering structural engineering services to the public.

- h) In addition to the seal requirements in Section 14 of the Act, all documents or technical submissions prepared by the design firm shall contain the design firm registration number issued by the Division~~Department~~.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.205 Acts Constituting the Practice of Structural Engineering Pursuant to Section 5 of the Act

- a) Design/Build. The design/build project delivery process is a method whereby an entity signs a single contract to provide a combination of professional design services and construction services. As used in this Section, design/build does not refer to contractual requirements for a subcontractor to retain a structural engineer to provide services related to performance of the contract.
- b) A design/build entity shall not offer to provide or provide structural engineering services, unless registered as a professional design firm or unless it complies with subsection (~~ca~~)(3). Offering to provide structural engineering services shall include, but ~~shall~~ not necessarily be limited to, any tender of engineering services either independently or in combination with construction services by any sign, card, advertisement or other device that might indicate to the public that the entity is entitled to provide engineering services.
- c) The design/build entity will not be required to register as a professional design firm pursuant to Section 19 of the Act only if the structural engineering services in the design/build project delivery process are provided by the entity in accordance with the following:
- 1) A structural engineer licensed or a professional design firm registered in Illinois independently contracts with the entity and participates substantially in all material aspects of the offering and providing of services relating to any bid process, contract negotiations, design, consultation, development, preparation and coordination of technical submissions, and verification of adherence to technical submissions and completion.

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- 2) At the time of offering services, a written disclosure shall be given to the client by the entity identifying the licensed structural engineer who will be engaged by and is contractually responsible to the entity offering design/build project services.
- 3) The entity agrees that the licensed structural engineer will have direct supervision of the structural engineering design work. The entity also agrees that the engineering services will not be terminated on the project without replacement within 30 days by another licensed structural engineer.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.210 Standards of Professional Conduct

In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity in the practice of structural engineering, the following Standards of Professional Conduct shall be binding on every person holding a license as a structural engineer and on all corporations and partnerships authorized to practice structural engineering in this ~~State~~ state.

- a) Professional Responsibility. Licensees shall be responsive to the needs of clients and employers, but shall hold paramount life, health, property and the welfare of the public.
 - 1) Licensees shall at all times recognize that their primary obligation is to protect the life, health, property and welfare of the public. If their professional judgment is overruled under circumstances where the life, health, property or welfare of the public is endangered, they shall notify their client or employer and such ~~authority~~ authority(s) as may be appropriate (which may include the ~~Division~~ Department or other law enforcement agencies).
 - 2) Licensees shall approve and seal only those designs reviewed or prepared by them, and found to be safe for the public health, property and welfare.
 - 3) Licensees shall not reveal confidential facts, data or information obtained in a professional capacity without the prior consent of the client, except as authorized or required by law.

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- 4) Licensees shall not permit the use of their name or firm's name, nor shall they be associated in business ventures with persons or firms which they have reason to believe to be engaging in fraudulent or dishonest business practices.
 - 5) Licensees having knowledge of any alleged violation of any of this Part shall cooperate with the ~~Division~~Department, furnishing such information or assistance as may be required to conduct an investigation resulting from a complaint.
- b) Competence. Licensees shall perform services only in areas of their competence.
- 1) Licensees shall undertake assignments only when qualified by education and experience in the specific technical field of engineering involved.
 - 2) Licensees shall not affix their signature or seal to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared or reviewed under their direct supervisory control.
 - 3) Licensees may accept an assignment outside of their fields of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that all other phases of the project will be performed by licensees qualified in those phases.
- c) Professional Integrity. Licensees shall issue professional statements in an objective and truthful manner.
- 1) Licensees shall be completely objective and truthful in all structural engineering reports, statements or testimony.
 - 2) Licensees may express publicly a professional opinion on technical ~~subjects~~subject(s) only when it is founded upon adequate knowledge of the facts and a background of competence in the subject matter.
 - 3) A licensee, when acting as a representative of an individual or organization, shall issue no statements, criticisms, or arguments on structural engineering matters without first prefacing ~~thosesueh~~ comments

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by explicitly identifying on whose behalf the comments will be made. When the licensee is acting as a consultant, expressing a professional opinion, such opinion shall be prefaced by complete personal identification as a consultant, without necessarily naming the client.

~~The~~Such licensee shall reveal any personal interest in the matter.

- d) Conflict of Interest. Licensees shall act in professional matters for each employer or client as faithful agents of trustees; and shall avoid conflicts of interest.
- 1) Licensees shall conscientiously avoid conflicts of interest with their employers or clients. Whenever conflicts of interest appear unavoidable, however, licensees shall disclose promptly to their employers or clients any business association, interest or circumstance ~~that~~which may influence judgment or quality of services.
 - 2) Licensees shall not accept compensation, financial or other, from more than one party for services on a project or for services pertaining to a project unless the licensee makes full disclosure and receives consent of all interested parties.
 - 3) Licensees shall not solicit or accept financial or other valuable consideration from any material supplier or equipment supplier for specifying the supplier's products except when the licensee is a known employee or agent of the supplier.
 - 4) Licensees shall not solicit or accept gratuities, directly or indirectly, from any contractor, architect, engineer or other party dealing with the licensee's employer or client in connection with work for which the licensee is responsible.
 - 5) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their firm or organization serves as a member. Conversely, licensees serving as members, advisors or employees of a governmental body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services solicited or provided by them or their organization.
- e) Employment Solicitation. Licensees shall avoid improper solicitation of

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professional employment.

- 1) Licensees shall not offer to pay, either directly or indirectly, any commission, political contribution, gift or other consideration in order to secure professional assignments.
- 2) Licensees shall not falsify or permit misrepresentation of their, or their associates' academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent or purpose of enhancing their qualifications and/or their work.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.215 Structural Engineer Complaint Committee

- a) The Structural Engineer Complaint Committee of the Structural Engineering Board, authorized by Sections 8 and 22 of the Act, shall be composed of 2 members of the Structural Engineering Board, a Supervisor over Design Investigations and a Chief of Prosecutions over Design Prosecutions. The Director of Enforcement shall designate the Supervisor and Chief assigned to the Complaint Committee.
- b) The Complaint Committee shall meet at least once every 2 months to exercise its functions and duties set forth in subsection (c) ~~below~~. The Complaint Committee may meet concurrently with the Complaint Committees of the Architecture Licensing Board, the Land Surveyors Examining Board and the State Board of Professional Engineers to discuss interrelated professional matters. The Complaint Committee shall make every effort to consider expeditiously and take prompt action on each item on its agenda.
- c) The Complaint Committee shall have the following duties and functions:
 - 1) To review investigative case files after an initial inquiry into the involved parties and their licensure status have been obtained. "Case file" means the allegation made against an involved party that resulted in a preliminary inquiry and other information being obtained in order to determine

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whether an investigation should be initiated or prosecution pursued. A "Formal Complaint" means the notice of allegations and charges or basis for licensure denial which begins the formal proceedings.

- 2) To refer the case file to the Supervisor over the Design Investigators for further action. The Complaint Committee shall give the Supervisor an indication as to the prosecutorial merit and relative severity of the allegations to aid in the prioritization of investigative activity.
 - 3) To recommend that a case file be closed.
 - 4) To recommend that an Administrative Warning Letter be issued and the case file closed.
 - 5) To refer the case file to Prosecutions for review and action.
 - 6) To report the actions of the Complaint Committee at each Board meeting and to present enforcement statistics such as the type of alleged violation
- d) In determining what action to take or whether to proceed with investigation and prosecution of a case file, the Complaint Committee shall consider the following factors, but not be limited to: the effect on the public's health, safety and welfare; the sufficiency of the evidence presented; prosecutorial merit; and sufficient cooperation from complaining parties.
- e) At any time after referral to Prosecutions, the ~~Division~~Department may enter into negotiations to resolve issues informally by way of a Consent Order. Factors to be considered in deciding whether to enter into settlement negotiations shall include, but not be limited to: the effect on the public's health, safety and welfare caused by the respondent's alleged conduct; sufficient investigation of the case; prosecutorial merit; relative severity of the respondent's alleged conduct; and past practices of the ~~Division~~Department.
- f) No file shall be closed nor Formal Complaint dismissed except upon recommendation of the Complaint Committee and/or approval by the Structural Engineering Board. Those case files that previously have been before the Board and are the subject of a Consent Order or formal Order of the Director may be closed without further recommendation or approval of the Structural Engineering Board or the Complaint Committee.

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- g) Disqualification of a Structural Engineering Board ~~Member~~member.
- 1) A Board member shall be recused from consideration of a case file or Formal Complaint when the Board member determines that a conflict of interest or prejudice would prevent that Board member from being fair and impartial.
 - 2) Participation in the initial stages of the handling of a case file, including participation on the Complaint Committee and in informal conferences, shall not bar a Board member from future participation or decision making relating to that case file.
- h) An informal conference is the procedure established by the ~~Division~~Department that may be used for compliance review, fact finding, discussion of the issues, resolving case files, licensing issues or conflicts prior to initiating any Formal Complaint or formal hearing. An informal conference may only be conducted upon agreement of both parties. Informal conferences shall be conducted by a ~~Division~~Department attorney and shall include a ~~member~~member(s) of the Board. Board members shall be scheduled for informal conferences on a rotating basis.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 1480.220 Granting Variances (~~Renumbered~~)

- a) The Director may grant variances from ~~this Part~~these rules in individual cases ~~when~~where he ~~or she~~ finds that:
- 1) the provision from which the variance is granted is not statutorily 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 ~~a~~such variance, and the reasons ~~for granting the variance~~therefor, at the next meeting of the Board.

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(Source: Amended at 33 Ill. Reg. _____, effective _____)

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Action:</u>
3000.600	Amendment
3000.665	Amendment
3000.666	Amendment
- 4) Statutory Authority: Authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5(c)(2), (3), (6) and (13) of this Act [230 ILCS 10/5(c)(2), (3), (6), and (13)]
- 5) A Complete Description of the Subjects and Issues Involved: In 2008, an amendment to Section 3000.636, Distribution of Coupons for Complimentary Chips, Tokens, Vouchers, Cash and Electronic Credits, authorized the distribution of coupons for complimentary electronic credits (32 Ill. Reg. 17759, effective October 28, 2008). The present proposed rulemaking makes conforming changes to three additional Sections, 3000.600, 3000.665, and 3000.666. In each of the amended Sections, new language explicitly authorizes the distribution of complimentary electronic credits. The proposed changes are needed to achieve consistency among different Sections with respect to provisions relating to distributions of complimentary electronic credits.
- 6) Published studies and reports, and underlying sources of data, used to compose this rulemaking: None
- 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 rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
3000.220	Amendment	33 Ill. Reg. 11407; August 7, 2009
3000.660	Amendment	33 Ill. Reg. 11759; August 14, 2009

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- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under 30 ILCS 805.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Michael Fries
Chief Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

312/814-7137
Fax No. 312/814-7253
michael.fries@igb.illinois.gov
- 13) 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: The proposed rulemaking will impose no additional requirements.
 - C) Types of professional skills necessary for compliance: The proposed rulemaking will impose no additional requirements.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on a Regulatory Agenda.

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

ILLINOIS GAMING BOARD

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TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARDPART 3000
RIVERBOAT GAMBLING

SUBPART A: GENERAL PROVISIONS

Section	
3000.100	Definitions
3000.101	Invalidity
3000.102	Public Inquiries
3000.103	Organization of the Illinois Gaming Board
3000.104	Rulemaking Procedures
3000.105	Board Meetings
3000.110	Disciplinary Actions
3000.115	Records Retention
3000.120	Place to Submit Materials
3000.130	No Opinion or Approval of the Board
3000.140	Duty to Disclose Changes in Information
3000.141	Applicant/Licensee Disclosure of Agents
3000.150	Owner's and Supplier's Duty to Investigate
3000.155	Investigatory Proceedings
3000.160	Duty to Report Misconduct
3000.161	Communication with Other Agencies
3000.165	Participation in Games by Owners, Directors, Officers, Key Persons or Gaming Employees
3000.170	Fair Market Value of Contracts
3000.180	Weapons on Riverboat

SUBPART B: LICENSES

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3000.210	Fees and Bonds
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3000.280	Registration of All Gaming Devices
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3000.282	Seizure of Gaming Devices (Repealed)
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3000.310	Approval of Internal Control System
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3000.330	Review of Procedures (Repealed)
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- 3000.635 Issuance and Use of Tokens for Gaming
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- 3000.650 Inventory of Chips
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- 3000.660 Minimum Standards for Electronic Gaming Devices
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- 3000.665 Integrity of Electronic Gaming Devices
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SUBPART G: EXCLUSION OF PERSONS

- Section
- 3000.700 Organization of Subpart
- 3000.701 Duty to Exclude
- 3000.705 Voluntary Self-Exclusion Policy (Repealed)
- 3000.710 Distribution and Availability of Board Exclusion List
- 3000.720 Criteria for Exclusion or Ejection and Placement on the Board Exclusion List
- 3000.725 Duty of Licensees
- 3000.730 Procedure for Entry of Names
- 3000.740 Petition for Removal from the Board Exclusion List
- 3000.745 Voluntary Self-Exclusion Policy
- 3000.750 Establishment of a Self-Exclusion List
- 3000.751 Locations to Execute Self-Exclusion Forms
- 3000.755 Information Required for Placement on the Self-Exclusion List
- 3000.756 Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion
- 3000.760 Distribution and Availability of Confidential Self-Exclusion List
- 3000.770 Duties of Licensees
- 3000.780 Request for Removal from the IGB Self-Exclusion List
- 3000.782 Required Information, Recommendations, Forms and Interviews
- 3000.785 Appeal of a Notice of Denial of Removal
- 3000.786 Duties of Owner Licensees to Persons Removed from the Self-Exclusion List
- 3000.787 Placement on the Self-Exclusion List Following Removal
- 3000.790 Duties of the Board

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SUBPART H: SURVEILLANCE AND SECURITY

Section

3000.800	Required Surveillance Equipment
3000.810	Riverboat and Board Surveillance Room Requirements
3000.820	Segregated Telephone Communication
3000.830	Surveillance Logs
3000.840	Storage and Retrieval
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SUBPART I: LIQUOR LICENSES

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3000.900	Liquor Control Commission
3000.910	Liquor Licenses
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3000.930	Hours of Sale

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section

3000.1000	Ownership Records
3000.1010	Accounting Records
3000.1020	Standard Financial and Statistical Records
3000.1030	Annual and Special Audits and Other Reporting Requirements
3000.1040	Accounting Controls Within the Cashier's Cage
3000.1050	Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit
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3000.1071	Admission Tax and Wagering Tax
3000.1072	Cash Reserve Requirements

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

Section

3000.1100	Coverage of Subpart
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3000.1105	Duty to Maintain Suitability
3000.1110	Board Action Against License or Licensee
3000.1115	Complaint
3000.1120	Appearances
3000.1125	Answer
3000.1126	Appointment of Hearing Officer
3000.1130	Discovery
3000.1135	Motions for Summary Disposition
3000.1139	Subpoena of Witnesses
3000.1140	Proceedings
3000.1145	Evidence
3000.1146	Prohibition of Ex Parte Communication
3000.1150	Sanctions and Penalties
3000.1155	Transmittal of Record and Recommendation to the Board

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

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 31 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967,

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effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008; amended at 32 Ill. Reg. 13200, effective July 22, 2008; amended at 32 Ill. Reg. 17418, effective October 23, 2008; amended at 32 Ill. Reg. 17759, effective October 28, 2008; amended at 32 Ill. Reg. 17946, effective November 5, 2008; amended at 33 Ill. Reg. _____, effective _____.

SUBPART F: CONDUCT OF GAMING

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

- a) Except as provided in subsections (b) and (c) of this Section, Riverboat Gaming Wagers may be made only with Electronic Credits, Tokens or Chips. All Chips, Tokens and Electronic Cards must be approved by the Administrator and purchased from the holder of an Owner's license. ~~Such~~ Chips, Tokens or Electronic Cards may only be used as set forth in the owner licensee's Internal Control System. At the patron's option, Electronic Credits may either be used as a Wager on an Electronic Gaming Device or be withdrawn only in the form of Tokens and/or a Voucher issued from the Electronic Gaming Device.
- b) Riverboat Gaming Wagers may be made with Electronic Credits downloaded from an owner licensee's computer management system or acquired through the insertion of a Voucher issued by an Electronic Gaming Device authorized for wagering at a holder of an Owner's license or acquired through insertion of a coupon redeemable for complimentary electronic credits, as set forth in the Owner licensee's Internal Control System.
 - 1) Prior to the Redemption Period, ~~such~~ Vouchers may, at the patron's option, be:
 - A) used to obtain electronic credits to place a wager in Electronic Gaming Devices registered with the Board;
 - B) withdrawn only in the form of Tokens or Vouchers from the Electronic Gaming Device; or
 - C) redeemed only for United States currency at a Voucher Validation Terminal or at the cage of a holder of an Owner's license.

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- 2) At any time prior to the Expiration Date, Vouchers may be redeemed for United States currency at the cage of a holder of an Owner's license.
- c) Riverboat Gaming Wagers may be made with match play coupons issued by the holder of an Owner's license and approved by the Administrator. ~~Match~~~~Sueh~~
~~match~~ play coupons may only be used in conjunction with the Wager of a Chip as set forth in the owner licensee's Internal Control System.

(Source: Amended at 33 Ill. Reg. _____, effective _____)

Section 3000.665 Integrity of Electronic Gaming Devices

Electronic Gaming Devices shall, at a minimum:

- a) With the exception of a Bill Validator that is part of the EGD, be cashless in operation, and as such, must accept only Electronic Credits or Tokens as Wagers;
- b) If equipped with a Bill Validator, accept the conversion of the value of cash, Tokens, Vouchers, coupons or Electronic Cards to Electronic Credits for use as Wagers;
- c) Be electronic in design and operation and not be electro-mechanical or mechanical in operation;
- d) Not subject a player to physical hazards;
- e) Contain a surge protector on the line that feeds power to the Electronic Gaming Device. The battery backup or an equivalent for the electronic meters must be capable of maintaining accuracy of all information required for 180 days after power is discontinued from the Electronic Gaming Device. The backup shall be kept within the locked logic board compartment;
- f) Have an on/off switch that controls the electrical current used in the operation of the Electronic Gaming Device and any associated equipment, including a Voucher Printer, which shall be located in an accessible place within its interior;
- g) Be designed so that it shall not be adversely affected by static discharge or other electromagnetic interference;

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

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

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

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

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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Section 3000.666 Bill Validator Requirements

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

(Source: Amended at 33 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Procedures Applicable to All Agencies
- 2) Code Citation: 44 Ill. Adm. Code 750
- 3) Section Number: 750.210 Proposed Action: Amendment
- 4) Statutory Authority: Implementing Sections 2-105(A), 7-101(A), and 7-105(A) and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A), 7-101(A) and 7-105]
- 5) A Complete Description of the Subjects and Issues Involved: The amendment provides the circumstances and procedures for when a person filing an IDHR Employer Report Form must pay a \$75 filing fee.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed amendment replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendment affects units of local government that will file or are considering filing IDHR Employer Report Forms.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:

David T. Rothal
Staff Attorney
Illinois Department of Human Rights – Legal Division
100 W. Randolph St., Ste. 10-100
Chicago, IL 60601

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312/814-6257 or 312/263-1579 (TTY)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Entities with fifteen or more employees who file IDHR Employer Report Forms will be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: No changes in reporting or bookkeeping procedures are required.
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2009

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

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER X: DEPARTMENT OF HUMAN RIGHTS

PART 750
PROCEDURES APPLICABLE TO ALL AGENCIES

SUBPART A: DEFINITIONS

Section
750.5 Definitions

SUBPART B: EQUAL OPPORTUNITY CLAUSE

Section
750.10 Clause to be Included in All Contracts
750.20 Incorporation by Operation of the Regulation
750.30 Subcontracts
750.40 Contracts or Subcontracts with Religious Entities

SUBPART C: DUTIES OF PUBLIC CONTRACTORS AND SUBCONTRACTORS

Section
750.110 General
750.120 Identification of Underutilization
750.130 Affirmative Action Plans
750.140 Information and Reports
750.150 Recruitment of Employees
750.160 Segregated Facilities
750.170 Subcontracts

SUBPART D: BIDDING AND COMPLIANCE

Section
750.210 Eligibility for Public Contracts
750.220 Construction Employee Utilization Projection
750.230 Compliance Review; Enforcement

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750.APPENDIX A Equal Employment Opportunity Clause

AUTHORITY: Implementing Sections 2-105(A), 7-101(A), and 7-105(A) and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/2-105(A), 7-101(A) and 7-105].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; codified at 8 Ill. Reg. 17889; amended at 22 Ill. Reg. 11774, effective July 1, 1998; amended at 30 Ill. Reg. 18709, effective November 20, 2006; amended at 32 Ill. Reg. 16484, effective September 23, 2008; amended at 33 Ill. Reg. _____, effective _____.

SUBPART D: BIDDING AND COMPLIANCE

Section 750.210 Eligibility for Public Contractsa) DHR Filing Requirement

- 1) The requirements of this Section shall apply to all persons employing ~~15~~fifteen or more individuals at any time during the 365 day period immediately preceding the date of filing. No such ~~employerperson~~ shall be eligible to be awarded a contract by a State agency, as defined in the Illinois Procurement Code [30 ILCS 500/1-15.100], unless ~~that~~ ~~employersuch person~~ has filed with the Department a properly completed ~~DHRand sworn~~ Employer Report Form (Form PC-1, ~~also known as IL 442-0010~~) or holds a valid Number. ~~ThisSuch~~ filing with the Department must take place prior to bid opening, if a bidding or competitive selection procedure is required under the Illinois Procurement Code ~~[30 ILCS 500/1-1]~~, or, in all other cases, contract award.
- 2) Persons covered under this Section may obtain DHR Employer Report Forms by writing to the Public Contracts Unit, Department of Human Rights, 100 W. Randolph Street, Suite 10-100, Chicago IL 60601, by accessing the Department's website at www.state.il.us/dhr, or by TTY at (217)785-5125. An DHR Employer Report Form shall be deemed filed when it is received, in the Department's Chicago office, properly completed and signed.

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- 3) After January 1, 2010, an DHR Employer Report Form, whether it is a renewal or an initial filing, will not be deemed complete unless it is accompanied by a filing fee of \$75 in the form of a certified check, money order or cashier's check payable to "Department of Human Rights" and mailed to the Department of Human Rights, ATTN: Fiscal Unit, 100 West Randolph Street, Suite 10-100, Chicago, Illinois 60601. Each DHR Employer Report Form containing a separate Federal Employer Identification Number (FEIN) shall be accompanied by a separate \$75 fee. The Number or FEIN of the covered person filing the DHR Employer Report Form shall appear on the certified check, money order or cashier's check. The \$75 fee is non-refundable.
- b) Each person who files ~~the~~ such a form required by subsection (a) in compliance with this Section shall be issued a Number as evidence of its eligibility to bid on, or be awarded, public contracts. Each Number ~~Such~~ shall expire five years from the date of issue, without further notice to the ~~employer~~ person. A list of Numbers due to expire within a certain month will be published on the Department's website. At any time prior to the expiration date, the Department may suspend or revoke the Number in accordance with the Act or this Part. ~~The~~ Such Number shall also expire upon dissolution, sale, or merger of the public contractor or eligible bidder.
- c) If the Department finds that a public contractor or eligible bidder is underutilizing minorities and/or women in any job classification, as defined in Section 750.120 ~~of this Part~~, it shall require the submission of an acceptable affirmative action plan.
- 1) After submitting an acceptable plan, the contractor or eligible bidder shall file such reports as the Department may require to document the contractor's ~~or s~~ progress under the plan. The Department may require that such reports contain information that includes, but is not limited to, the contractor's or eligible bidder's:
- A) identification of underutilization (as required in Section 750.120 ~~of this Part~~);
- B) hiring and promotional goals and timetables;

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- C) personnel policies and procedures;
 - D) personnel outreach and recruitment efforts;
 - E) personnel transactions (including hires, promotions, discharges, layoffs; and disciplinary actions);
 - F) employee compensation and benefits;
 - G) sexual harassment prevention policies and procedures;
 - H) allegations of unlawful discrimination (as defined in Section 750.110(a)-of this Part); and
 - I) compliance with any specific commitments made by the contractor or eligible bidder in its plan.
- 2) The Department may require a contractor or eligible bidder to file ~~thesesuch~~ reports until such time as the underutilization has been eliminated, but no more than quarterly.
- d) A public contractor or eligible bidder may voluntarily relinquish its Number by so notifying the Department in writing addressed to the Department's Chicago office. Each public contractor or eligible bidder must notify the Department in writing of any change of address or other information ~~which may be~~ necessary for the Department to readily contact it.
 - e) A public contractor or eligible bidder ~~thatwhich~~ cannot be located by the Department, ~~or which~~ does not respond to a written inquiry sent to its last known address, or ~~which~~ does not respond to a notice published in the Illinois Procurement Bulletin (see 30 ILCS 500/15-1); and/or in other publications of general circulation; may be deemed to have relinquished its Number.
 - f) ~~Upon the~~ written request of a contracting agency ~~for an exemption, which request~~ shall state the ~~specific~~ reasons ~~for the exemption. The~~therefor, the Department may exempt any person from the requirements of subsection (a)-of this Section when it deems that exceptional circumstances and the public interest so require. ~~AnSuch~~ exemption shall be granted for a specified purpose and duration but may be withdrawn by the Department at any time; provided,

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however, that ~~thesuch~~ withdrawal shall not apply to contracts awarded prior to the withdrawal.

- g) The requirements of subsection (a) ~~of this Section~~ shall not apply to:
- 1) State agencies, boards, and commissions required to file affirmative action plans with the Department pursuant to 56 Ill. Adm. Code 2520.710;
 - 2) persons located wholly outside the territorial boundaries of the United ~~States~~State and who have no employees in the United States and will not hire employees in the United States to perform any part of any public contract;
 - 3) ~~procurements~~Procurements designated as small purchases pursuant to 30 ILCS 500/20-20;
 - 4) ~~procurements~~Procurements designated as sole-source pursuant to 30 ILCS 500/20-25; and
 - 5) ~~procurements~~Procurements designated as emergency pursuant to 30 ILCS 500/20-30.
- h) ~~Beginning July 1, 1998, persons covered under this Section may obtain forms required to apply for Numbers by writing to the Public Contracts Unit, Department of Human Rights, 100 W. Randolph Street, Suite 10-100 Chicago IL, 60601 or by accessing the Department's website at www.state.il.us/dhr. Persons who are hearing-impaired may also contact the Department by TDD at 312-263-1579.~~
- i) ~~All Numbers issued by the Department or the Illinois Fair Employment Practices Commission between February 1, 1973, and June 30, 1998, shall expire on August 31, 1999.~~

(Source: Amended at 33 Ill. Reg. _____, effective _____)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies
- 2) Code Citation: 59 Ill. Adm. Code 50
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
50.10	Amend
50.20	Amend
50.30	Amend
50.40	Amend
50.50	Amend
50.60	Amend
50.70	Amend
50.80	Amend
50.90	Amend
50.100	Amend
- 4) Statutory Authority: Implementing and authorized by Section 1-17 of the Department of Human Services Act [20 ILCS 1305]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking will comply with the requirements of HB 3844. The amendments will expand OIG's jurisdiction to include financial exploitation allegations of persons with disabilities under the care of the State. Section 50.80 will be amended to abolish Appeal Hearings and Written Responses will be added. For any cases in which OIG substantiates abuse or neglect or makes one or more recommendations, the community agency or facility shall submit a Written Response on a prescribed form to the respective DHS program division office.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other amendments pending on this Part? No

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these amendments within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield, Illinois 62762

217/785-9772
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will not affect small businesses or not-for-profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: July 2009

The full text of the Proposed Amendments are identical to the text of the Emergency Amendments that appears in this issue of the *Illinois Register* on page 13489.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
148.117	Amendment
148.120	Amendment
148.122	Amendment
148.126	Amendment
148.130	Amendment
148.270	Amendment
148.295	Amendment
148.296	Amendment
148.297	Amendment
148.460	New Section
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: September 8, 2009
- 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 materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 33 Ill. Reg. 5685, April 17, 2009, for amendments to Section 148.270; 33 Ill. Reg. 3588, February 27, 2009, for amendments to all other Sections.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: Two proposed rulemakings were combined to form this one adopted rulemaking.

Added a new subsection 148.120(g)(4):

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

"4) Disproportionate Share Payments for Certain Government-Owned or -Operated Hospitals

- A) The following classes of government-owned or -operated Illinois hospitals shall, subject to the limitations set forth in subsection (h) of this Section, be eligible for the Disproportionate Share Hospital Adjustment payment:
- i) Hospitals defined in Section 148.25(b)(1)(A).
 - ii) Hospitals owned or operated by a unit of local government that is not a hospital defined in subsection (g)(4)(A)(i) of this Section.
 - iii) Hospitals defined in Section 148.25(b)(1)(B).
- B) The annual amount of the payment shall be the amount computed for the hospital pursuant to federal limitations, adjusted from the midpoint of the cost report period to the midpoint of the rate period using the CMS Hospital Price Index.
- C) The annual amount shall be paid to the hospital in monthly installments. The portion of the annual amount not paid pending federal approval of payments shall, upon that approval be paid in a single lump sum payment. Except as indicated in this subsection (g)(4), the annual amount shall be paid to the hospital in 12 equal installments and paid monthly."

In Section 148.120(h)(3), "Section shall be adjusted to meet the State DSH Allotment" was reinstated and the two following sentences, beginning with "This adjustment shall ..." and ending with "... 12 equal installments and paid monthly." are stricken.

In Section 148.295(3)(C), the words "Total Payment Adjustments" were stricken.

In subsections 148.460(b)(3)(B) and (4)(B), deleted "greater than or equal to" and "and less than or equal".

In subsections 148.460(b)(3)(C) and (4)(C), replaced "greater than 0 and less than" with "up to".

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NOTICE OF ADOPTED AMENDMENTS

In addition, numerous nonsubstantive changes to subsection labels and numbers were made.

- 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 amendments currently in effect? Yes
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The Department is changing reimbursement programs to include Critical Hospital Access Payment (CHAP), Safety Net Adjustment Payments (SNAP), Outpatient Assistance Adjustment Payment, Pediatric Outpatient Adjustment Payments, and Tertiary Care Adjustment Payments, which will result in \$35 million in annual spending. The rulemaking also makes an adjustment to the Hospital Outlier calculation to allow all children's hospitals to qualify for such payments as identified in 89 Ill. Adm. Code 149.50(c)(3)(B). It is estimated that this adjustment will result in an additional \$4 million to hospital providers meeting this criteria. Lastly these amendments add a new Section pursuant to P.A. 95-1017, which will provide \$40 million in catastrophic relief payments to hospitals in FY09.

The Department is also changing reimbursement for per diem rates for psychiatric children's hospitals as well as allowing capital payments to recently enrolled general care hospitals. The changes in per diem rates will result in an additional \$2.6 million in annual spending.

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

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section

148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100	Outpatient Rural Hospital Adjustment Payments
148.103	Outpatient Service Adjustment Payments
148.105	Psychiatric Adjustment Payments
148.110	Psychiatric Base Rate Adjustment Payments
148.112	High Volume Adjustment Payments
148.115	Rural Adjustment Payments
148.117	Outpatient Assistance Adjustment Payments
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.122	Medicaid Percentage Adjustments
148.126	Safety Net Adjustment Payments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services

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- 148.150 Public Law 103-66 Requirements
- 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
- 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions
- 148.230 Admissions Occurring on or after September 1, 1991
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services

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NOTICE OF ADOPTED AMENDMENTS

148.380	Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.390	Hearings
148.400	Special Hospital Reporting Requirements
148.402	Medicaid Eligibility Payments (Repealed)
148.404	Medicaid High Volume Adjustment Payments (Repealed)
148.406	Intensive Care Adjustment Payments (Repealed)
148.408	Trauma Center Adjustment Payments (Repealed)
148.410	Psychiatric Rate Adjustment Payments (Repealed)
148.412	Rehabilitation Adjustment Payments (Repealed)
148.414	Supplemental Tertiary Care Adjustment Payments (Repealed)
148.416	Crossover Percentage Adjustment Payments (Repealed)
148.418	Long Term Acute Care Hospital Adjustment Payments (Repealed)
148.420	Obstetrical Care Adjustment Payments (Repealed)
148.422	Outpatient Access Payments (Repealed)
148.424	Outpatient Utilization Payments (Repealed)
148.426	Outpatient Complexity of Care Adjustment Payments (Repealed)
148.428	Rehabilitation Hospital Adjustment Payments (Repealed)
148.430	Perinatal Outpatient Adjustment Payments (Repealed)
148.432	Supplemental Psychiatric Adjustment Payments (Repealed)
148.434	Outpatient Community Access Adjustment Payments (Repealed)
148.440	High Volume Adjustment Payments
148.442	Inpatient Services Adjustment Payments
148.444	Capital Needs Payments
148.446	Obstetrical Care Payments
148.448	Trauma Care Payments
148.450	Supplemental Tertiary Care Payments
148.452	Crossover Care Payments
148.454	Magnet Hospital Payments
148.456	Ambulatory Procedure Listing Increase Payments
148.458	General Provisions
148.460	Catastrophic Relief Payments

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section	
148.500	Definitions
148.510	Reimbursement

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NOTICE OF ADOPTED AMENDMENTS

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section

148.600	Definitions
148.610	Scope of the Program
148.620	Assistance Level and Reimbursement
148.630	Criteria and Information Required to Establish Eligibility
148.640	Covered Services

148.TABLE A	Renal Participation Fee Worksheet
148.TABLE B	Bureau of Labor Statistics Equivalence
148.TABLE C	List of Metropolitan Counties by SMSA Definition

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995;

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emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg.

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4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of

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150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007; emergency amendment at 31 Ill. Reg. 10137, effective July 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11688, effective August 1, 2007; amended at 31 Ill. Reg. 14792, effective October 22, 2007; amended at 32 Ill. Reg. 312, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 518, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 2993, effective February 16, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8718, effective May 29, 2008; amended at 32 Ill. Reg. 9945, effective June 26, 2008; emergency amendment at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 33 Ill. Reg. 501, effective December 30, 2008; preemptory amendment at 33 Ill. Reg. 1538, effective December 30, 2008; emergency amendment at 33 Ill. Reg. 5821, effective April 1, 2009, for a maximum of 150 days; emergency expired August 28, 2009; amended at 33 Ill. Reg. 13246, effective September 8, 2009.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.117 Outpatient Assistance Adjustment Payments

- a) **Qualifying Criteria.** Outpatient Assistance Adjustment Payments, as described in subsection (b) of this Section, shall be made to Illinois hospitals meeting one of the criteria identified in this subsection (a):
 - 1) A hospital that qualifies for Disproportionate Share Adjustment Payments for rate year 2007, as defined in Section 148.120, has an emergency care percentage greater than 70% and has provided greater than 10,500 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

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- 2) A general acute care hospital that qualifies for Disproportionate Share Adjustment Payments for rate year 2007, as defined in Section 148.120, has an emergency care percentage greater than 85%.
- 3) A general acute care hospital that does not qualify for Medicaid Percentage Adjustment Payments for rate year 2007, as defined in Section 148.122, located in Cook County, outside the City of Chicago, has an emergency care percentage greater than 63%, has provided more than 10,750 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year and has provided more than 325 Medicaid surgical group outpatient ambulatory procedure listing services in the outpatient assistance base year.
- 4) A general acute care hospital located outside of Cook County that qualifies for Medicaid Percentage Adjustment Payments for rate year 2007 as defined in Section 148.122, is a trauma center recognized by the Illinois Department of Public Health (IDPH) as of July 1, 2006, has an emergency care percentage greater than 58%, and has provided more than 1,000 Medicaid Non-emergency/Screening outpatient ambulatory procedure listing services in the outpatient assistance base year.
- 5) A hospital that has an MIUR of greater than 50% and an emergency care percentage greater than 80%, and that provided more than 6,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.
- 6) A hospital that has an MIUR of greater than 70% and an emergency care percentage greater than 90%.
- 7) A general acute care hospital, not located in Cook County, that is not a trauma center recognized by IDPH as of July 1, 2006 and did not qualify for Medicaid Percentage Adjustment payments for rate year 2007, as defined in Section 148.122, has an MIUR of greater than 25% and an emergency care percentage greater than 50%, and that provided more than 8,500 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.

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- 8) A general acute care hospital, not located in Cook County, that is a Level I trauma center recognized by IDPH as of July 1, 2006, has an emergency care percentage greater than 50%, and provided more than 16,000 Medicaid outpatient ambulatory procedure listing services, including more than 1,000 non-emergency screening outpatient ambulatory procedure listing services, in the outpatient assistance base year.
 - 9) A general acute care hospital, not located in Cook County, that qualified for Medicaid Percentage Adjustment payments for rate year 2007, as defined in Section 148.122, has an emergency care percentage greater than 55%, and provided more than 12,000 Medicaid outpatient ambulatory procedure listing services, including more than 600 surgical group outpatient ambulatory procedure listing services and 7,000 emergency services in the outpatient assistance base year.
 - 10) A general acute care hospital that has an emergency care percentage greater than 75% and provided more than 15,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.
 - 11) A rural hospital that has an MIUR of greater than 40% and provided more than 16,000 Medicaid outpatient ambulatory procedure listing services in the outpatient assistance base year.
 - 12) A general acute care hospital, not located in Cook County, that is a trauma center recognized by IDPH as of July 1, 2006, had more than 500 licensed beds in calendar year 2005, and provided more than 11,000 Medicaid outpatient ambulatory procedure listing services, including more than 950 surgical group outpatient ambulatory procedure listing services, in the outpatient assistance base year.
- b) Outpatient Assistance Adjustment Payments
- 1) For hospitals qualifying under subsection (a)(1), the rate is \$139.00.
 - 2) For hospitals qualifying under subsection (a)(2), the rate is ~~\$850.00~~\$336.25.

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- 3) For hospitals qualifying under subsection (a)(3), the rate is ~~\$425.00~~\$200.25.
 - 4) For hospitals qualifying under subsection (a)(4), the rate is ~~\$375.00~~\$217.25.
 - 5) For hospitals qualifying under subsection (a)(5), the rate is \$250.00.
 - 6) For hospitals qualifying under subsection (a)(6), the rate is \$336.25.
 - 7) For hospitals qualifying under subsection (a)(7), the rate is \$110.00.
 - 8) For hospitals qualifying under subsection (a)(8), the rate is \$200.00.
 - 9) For hospitals qualifying under subsection (a)(9), the rate is \$48.50.
 - 10) For hospitals qualifying under subsection (a)(10), the rate is \$135.00.
 - 11) For hospitals qualifying under subsection (a)(11), the rate is \$65.00.
 - 12) For hospitals qualifying under subsection (a)(12), the rate is \$90.00.
- c) Payment to a Qualifying Hospital
- 1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by the Medicaid outpatient ambulatory procedure listing services in the outpatient assistance adjustment base year.
 - 2) For the outpatient assistance adjustment period for fiscal year 2009 and after, total payments will equal the amount determined using the methodologies described in subsection (c)(1) of this Section and shall be paid to the hospital, at least, on a quarterly basis.
 - 3) Payments described in subsections (b)(5) through (b)(12) of this Section are contingent upon approval of federal funding for such payments.
- d) Definitions

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- 1) "Emergency care percentage" means a fraction, the numerator of which is the total Group 3 ambulatory procedure listing services as described in Section 148.140(b)(1)(C), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department's data base adjudicated through June 30, 2006, and the denominator of which is the total ambulatory procedure listing services as described in Section 148.140(b)(1), excluding services for individuals eligible for Medicare, provided by the hospital in State fiscal year 2005 contained in the Department's data base adjudicated through June 30, 2006.
- 2) "General acute care hospital" is a hospital that does not meet the definition of a hospital contained in 89 Ill. Adm. Code 149.50(c).
- 3) "Outpatient Ambulatory Procedure Listing Payments" means, for a given hospital, the sum of payments for ambulatory procedure listing services as described in Section 148.140(b)(1), excluding payments for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.
- 4) "Outpatient assistance year" means, beginning January 1, 2007, the 6-month period beginning on January 1, 2007 and ending June 30, 2007, and beginning July 1, 2007, the 12-month period beginning July 1 of the year and ending June 30 of the following year.
- 5) "Outpatient assistance base period" means the 12-month period beginning on July 1, 2004 and ending June 30, 2005.
- 6) "Surgical group outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b)(1)(A), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

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- 7) "Non-emergency/screening outpatient ambulatory procedure listing services" means, for a given hospital, the sum of ambulatory procedure listing services as described in Section 148.140(b)(1)(C)(iii), excluding services for individuals eligible for Medicare under Title XVIII of the Act (Medicaid/Medicare crossover days), as tabulated from the Department's paid claims data for admissions occurring in the outpatient assistance base period that were adjudicated by the Department through June 30, 2006.

(Source: Amended at 33 Ill. Reg. 13246, effective September 8, 2009)

Section 148.120 Disproportionate Share Hospital (DSH) Adjustments

Disproportionate Share Hospital (DSH) adjustments for inpatient services provided prior to October 1, 2003, shall be determined and paid in accordance with the statutes and administrative rules governing the time period when the services were rendered. The Department shall make an annual determination of those hospitals qualified for adjustments under this Section effective October 1, 2003, and each October 1, thereafter unless otherwise noted.

- a) Qualified Disproportionate Share Hospitals (DSH). For inpatient services provided on or after October 1, 2003, the Department shall make adjustment payments to hospitals ~~that~~^{which} are deemed as disproportionate share by the Department. A hospital may qualify for a DSH adjustment in one of the following ways:
- 1) The hospital's Medicaid inpatient utilization rate (MIUR), as defined in subsection ~~(i)(4)~~ of this Section, is at least one standard deviation above the mean Medicaid utilization rate, as defined in subsection ~~(i)(3)~~ of this Section.
 - 2) The hospital's low income utilization rate exceeds 25 per centum. For this alternative, payments for all patient services (not just inpatient) for Medicaid, Family and Children Assistance (formerly known as General Assistance) and/or any local or State government-funded care, must be counted as a percentage of all net patient service revenue. To this percentage, the percentage of total inpatient charges attributable to inpatient charges for charity care (less payments for Family and Children Assistance inpatient hospital services, and/or any local or State government-funded care) must be added.

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- b) In addition, to be deemed a DSH hospital, a hospital must provide the Department, in writing, with the names of at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. This requirement does not apply to a hospital in which the inpatients are predominantly individuals under 18 years of age; or does not offer nonemergency obstetric services as of December 22, 1987. Hospitals that do not offer nonemergency obstetrics to the general public, with the exception of those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4), must submit a statement to that effect.
- c) In making the determination described in subsection (a)(1) of this Section, the Department shall utilize:
- 1) Hospital Cost Reports
 - A) The hospital's final audited cost report for the hospital's base fiscal year. Medicaid inpatient utilization rates, as defined in subsection ~~(i)(4)~~(4) of this Section, which have been derived from final audited cost reports, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation.
 - B) In the absence of a final audited cost report for the hospital's base fiscal year, the Department shall utilize the hospital's unaudited cost report for the hospital's base fiscal year. Due to the unaudited nature of this information, hospitals shall have the opportunity to submit a corrected cost report for the determination described in subsection (a)(1) of this Section. Submittal of a corrected cost report in support of subsection (a)(1) of this Section must be received or post marked no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such corrected cost report for the determination of DSH qualification. Corrected cost reports which are not received in compliance with these time limitations will not be considered for the determination of the hospital's MIUR as

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described in subsection ~~(i)(4)~~(4) of this Section.

- C) In the event of extensions to the Medicare cost report filing process, those hospitals that do not have an audited or unaudited base year Medicaid cost report on file with the Department by the 30th of April preceding the DSH determination are required to complete and submit to the Department a Hospital Day Statistics Collection (HDSC) form. On the form, hospitals must provide total Medicaid days and total hospital days for the hospital's base fiscal year. The HDSC form must be submitted to the Department by the April 30th preceding the DSH determination.
- i) If the Medicare deadline for submitting base fiscal year cost reports falls within the month of June preceding the DSH determination, hospitals, regardless of their base fiscal year end date, will have until the first day of August preceding the DSH determination to submit changes to their Medicaid cost reports for inclusion in the final DSH calculations. In this case, the HDSC form will not be used as a data source for the final rate year DSH determination.
- ii) If the Medicare deadline for submitting base fiscal year cost reports is extended beyond the month of June preceding the DSH determination, the HDSC form will be used in the final DSH determination for all hospitals that do not have an audited or unaudited Medicaid cost report on file with the Department. Hospitals will have until the first day of July to submit any adjustments to the information provided on the HDSC form sent to the Department on April 30.
- D) Hospitals' Medicaid inpatient utilization rates, as defined in subsection ~~(i)(4)~~(4) of this Section, which have been derived from unaudited cost reports or the HDSC form, are not subject to the Review Procedure described in Section 148.310, with the exception of errors in calculation. Pursuant to subsections (c)(1)(B) and (c)(1)(C)(ii) of this Section, hospitals shall have the opportunity to submit corrected information prior to the Department's final DSH determination.

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- E) In the event a subsequent final audited cost report reflects an MIUR, as described in subsection ~~(i)(4)~~(4) of this Section, which is lower than the Medicaid inpatient utilization rate derived from the unaudited cost report or the HDSC form utilized for the DSH determination, the Department shall recalculate the MIUR based upon the final audited cost report, and recoup any overpayments made if the percentage change in the DSH payment rate is greater than five percent.
- 2) Days Not Available from Cost Report
Certain types of inpatient days of care provided to Title XIX recipients are not available from the cost report, i.e., Medicare/Medicaid crossover claims, out-of-state Title XIX Medicaid utilization levels, Medicaid Health Maintenance Organization (HMO) days, hospital residing long term care days, and Medicaid days for alcohol and substance abuse rehabilitative care under category of service 35. To obtain Medicaid utilization levels in these instances, the Department shall utilize:
- A) Medicare/Medicaid Crossover Claims.
- i) For DSH determination years on or after October 1, 1996, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year. Provider logs as described in the following subsection (c)(3)(A)(ii) will not be used in the determination process for DSH determination years on or after October 1, 1996.
- ii) For DSH determination years prior to October 1, 1996, hospitals may submit additional information to document Medicare/Medicaid crossover days that were not billed to the Department due to a determination that the Department had no liability for deductible or coinsurance amounts. That information must be submitted in log form. The log must include a patient account number or medical record number, patient name, Medicaid recipient identification number, Medicare identification number, date of admission, date of discharge, the number of covered days,

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and the total number of Medicare/Medicaid crossover days. That log must include all Medicare/Medicaid crossover days billed to the Department and all Medicare/Medicaid crossover days which were not billed to the Department for services provided during the hospital's base fiscal year. If a hospital does not submit a log of Medicare/Medicaid crossover days that meets the above requirements, the Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for the hospital's applicable base fiscal year.

- B) Out-of-state Title XIX Utilization Levels. Hospital statements and verification reports from other states will be required to verify out-of-state Medicaid recipient utilization levels. The information submitted must include only those days of care provided to out-of-state Medicaid recipients during the hospital's base fiscal year.
 - C) HMO days. The Department will utilize the Department's HMO claims data available to the Department as of the last day of June preceding the DSH determination year, or specific claim information from each HMO, for each hospital's base fiscal year to determine the number of inpatient days provided to recipients enrolled in an HMO.
 - D) Hospital Residing Long Term Care Days. The Department will utilize the Department's paid claims data adjudicated through the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of hospital residing long term care days provided to recipients.
 - E) Alcohol and Substance Abuse Days. The Department will utilize its paid claims data under category of service 35 available to the Department as of the last day of June preceding the DSH determination year for each hospital's base fiscal year to determine the number of inpatient days provided for alcohol and substance abuse rehabilitative care.
- d) Hospitals may apply for DSH status under subsection (a)(2) of this Section by

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submitting an audited certified financial statement, for the hospital's base fiscal year, to the Department of Human Services or the Department of Public Aid. The statements must contain the following breakdown of information prior to submittal to the Department for consideration:

- 1) Total hospital net revenue for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.
 - 2) Total payments received directly from State and local governments for all patient services, both inpatient and outpatient, for the hospital's base fiscal year.
 - 3) Total gross inpatient hospital charges for charity care (this must not include contractual allowances, bad debt or discounts, except contractual allowances and discounts for Family and Children Assistance, formerly known as General Assistance), for the hospital's base fiscal year.
 - 4) Total amount of the hospital's gross charges for inpatient hospital services for the hospital's base fiscal year.
- e) With the exception of cost-reporting children's hospitals in contiguous states that provide 100 or more inpatient days of care to Illinois program participants, only those cost-reporting hospitals located in states contiguous to Illinois that qualify for DSH in the state in which they are located based upon the Federal definition of a DSH hospital, as defined in ~~section~~Section 1923(b)(1) of the Social Security Act, may qualify for DSH hospital adjustments under this Section. For purposes of determining the MIUR, as described in subsection ~~(i)(k)~~(4) of this Section and as required in ~~section~~Section 1923(b)(1) of the Social Security Act, out-of-state hospitals will be measured in relationship to one standard deviation above the mean Medicaid inpatient utilization rate in their state. Out-of-state hospitals that do not qualify by the MIUR from their state may submit an audited certified financial statement as described in subsection (d) of this Section. Payments to out-of-state hospitals will be allocated using the same method as described in subsection (g) of this Section.
- f) Time Limitation Requirements for Additional Information.
- 1) Except as provided in subsection (c)(1)(C), the information required in subsections (a), (c), (d) and (e) of this Section must be received or post

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marked no later than the first day of July preceding the DSH determination year for which the hospital is requesting consideration of such information for the determination of DSH qualification. Information required in subsections (a), (c), (d) and (e) of this Section which is not received or post marked in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

- 2) The information required in subsection (b) of this Section must be submitted after receipt of notification from the Department. Information required in this Section ~~that~~which is not received in compliance with these limitations will not be considered for the determination of those hospitals qualified for DSH adjustments.

- g) Inpatient Payment Adjustments to DSH Hospitals. The adjustment payments required by subsection (a) of this Section shall be calculated annually as follows:

- 1) Five Million Dollar Fund Adjustment for hospitals defined in Section 148.25(b)(1), with the exception of any Illinois hospital that is owned or operated by the State or a unit of local government.
- A) Hospitals qualifying as DSH hospitals under subsection (a)(1) or (a)(2) of this Section will receive an add-on payment to their inpatient rate.
- B) The distribution method for the add-on payment described in subsection (g)(1) of this Section is based upon a fund of \$5 million. All hospitals qualifying under subsection (g)(1)(A) of this Section will receive a \$5 per day add-on to their current rate. The total cost of this adjustment is calculated by multiplying each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) by \$5. The total dollar amount of this calculation is then subtracted from the \$5 million fund.
- C) The remaining fund balance is then distributed to the hospitals that qualify under subsection (a)(1) of this Section in proportion to the percentage by which the hospital's MIUR exceeds one standard deviation above the State's mean Medicaid inpatient utilization rate, as described in subsection ~~(i)(k)~~(3) of this Section. This is

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done by finding the ratio of each hospital's percent Medicaid utilization to the State's mean plus one standard deviation percent Medicaid value. These ratios are then summed and each hospital's proportion of the total is calculated. These proportional values are then multiplied by each hospital's most recent completed fiscal year Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization). These weighted values are summed and each hospital's proportion of the summed weighted value is calculated. Each individual hospital's proportional value is then multiplied against the \$5 million pool of money available after the \$5 per day base add-on has been subtracted.

- D) The total dollar amount calculated for each qualifying hospital under subsection (g)(1)(C) of this Section, plus the initial \$5 per day add-on amount calculated for each qualifying hospital under subsection (g)(1)(B) of this Section, is then divided by the Medicaid inpatient utilization data (adjusted based upon historical utilization and projected increases in utilization) to arrive at a per day add-on value. Hospitals qualifying under subsection (a)(2) of this Section will receive the minimum adjustment of \$5 per inpatient day. The adjustments calculated under this subsection (g)(1) are subject to the limitations described in subsection ~~(h)(1)~~ of this Section. The adjustments calculated under subsection (g) of this Section shall be paid on a per diem basis and shall be applied to each covered day of care provided.

- 2) Department of Human Services (DHS) State-Operated Facility Adjustment for hospitals defined in Section 148.25(b)(6). Department of Human Services State-operated facilities qualifying under subsection (a)(2) of this Section shall receive an adjustment for inpatient services provided on or after March 1, 1995. Effective October 1, 2000, the adjustment payment shall be calculated as follows:

- A) The amount of the adjustment is based on a State DSH Pool. The State DSH Pool amount shall be the lesser of the federal DSH allotment for mental health facilities as determined in section 1923(h) of the Social Security Act, minus the estimated DSH payments to such facilities that are not operated by the State; or the

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result of subtracting the estimated DSH payment adjustments made under ~~subsection (g)(1)~~ ~~subsections (g)(1), (h) and (i)~~ of this Section and Section 148.170(f)(2) from the aggregate DSH payment allotment as provided for in section 1923(f) of the Social Security Act.

- B) The State DSH Pool amount is then allocated to hospitals defined in Section 148.25(b)(6) that qualify for DSH adjustments by multiplying the State DSH Pool amount by each hospital's ratio of uncompensated care costs, from the most recent final cost report, to the sum of all qualifying hospitals' uncompensated care costs.
 - C) The adjustment calculated in subsection (g)(2)(B) of this Section shall meet the limitation described in subsection ~~(h)(j)~~(4) of this Section.
 - D) The adjustment calculated pursuant to subsection (g)(2)(B) of this Section, for each hospital defined in Section 148.25(b)(6) that qualifies for DSH adjustments, is then divided by four to arrive at a quarterly adjustment. This amount is subject to the limitations described in subsection ~~(h)(j)~~ of this Section. The adjustment described in this subsection (g)(2)(D) shall be paid on a quarterly basis.
- 3) Assistance for Certain Public Hospitals
- A) The Department may make an annual payment adjustment to qualifying hospitals in the DSH determination year. A qualifying hospital is a public hospital as defined in section 701(d) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Public Law 106-554).
 - B) Hospitals qualifying shall receive an annual payment adjustment that is equal to:
 - i) A rate amount equal to the amount specified in the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, section 701(d)(3)(B) for the DSH determination year;

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- ii) Divided first by Illinois' Federal Medical Assistance Percentage; and
 - iii) Divided secondly by the sum of the qualified hospitals' total Medicaid inpatient days, as defined in subsection ~~(i)(4)~~(4) of this Section; and
 - iv) Multiplied by each qualified hospital's Medicaid inpatient days as defined in subsection ~~(i)(4)~~(4) of this Section.
- C) The annual payment adjustment calculated under this subsection ~~(g)(3)~~, for each qualified hospital, will be divided by four and paid on a quarterly basis.
- D) Payment adjustments under this subsection (g)(3) shall be made without regard to subsections ~~(h)(j)~~(3) and (4) of this Section, 42 CFR 447.272, or any standards promulgated by the Department of Health and Human Services pursuant to section 701(e) of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000.
- E) In order to qualify for assistance payments under this subsection (g)(3), with regard to this payment adjustment, there must be in force an executed intergovernmental agreement between the authorized governmental body of the qualifying hospital and the Department.

4) Disproportionate Share Payments for Certain Government-Owned or -Operated Hospitals

A) The following classes of government-owned or -operated Illinois hospitals shall, subject to the limitations set forth in subsection (h) of this Section, be eligible for the Disproportionate Share Hospital Adjustment payment:

- i) Hospitals defined in Section 148.25(b)(1)(A).
- ii) Hospitals owned or operated by a unit of local government

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that is not a hospital defined in subsection (g)(4)(A)(i) of this Section.

iii) Hospital defined in Section 148.25(b)(1)(B).

B) The annual amount of the payment shall be the amount computed for the hospital pursuant to federal limitations, adjusted from the midpoint of the cost report period to the midpoint of the rate period using the CMS Hospital Price Index.

C) The annual amount shall be paid to the hospital in monthly installments. The portion of the annual amount not paid pending federal approval of payments shall, upon that approval, be paid in a single lump sum payment. Except as indicated in this subsection (g)(4)(C), the annual amount shall be paid to the hospital in 12 equal installments and paid monthly.

~~h) Hospitals Organized Under the University of Illinois Hospital Act. For a hospital and/or hospitals organized under the University of Illinois Hospital Act, as defined in Section 148.25(b)(1)(B), the payment adjustments calculated under Section 148.122 shall be considered disproportionate share adjustments.~~

~~i) For county-owned hospitals defined in Section 148.25(b)(1)(A), a portion of the payments made in accordance with Sections 148.160(f)(3) and 148.295(e)(2)(J) may be considered disproportionate share adjustments.~~

hj) DSH Adjustment Limitations.

- 1) Hospitals that qualify for DSH adjustments under this Section shall not be eligible for the total DSH adjustment if, during the DSH determination year, the hospital discontinues provision of nonemergency obstetrical care. The provisions of this subsection (hj)(1) shall not apply to those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4) or those hospitals that have not offered nonemergency obstetric services as of December 22, 1987. In this instance, the adjustments calculated under subsection (g)(1) shall cease to be effective on the date that the hospital discontinued the provision of such nonemergency obstetrical care.
- 2) Inpatient Payment Adjustments based upon DSH Determination Reviews.

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Appeals based upon a hospital's ineligibility for DSH payment adjustments, or their payment adjustment amounts, in accordance with Section 148.310(b), which result in a change in a hospital's eligibility for DSH payment adjustments or a change in a hospital's payment adjustment amounts, shall not affect the DSH status of any other hospital or the payment adjustment amount of any other hospital that has received notification from the Department of its eligibility for DSH payment adjustments based upon the requirements of this Section.

- 3) DSH Payment Adjustment. In accordance with Public Law 102-234, if the aggregate DSH payment adjustments calculated under this Section do not meet the State's final DSH Allotment as determined by the federal Centers for Medicare and Medicaid Services Health Care Financing Administration (HCFA), DSH payment adjustments calculated under this Section shall be adjusted to meet the State DSH Allotment. ~~This adjustment shall first be applied to DSH payments made under subsection (g)(2) of this Section.~~ Subject to any limitation, disproportionate share payments will be made to qualifying hospitals in the following order:
- A) Psychiatric hospitals operated by the Illinois Department of Human Services – the annual amount shall be credited quarterly via certification of public expenditure.
 - B) Hospitals defined in Section 148.25(b)(1)(B).
 - C) Hospitals owned and operated by a unit of local government that is not a hospital defined in Section 148.25(b)(1)(A).
 - D) Hospitals that are not owned or operated by a unit of government – the annual amount shall be paid on each inpatient claim.
 - E) Hospitals defined in Section 148.25(b)(1)(A).
- 4) Omnibus Budget Reconciliation Act of 1993 (OBRA'93) Adjustments. In accordance with Public Law 103-66, adjustments to individual hospitals' disproportionate share payments shall be made if the sum of estimated Medicaid payments (inpatient, outpatient, and disproportionate share) to a hospital exceed the costs of providing services to Medicaid clients and persons without insurance. Federal upper payment limit requirements (42

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CFR 447.272) shall be considered when calculating the OBRA'93 adjustments. The adjustments shall reduce disproportionate share spending until the costs and spending (described in this subsection ~~(h)~~(4)) are equal or until the disproportionate share payments are reduced to zero. In this calculation, persons without insurance costs do not include contractual allowances. Hospitals qualifying for DSH payment adjustments must submit the information required in Section 148.150.

- 5) Medicaid Inpatient Utilization Rate Limit. Hospitals that qualify for DSH payment adjustments under this Section shall not be eligible for DSH payment adjustments if the hospital's MIUR, as defined in subsection ~~(i)~~(4) of this Section, is less than one percent.

~~ik~~) Inpatient Payment Adjustment Definitions. The definitions of terms used with reference to calculation of the inpatient payment adjustments are as follows:

- 1) "Base fiscal year" means, for example, the hospital's fiscal year ending in 2001 for the October 1, 2003 DSH determination year, the hospital's fiscal year ending in 2002 for the October 1, 2004 DSH determination year, etc.
- 2) "DSH determination year" means the 12 month period beginning on October 1 of the year and ending September 30 of the following year.
- 3) "Mean Medicaid inpatient utilization rate" means a fraction, the numerator of which is the total number of inpatient days provided in a given 12-month period by all Medicaid-participating Illinois hospitals to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a et seq.), and the denominator of which is the total number of inpatient days provided by those same hospitals. Title XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) but does include the types of days described in subsections (c)(1) and (c)(2) of this Section. In this subsection ~~(i)~~(3), the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

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- 4) "Medicaid inpatient utilization rate" means a fraction, the numerator of which is the number of a hospital's inpatient days provided in a given 12 month period to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a et seq.) and the denominator of which is the total number of the hospital's inpatient days in that same period. Title XIX specifically excludes days of care provided to Family and Children Assistance (formerly known as General Assistance) but does include the types of days described in subsections (c)(1) and (c)(2) of this Section. In this subsection ~~(i)(4)~~(4), the term "inpatient day" includes each day in which an individual (including a newborn) is an inpatient in the hospital whether or not the individual is in a specialized ward and whether or not the individual remains in the hospital for lack of suitable placement elsewhere.

(Source: Amended at 33 Ill. Reg. 13246, effective September 8, 2009)

Section 148.122 Medicaid Percentage Adjustments

The Department shall make an annual determination of those hospitals qualified for adjustments under this Section effective October 1, 2003, and each October 1 thereafter unless otherwise noted.

- a) **Qualified Medicaid Percentage Hospitals.** For inpatient services provided on or after October 1, 2003, the Department shall make adjustment payments to hospitals that are deemed as a Medicaid percentage hospital by the Department. A hospital, except those that are owned or operated by a unit of government, may qualify for a Medicaid Percentage Adjustment in one of the following ways:
- 1) The hospital's Medicaid inpatient utilization rate (MIUR), as defined in Section ~~148.120(i)(4)~~~~148.120(k)(4)~~, is at least one-half standard deviation above the mean Medicaid utilization rate, as defined in Section ~~148.120(i)(3)~~~~148.120(k)(3)~~.
 - 2) The hospital's low income utilization rate exceeds 25 per centum. For this alternative, payments for all patient services (not just inpatient) for Medicaid, Family and Children Assistance (formerly known as General Assistance) and/or any local or State government-funded care, must be counted as a percentage of all net patient service revenue. To this percentage, the percentage of total inpatient charges attributable to

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inpatient charges for charity care (less payments for Family and Children Assistance inpatient hospital services, and/or any local or State government-funded care) must be added.

- 3) Illinois hospitals that, on July 1, 1991, had an MIUR, as defined in Section ~~148.120(i)(4)~~~~148.120(k)(4)~~, that was at least the mean Medicaid inpatient utilization rate, as defined in Section ~~148.120(i)(3)~~~~148.120(k)(3)~~, and that were located in a planning area with one-third or fewer excess beds as determined by the Illinois Health Facilities Planning Board (77 Ill. Adm. Code 1100), and that, as of June 30, 1992, were located in a federally designated Health Manpower Shortage Area (42 CFR 5 (1989)).
 - 4) Illinois hospitals that:
 - A) Have an MIUR, as defined in Section ~~148.120(i)(4)~~~~148.120(k)(4)~~, that is at least the mean Medicaid inpatient utilization rate, as defined in Section ~~148.120(i)(3)~~~~148.120(k)(3)~~; and
 - B) Have a Medicaid obstetrical inpatient utilization rate, as defined in subsection (~~gh~~)(3) of this Section, that is at least one standard deviation above the mean Medicaid obstetrical inpatient utilization rate, as defined in subsection (~~gh~~)(2) of this Section.
 - 5) Any children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3).
 - 6) Out of state hospitals meeting the criteria in Section 148.120(e).
- b) In making the determination described in subsections (a)(1) and (a)(4)(A) of this Section, the Department shall utilize the data described in Section 148.120(c) and received in compliance with Section 148.120(f).
 - c) Hospitals may apply to become a qualified Medicaid Percentage Adjustment hospital under subsection (a)(2) of this Section by submitting audited certified financial statements as described in Section 148.120(d) and received in compliance with Section 148.120(f).
 - d) Medicaid Percentage Adjustments. The adjustment payments required by subsection (a) of this Section for qualified hospitals shall be calculated annually

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as follows for hospitals defined in Section 148.25(b)(1), excluding hospitals defined in Section 148.25(b)(1)(A) and (b)(1)(B).

- 1) The payment adjustment shall be calculated based upon the hospital's MIUR, as defined in Section ~~148.120(i)(4)~~~~148.120(k)(4)~~, and subject to ~~subsections~~~~subsections~~ (e) ~~and (f)~~ of this Section, as follows:
 - A) Hospitals with an MIUR below the mean Medicaid inpatient utilization rate shall receive a payment adjustment of \$25;
 - B) Hospitals with an MIUR that is equal to or greater than the mean Medicaid inpatient utilization rate but less than one standard deviation above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of \$25 plus \$1 for each one percent that the hospital's MIUR exceeds the mean Medicaid inpatient utilization rate;
 - C) Hospitals with an MIUR that is equal to or greater than one standard deviation above the mean Medicaid inpatient utilization rate but less than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of \$40 plus \$7 for each one percent that the hospital's MIUR exceeds one standard deviation above the mean Medicaid inpatient utilization rate; and
 - D) Hospitals with an MIUR that is equal to or greater than 1.5 standard deviations above the mean Medicaid inpatient utilization rate shall receive a payment adjustment of \$90 plus \$2 for each one percent that the hospital's MIUR exceeds 1.5 standard deviations above the mean Medicaid inpatient utilization rate.
- 2) The Medicaid Percentage Adjustment payment, calculated in accordance with this subsection (d), to a hospital, other than a hospital and/or hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), shall not exceed \$155 per day for a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), and shall not exceed \$215 per day for all other hospitals.

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- 3) The amount calculated pursuant to subsections (d)(1) through (d)(2) of this Section shall be adjusted by the aggregate annual increase in the national hospital market basket price proxies (DRI) hospital cost index from DSH determination year 1993, as defined in Section ~~148.120(i)(2)~~~~148.120(k)(2)~~, through DSH determination year 2003, and annually thereafter, by a percentage equal to the lesser of:
- A) The increase in the national hospital market basket price proxies (DRI) hospital cost index for the most recent 12 month period for which data are available; or
 - B) The percentage increase in the Statewide average hospital payment rate, as described in subsection (gh)(5) of this Section, over the previous year's Statewide average hospital payment rate.
- 4) The amount calculated pursuant to subsections (d)(1) through (d)(3) of this Section, as adjusted pursuant to ~~subsections~~ subsections (e) and (f) of this Section, shall be the inpatient payment adjustment in dollars for the applicable Medicaid percentage determination year. The adjustments calculated under subsections (d)(1) through (d)(3) of this Section shall be paid on a per diem basis and shall be applied to each covered day of care provided.
- e) Inpatient Adjustor for Children's Hospitals. For a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), the payment adjustment calculated under subsection (d)(1) of this Section shall be multiplied by 2.0.
- ~~f) DSH for Government Owned or Operated Hospitals.~~
- ~~1) The following classes of government owned or operated Illinois hospitals shall, subject to the limitations set forth in subsection (g) of this Section, be eligible for the Disproportionate Share Hospital Adjustment payment:~~
 - ~~A) Hospitals defined in Section 148.25(b)(1)(A).~~
 - ~~B) Hospitals owned or operated by a unit of local government that is not a hospital defined in subsection (f)(1)(A) of this Section.~~
 - ~~C) Hospitals defined in Section 148.25(b)(1)(B).~~

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- 2) ~~The annual amount of the payment shall be the amount computed for the hospital pursuant to federal limitations, adjusted from the midpoint of the cost report period to the midpoint of the rate period using the CMS Hospital Price Index.~~
- 3) ~~The annual amount shall be paid to the hospital in monthly installments. The portion of the annual amount not paid pending federal approval of payments shall, upon that approval, be paid in a single lump sum payment. The annual amount shall be paid to the hospital in 12 equal installments and paid monthly.~~

~~f)g)~~ Medicaid Percentage Adjustment Limitations.

- 1) In addition, to be deemed a Medicaid Percentage Adjustment hospital, a hospital must provide to the Department, in writing, the names of at least two obstetricians with staff privileges at the hospital who have agreed to provide obstetric services to individuals entitled to such services under a State Medicaid plan. In the case of a hospital located in a rural area (that is, an area outside of a Metropolitan Statistical Area, as defined by the federal Executive Office of Management and Budget), the term "obstetrician" includes any physician with staff privileges at the hospital to perform non-emergency obstetric procedures. This requirement does not apply to a hospital in which the inpatients are predominantly individuals under 18 years of age, or does not offer non-emergency obstetric services as of December 22, 1987. Hospitals that do not offer non-emergency obstetrics to the general public, with the exception of those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4), must submit a statement to that effect.
- 2) Hospitals that qualify for Medicaid Percentage Adjustments under this Section shall not be eligible for the total Medicaid Percentage Adjustment if, during the Medicaid Percentage Adjustment determination year, the hospital discontinues provision of non-emergency obstetrical care. The provisions of this subsection (~~f)g)~~(2) shall not apply to those hospitals described in 89 Ill. Adm. Code 149.50(c)(1) through (c)(4) or those hospitals that have not offered non-emergency obstetrical services as of December 22, 1987. In this instance, the adjustments calculated under

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subsection (d) shall cease to be effective on the date that the hospital discontinued the provision of such non-emergency obstetrical care.

- 3) Appeals based upon a hospital's ineligibility for Medicaid Percentage payment adjustments, or their payment adjustment amounts, in accordance with Section 148.310(b), which result in a change in a hospital's eligibility for Medicaid Percentage payment adjustments or a change in a hospital's payment adjustment amounts, shall not affect the Medicaid Percentage status of any other hospital or the payment adjustment amount of any other hospital that has received notification from the Department of its eligibility for Medicaid Percentage payment adjustments based upon the requirements of this Section.
- 4) Medicaid Inpatient Utilization Rate Limit. Hospitals that qualify for Medicaid percentage payment adjustments under this Section shall not be eligible for Medicaid percentage payment adjustments if the hospital's MIUR, as defined in Section 148.120~~(i)(4)~~(4), is less than one percent.

~~g)h)~~ Inpatient Payment Adjustment Definitions. The definitions of terms used with reference to calculation of Inpatient Payment Adjustments are as follows:

- 1) "Medicaid Percentage determination year" means the 12 month period beginning on October 1 of the year and ending September 30 of the following year.
- 2) "Mean Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the total Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection ~~(gh)~~(4) of this Section, provided by all Medicaid-participating Illinois hospitals providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the Federal Social Security Act (42 USC 1396a), and the denominator of which is the total Medicaid inpatient days, as defined in subsection ~~(gh)~~(6) of this Section, for all such hospitals. That information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year that were subsequently adjudicated by the Department through the last day of June preceding the DSH determination year and contained within the Department's paid claims data base.

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- 3) "Medicaid obstetrical inpatient utilization rate" means a fraction, the numerator of which is the Medicaid (Title XIX) obstetrical inpatient days, as defined in subsection (gh)(4) of this Section, provided by a Medicaid-participating Illinois hospital providing obstetrical services to patients who, for such days, were eligible for Medicaid under Title XIX of the federal Social Security Act (42 USC 1396a), and the denominator of which is the total Medicaid (Title XIX) inpatient days, as defined in subsection (gh)(6) of this Section, provided by such hospital. This information shall be derived from claims for applicable services provided in the Medicaid obstetrical inpatient utilization rate base year that were subsequently adjudicated by the Department through the last day of June preceding the Medicaid Percentage determination year and contained within the Department's paid claims data base.
- 4) "Medicaid (Title XIX) obstetrical inpatient days" means hospital inpatient days that were subsequently adjudicated by the Department through the last day of June preceding the Medicaid Percentage Adjustment determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, with a Diagnosis Related Grouping (DRG) of 370 through 375, and specifically excludes Medicare/Medicaid crossover claims.
- 5) "Statewide average hospital payment rate" means the hospital's alternative reimbursement rate, as defined in Section 148.270(a).
- 6) "Total Medicaid (Title XIX) inpatient days", as referred to in subsections (gh)(2) and (gh)(3) of this Section, means hospital inpatient days, excluding days for normal newborns, that were subsequently adjudicated by the Department through the last day of June preceding the Medicaid Percentage determination year and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, and specifically excludes Medicare/Medicaid crossover claims.
- 7) "Medicaid obstetrical inpatient utilization rate base year" means, for example, fiscal year 2002 for the October 1, 2003, Medicaid Percentage Adjustment determination year; fiscal year 2003 for the October 1, 2004, Medicaid Percentage Adjustment determination year; etc.

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(Source: Amended at 33 Ill. Reg. 13246, effective September 8, 2009)

Section 148.126 Safety Net Adjustment Payments

- a) Qualifying criteria: Safety net adjustment payments shall be made to a qualifying hospital, as defined in this subsection (a), unless the hospital does not provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on or after July 1, 2006, but did provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on January 1, 2006. A hospital not otherwise excluded under subsection (b) of this Section shall qualify for payment if it meets one of the following criteria:
- 1) The hospital has, as provided in subsection (e)(6) of this Section, an MIUR equal to or greater than 40 percent.
 - 2) The hospital has the highest number of obstetrical care days in the safety net hospital base year.
 - 3) The hospital is, as of October 1, 2001, a sole community hospital, as defined by the United States Department of Health and Human Services (42 CFR 412.92).
 - 4) The hospital is, as of October 1, 2001, a rural hospital, as described in Section 148.25(g)(3), that meets all of the following criteria:
 - A) Has an MIUR greater than 33 percent.
 - B) Is designated a perinatal level two center by the Illinois Department of Public Health.
 - C) Has fewer than 125 licensed beds.
 - 5) The hospital is a rural hospital, as described in Section 148.25(g)(3).
 - 6) The hospital meets all of the following criteria:
 - A) Has an MIUR greater than 30 percent.
 - B) Had an occupancy rate greater than 80 percent in the safety net

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hospital base year.

- C) Provided greater than 15,000 total days in the safety net hospital base year.
- 7) The hospital meets all of the following criteria:
- A) Does not already qualify under subsections (a)(1) through (a)(6) of this Section.
 - B) Has an MIUR greater than 25 percent.
 - C) Had an occupancy rate greater than 68 percent in the safety net hospital base year.
 - D) Provided greater than 12,000 total days in the safety net hospital base year.
- 8) The hospital meets all of the following criteria in the safety net base year:
- A) Is a rural hospital, as described in Section 148.25(g)(3).
 - B) Has an MIUR greater than 18 percent.
 - C) Has a combined MIUR greater than 45 percent.
 - D) Has licensed beds less than or equal to 60.
 - E) Provided greater than 400 total days.
 - F) Provided fewer than 125 obstetrical care days.
- 9) The hospital meets all of the following criteria in the safety net base year:
- A) Is a psychiatric hospital, as described in 89 Ill. Adm. Code 149.50(c)(1).
 - B) Has licensed beds greater than 120.

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- C) Has an average length of stay less than ten days.
- 10) The hospital meets all of the following criteria in the safety net base year:
- A) Does not already qualify under subsections (a)(1) through (a)(9) of this Section.
 - B) Has an MIUR greater than 17 percent.
 - C) Has licensed beds greater than 450.
 - D) Has an average length of stay less than four days.
- 11) The hospital meets all of the following criteria in the safety net base year:
- A) Does not already qualify under subsections (a)(1) through (a)(10) of this Section.
 - B) Has an MIUR greater than 21 percent.
 - C) Has licensed beds greater than 350.
 - D) Has an average length of stay less than 3.15 days.
- 12) The hospital meets all of the following criteria in the safety net base year:
- A) Does not already qualify under subsections (a)(1) through (a)(11) of this Section.
 - B) Has an MIUR greater than 34 percent.
 - C) Has licensed beds greater than 350.
 - D) Is designated a perinatal Level II center by the Illinois Department of Public Health.
- 13) The hospital meets all of the following criteria in the safety net base year:

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- A) Does not already qualify under subsections (a)(1) through (a)(12) of this Section.
 - B) Has an MIUR greater than 35 percent.
 - C) Has an average length of stay less than four days.
- 14) The hospital meets all of the following criteria in the safety net base year:
- A) Does not already qualify under subsections (a)(1) through (a)(13) of this Section.
 - B) Has a Combined MIUR~~CMIUR~~ greater than 25 percent.
 - C) Has an MIUR greater than 12 percent.
 - D) Is designated a perinatal Level II center by the Illinois Department of Public Health.
 - E) Has licensed beds greater than 400.
 - F) Has an average length of stay less than 3.5 days.
- 15) A hospital provider that would otherwise be excluded from payment by subsection (a) because it does not operate a comprehensive emergency room, if the hospital provider operates within 1 mile of an affiliate hospital provider that is owned and controlled by the same governing body that operates a comprehensive emergency room, as defined in 77 Ill. Adm. Code 250.710(a), and the provider operates a standby emergency room, as defined in 77 Ill. Adm. Code 250.710(c), and functions as an overflow emergency room for its affiliate hospital provider.
- 16) The hospital has an MIUR greater than 90% in the safety net hospital base year.
- 17) The hospital meets all of the following criteria in the safety net base year:
- A) Does not already qualify under subsections (a)(1) through (a)(16) of this Section.

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- B) Is located outside HSA 6.
 - C) Has an MIUR greater than 16%.
 - D) Has licensed beds greater than 475.
 - E) Has an average length of stay less than five days.
- 18) The hospital meets all of the following criteria in the safety net base year:
- A) Provided greater than 5,000 obstetrical care days.
 - B) Has a combined MIUR greater than 80%.
- 19) The hospital meets all of the following criteria in the safety net base year:
- A) Does not already qualify under subsections (a)(1) through (a)(18) of this Section.
 - B) Has a CMIUR greater than 28 percent.
 - C) Is designated a perinatal Level II center by the Illinois Department of Public Health.
 - D) Has licensed beds greater than 320.
 - E) Had an occupancy rate greater than 37 percent in the safety net hospital base year.
 - F) Has an average length of stay less than 3.1 days.
- b) The following five classes of hospitals are ineligible for safety net adjustment payments associated with the qualifying criteria listed in subsections (a)(1) through (a)(4), subsections (a)(6) through (a)(8), subsections (a)(10) through (a)(15) and subsections (a)(17) through (a)~~(19)~~(18) of this Section:
- 1) Hospitals located outside of Illinois.

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- 2) County-owned hospitals, as described in Section 148.25(b)(1)(A).
 - 3) Hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B).
 - 4) Psychiatric hospitals, as described in 89 Ill. Adm. Code 149.50(c)(1).
 - 5) Long term stay hospitals, as described in 89 Ill. Adm. Code 149.50(c)(4).
- c) Safety Net Adjustment Rates
- 1) For a hospital qualifying under subsection (a)(1) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:
 - A) A qualifying hospital – \$15.00.
 - B) A rehabilitation hospital, as described in 89 Ill. Adm. Code 149.50(c)(2) – \$20.00.
 - C) A children's hospital, as described in 89 Ill. Adm. Code 149.50(c)(3) – \$20.00.
 - D) A children's hospital that has an MIUR greater than or equal to 80 per centum that is:
 - i) Located within HSA 6 or HSA 7 – \$296.00.
 - ii) Located outside HSA 6 or HSA 7 – \$35.00.
 - E) A children's hospital that has an MIUR less than 80 per centum, but greater than or equal to 60 per centum, that is:
 - i) Located within HSA 6 or HSA 7 – \$35.00.
 - ii) Located outside HSA 6 or HSA 7 – \$15.00.
 - F) A children's hospital that has an MIUR less than 60 per centum, but greater than or equal to 45 per centum, that is:

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- i) Located within HSA 6 or HSA 7 – \$12.00.
 - ii) Located outside HSA 6 or HSA 7 – \$5.00.
- G) A children's hospital with more than 25 graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory" – \$160.25.
- H) A children's hospital that is a rural hospital – \$145.00.
- I) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital that is located in HSA 6 and that:
- i) Provides obstetrical care – \$10.00.
 - ii) Has at least one graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – \$5.00.
 - iii) Has at least one obstetrical graduate medical education program, as listed in the "2000-2001 Graduate Medical Education Directory" – \$5.00.
 - iv) Provided more than 5,000 obstetrical days during the safety net hospital base year – \$35.00.
 - v) Provided fewer than 4,000 obstetrical days during the safety net hospital base year and its average length of stay is: less than or equal to 4.50 days – \$5.00; less than 4.00 days – \$5.00; less than 3.75 days – \$5.00.
 - vi) Provides obstetrical care and has an MIUR greater than 65 percent – \$11.00.
 - vii) Has greater than 700 licensed beds – \$37.75.
- J) A qualifying hospital that is neither a rehabilitation hospital nor a children's hospital, that is located outside HSA 6, that has an

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MIUR greater than 50 per centum, and that:

- i) Provides obstetrical care – \$280.00 if federal approval is received by the Department for such a rate; otherwise, the rate shall be \$70.00.
 - ii) Does not provide obstetrical care – \$120.00 if federal approval is received by the Department for such a rate; otherwise, the rate shall be \$30.00.
 - iii) Is a trauma center, recognized by the Illinois Department of Public Health (IDPH), as of July 1, 2005 – \$173.50.
- K) A qualifying hospital that provided greater than 35,000 total days in the safety net hospital base year – \$43.25.
- L) A qualifying hospital with two or more graduate medical education programs, as listed in the "2000-2001 Graduate Medical Education Directory", with an average length of stay fewer than 4.00 days – \$48.00.
- 2) For a hospital qualifying under subsection (a)(2) of this Section, the rate shall be \$123.00.
- 3) For a hospital qualifying under subsection (a)(3) of this Section, the rate is the sum of the amounts for each of the following criteria for which it qualifies:
- A) A qualifying hospital – \$40.00.
 - B) A hospital that has an average length of stay of fewer than 4.00 days, and:
 - i) More than 150 licensed beds – \$20.00.
 - ii) Fewer than 150 licensed beds – \$40.00.
 - C) A qualifying hospital with the lowest average length of stay – \$15.00.

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- D) A hospital that has a CMIUR greater than 65 per centum – \$35.00.
- E) A hospital that has fewer than 25 total admissions in the safety net hospital base year – \$160.00.
- 4) For a hospital qualifying under subsection (a)(4) of this Section, the rate shall be \$110.00 if federal approval is received by the Department for such a rate; otherwise, the rate shall be \$55.00.
- 5) For a hospital qualifying under subsection (a)(5) of this Section, the rate is the sum of the amounts for each of the following for which it qualifies, divided by the hospital's total days:
 - A) The hospital that has the highest number of obstetrical care admissions – \$30,840.00.
 - B) The greater of:
 - i) The product of \$115.00 multiplied by the number of obstetrical care admissions.
 - ii) The product of \$11.50 multiplied by the number of general care admissions.
- 6) For a hospital qualifying under subsection (a)(6) of this Section, the rate is \$56.00 if federal approval is received by the Department for such a rate; otherwise, the rate shall be \$53.00.
- 7) For a hospital qualifying under subsection (a)(7) of this Section, the rate is \$210.50 if federal approval is received by the Department for such a rate; otherwise, the rate shall be \$175.50.
- 8) For a hospital qualifying under subsection (a)(8) of this Section, the rate is \$124.50.
- 9) For a hospital qualifying under subsection (a)(9) of this Section, the rate is \$85.50.

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- 10) For a hospital qualifying under subsection (a)(10) of this Section, the rate is \$13.75.
 - 11) For a hospital qualifying under subsection (a)(11) of this Section, the rate is \$200.00 for dates of service on or after April 1, 2009 through June 30, 2010. For dates of service on or after July 1, 2010, the rate is \$39.50.
 - 12) For a hospital qualifying under subsection (a)(12) of this Section, the rate is \$240.50 if federal approval is received by the Department for such a rate; otherwise, the rate shall be \$120.25.
 - 13) For a hospital qualifying under subsection (a)(13) of this Section, for dates of service on or after April 1, 2009, the rate is ~~\$815.00~~\$231.50.
 - 14) For a hospital qualifying under subsection (a)(14) of this Section, the rate is \$443.75 if federal approval is received by the Department for such a rate; otherwise, the rate shall be \$343.75.
 - 15) For a hospital qualifying under subsection (a)(16) of this Section, the rate is \$39.50.
 - 16) For a hospital qualifying under subsection (a)(17) of this Section, the rate is \$69.00. This reimbursement rate is contingent on federal approval.
 - 17) For a hospital qualifying under subsection (a)(18) of this Section, the rate is \$16.00. This reimbursement rate is contingent on federal approval.
 - 18) For a hospital qualifying under subsection (a)(19) of this Section, for dates of service on or after April 1, 2009, the rate is \$145.00.
- d) Payment to a Qualifying Hospital
- 1) The total annual payments to a qualifying hospital shall be the product of the hospital's rate multiplied by two multiplied by total days.
 - 2) For the safety net adjustment period occurring in State fiscal year 2008, total payments will be determined through application of the methodologies described in subsection (c) of this Section.

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3) For safety net adjustment periods occurring after State fiscal year 2008, total payments ~~made under will equal sum of amounts calculated under the methodologies described in subsection (c) of this Section and shall be paid to the hospital during the safety net adjustment period~~ in installments on, at least, a quarterly basis.

e) Definitions

- 1) "Average length of stay" means, for a given hospital, a fraction in which the numerator is the number of total days and the denominator is the number of total admissions.
- 2) "CMIUR" means, for a given hospital, the sum of the MIUR plus the Medicaid obstetrical inpatient utilization rate, determined as of October 1, 2001, as defined in Section ~~148.120(i)(6)~~148.120(k)(6).
- 3) "General care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department by June 30, 2001, excluding admissions for: obstetrical care, as defined in subsection (e)(7) of this Section; normal newborns; psychiatric care; physical rehabilitation; and those covered in whole or in part by Medicare (Medicaid/Medicare crossover admissions).
- 4) "HSA" means Health Service Area, as defined by the Illinois Department of Public Health.
- 5) "Licensed beds" means, for a given hospital, the number of licensed beds, excluding long term care and substance abuse beds, as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois."
- 6) "MIUR", for a given hospital, has the meaning as defined in Section ~~148.120(i)(5)~~148.120(k)(5) and shall be determined in accordance with Section 148.120(c) and (f). For purposes of this Section, the MIUR determination that was used to determine a hospital's eligibility for

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Disproportionate Share Hospital Adjustment payments in rate year 2002 shall be the same determination used to determine a hospital's eligibility for safety net adjustment payments in the Safety Net Adjustment Period.

- 7) "Obstetrical care admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, as tabulated from the Department's claims data, for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001, and were assigned by the Department a diagnosis related grouping (DRG) code of 370 through 375.
- 8) "Obstetrical care days" means, for a given hospital, days of hospital inpatient service associated with the obstetrical care admissions described in subsection (e)(7) of this Section.
- 9) "Occupancy rate" means, for a given hospital, a fraction, the numerator of which is the hospital's total days, excluding long term care and substance abuse days, and the denominator of which is the hospital's total beds, excluding long term care and substance abuse beds, multiplied by 365 days. The data used for calculation of the hospital occupancy rate is as listed in the July 25, 2001, Illinois Department of Public Health report entitled "Percent Occupancy by Service in Year 2000 for Short Stay, Non-Federal Hospitals in Illinois".
- 10) "Safety net hospital base year" means the 12-month period beginning on July 1, 1999, and ending on June 30, 2000.
- 11) "Safety net adjustment period" means, beginning July 1, 2002, the 12 month period beginning on July 1 of a year and ending on June 30 of the following year.
- 12) "Total admissions" means, for a given hospital, the number of hospital inpatient admissions for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover admissions), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

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- 13) "Total days" means, for a given hospital, the sum of days of inpatient hospital service provided to recipients of medical assistance under Title XIX of the federal Social Security Act, excluding days for individuals eligible for Medicare under Title XVIII of that Act (Medicaid/Medicare crossover days), as tabulated from the Department's claims data for admissions occurring in the safety net hospital base year that were adjudicated by the Department through June 30, 2001.

(Source: Amended at 33 Ill. Reg. 13246, effective September 8, 2009)

Section 148.130 Outlier Adjustments for Exceptionally Costly Stays

- a) Outlier Adjustments. Outlier adjustments are provided for exceptionally costly stays provided by hospitals or distinct part units reimbursed on a per diem basis or hospitals reimbursed in accordance with Section 148.82(g).
- b) The determination of those services qualified for an outlier adjustment shall be made as follows for services provided on and after October 1, 1992, and for each subsequent rate period, as defined in Section 148.25(g)(2)(B), for hospitals or distinct part units reimbursed on a per diem basis or hospitals reimbursed in accordance with Section 148.82(g):
- 1) The services must have been provided on or after October 1, 1992; and
 - 2) The services must have been provided to:
 - A) Children who have not attained the age of six years by hospitals defined by the Department as DSH hospitals under Section 148.120(a); or
 - B) Infants who have not attained the age of one year by hospitals that do not meet the definition of a DSH hospital under Section 148.120(a); or
 - C) Children who have not attained the age of 19 on the date of admission for services provided~~Provided~~ on or after January 1, 2008, by a hospital devoted exclusively to the care of children as

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defined in 89 Ill. Adm. Code 149.50(c)(3)(A); ~~or, to children who have not attained the age of 19 on the date of admission.~~

D) Children who have not attained the age of 19 on the date of admission for services provided on or after July 1, 2009 by a Children's Hospital as defined in 89 Ill. Adm. Code 149.50(c)(3)(B).

- 3) Claims with total covered charges equal to or above the mean total covered charges plus one standard deviation shall be considered for outlier adjustments once the following calculations have been performed:
 - A) Total covered charges (less charges attributable to medical education) equal to or exceeding one standard deviation above the mean shall be multiplied by the hospital's cost to charge ratio.
 - B) The hospital's rate for services provided on the claim shall be multiplied by the number of covered days on the claim.
 - C) The product of subsection (b)(3)(B) shall be subtracted from the product of subsection (b)(3)(A).
 - D) The difference of subsection (b)(3)(C) shall be multiplied by .25, the product of which shall be the outlier adjustment for the claim.
 - E) Third party payments (credits) shall be applied to the final payment made on the claim.
- c) The determination of those services qualified for an outlier adjustment shall be made in accordance with 89 Ill. Adm. Code 149.105 for hospitals reimbursed on a per case basis.
- d) Definition of terms relating to outlier adjustments are as follows:
 - 1) "Base fiscal year" means the hospital's fiscal year cost report most recently audited by the Department.
 - 2) "Cost to Charge Ratio" means the hospital's Medicaid total allowable cost for all care divided by the Medicaid total covered charges for all care. The

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Cost to Charge Ratio is derived by utilizing cost report data from the hospital's base fiscal year.

- 3) "Mean total covered charges" means the mean total covered charges (as described in subsection (d)(5)), for services provided in the most recent state fiscal year for which complete information is available and which have been adjudicated by the Department, as follows:
 - A) For hospitals that do not meet the definition of a DSH hospital under Section 148.120(a) in the DSH determination year, the mean total covered charges for all claims for inpatient services provided to individuals under the age of one year; and
 - B) For hospitals defined by the Department as DSH hospitals under Section 148.120(a) in the DSH determination year, the mean total covered charges for all claims for inpatient services provided to individuals under the age of six years.
- 4) "Rate for services provided" means the inpatient rate in effect for the type of services provided.
- 5) "Total covered charges" means the amount entered on the UB-82 or UB-92 Uniform Billing Form for revenue code 001 in column 53 (Total Charges).

(Source: Amended at 33 Ill. Reg. 13246, effective September 8, 2009)

Section 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals

- a) Calculation of Alternate Cost Per Diem Rates for All Hospitals
For all hospitals, regardless of the hospital's reimbursement methodology, the Department shall first calculate the hospital's alternate cost per diem rate, as calculated under Section 148.260, derived from the provider's base period cost reports, as described in Section 148.25(g)(1).
- b) Calculation of Payment Rates for Certain Exempt Hospital Units

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- 1) For admissions occurring within the rate period described in Section 148.25(g)(2)(A):
 - A) In the case of a distinct part unit, as described in 89 Ill. Adm. Code 149.50(d), the Department shall divide the hospital's Medicaid charges per diem (identified on adjudicated claims submitted by the provider during the most recently completed fiscal year for which complete data are available) related to the distinct part unit by the hospital's total charge per diem for all claims for the same time period.
 - B) The resulting quotient, as calculated in subsection (b)(1)(A), shall be multiplied by the hospital's total operating cost per diem, as calculated in Section 148.260(a)(1)(B).
 - C) The capital related cost per diem, as calculated in Section 148.260(a)(2), is then added to the resulting product calculated in subsection (b)(1)(B), subject to the inflation adjustment described in Section 148.260(c)(1).
 - D) Subject to the provisions of subsections (b)(1)(E) and (b)(1)(F), the final distinct part unit payment rate shall be the lower of:
 - i) The result of the calculations described in subsections (b)(1)(A) through (b)(1)(B); or
 - ii) The hospital's alternate cost per diem rate, as calculated in subsection (a) of this Section.
 - E) In no case shall the hospital's final distinct part unit payment rate be greater than three standard deviations above the mean distinct part unit payment rate.
 - F) In the case of a new distinct part unit for which the Department has insufficient adjudicated claims history data available, the Department shall utilize the average payment rate calculated under this subsection (b)(1) for like distinct part units.
- 2) For admissions occurring within a rate period described in Section

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148.25(g)(2)(B), the distinct part unit payment rate shall be the distinct part unit payment rate in effect on June 30, 1993, as calculated under subsection (b)(1), updated to the midpoint of the current rate period, using the TEFRA price inflation factor.

- c) In the case of a new hospital (not previously owned or operated), a hospital that has significantly changed its case-mix profile (e.g., a general acute care hospital changing its case-mix to reflect a predominance of long term care patients), or an out-of-state non cost-reporting hospital, reimbursement for inpatient services shall be as follows:

- 1) For general acute-care hospitals, reimbursement for inpatient services:

- A) provided by Illinois general acute care hospitals prior to July 1, 2007 shall be at the average payment rate calculated under subsection (a) or (b), as applicable, for those hospitals that would otherwise be reimbursed under 89 Ill. Adm. Code 149.

- B) provided by Illinois general acute care hospitals on or after July 1, 2007 shall be reimbursed at either of the following:

- i) utilizing the payment methodologies described in 89 Ill. Adm. Code 149 that will only reflect the federal/regional blended rate described in 89 Ill. Adm. Code 149.100 and a capital rate equal to one standard deviation above the mean capital rate, as determined in 89 Ill. Adm. Code 149.150(c), for all providers reimbursed under the same federal/regional blended rate. ~~No other payments described in Part 149 will be reimbursed;~~ or
- ii) at the average payment rate calculated under subsection (a) or (b), as applicable, for those hospitals that would otherwise be reimbursed under 89 Ill. Adm. Code 149.

- C) provided by out of state general acute care hospitals shall be at the average payment rate calculated under subsection (a) or (b), as applicable, for those hospitals that would otherwise be reimbursed under 89 Ill. Adm. Code 149.

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- 2) For psychiatric hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(1); ~~reimbursement for inpatient psychiatric services shall be at the average rate calculated under Section 148.260 for those hospitals defined in 89 Ill. Adm. Code 149.50(c)(1).~~
 - A) for services provided by a psychiatric hospital that began operation on or after January 1, 2008, that is devoted exclusively to the care of individuals who have not attained 19 years of age, reimbursement for inpatient psychiatric services shall be at the arithmetic mean of the rates defined in subsections (c)(2)(B) and (c)(5)(A) of this Section.
 - B) for all other psychiatric hospitals, reimbursement for inpatient psychiatric services shall be at the average rate calculated under Section 148.260 for those hospitals defined in 89 Ill. Adm. Code 149.50(c)(1).
- 3) For rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2), reimbursement for inpatient rehabilitation services shall be at the average rate calculated under Section 148.260 for those hospitals defined in 89 Ill. Adm. Code 149.50(c)(2).
- 4) For long term stay hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(4), reimbursement for inpatient services shall be at the average rate calculated under Section 148.260 for those hospitals defined in 89 Ill. Adm. Code 149.50(c)(4).
- 5) For children's hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(3), reimbursement for inpatient services:
 - A) provided before August 1, 1998, shall be at the average rate calculated under subsection (a) for those hospitals defined in 89 Ill. Adm. Code 149.50(c)(3);
 - B) provided on or after August 1, 1998, for a children's hospital that was licensed as such by a municipality after June 30, 1995, shall be equal to the average rate calculated in Section 148.280 for children's hospitals in existence before June 30, 1995, with an average length of stay that was less than 14 days as determined

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from the hospital's fiscal year 1994 cost report.

(Source: Amended at 33 Ill. Reg. 13246, effective September 8, 2009)

Section 148.295 Critical Hospital Adjustment Payments (CHAP)

Critical Hospital Adjustment Payments (CHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), unless otherwise noted in this Section, and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 1998, in accordance with this Section.

- a) Trauma Center Adjustments (TCA)

The Department shall make a TCA to hospitals recognized, as of the first day of July in the CHAP rate period, as a Level I or Level II trauma center by the Illinois Department of Public Health (IDPH) in accordance with the provisions of subsections (a)(1) through (a)(4) of this Section. For the purpose of a TCA, a children's hospital, as defined under 89 Ill. Adm. Code 149.50(c)(3), operating under the same license as a hospital designated as a trauma center, shall be deemed to be a trauma center.

 - 1) Level I Trauma Center Adjustment.
 - A) Criteria. Hospitals that, on the first day of July in the CHAP rate period, are recognized as a Level I trauma center by IDPH shall receive the Level I trauma center adjustment. Hospitals qualifying under subsection (a)(2) are not eligible for payment under this subsection.
 - B) Adjustment. Hospitals meeting the criteria specified in subsection (a)(1)(A) of this Section shall receive an adjustment as follows:
 - i) Hospitals with Medicaid trauma admissions equal to or greater than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$21,365.00 per Medicaid trauma admission in the CHAP base period.

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- ii) Hospitals with Medicaid trauma admissions less than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$14,165.00 per Medicaid trauma admission in the CHAP base period.
- 2) Level I Trauma Center Adjustment for hospitals located in the same city, that alternate their Level I trauma center designation.
- A) Criteria. Hospitals that are located in the same city and participate in an agreement in effect as of July 1, 2007, whereby their designation as a Level I trauma center by the Illinois Department of Public Health is rotated among qualifying hospitals from year to year or during a year, that are in the following classes:
 - i) A children's hospital – All children's hospitals as defined in 89 Ill. Adm. Code 149.50(c)(3), in a given city, qualifying under subsection (a)(2)(A) shall be considered one entity for the purpose of calculating the adjustment in subsection (a)(2)(B).
 - ii) A general acute care hospital – All general acute care adult hospitals, in a given city, affiliated with a children's hospital, as defined in subsection (a)(2)(A)(i), qualifying under subsection (a)(2)(A) shall be considered one entity for the purposes of calculating the adjustment in subsection (a)(2)(B).
 - B) Adjustment. Hospitals meeting the criteria specified in subsection (a)(2)(A) shall receive an adjustment as follows:
 - i) If the sum of Medicaid trauma center admissions within either class, as described in subsection (a)(2)(A), is equal to or greater than the mean Medicaid trauma admissions for the 2 classes under subsection (a)(2)(A) of this Section, then each member of that class shall receive an adjustment of \$5,250.00 per Medicaid trauma admission for that class, in the CHAP base period.

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- ii) If the sum of Medicaid trauma center admissions within either class, as described in subsection (a)(2)(A), is less than the mean Medicaid trauma admissions of the 2 classes under subsection (a)(2)(A) of this Section, then each member of that class shall receive an adjustment of \$3,625.00 per Medicaid trauma admission for that class in the CHAP base period.
- 3) Level II Rural Trauma Center Adjustment. Rural hospitals, as defined in Section 148.25(g)(3), that, on the first day of July in the CHAP rate period, are recognized as a Level II trauma center by the Illinois Department of Public Health shall receive an adjustment of \$11,565.00 per Medicaid trauma admission in the CHAP base period.
- 4) Level II Urban Trauma Center Adjustment. Urban hospitals, as described in Section 148.25(g)(4), that, on the first day of July in the CHAP rate period, are recognized as Level II trauma centers by the Illinois Department of Public Health shall receive an adjustment of \$11,565.00 per Medicaid trauma admission in the CHAP base period, provided that such hospital meets the criteria described below:
 - A) The hospital is located in a county with no Level I trauma center; and
 - B) The hospital is located in a Health Professional Shortage Area (HPSA) (42 CFR 5), as of the first day of July in the CHAP rate period, and has a Medicaid trauma admission percentage at or above the mean of the individual facility values determined in subsection (a)(4) of this Section; or the hospital is not located in an HPSA and has a Medicaid trauma admission percentage that is at least the mean plus one standard deviation of the individual facility values determined in subsection (a)(4) of this Section; and
 - C) The hospital does not qualify under subsection (a)(2).
- 5) In determining annual payments that are pursuant to the Trauma Center Adjustments as described in this Section, for the CHAP rate period occurring in State fiscal year 2009, total payments will equal the methodologies described in this Section. For the period December 1, 2008

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to June 30, 2009, payment will equal the State fiscal year 2009 amount less the amount the hospital received for the period July 1, 2008 to November 30, 2008.

- b) **Rehabilitation Hospital Adjustment (RHA)**
Illinois hospitals that, on the first day of July in the CHAP rate period, qualify as rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2), and that are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), shall receive a rehabilitation hospital adjustment in the CHAP rate period that consists of the following three components:
- 1) **Treatment Component.** All hospitals defined in subsection (b) of this Section shall receive \$4,215.00 per Medicaid Level I rehabilitation admission in the CHAP base period.
 - 2) **Facility Component.** All hospitals defined in subsection (b) of this Section shall receive a facility component that shall be based upon the number of Medicaid Level I rehabilitation admissions in the CHAP base period as follows:
 - A) Hospitals with fewer than 60 Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$229,360.00 in the CHAP rate period.
 - B) Hospitals with 60 or more Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of \$527,528.00 in the CHAP rate period.
 - 3) **Health Professional Shortage Area Adjustment Component.** Hospitals defined in subsection (b) of this Section that are located in an HPSA on July 1, 1999, shall receive \$276.00 per Medicaid Level I rehabilitation inpatient day in the CHAP base period.
- c) **Direct Hospital Adjustment (DHA) Criteria**
- 1) **Qualifying Criteria**
Hospitals may qualify for the DHA under this subsection (c) under the following categories unless the hospital does not provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a)

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on or after July 1, 2006, but did provide comprehensive emergency treatment services as defined in 77 Ill. Adm. Code 250.710(a) on January 1, 2006:

- A) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals and long term stay hospitals, all other hospitals located in Health Service Area (HSA) 6 that either:
 - i) were eligible for Direct Hospital Adjustments under the CHAP program as of July 1, 1999 and had a Medicaid inpatient utilization rate (MIUR) equal to or greater than the statewide mean in Illinois on July 1, 1999;
 - ii) were eligible under the Supplemental Critical Hospital Adjustment Payment (SCHAP) program as of July 1, 1999 and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999; or
 - iii) were county owned hospitals as defined in 89 Ill. Adm. Code 148.25(b)(1)(A), and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999.
- B) Illinois hospitals located outside of HSA 6 that had an MIUR greater than 60 percent on July 1, 1999 and an average length of stay less than ten days. The following hospitals are excluded from qualifying under this subsection (c)(1)(B): children's hospitals; psychiatric hospitals; rehabilitation hospitals; and long term stay hospitals.
- C) Children's hospitals, as defined under 89 Ill. Adm. Code 149.50(c)(3), on July 1, 1999.
- D) Illinois teaching hospitals, with more than 40 graduate medical education programs on July 1, 1999, not qualifying in subsection (c)(1)(A), (B), or (C) of this Section.
- E) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals,

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long term stay hospitals and hospitals qualifying in subsection (c)(1)(A), (B), (C) or (D) of this Section, all other hospitals located in Illinois that had an MIUR equal to or greater than the mean plus one-half standard deviation on July 1, 1999 and provided more than 15,000 Total days.

- F) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A), (B), (C), (D), or (E) of this Section, all other hospitals that had an MIUR greater than 40 percent on July 1, 1999 and provided more than 7,500 Total days and provided obstetrical care as of July 1, 2001.
- G) Illinois teaching hospitals with 25 or more graduate medical education programs on July 1, 1999 that are affiliated with a Regional Alzheimer's Disease Assistance Center as designated by the Alzheimer's Disease Assistance Act [410 ILCS 405/4], that had an MIUR less than 25 percent on July 1, 1999 and provided 75 or more Alzheimer days for patients diagnosed as having the disease.
- H) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(G) of this Section, all other hospitals that had an MIUR greater than 50 percent on July 1, 1999.
- I) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A) through (c)(1)(H) of this Section, all other hospitals that had an MIUR greater than 23 percent on July 1, 1999, had an average length of stay less than four days, provided more than 4,200 Total days and provided 100 or more Alzheimer days for patients diagnosed as having the disease.
- J) A hospital that does not qualify under subsection (c)(1) of this Section because it does not operate a comprehensive emergency

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room will qualify if the hospital provider operates a standby emergency room, as defined in 77 Ill. Adm. Code 250.710(c), and functions as an overflow emergency room for its affiliate hospital provider, owned and controlled by the same governing body, that operates a comprehensive emergency room, as defined in 77 Ill. Adm. Code 250.710(a), within one mile of the hospital provider.

2) DHA Rates

A) For hospitals qualifying under subsection (c)(1)(A) of this Section, the DHA rates are as follows:

- i) Hospitals that have a Combined MIUR that is equal to or greater than the Statewide mean Combined MIUR, but less than one standard deviation above the Statewide mean Combined MIUR, will receive \$69.00 per day for hospitals that do not provide obstetrical care and \$105.00 per day for hospitals that do provide obstetrical care.
- ii) Hospitals that have a Combined MIUR that is equal to or greater than one standard deviation above the Statewide mean Combined MIUR, but less than one and one-half standard deviation above the Statewide mean Combined MIUR, will receive \$105.00 per day for hospitals that do not provide obstetrical care and \$142.00 per day for hospitals that do provide obstetrical care.
- iii) Hospitals that have a Combined MIUR that is equal to or greater than one and one-half standard deviation above the Statewide mean Combined MIUR, but less than two standard deviations above the Statewide mean Combined MIUR, will receive \$124.00 per day for hospitals that do not provide obstetrical care and \$160.00 per day for hospitals that do provide obstetrical care.
- iv) Hospitals that have a Combined MIUR that is equal to or greater than two standard deviations above the Statewide mean Combined MIUR will receive \$142.00 per day for

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hospitals that do not provide obstetrical care and \$179.00 per day for hospitals that do provide obstetrical care.

- B) Hospitals qualifying under subsection (c)(1)(A) of this Section will also receive the following rates:
- i) County owned hospitals as defined in Section 148.25 with more than 30,000 Total days will have their rate increased by \$455.00 per day.
 - ii) Hospitals that are not county owned with more than 30,000 Total days will have their rate increased by ~~\$354.00~~~~\$330.00~~ per day for dates of service on or after April 1, 2009.
 - iii) Hospitals with more than 80,000 Total days will have their rate increased by an additional \$423.00 per day.
 - iv) Hospitals with more than 4,500 Obstetrical days will have their rate increased by \$101.00 per day.
 - v) Hospitals with more than 5,500 Obstetrical days will have their rate increased by an additional \$194.00 per day.
 - vi) Hospitals with an MIUR greater than 74 percent will have their rate increased by \$147.00 per day.
 - vii) Hospitals with an average length of stay less than 3.9 days will have their rate increased by ~~\$131.00~~~~\$41.00~~ per day for dates of service on or after April 1, 2009.
 - viii) Hospitals with an MIUR greater than the statewide mean plus one standard deviation that are designated a Perinatal Level 2 Center and have one or more obstetrical graduate medical education programs as of July 1, 1999 will have their rate increased by ~~\$360.00~~~~\$227.00~~ per day for dates of service on or after April 1, 2009.
 - ix) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an average length of stay less than

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four days will have their rate increased by ~~\$650.00~~~~\$528.00~~ per day for dates of service on or after April 1, 2009.

- x) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an MIUR greater than 60 percent will have their rate increased by \$320.50 per day.
 - xi) Hospitals receiving payments under subsection (c)(2)(A)(iv) of this Section that have an MIUR greater than 70 percent and have more than 20,000 days will have their rate increased by ~~\$185.00~~~~\$98.00~~ per day for dates of service on or after April 1, 2009.
 - xii) Hospitals with a Combined MIUR greater than 75 percent that have more than 20,000 total days, have an average length of stay less than five days and have at least one graduate medical program will have their rate increased by \$148.00 per day.
- C) Hospitals qualifying under subsection (c)(1)(B) of this Section will receive the following rates:
- i) Qualifying hospitals will receive a rate of \$421.00 per day.
 - ii) Qualifying hospitals with more than 1,500 Obstetrical days will have their rate increased by ~~\$600~~~~\$369.00~~ per day for dates of service on or after April 1, 2009 through June 30, 2010. For dates of service on or after July 1, 2010, the rate is \$369.00.
- D) Hospitals qualifying under subsection (c)(1)(C) of this Section will receive the following rates:
- i) Hospitals will receive a rate of \$28.00 per day.
 - ii) Hospitals located in Illinois and outside of HSA 6 that have an MIUR greater than 60 percent will have their rate increased by \$55.00 per day.

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- iii) Hospitals located in Illinois and inside HSA 6 that have an MIUR greater than 80 percent will have their rate increased by \$573.00 per day.
 - iv) Hospitals that are not located in Illinois that have an MIUR greater than 45 percent will have their rate increased by \$32.00 per day for hospitals that have fewer than 4,000 Total days; or \$246.00 per day for hospitals that have more than 4,000 Total days but fewer than 8,000 Total days; or \$178.00 per day for hospitals that have more than 8,000 Total days.
 - v) Hospitals with more than 3,200 Total admissions will have their rate increased by \$328.00 per day.
- E) Hospitals qualifying under subsection (c)(1)(D) of this Section will receive the following rates:
- i) Hospitals will receive a rate of \$41.00 per day.
 - ii) Hospitals with an MIUR between 18 percent and 19.75 percent will have their rate increased by an additional \$14.00 per day.
 - iii) Hospitals with an MIUR equal to or greater than 19.75 percent will have their rate increased by an additional ~~\$191.00~~\$110.25 per day for dates of service on or after April 1, 2009.
 - iv) Hospitals with a combined MIUR that is equal to or greater than 35 percent will have their rate increased by an additional \$41.00 per day.
- F) Hospitals qualifying under subsection (c)(1)(E) of this Section will receive \$188.00 per day.
- G) Hospitals qualifying under subsection (c)(1)(F) of this Section will receive a rate of \$55.00 per day.

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- H) Hospitals that qualify under subsection (c)(1)(G) of this Section will receive the following rates:
- i) Hospitals with an MIUR greater than 19.75 percent will receive a rate of \$69.00 per day.
 - ii) Hospitals with an MIUR equal to or less than 19.75 percent, will receive a rate of \$11.00 per day.
- I) Hospitals qualifying under subsection (c)(1)(H) of this Section will receive a rate of \$268.00 per day.
- J) Hospitals qualifying under subsection (c)(1)(I) of this Section will receive a rate of \$328.00 per day if federal approval is received by the Department for such a rate; otherwise, the rate shall be \$238.00 per day.
- K) Hospitals that qualify under subsection (c)(1)(A)(iii) of this Section will have their rates multiplied by a factor of two. The payments calculated under this Section to hospitals that qualify under subsection (c)(1)(A)(iii) of this Section may be adjusted by the Department to ensure compliance with aggregate and hospital specific federal payment limitations. A portion of the payments calculated under this Section may be classified as disproportionate share adjustments for hospitals qualifying under subsection (c)(1)(A)(iii) of this Section.
- 3) DHA Payments
- A) Payments under this subsection (c) will be made at least quarterly, beginning with the quarter ending December 31, 1999.
 - B) Payment rates will be multiplied by the Total days.
 - C) ~~Total Payment Adjustments~~ For the CHAP rate period occurring in State fiscal year 2008, total payments will equal the methodologies described in subsection (c)(2) of this Section. ~~ii) For CHAP rate periods occurring after State fiscal year 2008, total~~

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~~payments will equal the methodologies described in subsection (c)(2) of this Section.~~

- d) Rural Critical Hospital Adjustment Payments (RCHAP)
RCHAP shall be made to rural hospitals, as described in 89 Ill. Adm. Code 140.80(j)(1), for certain inpatient admissions. The hospital qualifying under this subsection that has the highest number of Medicaid obstetrical care admissions during the CHAP base period shall receive \$367,179.00 per year. The Department shall also make an RCHAP to hospitals qualifying under this subsection at a rate that is the greater of:
- 1) the product of \$1,367.00 multiplied by the number of RCHAP Obstetrical Care Admissions in the CHAP base period, or
 - 2) the product of \$138.00 multiplied by the number of RCHAP General Care Admissions in the CHAP base period.
- e) Total CHAP Adjustments
Each eligible hospital's critical hospital adjustment payment shall equal the sum of the amounts described in subsections (a), (b), (c) and (d) of this Section. The critical hospital adjustment payments shall be paid at least quarterly.
- f) Critical Hospital Adjustment Limitations
Hospitals that qualify for trauma center adjustments under subsection (a) of this Section shall not be eligible for the total trauma center adjustment if, during the CHAP rate period, the hospital is no longer recognized by the Illinois Department of Public Health as a Level I trauma center as required for the adjustment described in subsection (a)(1) of this Section, or a Level II trauma center as required for the adjustment described in subsection (a)(2) or (a)(3) of this Section. In these instances, the adjustments calculated shall be pro-rated, as applicable, based upon the date that such recognition ceased. This limitation does not apply to hospitals qualifying under subsection (a)(2).
- g) Critical Hospital Adjustment Payment Definitions
The definitions of terms used with reference to calculation of the CHAP required by this Section are as follows:
- 1) "Alzheimer days" means total paid days contained in the Department's paid claims database with a ICD-9-CM diagnosis code of 331.0 for dates

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of service occurring in State fiscal year 2001 and adjudicated through June 30, 2002.

- 2) "CHAP base period" means State Fiscal Year 1994 for CHAP calculated for the July 1, 1995 CHAP rate period; State Fiscal Year 1995 for CHAP calculated for the July 1, 1996 CHAP rate period; etc.
- 3) "CHAP rate period" means, beginning July 1, 1995, the 12 month period beginning on July 1 of the year and ending June 30 of the following year.
- 4) "Combined MIUR" means the sum of Medicaid Inpatient Utilization Rate (MIUR) as of July 1, 1999, and as defined in Section 148.120(k)(5), plus the Medicaid obstetrical inpatient utilization rate, as described in Section 148.120(k)(6), as of July 1, 1999.
- 5) "Medicaid general care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns, Medicare/Medicaid crossover admissions, psychiatric and rehabilitation admissions.
- 6) "Medicaid Level I rehabilitation admissions" means those claims billed as Level I admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 054.3, 310.1 through 310.2, 320.1, 336.0 through 336.9, 344.0 through 344.2, 344.8 through 344.9, 348.1, 801.30, 803.10, 803.84, 806.0 through 806.19, 806.20 through 806.24, 806.26, 806.29 through 806.34, 806.36, 806.4 through 806.5, 851.06, 851.80, 853.05, 854.0 through 854.04, 854.06, 854.1 through 854.14, 854.16, 854.19, 905.0, 907.0, 907.2, 952.0 through 952.09, 952.10 through 952.16, 952.2, and V57.0 through V57.89, excluding admissions for normal newborns.
- 7) "Medicaid Level I rehabilitation inpatient day" means the days associated with the claims defined in subsection (g)(5) of this Section.

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- 8) "Medicaid obstetrical care admission" means hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with Diagnosis Related Grouping (DRG) of 370 through 375; and specifically excludes Medicare/Medicaid crossover claims.
- 9) "Medicaid trauma admission" means those claims billed as admissions that were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.98, 806.0 through 806.99, 807.0 through 807.69, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.31, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925 through 925.2, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99.
- 10) "Medicaid trauma admission percentage" means a fraction, the numerator of which is the hospital's Medicaid trauma admissions and the denominator of which is the total Medicaid trauma admissions in a given 12 month period for all Level II urban trauma centers.
- 11) "RCHAP general care admissions" means Medicaid General Care Admissions, as defined in subsection (g)(4) of this Section, less RCHAP Obstetrical Care Admissions, occurring in the CHAP base period.
- 12) "RCHAP obstetrical care admissions" means Medicaid Obstetrical Care Admissions, as defined in subsection (g)(7) of this Section, with a Diagnosis Related Grouping (DRG) of 370 through 375, occurring in the CHAP base period.

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- 13) "Total admissions" means total paid admissions contained in the Department's paid claims database, including obstetrical admissions multiplied by two and excluding Medicare crossover admissions, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.
- 14) "Total days" means total paid days contained in the Department's paid claims database, including obstetrical days multiplied by two and excluding Medicare crossover days, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.
- 15) "Total obstetrical days" means hospital inpatient days for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; V27 through V27.9; V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

(Source: Amended at 33 Ill. Reg. 13246, effective September 8, 2009)

Section 148.296 Tertiary Care Adjustment Payments

Tertiary Care Adjustment Payments shall be made to all eligible hospitals, excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 2002, in accordance with this Section.

- a) Definitions. The definitions of terms used with reference to calculation of payments under this Section are as follows:
 - 1) "Base Period Claims" means claims for inpatient hospital services with dates of service occurring in the Tertiary Adjustment Base Period that were subsequently adjudicated by the Department through December 31, 1999. For a general care hospital that includes a facility devoted exclusively to caring for children and that was separately licensed as a hospital by a municipality before September 30, 1998, Base Period Claims

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for services that may, in 89 Ill. Adm. Code 149.50(c)(3), be billed by a children's hospital shall be attributed exclusively to the children's facility. Base Period Claims shall exclude the following types:

- A) Claims for which Medicare was liable in part or in full ("cross-over" claims);
- B) Claims for transplantation services that were paid by the Department via form C-13, Invoice Voucher; and
- C) Claims for services billed for exceptional care services as described at Section 148.50(c)(2)(A) and (B).

2) "Case Mix Index" ~~or "(CMI)"~~, for a given hospital, means the sum of all Diagnosis Related Grouping (DRG) (see 89 Ill. Adm. Code 149) weighting factors for Base Period Claims divided by the total number of claims included in the sum, but excluding claims:

- A) Reimbursed under a per diem rate methodology; and
- B) For Delivery or Newborn Care.

3) "Case Mix Adjustment Factor" ~~or "(CMAF)"~~ means the following:

- A) For qualifying hospitals located in Illinois that, for Base Period Claims, had a CMI that is greater than the mean:
 - i) CMI of all Illinois cost-reporting hospitals, but less than that mean plus a one standard deviation above the mean, the CMAF shall be equal to 0.040;
 - ii) CMI plus one standard deviation above the mean of all Illinois cost reporting hospitals, but less than that mean plus two standard deviations above the mean, the CMAF shall be equal to 0.250;
 - iii) CMI plus two standard deviations above the mean of all Illinois cost reporting hospitals, the CMAF shall be equal to 0.300.

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- B) For qualifying hospitals located outside of Illinois that, for Base Period Claims, had a CMI that is greater than the mean:
- i) CMI of all out-of-state cost reporting hospitals, but less than that mean plus a one standard deviation above the mean, the CMAF shall be equal to 0.020;
 - ii) CMI plus one standard deviation above the mean of all out-of-state cost reporting hospitals, but less than that mean plus two standard deviations above the mean, the CMAF shall be equal to 0.125;
 - iii) CMI plus two standard deviations above the mean of all out-of-state cost reporting hospitals, the CMAF shall be equal to 0.150.
- 4) "Delivery or Newborn Care" means inpatient hospital care, the claim for which was assigned by the Department to DRGs 370 through 375, 385 through 387, 389, 391 and 985 through 989.
- 5) "Tertiary Adjustment Base Period" means calendar year 1998.
- 6) "Tertiary Care Adjustment Rate Period" means, for fiscal year 2001, the three-month period beginning April 1, 2001, and for each subsequent fiscal year, the twelve-month period beginning July 1.
- b) Case Mix Adjustment
The Department shall make a Case Mix Adjustment to certain hospitals, as defined in this subsection (b).
- 1) Qualifying Hospital. A hospital meeting both of the following criteria shall qualify for this payment:
 - A) A hospital that had 100 or more Qualified Admissions; and
 - B) For a hospital located:
 - i) in Illinois, has a CMI greater than or equal to the mean

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CMI for Illinois hospitals; or

- ii) outside of Illinois, has a CMI greater than or equal to the mean CMI for out-of-state cost-reporting hospitals.
- 2) Qualified Admission. For the purposes of this subsection (b), "Qualified Admission" shall mean a Base Period Claim excluding a claim:
- A) Reimbursed under a per diem rate methodology; and
 - B) For Delivery or Newborn Care.
- 3) Case Mix Adjustment. Each Qualifying Hospital will receive a payment equal to the product of:
- A) The product of the hospital's:
 - i) number of Qualified Admissions; and
 - ii) CMAF; and
 - B) The sum of the hospital's:
 - i) rate for capital related costs in effect on July 1, 2000; and
 - ii) the product of the hospital's CMI raised to the second power and the DRG PPS (Prospective Payment System) (see 89 Ill. Adm. Code 149) rate per discharge in effect on July 1, 2000.
- c) DRG Adjustment
The Department shall make a DRG Adjustment to certain hospitals, as defined in this subsection (c).
- 1) Qualifying Hospital. A hospital that, during the Tertiary Adjustment Base Period, had at least one Qualified Admission shall qualify for this payment.
 - 2) Qualified Admission. For the purposes of this subsection (c), "Qualified

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Admission" means a Base Period Claim that was:

- A) Assigned by the Department to a DRG that:
 - i) had been assigned a weighting factor greater than 3.2000; and
 - ii) for which fewer than 200 Base Period Claims were adjudicated by the Department; and
- B) Not a claim:
 - i) reimbursed under a per diem rate methodology;
 - ii) for Delivery or Newborn Care; or
 - iii) for a patient transferred to another facility as described at 89 Ill. Adm. Code 149.25(b)(2).
- 3) DRG Adjustment Rates. For each Qualified Admission, a Qualifying Hospital will receive a payment equal to the product of:
 - A) The hospital's DRG PPS rate per discharge in effect on July 1, 2000; and
 - B) The weighting factor assigned to the DRG to which the Qualified Admission was assigned by the Department; and
 - C) The constant 1.400.
- d) Children's Hospital Adjustment
The Department shall make a Children's Hospital Adjustment to certain hospitals, as defined in this subsection (d).
 - 1) Qualifying Hospital. A children's hospital, as defined at 89 Ill. Adm. Code 149.50(c)(3), shall qualify for this payment.
 - 2) Qualified Days. For the purposes of this subsection (d), "Qualified Day" means a day of care that was provided in a Base Period Claim, excluding a

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claim:

- A) For Delivery or Newborn Care;
 - B) Assigned by the Department to a DRG with an assigned weighting factor that is less than 1.0000; or
 - C) For hospital inpatient psychiatric services as described at Section 148.40(a) or hospital inpatient physical rehabilitation services as described at Section 148.40(b).
- 3) Children's Hospital Adjustment. A Qualifying Hospital shall receive a payment equal to the product of:
- A) The sum of Qualified Days from the hospital's Base Period Claims; and
 - B) For Illinois hospitals with:
 - i) more than 5,000 Qualified Days, \$670.00; or
 - ii) 5,000 or fewer Qualified Days, \$300.00.
 - C) For out of state hospitals with:
 - i) more than 1,000 Qualified Days, \$670.00; or
 - ii) 1,000 or fewer Qualified Days, \$300.00.
- e) Primary Care Adjustment
The Department shall make a Primary Care Adjustment to certain hospitals, as defined in this subsection (e).
- 1) Qualifying Hospital. A hospital located in Illinois that has at least one Qualifying Resident shall qualify for this payment.
 - 2) Qualifying Residents. For the purposes of this subsection (e), "Qualifying Residents" means the number of primary care residents, as reported on form HCFA 2552-96, Worksheet E-3, Part IV, line 1, column 1, for

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hospital fiscal years ending September 30, 1997, through September 29, 1998, used in the fiscal year 2002 Tertiary Care Adjustment Rate Period.

- 3) Qualified Admission. For the purposes of this subsection (e), "Qualified Admission" shall mean a Base Period Claim excluding a claim:
 - A) For hospital inpatient psychiatric services as described at Section 148.40(a) or hospital inpatient physical rehabilitation services as described at Section 148.40(b) and reimbursed under a per diem rate methodology; and
 - B) For Delivery or Newborn Care.
- 4) Primary Care Adjustment. A Qualifying Hospital will receive a payment equal to the product of:
 - A) The number of Qualifying Admissions during the Tertiary Adjustment Base Period;
 - B) \$4,675.00; and
 - C) The quotient of:
 - i) the number of Qualifying Residents,
 - ii) divided by the number of Qualifying Admissions.
- f) Long Term Stay Hospital Adjustment
The Department shall make a Long Term Stay Hospital Adjustment to certain hospitals, as defined in this subsection (f).
 - 1) Qualifying Hospital. A long term stay hospital, as defined at 89 Ill. Adm. Code 149.50(c)(4), that had a CMI that was greater than or equal to the mean CMI for all long term stay hospitals, shall qualify for this payment.
 - 2) Qualified Days. For the purposes of this subsection (f), "Qualified Day" means a day of care that was provided in a Base Period Claim, excluding claims for hospital inpatient psychiatric services as described at Section 148.40(a) or hospital inpatient physical rehabilitation services as described

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at Section 148.40(b).

- 3) Long Term Stay Hospital Adjustment Rates. A Qualifying Hospital will receive payments equal to the product of:
 - A) The number of Qualified Days from all Base Period Claims; and
 - B) A constant that:
 - i) for a hospital that had a CMI that was greater than or equal to the mean CMI for all long term stay hospitals plus one standard deviation above the mean, ~~\$3,000.00~~\$300.00; or
 - ii) for a hospital that had a CMI that was greater than or equal to the mean CMI for all long term stay hospitals, but less than one standard deviation above that mean, \$5.00.

- g) Rehabilitation Hospital Adjustment
The Department shall make a Rehabilitation Hospital Adjustment to certain hospitals as defined in this subsection (g).
 - 1) Qualifying Hospital. A hospital that qualifies for the Rehabilitation Hospital Adjustment under the Critical Hospital Adjustment Payments (CHAP) program, as defined in Section 148.295(b), shall qualify for this payment.
 - 2) Qualified Admission. For the purposes of this subsection (g), "Qualified Admission" shall mean a Medicaid level I rehabilitation admission in the CHAP rate period, as defined in Section 148.295, for fiscal year 2001.
 - 3) Rehabilitation Hospital Adjustment. A Qualifying Hospital shall receive payment as follows:
 - A) For a hospital that had fewer than 60 Qualified Admissions, \$100,000.00.
 - B) For a hospital that had 60 or more Qualified Admissions, \$350,000.00.

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- h) Tertiary Care Adjustment
- 1) The total annual adjustment to an eligible hospital shall be the sum of the adjustments for which the hospital qualifies under subsections (a) through (g) of this Section multiplied by 0.455.
 - 2) A total annual adjustment amount shall be paid to the hospital during the Tertiary Care Adjustment Rate Period in installments on, at least, a quarterly basis.
 - 3) For hospitals qualifying for payments under this Section, adjustment periods occurring in State fiscal year 2009, total payments will equal the sum of amounts calculated under the methodologies described in this Section and shall be paid to the hospital during the Tertiary Care Adjustment Rate period.

(Source: Amended at 33 Ill. Reg. 13246, effective September 8, 2009)

Section 148.297 Pediatric Outpatient Adjustment Payments

Pediatric Outpatient Adjustment Payments shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for outpatient services occurring on or after July 1, 1998, in accordance with this Section.

- a) To qualify for payments under this Section, a hospital must:
- 1) be a children's hospital, as defined in 89 Ill. Adm. Code 149.50(c)(3), and
 - 2) have a Pediatric Medicaid Outpatient Percentage greater than 80 percent during the Pediatric Outpatient Adjustment Base Period.
- b) Hospitals qualifying under this Section shall receive the following amounts for the Pediatric Outpatient Adjustment Rate Year for dates of services occurring on or after July 1, 1999:
- 1) For out-of-state cost reporting hospitals with an MIUR that is less than 75 percent, the product of:

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- A) the hospital's MIUR plus 1.15, multiplied by
- B) the number of Pediatric Adjustable Outpatient Services, multiplied by
- C) \$169.00.
- 2) For Illinois hospitals with an MIUR that is less than 75 percent, the product of:
- A) the hospital's MIUR plus one, multiplied by
- B) the number of Pediatric Adjustable Outpatient Services, multiplied by
- C) \$169.00.
- 3) For Illinois hospitals with an MIUR that is greater than or equal to 75 percent, the product of:
- A) one and one-half the hospital's MIUR plus one, multiplied by
- B) the number of Pediatric Adjustable Outpatient Services, multiplied by
- C) ~~\$305.00~~\$169.00.
- c) In addition to the reimbursement rates described in subsection (b) of this Section, hospitals that have an MIUR that is greater than or equal to 80 percent shall receive an additional \$229,740.00 during the Pediatric Outpatient Adjustment Rate Year.
- d) Adjustments under this Section shall be paid at least quarterly.
- e) Definitions
- 1) "Medicaid Inpatient Utilization Rate" or "~~(MIUR)~~", as used in this Section, has the same meaning as ascribed in Section 148.120(i)(5)~~148.120(k)(5)~~, in effect for the rate period October 1, 1996,

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through September 30, 1997.

- 2) "Pediatric Adjustable Outpatient Services" means the number of outpatient services, excluding procedure code 0080, adjudicated through a UB92 billing form and grouped through the Hospital Ambulatory Care Groupings, as defined in Section 148.140(b)(1), during the Pediatric Outpatient Adjustment Base Period. For a hospital, which includes a facility devoted exclusively to caring for children, that is separately licensed as a hospital by a municipality, Pediatric Adjustment Outpatient Services will include psychiatric services (categories of service 27 or 28) for children less than 18 years of age, that are billed through the affiliated general care hospital.
- 3) "Pediatric Medicaid Outpatient Percentage" means a percentage that results from the quotient of the total Pediatric Adjustable Outpatient Services for persons less than 18 years of age divided by the total Pediatric Adjustable Outpatient Services for all persons, during the Pediatric Outpatient Adjustment Base Period.
- 4) "Pediatric Outpatient Adjustment Base Period" means all services billed to the Department, excluding procedure code 0080, with State Fiscal Year 1996 dates of service that were adjudicated by the Department on or before March 31, 1997.
- 5) "Pediatric Outpatient Adjustment Rate Year" means State Fiscal Year 1998 and each State Fiscal Year thereafter.

f) For hospitals qualifying for payments under this Section, adjustment periods occurring in State fiscal year 2009, total payments will equal the sum of amounts calculated under the methodologies described in this Section and shall be paid to the hospital during the Pediatric Outpatient Adjustment Rate year.

(Source: Amended at 33 Ill. Reg. 13246, effective September 8, 2009)

Section 148.460 Catastrophic Relief Payments

- a) Qualifying Criteria. Catastrophic Relief Payments, as described in this subsection (a), shall be made to Illinois hospitals, except publicly owned or operated hospitals or a hospital identified under 89 Ill. Adm. Code 149.50(c)(3)(B), that

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have an MIUR greater than the current statewide mean, are not a publicly owned hospital, and are not part of a multiple hospital network, unless the hospital has an MIUR greater than the current statewide mean plus two standard deviations. Payments to qualifying hospitals will be based on the criteria described in this Section.

b) Payments

- 1) An Illinois hospital qualifying under subsection (a) of this Section that is a general acute care hospital with greater than 3,000 Medicaid admissions and a case mix greater than 70% will receive the greater of:
 - A) Medicaid admissions multiplied by \$2,250; or
 - B) \$8,000,000.
- 2) An Illinois hospital qualifying under subsection (a) of this Section that received payments under Section 148.456 will receive the greater of:
 - A) 2% of the annual Outpatient Ambulatory Procedure Listing Increase Payments, as defined in Section 148.456; or
 - B) \$175,000.
- 3) With the exception of psychiatric hospitals, a hospital qualifying under subsection (a) of this Section will receive the following:
 - A) \$1,750,000 for Illinois hospitals with more than 50 Title XXI admissions in the Catastrophic Relief Payments base period.
 - B) \$1,600,000 for Illinois hospitals with 20 to 50 Title XXI admissions in the Catastrophic Relief Payments base period.
 - C) \$750,000 for Illinois hospitals with up to 20 Title XXI admissions in the Catastrophic Relief Payments base period.
- 4) A psychiatric hospital qualifying under subsection (a) of this Section will receive the following:

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- A) \$1,312,500 for an Illinois hospital with more than 50 Title XXI admissions in the Catastrophic Relief Payments base period.
 - B) \$1,200,000 for an Illinois hospital with 20 to 50 Title XXI admissions in the Catastrophic Relief Payments base period.
 - C) \$562,500 for an Illinois hospital with up to 20 Title XXI admissions in the Catastrophic Relief Payments base period.
- 5) Payments under this Section are effective for State fiscal year 2009. Payments are not effective for dates of service on or after July 1, 2009.

c) Definitions

- 1) "MIUR", for a given hospital, has the meaning ascribed in Section 148.120(i)(4) and shall be determined in accordance with Section 148.120(c) and (f). For purposes of this Section, the MIUR determination that was used to determine a hospital's eligibility for Disproportionate Share Hospital Adjustment payments in rate year 2009 shall be the same determination used to determine a hospital's eligibility for Catastrophic Relief Payments in the Adjustment Period.
- 2) "General acute care hospital" is a hospital that does not meet the definition of a hospital ascribed in 89 Ill. Adm. Code 149.50(c).
- 3) "Title XXI admissions" means recipients of medical assistance through the Illinois State Child Health Plan under Title XXI of the Social Security Act.
- 4) "Catastrophic Relief Payments base period" means the 12-month period beginning on July 1, 2006 and ending June 30, 2007.
- 5) "Psychiatric hospital" is a hospital as defined in 89 Ill. Adm. Code 149.50(c)(1).
- 6) "Case mix index" means, for a given hospital, the quotient resulting from dividing the sum of all the diagnosis related grouping relative weighting factors in effect on January 1, 2005, for all category of service 20 admissions for State fiscal year 2005, excluding Medicare crossover

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admissions and transplant admissions reimbursed under Section 148.82, by the total number of category of service 20 admissions for State fiscal year 2005, excluding Medicare crossover admissions and transplant admissions reimbursed under Section 148.82.

- 7) "Medicaid admissions" means State fiscal year 2007 hospital inpatient admissions that were subsequently adjudicated by the Department through the last day of June preceding the 2009 CHAP (Section 148.295) rate period and contained within the Department's paid claims database, for recipients of medical assistance under Title XIX of the Social Security Act, excluding Medicare/Medicaid crossover admissions.

(Source: Added at 33 Ill. Reg. 13246, effective September 8, 2009)

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- 1) Heading of the Part: Definitions and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 211
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
211.665	New
211.995	New
211.1315	New
211.1435	New
211.2355	New
211.2357	New
211.2625	New
211.3100	New
211.3355	New
211.3475	New
211.4280	New
211.5195	New
- 4) Statutory Authority: 415 ILCS 5/27 and 28
- 5) Effective Date of Amendments: August 31, 2009
- 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 Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 33 Ill. Reg 6896; May 22, 2009
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 211.3100, in the definition of "industrial boiler," the Board deleted a reference to "cogeneration units" from an exclusion to the definition.

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- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? No agreements were necessary.
- 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 Amendments: This rulemaking is based on a proposal filed with the Board by the Illinois Environmental Protection Agency (Agency) on May 9, 2008. The Agency proposed to amend Parts 211 and 217 of the Board's air pollution regulations (35 Ill. Adm. Code 211, 217) to control NO_x emissions from major stationary sources in the nonattainment areas and from emission units including industrial boilers, process heaters, glass melting furnaces, cement kilns, lime kilns, furnaces used in steelmaking and aluminum melting, and fossil fuel-fired stationary boilers at such sources. In Part 211, the Agency adds twelve new definitions of terms employed in new sections of Part 217.

The Board's second notice opinion and order summarizes the twelve definitions adopted as new sections of Part 211 in this rulemaking. Nitrogen Oxides Emissions from Various Source Categories: Amendments to 35 Ill. Adm. Code Parts 211 and 217, R08-19, slip op. at 36-43 (July 23, 2009).

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

Tim Fox
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

312/814-6085

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R08-19 in your request. The Board's orders are also available from the Board's Web site (www.ipcb.state.il.us).

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCESPART 211
DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section	
211.101	Incorporations by Reference
211.102	Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section	
211.121	Other Definitions
211.122	Definitions (Repealed)
211.130	Accelacota
211.150	Accumulator
211.170	Acid Gases
211.210	Actual Heat Input
211.230	Adhesive
211.240	Adhesion Promoter
211.250	Aeration
211.270	Aerosol Can Filling Line
211.290	Afterburner
211.310	Air Contaminant
211.330	Air Dried Coatings
211.350	Air Oxidation Process
211.370	Air Pollutant
211.390	Air Pollution
211.410	Air Pollution Control Equipment
211.430	Air Suspension Coater/Dryer
211.450	Airless Spray
211.470	Air Assisted Airless Spray
211.474	Alcohol

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211.479	Allowance
211.484	Animal
211.485	Animal Pathological Waste
211.490	Annual Grain Through-Put
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt
211.590	Asphalt Prime Coat
211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650	Automobile or Light-Duty Truck Refinishing
211.660	Automotive/Transportation Plastic Parts
<u>211.665</u>	<u>Auxiliary Boiler</u>
211.670	Baked Coatings
211.680	Bakery Oven
211.685	Basecoat/Clearcoat System
211.690	Batch Loading
211.695	Batch Operation
211.696	Batch Process Train
211.710	Bead-Dipping
211.730	Binders
211.740	Brakehorsepower (rated-bhp)
211.750	British Thermal Unit
211.770	Brush or Wipe Coating
211.790	Bulk Gasoline Plant
211.810	Bulk Gasoline Terminal
211.820	Business Machine Plastic Parts
211.830	Can
211.850	Can Coating
211.870	Can Coating Line
211.890	Capture
211.910	Capture Device
211.930	Capture Efficiency
211.950	Capture System
211.953	Carbon Adsorber

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211.955	Cement
211.960	Cement Kiln
211.970	Certified Investigation
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
<u>211.995</u>	<u>Circulating Fluidized Bed Combustor</u>
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1120	Clinker
211.1130	Closed Purge System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1270	Coil Coating
211.1290	Coil Coating Line
211.1310	Cold Cleaning
211.1312	Combined Cycle System
<u>211.1315</u>	<u>Combustion Tuning</u>
211.1316	Combustion Turbine
211.1320	Commence Commercial Operation
211.1324	Commence Operation
211.1328	Common Stack
211.1330	Complete Combustion
211.1350	Component
211.1370	Concrete Curing Compounds
211.1390	Concentrated Nitric Acid Manufacturing Process
211.1410	Condensate
211.1430	Condensable PM-10
<u>211.1435</u>	<u>Container Glass</u>
211.1465	Continuous Automatic Stoking
211.1467	Continuous Coater
211.1470	Continuous Process
211.1490	Control Device

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211.1510	Control Device Efficiency
211.1515	Control Period
211.1520	Conventional Air Spray
211.1530	Conventional Soybean Crushing Source
211.1550	Conveyorized Degreasing
211.1570	Crude Oil
211.1590	Crude Oil Gathering
211.1610	Crushing
211.1630	Custody Transfer
211.1650	Cutback Asphalt
211.1670	Daily-Weighted Average VOM Content
211.1690	Day
211.1710	Degreaser
211.1730	Delivery Vessel
211.1740	Diesel Engine
211.1750	Dip Coating
211.1770	Distillate Fuel Oil
211.1780	Distillation Unit
211.1790	Drum
211.1810	Dry Cleaning Operation or Dry Cleaning Facility
211.1830	Dump-Pit Area
211.1850	Effective Grate Area
211.1870	Effluent Water Separator
211.1875	Elastomeric Materials
211.1880	Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coatings
211.1885	Electronic Component
211.1890	Electrostatic Bell or Disc Spray
211.1900	Electrostatic Prep Coat
211.1910	Electrostatic Spray
211.1920	Emergency or Standby Unit
211.1930	Emission Rate
211.1950	Emission Unit
211.1970	Enamel
211.1990	Enclose
211.2010	End Sealing Compound Coat
211.2030	Enhanced Under-the-Cup Fill
211.2050	Ethanol Blend Gasoline
211.2070	Excess Air

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NOTICE OF ADOPTED AMENDMENTS

211.2080	Excess Emissions
211.2090	Excessive Release
211.2110	Existing Grain-Drying Operation (Repealed)
211.2130	Existing Grain-Handling Operation (Repealed)
211.2150	Exterior Base Coat
211.2170	Exterior End Coat
211.2190	External Floating Roof
211.2210	Extreme Performance Coating
211.2230	Fabric Coating
211.2250	Fabric Coating Line
211.2270	Federally Enforceable Limitations and Conditions
211.2285	Feed Mill
211.2290	Fermentation Time
211.2300	Fill
211.2310	Final Repair Coat
211.2330	Firebox
211.2350	Fixed-Roof Tank
<u>211.2355</u>	<u>Flare</u>
<u>211.2357</u>	<u>Flat Glass</u>
211.2360	Flexible Coating
211.2365	Flexible Operation Unit
211.2370	Flexographic Printing
211.2390	Flexographic Printing Line
211.2410	Floating Roof
211.2420	Fossil Fuel
211.2425	Fossil Fuel-Fired
211.2430	Fountain Solution
211.2450	Freeboard Height
211.2470	Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490	Fugitive Particulate Matter
211.2510	Full Operating Flowrate
211.2530	Gas Service
211.2550	Gas/Gas Method
211.2570	Gasoline
211.2590	Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610	Gel Coat
211.2620	Generator
<u>211.2625</u>	<u>Glass Melting Furnace</u>
211.2630	Gloss Reducers

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NOTICE OF ADOPTED AMENDMENTS

211.2650	Grain
211.2670	Grain-Drying Operation
211.2690	Grain-Handling and Conditioning Operation
211.2710	Grain-Handling Operation
211.2730	Green-Tire Spraying
211.2750	Green Tires
211.2770	Gross Heating Value
211.2790	Gross Vehicle Weight Rating
211.2810	Heated Airless Spray
211.2815	Heat Input
211.2820	Heat Input Rate
211.2830	Heatset
211.2850	Heatset Web Offset Lithographic Printing Line
211.2870	Heavy Liquid
211.2890	Heavy Metals
211.2910	Heavy Off-Highway Vehicle Products
211.2930	Heavy Off-Highway Vehicle Products Coating
211.2950	Heavy Off-Highway Vehicle Products Coating Line
211.2970	High Temperature Aluminum Coating
211.2990	High Volume Low Pressure (HVLP) Spray
211.3010	Hood
211.3030	Hot Well
211.3050	Housekeeping Practices
211.3070	Incinerator
211.3090	Indirect Heat Transfer
<u>211.3100</u>	<u>Industrial Boiler</u>
211.3110	Ink
211.3130	In-Process Tank
211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3230	Lacquers
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3300	Lean-Burn Engine
211.3310	Light Liquid
211.3330	Light-Duty Truck

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NOTICE OF ADOPTED AMENDMENTS

211.3350	Light Oil
211.3355	Lime Kiln
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3475	Load Shaving Unit
211.3480	Loading Event
211.3483	Long Dry Kiln
211.3485	Long Wet Kiln
211.3487	Low-NO _x Burner
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3570	Major Dump Pit
211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment
211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3770	Metallic Shoe-Type Seal
211.3780	Mid-Kiln Firing
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process

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NOTICE OF ADOPTED AMENDMENTS

211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles
211.3965	Motor Vehicle Refinishing
211.3970	Multiple Package Coating
211.3980	Nameplate Capacity
211.3990	New Grain-Drying Operation (Repealed)
211.4010	New Grain-Handling Operation (Repealed)
211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower
211.4055	Non-Flexible Coating
211.4065	Non-Heatset
211.4067	NO _x Trading Program
211.4070	Offset
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4170	Open Top Vapor Degreasing
211.4190	Open-Ended Valve
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
<u>211.4280</u>	<u>Other Glass</u>
211.4290	Oven
211.4310	Overall Control
211.4330	Overvarnish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant

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NOTICE OF ADOPTED AMENDMENTS

211.4470	Paper Coating
211.4490	Paper Coating Line
211.4510	Particulate Matter
211.4530	Parts Per Million (Volume) or PPM (Vol)
211.4550	Person
211.4590	Petroleum
211.4610	Petroleum Liquid
211.4630	Petroleum Refinery
211.4650	Pharmaceutical
211.4670	Pharmaceutical Coating Operation
211.4690	Photochemically Reactive Material
211.4710	Pigmented Coatings
211.4730	Plant
211.4740	Plastic Part
211.4750	Plasticizers
211.4770	PM-10
211.4790	Pneumatic Rubber Tire Manufacture
211.4810	Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830	Polyester Resin Material(s)
211.4850	Polyester Resin Products Manufacturing Process
211.4870	Polystyrene Plant
211.4890	Polystyrene Resin
211.4910	Portable Grain-Handling Equipment
211.4930	Portland Cement Manufacturing Process Emission Source
211.4950	Portland Cement Process or Portland Cement Manufacturing Plant
211.4960	Potential Electrical Output Capacity
211.4970	Potential to Emit
211.4990	Power Driven Fastener Coating
211.5010	Precoat
211.5015	Preheater Kiln
211.5020	Preheater/Preheater Kiln
211.5030	Pressure Release
211.5050	Pressure Tank
211.5060	Pressure/Vacuum Relief Valve
211.5061	Pretreatment Wash Primer
211.5065	Primary Product
211.5070	Prime Coat
211.5080	Primer Sealer
211.5090	Primer Surfacer Coat

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NOTICE OF ADOPTED AMENDMENTS

211.5110	Primer Surfacer Operation
211.5130	Primers
211.5150	Printing
211.5170	Printing Line
211.5185	Process Emission Source
211.5190	Process Emission Unit
<u>211.5195</u>	<u>Process Heater</u>
211.5210	Process Unit
211.5230	Process Unit Shutdown
211.5245	Process Vent
211.5250	Process Weight Rate
211.5270	Production Equipment Exhaust System
211.5310	Publication Rotogravure Printing Line
211.5330	Purged Process Fluid
211.5340	Rated Heat Input Capacity
211.5350	Reactor
211.5370	Reasonably Available Control Technology (RACT)
211.5390	Reclamation System
211.5410	Refiner
211.5430	Refinery Fuel Gas
211.5450	Refinery Fuel Gas System
211.5470	Refinery Unit or Refinery Process Unit
211.5480	Reflective Argent Coating
211.5490	Refrigerated Condenser
211.5500	Regulated Air Pollutant
211.5510	Reid Vapor Pressure
211.5530	Repair
211.5550	Repair Coat
211.5570	Repaired
211.5580	Repowering
211.5590	Residual Fuel Oil
211.5600	Resist Coat
211.5610	Restricted Area
211.5630	Retail Outlet
211.5640	Rich-Burn Engine
211.5650	Ringelmann Chart
211.5670	Roadway
211.5690	Roll Coater
211.5710	Roll Coating

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NOTICE OF ADOPTED AMENDMENTS

211.5730	Roll Printer
211.5750	Roll Printing
211.5770	Rotogravure Printing
211.5790	Rotogravure Printing Line
211.5810	Safety Relief Valve
211.5830	Sandblasting
211.5850	Sanding Sealers
211.5870	Screening
211.5880	Screen Printing on Paper
211.5890	Sealer
211.5910	Semi-Transparent Stains
211.5930	Sensor
211.5950	Set of Safety Relief Valves
211.5970	Sheet Basecoat
211.5980	Sheet-Fed
211.5990	Shotblasting
211.6010	Side-Seam Spray Coat
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
211.6130	Source
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine

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211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source
211.6390	Stationary Storage Tank
211.6400	Stencil Coat
211.6410	Storage Tank or Storage Vessel
211.6420	Strippable Spray Booth Coating
211.6430	Styrene Devolatilizer Unit
211.6450	Styrene Recovery Unit
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser
211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6790	Turnaround
211.6810	Two-Piece Can
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6890	Vacuum Producing System
211.6910	Vacuum Service
211.6930	Valves Not Externally Regulated

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211.6950	Vapor Balance System
211.6970	Vapor Collection System
211.6990	Vapor Control System
211.7010	Vapor-Mounted Primary Seal
211.7030	Vapor Recovery System
211.7050	Vapor-Suppressed Polyester Resin
211.7070	Vinyl Coating
211.7090	Vinyl Coating Line
211.7110	Volatile Organic Liquid (VOL)
211.7130	Volatile Organic Material Content (VOMC)
211.7150	Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170	Volatile Petroleum Liquid
211.7190	Wash Coat
211.7200	Washoff Operations
211.7210	Wastewater (Oil/Water) Separator
211.7230	Weak Nitric Acid Manufacturing Process
211.7250	Web
211.7270	Wholesale Purchase – Consumer
211.7290	Wood Furniture
211.7310	Wood Furniture Coating
211.7330	Wood Furniture Coating Line
211.7350	Woodworking
211.7400	Yeast Percentage

211.APPENDIX A Rule into Section Table

211.APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, 27 and 28].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended

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in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-16 at 29 Ill. Reg. 8181, effective May 23, 2005; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005; amended in R04-12/20 at 30 Ill. Reg. 9654, effective May 15, 2006; amended in R07-18 at 31 Ill. Reg. 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January 16, 2008; amended in R07-19 at 33 Ill. Reg. 11982, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13326, effective August 31, 2009.

SUBPART B: DEFINITIONS

Section 211.665 Auxiliary Boiler

"Auxiliary boiler" means, for purposes of Part 217, a boiler that is operated only when the main boiler or boilers at a source are not in service and is used either to maintain building heat or to assist in the startup of the main boiler or boilers. This term does not include emergency or standby units and load shaving units.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

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Section 211.995 Circulating Fluidized Bed Combustor

"Circulating fluidized bed combustor" means, for purposes of Part 217, a fluidized bed combustor in which the majority of the fluidized bed material is carried out of the primary combustion zone and is transported back to the primary zone through a recirculation loop.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.1315 Combustion Tuning

"Combustion tuning" means, for purposes of Part 217, review and adjustment of a combustion process to maintain combustion efficiency of an emission unit, as performed in accordance with procedures provided by the manufacturer or by a trained technician.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.1435 Container Glass

"Container glass" means, for purposes of Part 217, glass made of soda-lime recipe, clear or colored, which is pressed or blown, or both, into bottles, jars, ampoules, and other products listed in Standard Industrial Classification 3221.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.2355 Flare

"Flare" means an open combustor without enclosure or shroud.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.2357 Flat Glass

"Flat glass" means, for purposes of Part 217, glass made of soda-lime recipe and produced into continuous flat sheets and other products listed in Standard Industrial Classification 3211.

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(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.2625 Glass Melting Furnace

"Glass melting furnace" means, for purposes of Part 217, a unit comprising a refractory vessel in which raw materials are charged and melted at high temperature to produce molten glass.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.3100 Industrial Boiler

"Industrial boiler" means, for purposes of Part 217, an enclosed vessel in which water is heated and circulated either as hot water or as steam for heating or for power, or both. This term does not include a heat recovery steam generator that captures waste heat from a combustion turbine and boilers serving a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale if such boilers meet the applicability criteria under Subpart M of Part 217.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.3355 Lime Kiln

"Lime kiln" means, for purposes of Part 217, an enclosed combustion device used to calcine lime mud, which consists primarily of calcium carbonate, into calcium oxide.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.3475 Load Shaving Unit

"Load shaving unit" means, for purposes of Part 217, a device used to generate electricity for sale or use during high electric demand days, including but not limited to stationary reciprocating internal combustion engines or turbines.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.4280 Other Glass

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"Other glass" means, for purposes of Part 217, glass that is neither container glass, as that term is defined in Section 211.1435, nor flat glass, as that term is defined in Section 211.2357.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

Section 211.5195 Process Heater

"Process heater" means, for purposes of Part 217, an enclosed combustion device that burns gaseous or liquid fuels only and that indirectly transfers heat to a process fluid or a heat transfer medium other than water. This term does not include pipeline heaters and storage tank heaters that are primarily meant to maintain fluids at a certain temperature or viscosity.

(Source: Added at 33 Ill. Reg. 13326, effective August 31, 2009)

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- 1) Heading of the Part: Nitrogen Oxides Emissions
- 2) Code Citation: 35 Ill. Adm. Code 217
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
217.100	Amend
217.104	Amend
217.121	Repeal
217.141	Amend
217.150	New
217.152	New
217.154	New
217.155	New
217.156	New
217.157	New
217.158	New
217.160	New
217.162	New
217.164	New
217.165	New
217.166	New
217.180	New
217.182	New
217.184	New
217.185	New
217.186	New
217.200	New
217.202	New
217.204	New
217.220	New
217.222	New
217.224	New
217.240	New
217.242	New
217.244	New
217.340	New
217.342	New
217.344	New
217.345	New

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217.APPENDIX H New

- 4) Statutory Authority: 415 ILCS 5/27 and 28
- 5) Effective Date of Amendments: August 31, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
 - 1) 40 CFR 60, Appendix A, Methods 1, 2, 3, and 4 (2008);
 - 2) Alternative Control Techniques Document - NO_x Emissions from Industrial/Commercial/Institutional (ICI) Boilers, EPA-453/R-94-022, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, March 1994;
 - 3) Alternative Control Techniques Document - NO_x Emissions from Process Heaters (Revised), EPA-453/R-93-034, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, September 1993;
 - 4) Alternative Control Techniques Document - NO_x Emissions from Glass Manufacturing, EPA-453/R-94-037, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, June 1994;
 - 5) Alternative Control Techniques Document - NO_x Emissions from Iron and Steel Mills, EPA-453/R-94-065, U. S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N. C. 27711, September 1994;
 - 6) 40 CFR 60 and 75 (2008); and
 - 7) 40 CFR 60, Appendix B, Performance Specification 16, 74 Fed. Reg. 12575 (Mar. 25, 2009).

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- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 33 Ill. Reg. 6921; May 22, 2009
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In proceeding from the original proposal to final adoption, the Board made a number of substantive changes proposed in the Environmental Protection Agency's first notice comments and in the EPA's response to the first notice comments of U.S. Steel and ArcelorMittal. In addition, the Board adopted a number of second notice changes proposed by the Joint Committee on Administrative Rules.

The Board's opinion provides a detailed section-by-section discussion of the second notice proposal. See Nitrogen Oxides Emissions from Various Source Categories: Amendments to 35 Ill. Adm. Code Parts 211 and 217, R08-19, slip op. at 36-77 (July 23, 2009). Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R08-19 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

The following is a summary of substantive amendments adopted during the course of this rulemaking. The Board also adopted a number of non-substantive changes.

In Section 217.104, incorporated by reference two additional items.

In Section 217.141(c), added language clarifying the units of measurement to be used in the equation for determining an allowable emission rate.

In Section 217.154(a) and (b), added language clarifying the requirements for performance testing.

In Section 217.157(a), added language clarifying the requirement for continuous emissions monitoring systems for specified industrial boilers.

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In Section 217.158, replaced the original subsection (a)(2)(C) with language clarifying eligibility for participation in an emissions averaging plan for units subject to emissions limits or control requirements as provided for in an enforceable order.

In Section 217.158, added a new subsection (j) clarifying emissions averaging plans for petroleum refinery units shut down for maintenance.

In Section 217.160, clarified the language regarding applicability to industrial boilers.

In Section 217.164, added language clarifying the compliance deadline.

In Section 217.184, added language clarifying the compliance deadline.

In Section 217.204, replaced the original subsection (b) to clarify language addressing glass melting furnace startup and idling.

In Section 217.244(b), corrected two emissions limitations for furnaces used in aluminum melting.

In Appendix H, replaced table of compliance dates with corrected version.

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

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
217.751	New	33 Ill. Reg. 8880; June 26, 2009

- 15) Summary and Purpose of Amendments: This rulemaking is based on a proposal filed with the Board by the Illinois Environmental Protection Agency (Agency) on May 9, 2008. The Agency proposed to amend Parts 211 and 217 of the Board's air pollution regulations (35 Ill. Adm. Code 211, 217) to control nitrogen oxides (NO_x) emissions from major stationary sources in the nonattainment areas and from emission units including industrial boilers, process heaters, glass melting furnaces, cement kilns, lime kilns, furnaces used in steelmaking and aluminum melting, and fossil fuel-fired stationary boilers at such sources.

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The Board's July 23, 2009 second notice opinion and order summarizes the revisions and additions to Part 217 adopted in this rulemaking. Amendments to 35 Ill. Adm. Code 217, Nitrogen Oxides Emissions, and 35 Ill. Adm. Code 211, R08-19, slip op. at 43-77 (July 23, 2009).

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

Tim Fox
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

312/814-6085

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R08-19 in your request. The Board's opinions and orders are also available from the Board's Web site (www.ipcb.state.il.us).

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

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SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCESPART 217
NITROGEN OXIDES EMISSIONS

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217.101	Measurement Methods
217.102	Abbreviations and Units
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- 217.160 Applicability
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- 217.165 Combination of Fuels
- 217.166 Methods and Procedures for Combustion Tuning

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Section

- 217.180 Applicability
- 217.182 Exemptions
- 217.184 Emissions Limitations
- 217.185 Combination of Fuels
- 217.186 Methods and Procedures for Combustion Tuning

SUBPART G: GLASS MELTING FURNANCES

Section

- 217.200 Applicability
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SUBPART H: CEMENT AND LIME KILNS

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- 217.220 Applicability
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- 217.240 Applicability
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SUBPART K: PROCESS EMISSION SOURCES

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SUBPART M: ELECTRICAL GENERATING UNITS

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217.340 Applicability
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217.344 Emissions Limitations
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SUBPART O: CHEMICAL MANUFACTURE

Section
217.381 Nitric Acid Manufacturing Processes

SUBPART Q: STATIONARY RECIPROCATING
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217.386 Applicability
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SUBPART T: CEMENT KILNS

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217.APPENDIX A	Rule into Section Table
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217.APPENDIX G Existing Reciprocating Internal Combustion Engines Affected by the NO_x SIP Call

[217.APPENDIX H](#) [Compliance Dates for Certain Emissions Units at Petroleum Refineries](#)

AUTHORITY: Implementing Sections 9.9 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9.9, 10, 27 and 28.5 (2004)].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 207: Nitrogen Oxides Emissions, R71-23, 4 PCB 191, April 13, 1972, filed and effective April 14, 1972; amended at 2 Ill. Reg. 17, p. 101, effective April 13, 1978; codified at 7 Ill. Reg. 13609; amended in R01-9 at 25 Ill. Reg. 128, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4597, effective March 15, 2001; amended in R01-16 and R01-17 at 25 Ill. Reg. 5914, effective April 17, 2001; amended in R07-18 at 31 Ill. Reg. 14271, effective September 25, 2007; amended in R07-19 at 33 Ill. Reg. 11999, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13345, effective August 31, 2009.

SUBPART A: GENERAL PROVISIONS

Section 217.100 Scope and Organization

- a) This Part sets standards and limitations for emission of oxides of nitrogen from stationary sources.
- b) Permits for sources subject to this Part may be required pursuant to 35 Ill. Adm. Code 201 [or Section 39.5 of the Act](#).
- c) Notwithstanding the provisions of this Part the air quality standards contained in 35 Ill. Adm. Code 243 may not be violated.
- d) These rules have been grouped for convenience of the public; the scope of each is determined by its language and history.

(Source: Amended at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.104 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions.

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- a) The phenol disulfonic acid procedures, as published in 40 CFR 60, Appendix A, Method 7 (2000);
- b) 40 CFR 96, subparts B, D, G, and H (1999);
- c) 40 CFR 96.1 through 96.3, 96.5 through 96.7, 96.50 through 96.54, 96.55(a) & (b), 96.56 and 96.57 (1999);
- d) 40 CFR 60, 72, 75 & 76 (2006);
- e) Alternative Control Techniques Document – NO_x Emissions from Cement Manufacturing, EPA-453/R94-004, U.S. Environmental Protection Agency-Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, March 1994;
- f) Section 11.6, Portland Cement Manufacturing, AP-42 Compilation of Air Emission Factors, Volume 1: Stationary Point and Area Sources, U.S. Environmental Protection Agency-Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, revised January 1995;
- g) 40 CFR 60.13 (2001);
- h) 40 CFR 60, Appendix A, Methods 3A, 7, 7A, 7C, 7D, 7E, 19, and 20 (2000);
- i) ASTM D6522-00, Standard Test Method for Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers, and Process Heaters Using Portable Analyzers (2000);
- jk) Standards of Performance for Stationary Combustion Turbines, 40 CFR 60, Subpart KKKK, 60.4400 (2006); ~~and~~
- kl) Compilation of Air Pollutant Emission Factors: AP-42, Volume I: Stationary Point and Area Sources (2000), USEPA;~~;~~
- l) 40 CFR 60, Appendix A, Methods 1, 2, 3, and 4 (2008);
- m) Alternative Control Techniques Document – NO_x Emissions from Industrial/Commercial/Institutional (ICI) Boilers, EPA-453/R-94-022, U.S.

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Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, March 1994;

- n) Alternative Control Techniques Document – NO_x Emissions from Process Heaters (Revised), EPA-453/R-93-034, U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, September 1993;
- o) Alternative Control Techniques Document – NO_x Emissions from Glass Manufacturing, EPA-453/R-94-037, U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, June 1994;
- p) Alternative Control Techniques Document – NO_x Emissions from Iron and Steel Mills, EPA-453/R-94-065, U.S. Environmental Protection Agency, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, September 1994;
- q) 40 CFR 60 and 75 (2008); and
- r) 40 CFR 60, Appendix B, Performance Specification 16, 74 FR 12575 (March 25, 2009).

(Source: Amended at 33 Ill. Reg. 13345, effective August 31, 2009)

SUBPART B: NEW FUEL COMBUSTION EMISSION SOURCES

Section 217.121 New Emission Sources (Repealed)

~~No person shall cause or allow the emission of nitrogen oxides (NO_x) into the atmosphere in any one-hour period from any new fuel combustion emission source with an actual heat input equal to or greater than 73.2 MW (250 mmbtu/hr) to exceed the following standards and limitations:~~

- a) ~~For gaseous fossil fuel firing, 0.310 kg/MW-hr (0.20 lbs/mmbtu) of actual heat input;~~
- b) ~~For liquid fossil fuel firing, 0.464 kg/MW-hr (0.30 lbs/mmbtu) of actual heat input;~~

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- e) ~~For dual gaseous and liquid fossil fuel firing, 0.464 kg/MW-hr (0.30 lbs./mmbtu) of actual heat input;~~
- d) ~~For solid fossil fuel firing, 1.08 kg/MW-hr (0.7 lbs./mmbtu) of actual heat input;~~
- e) ~~For fuel combustion emission sources burning simultaneously any combination of solid, liquid and gaseous fossil fuels, an allowable emission rate shall be determined by the following equation:~~

$$E = (AG + BL + CS)Q$$

Where: =

E = Allowable nitrogen oxides emissions rate

Q = Actual heat input derived from all fossil fuels

G = Percent of actual heat input derived from gaseous fossil fuel

L = Percent of actual heat input derived from liquid fossil fuel

S = Percent of actual heat input derived from solid fossil fuel

$$G + L + S = 100.0$$

~~And, where A, B, C and appropriate metric and English units are determined from the following table:~~

	<u>Metric</u>	<u>English</u>
E	Kg/hr	Lbs/hr
Q	MW	Mmbtu/hr
A	0.023	0.003
B	0.023	0.003
C	0.053	0.007

(Source: Repealed at 33 Ill. Reg. 13345, effective August 31, 2009)

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SUBPART C: EXISTING FUEL COMBUSTION EMISSION UNITSSOURCES**Section 217.141 Existing Emission UnitsSources in Major Metropolitan Areas**

No person shall cause or allow the emission of nitrogen oxides into the atmosphere in any one hour period from any existing fuel combustion emission unitssource with an actual heat input equal to or greater than 73.2 MW (250 mmbtu/hr), located in the Chicago or St. Louis (Illinois) major metropolitan areas to exceed the following limitations:

- a) For gaseous and/or liquid fossil fuel firing, 0.46 kg/MW-hr (0.3 lbs/mmbtu) of actual heat input;
- b) For solid fossil fuel firing, 1.39 kg/MW-hr (0.9 lbs/mmbtu) of actual heat input;
- c) For fuel combustion emission unitssources burning simultaneously any combination of solid, liquid and gaseous fuel, the allowable emission rate shall be determined by the following equation:

$$E = \frac{AG + BL + CS}{Q}$$

Where:

- E = allowable nitrogen oxides emissions rate
- Q = actual heat input
- G = percent of actual heat input derived from gaseous fossil fuel
- L = percent of actual heat input derived from liquid fossil fuel
- S = percent of actual heat input derived from solid fossil fuel
- G + L + S = 100.0

MetricEnglish

- | | | |
|---|-------|----------|
| E | Kg/hr | lbs/hr |
| Q | MW | Mmbtu/hr |

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A	0.023	0.003
B	0.023	0.003
C	0.068	0.009

- d) Exceptions: This ~~Section rule~~ shall not apply to the following:
- 1) ~~Existing~~ existing fuel combustion sources ~~that~~ which are either cyclone fired boilers burning solid or liquid fuel, or horizontally opposed fired boilers burning solid fuel; ~~or~~;
 - 2) Emission units that are subject to the emissions limitations of Subpart E, F, G, H, I, M, or Q of this Part.

(Source: Amended at 33 Ill. Reg. 13345, effective August 31, 2009)

SUBPART D: NO_x GENERAL REQUIREMENTSSection 217.150 Applicability

- a) Applicability
- 1) The provisions of this Subpart and Subparts E, F, G, H, I, and M of this Part apply to the following:
 - A) All sources that are located in either one of the following areas and that emit or have the potential to emit NO_x in an amount equal to or greater than 100 tons per year:
 - i) The area composed of the Chicago area counties of Cook, DuPage, Kane, Lake, McHenry, and Will, the Townships of Aux Sable and Goose Lake in Grundy County, and the Township of Oswego in Kendall County; or
 - ii) The area composed of the Metro East area counties of Jersey, Madison, Monroe, and St. Clair, and the Township of Baldwin in Randolph County; and

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- B) Any industrial boiler, process heater, glass melting furnace, cement kiln, lime kiln, iron and steel reheat, annealing, or galvanizing furnace, aluminum reverberatory or crucible furnace, or fossil fuel-fired stationary boiler at such sources described in subsection (a)(1)(A) of this Section that emits NO_x in an amount equal to or greater than 15 tons per year and equal to or greater than five tons per ozone season.
- 2) For purposes of this Section, "potential to emit" means the quantity of NO_x that potentially could be emitted by a stationary source before add-on controls based on the design capacity or maximum production capacity of the source and 8,760 hours per year or the quantity of NO_x that potentially could be emitted by a stationary source as established in a federally enforceable permit.
- b) If a source ceases to fulfill the emissions criteria of subsection (a) of this Section, the requirements of this Subpart and Subpart E, F, G, H, I, or M of this Part continue to apply to any emission unit that was ever subject to the provisions of any of those Subparts.
- c) The provisions of this Subpart do not apply to afterburners, flares, and incinerators.
- d) Where a construction permit, for which the application was submitted to the Agency prior to the adoption of this Subpart, is issued that relies on decreases in emissions of NO_x from existing emission units for purposes of netting or emission offsets, such NO_x decreases remain creditable notwithstanding any requirements that may apply to the existing emission units pursuant to this Subpart and Subpart E, F, G, H, I, or M of this Part.
- e) The owner or operator of an emission unit that is subject to this Subpart and Subpart E, F, G, H, I, or M of this Part must operate such unit in a manner consistent with good air pollution control practice to minimize NO_x emissions.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.152 Compliance Date

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- a) Compliance with the requirements of Subparts E, F, G, H, I and M by an owner or operator of an emission unit that is subject to any of those Subparts is required beginning January 1, 2012.
- b) Notwithstanding subsection (a) of this Section, compliance with the requirements of Subpart G of this Part by an owner or operator of an emission unit subject to Subpart G of this Part shall be extended until December 31, 2014, if such units are required to meet emissions limitations for NO_x, as measured using a continuous emissions monitoring system, and included within a legally enforceable order on or before December 31, 2009, whereby such emissions limitations are less than 30 percent of the emissions limitations set forth under Section 217.204.
- c) Notwithstanding subsection (a) of this Section, the owner or operator of emission units subject to Subpart E or F of this Part and located at a petroleum refinery must comply with the requirements of this Subpart and Subpart E or F of this Part, as applicable, for those emission units beginning January 1, 2012, except that the owner or operator of emission units listed in Appendix H must comply with the requirements of this Subpart, including the option of demonstrating compliance with the applicable Subpart through an emissions averaging plan under Section 217.158 and Subpart E or F of this Part, as applicable, for the listed emission units beginning on the dates set forth in Appendix H. With Agency approval, the owner or operator of emission units listed in Appendix H may elect to comply with the requirements of this Subpart and Subpart E or F of this Part, as applicable, by reducing the emissions of emission units other than those listed in Appendix H, provided that the emissions limitations of such other emission units are equal to or more stringent than the applicable emissions limitations set forth in Subpart E or F of this Part, as applicable, by the dates set forth in Appendix H.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.154 Performance Testing

- a) Performance testing of NO_x emissions for emission units constructed on or before July 1, 2011, and subject to emissions limitations under Subpart E, F, G, H, or I of this Part must be conducted in accordance with Section 217.157 of this Subpart. Except as provided for under Section 217.157(a)(4) and (e)(1). This subsection does not apply to owners and operators of emission units demonstrating compliance through a continuous emissions monitoring system.

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- b) Performance testing of NO_x emissions for emission units for which construction or modification occurs after July 1, 2011, and that are subject to emissions limitations under Subpart E, F, G, H, or I of this Part must be conducted within 60 days after achieving maximum operating rate but no later than 180 days after initial startup of the new or modified emission unit, in accordance with Section 217.157 of this Subpart. Except as provided for under Section 217.157(a)(4) and (e)(1), this subsection does not apply to owners and operators of emission units demonstrating compliance through a continuous emissions monitoring system, predictive emission monitoring system, or combustion tuning.
- c) Notification of the initial startup of an emission unit subject to subsection (b) of this Section must be provided to the Agency no later than 30 days after initial startup.
- d) The owner or operator of an emission unit subject to subsection (a) or (b) of this Section must notify the Agency of the scheduled date for the performance testing in writing at least 30 days before such date and five days before such date.
- e) If demonstrating compliance through an emissions averaging plan, at least 30 days before changing the method of compliance, the owner or operator of an emission unit must submit a written notification to the Agency describing the new method of compliance, the reason for the change in the method of compliance, and the scheduled date for performance testing, if required. Upon changing the method of compliance, the owner or operator of an emission unit must submit to the Agency a revised compliance certification that meets the requirements of Section 217.155.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.155 Initial Compliance Certification

- a) By the applicable compliance date set forth under Section 217.152, an owner or operator of an emission unit subject to Subpart E, F, G, H, or I of this Part who is not demonstrating compliance through the use of a continuous emissions monitoring system must certify to the Agency that the emission unit will be in compliance with the applicable emissions limitation of Subpart E, F, G, H, or I of this Part beginning on such applicable compliance date. The performance testing certification must include the results of the performance testing performed in

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accordance with Section 217.154(a) and (b) and the calculations necessary to demonstrate that the subject emission unit will be in initial compliance.

- b) By the applicable compliance date set forth under Section 217.152, an owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part who is demonstrating compliance through the use of a continuous emissions monitoring system must certify to the Agency that the affected emission units will be in compliance with the applicable emissions limitation of Subpart E, F, G, H, I, or M of this Part beginning on such applicable compliance date. The compliance certification must include a certification of the installation and operation of a continuous emissions monitoring system required under Section 217.157 and the monitoring data necessary to demonstrate that the subject emission unit will be in initial compliance.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.156 Recordkeeping and Reporting

- a) The owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part must keep and maintain all records used to demonstrate initial compliance and ongoing compliance with the requirements of those Subparts.
- 1) Except as otherwise provided under this Subpart or Subpart E, F, G, H, I, or M of this Part, copies of such records must be submitted by the owner or operator of the source to the Agency within 30 days after receipt of a written request by the Agency.
 - 2) Such records must be kept at the source and maintained for at least five years and must be available for immediate inspection and copying by the Agency.
- b) The owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part must maintain records that demonstrate compliance with the requirements of those Subparts, as applicable, that include the following:
- 1) Identification, type (e.g., gas-fired), and location of each unit.
 - 2) Calendar date of the record.

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- 3) Monthly, seasonal, and annual operating hours.
 - 4) Type and quantity of each fuel used monthly, seasonally, and annually.
 - 5) Product and material throughput, as applicable.
 - 6) Reports for all applicable emissions tests for NO_x conducted on the unit, including results.
 - 7) The date, time, and duration of any startup, shutdown, or malfunction in the operation of any emission unit subject to Subpart E, F, G, H, I, or M of this Part or any emissions monitoring equipment. The records must include a description of the malfunction and corrective maintenance activity.
 - 8) A log of all maintenance and inspections related to the unit's air pollution control equipment for NO_x that is performed on the unit.
 - 9) A log for the NO_x monitoring device, if present, including periods when not in service and maintenance and inspection activities that are performed on the device.
 - 10) Identification of time periods for which operating conditions and pollutant data were not obtained by the continuous emissions monitoring system, including the reasons for not obtaining sufficient data and a description of corrective actions taken.
 - 11) If complying with the emissions averaging plan provisions of Section 217.158, copies of the calculations used to demonstrate compliance with the ozone season and annual control period limitations, noncompliance reports for the ozone season, and ozone and annual control period compliance reports submitted to the Agency.
- c) The owner or operator of an industrial boiler subject to Subpart E of this Part must maintain records in order to demonstrate compliance with the combustion tuning requirements under Section 217.166.

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- d) The owner or operator of a process heater subject to Subpart F of this Part must maintain records in order to demonstrate compliance with the combustion tuning requirements under Section 217.186.
- e) The owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part must maintain records in order to demonstrate compliance with the testing and monitoring requirements under Section 217.157.
- f) The owner or operator of an emission unit subject to Subpart E, F, G, H, or I of this Part must provide the following information with respect to performance testing pursuant to Section 217.157:
- 1) Submit a testing protocol to the Agency at least 60 days prior to testing;
 - 2) Notify the Agency at least 30 days in writing prior to conducting performance testing for NO_x emissions and five days prior to such testing;
 - 3) Not later than 60 days after the completion of the test, submit the results of the test to the Agency; and
 - 4) If, after the 30-days' notice for an initially scheduled test is sent, there is a delay (e.g., due to operational problems) in conducting the test as scheduled, the owner or operator of the unit must notify the Agency as soon as practicable of the delay in the original test date, either by providing at least seven days' prior notice of the rescheduled date of the test or by arranging a new test date with the Agency by mutual agreement.
- g) The owner or operator of an emission unit subject to Subpart E, F, G, H, I, or M of this Part must notify the Agency of any exceedances of an applicable emissions limitation of Subpart E, F, G, H, I, or M of this Part by sending the applicable report with an explanation of the causes of such exceedances to the Agency within 30 days following the end of the applicable compliance period in which the emissions limitation was not met.
- h) Within 30 days after the receipt of a written request by the Agency, the owner or operator of an emission unit that is exempt from the requirements of Subpart E, F, G, H, I, or M of this Part must submit records that document that the emission unit is exempt from those requirements to the Agency.

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- i) If demonstrating compliance through an emissions averaging plan, by March 1 following the applicable calendar year, the owner or operator must submit to the Agency a report that demonstrates the following:
- 1) For all units that are part of the emissions averaging plan, the total mass of allowable NO_x emissions for the ozone season and for the annual control period;
 - 2) The total mass of actual NO_x emissions for the ozone season and annual control period for each unit included in the averaging plan;
 - 3) The calculations that demonstrate that the total mass of actual NO_x emissions are less than the total mass of allowable NO_x emissions using equations in Section 217.158(f); and
 - 4) The information required to determine the total mass of actual NO_x emissions.
- j) The owner or operator of an emission unit subject to the requirements of Section 217.157 and demonstrating compliance through the use of a continuous emissions monitoring system must submit to the Agency a report within 30 days after the end of each calendar quarter. This report must include the following:
- 1) Information identifying and explaining the times and dates when continuous emissions monitoring for NO_x was not in operation, other than for purposes of calibrating or performing quality assurance or quality control activities for the monitoring equipment; and
 - 2) An excess emissions and monitoring systems performance report in accordance with the requirements of 40 CFR 60.7(c) and (d) and 60.13, or 40 CFR 75, or an alternate procedure approved by the Agency and USEPA.
- k) The owner or operator of an emission unit subject to Subpart M of this Part must comply with the compliance certification and recordkeeping and reporting requirements in accordance with 40 CFR 96, or an alternate procedure approved by the Agency and USEPA.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

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Section 217.157 Testing and Monitoring

- a) Industrial Boilers and Process Heaters
- 1) The owner or operator of an industrial boiler subject to Subpart E of this Part with a rated heat input capacity greater than 250 mmBtu/hr must install, calibrate, maintain, and operate a continuous emissions monitoring system on the emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with 40 CFR 75, as incorporated by reference in Section 217.104. However, the owner or operator of an industrial boiler subject to Subpart E of this Part with a rated heat input capacity greater than 250 mmBtu/hr that combusts blast furnace gas with up to 10% natural gas on an annual basis and located at a source that manufactures iron and steel is not required to install, calibrate, maintain, and operate a continuous emissions monitoring system on that industrial boiler, provided the heat input from natural gas does not exceed 10% on an annual basis and the owner or operator complies with the performance test requirements under this Section and demonstrates, during each performance test, that NO_x emissions from the industrial boiler are less than 70% of the applicable emissions limitation under Section 217.164. In the event the owner or operator is unable to meet the requirements of this exception, a continuous emissions monitoring system is required within 12 months after that event, or by December 31, 2012, whichever is later.
 - 2) The owner or operator of an industrial boiler subject to Subpart E of this Part with a rated heat input capacity greater than 100 mmBtu/hr but less than or equal to 250 mmBtu/hr must install, calibrate, maintain, and operate a continuous emissions monitoring system on such emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104.
 - 3) The owner or operator of a process heater subject to Subpart F of this Part with a rated heat input capacity greater than 100 mmBtu/hr must install, calibrate, maintain, and operate a continuous emissions monitoring system on the emission unit for the measurement of NO_x emissions discharged

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into the atmosphere in accordance with 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104.

- 4) If demonstrating compliance through an emissions averaging plan, the owner or operator of an industrial boiler subject to Subpart E of this Part, or a process heater subject to Subpart F of this Part, with a rated heat input capacity less than or equal to 100 mmBtu/hr and not demonstrating compliance through a continuous emissions monitoring system must have an initial performance test conducted pursuant to subsection (a)(4)(B) of this Section and Section 217.154.
- A) An owner or operator of an industrial boiler or process heater must have subsequent performance tests conducted pursuant to subsection (a)(4)(B) of this Section at least once every five years. When, in the opinion of the Agency or USEPA, it is necessary to conduct testing to demonstrate compliance with Section 217.164 or 217.184, as applicable, the owner or operator of an industrial boiler or process heater must, at his or her own expense, have such test conducted in accordance with the applicable test methods and procedures specified in this Section within 90 days after receipt of a notice to test from the Agency or USEPA.
- B) The owner or operator of an industrial boiler or process heater must have a performance test conducted using 40 CFR 60, subpart A and appendix A, Method 1, 2, 3, 4, 7E, or 19, as incorporated by reference in Section 217.104, or other alternative USEPA methods approved by the Agency. Each performance test must consist of three separate runs, each lasting a minimum of 60 minutes. NO_x emissions must be measured while the industrial boiler is operating at maximum operating capacity or while the process heater is operating at normal maximum load. If the industrial boiler or process heater has combusted more than one type of fuel in the prior year, a separate performance test is required for each fuel. If a combination of fuels is typically used, a performance test may be conducted, with Agency approval, on such combination of fuels typically used. Except as provided under subsection (e) of this Section, this subsection (a)(4)(B) does not apply if such owner or operator is demonstrating compliance with an emissions limitation

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through a continuous emissions monitoring system under subsection (a)(1), (a)(2), (a)(3), or (a)(5) of this Section.

- 5) Instead of complying with the requirements of subsection (a)(4) of this Section, an owner or operator of an industrial boiler subject to Subpart E of this Part, or a process heater subject to Subpart F of this Part, with a rated heat input capacity less than or equal to 100 mmBtu/hr may install and operate a continuous emissions monitoring system on such emission unit in accordance with the applicable requirements of 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104. The continuous emissions monitoring system must be used to demonstrate compliance with the applicable emissions limitation or emissions averaging plan on an ozone season and annual basis.
 - 6) Notwithstanding subsection (a)(2) of this Section, the owner or operator of an auxiliary boiler subject to Subpart E of this Part with a rated heat input capacity less than or equal to 250 mmBtu/hr and a capacity factor of less than or equal to 20% is not required to install, calibrate, maintain, and operate a continuous emissions monitoring system on such boiler for the measurement of NO_x emissions discharged into the atmosphere, but must comply with the performance test requirements under subsection (a)(4) of this Section.
- b) Glass Melting Furnaces; Cement Kilns; Lime Kilns; Iron and Steel Reheat, Annealing, and Galvanizing Furnaces; and Aluminum Reverberatory and Crucible Furnaces
- 1) An owner or operator of a glass melting furnace subject to Subpart G of this Part, cement kiln or lime kiln subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnace subject to Subpart I of this Part that has the potential to emit NO_x in an amount equal to or greater than one ton per day must install, calibrate, maintain, and operate a continuous emissions monitoring system on such emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104.

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- 2) An owner or operator of a glass melting furnace subject to Subpart G of this Part, cement kiln or lime kiln subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnace subject to Subpart I of this Part that has the potential to emit NO_x in an amount less than one ton per day must have an initial performance test conducted pursuant to subsection (b)(4) of this Section and Section 217.154.
- 3) An owner or operator of a glass melting furnace subject to Subpart G of this Part, cement kiln or lime kiln subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnace subject to Subpart I of this Part that has the potential to emit NO_x in an amount less than one ton per day must have subsequent performance tests conducted pursuant to subsection (b)(4) of this Section as follows:
 - A) For all glass melting furnaces subject to Subpart G of this Part, cement kilns or lime kilns subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnaces subject to Subpart I of this Part, including all such units included in an emissions averaging plan, at least once every five years; and
 - B) When, in the opinion of the Agency or USEPA, it is necessary to conduct testing to demonstrate compliance with Section 217.204, 217.224, or 217.244 of this Part, as applicable, the owner or operator of a glass melting furnace, cement kiln, lime kiln, iron and steel reheat, annealing, or galvanizing furnace, or aluminum reverberatory or crucible furnace must, at his or her own expense, have such test conducted in accordance with the applicable test methods and procedures specified in this Section within 90 days after receipt of a notice to test from the Agency or USEPA.
- 4) The owner or operator of a glass melting furnace, cement kiln, or lime kiln must have a performance test conducted using 40 CFR 60, subpart A and appendix A, Methods 1, 2, 3, 4, and 7E, as incorporated by reference in Section 217.104 of this Part, or other alternative USEPA methods

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approved by the Agency. The owner or operator of an iron and steel reheat, annealing, or galvanizing furnace, or aluminum reverberatory or crucible furnace must have a performance test conducted using 40 CFR 60, subpart A and appendix A, Method 1, 2, 3, 4, 7E, or 19, as incorporated by reference in Section 217.104 of this Part, or other alternative USEPA methods approved by the Agency. Each performance test must consist of three separate runs, each lasting a minimum of 60 minutes. NO_x emissions must be measured while the glass melting furnace, cement kiln, lime kiln, iron and steel reheat, annealing, or galvanizing furnace, or aluminum reverberatory or crucible furnace is operating at maximum operating capacity. If the glass melting furnace, cement kiln, lime kiln, iron and steel reheat, annealing, or galvanizing furnace, or aluminum reverberatory or crucible furnace has combusted more than one type of fuel in the prior year, a separate performance test is required for each fuel. Except as provided under subsection (e) of this Section, this subsection (b)(4) does not apply if such owner or operator is demonstrating compliance with an emissions limitation through a continuous emissions monitoring system under subsection (b)(1) or (b)(5) of this Section.

5) Instead of complying with the requirements of subsections (b)(2), (b)(3), and (b)(4) of this Section, an owner or operator of a glass melting furnace subject to Subpart G of this Part, cement kiln or lime kiln subject to Subpart H of this Part, iron and steel reheat, annealing, or galvanizing furnace subject to Subpart I of this Part, or aluminum reverberatory or crucible furnace subject to Subpart I of this Part that has the potential to emit NO_x in an amount less than one ton per day may install and operate a continuous emissions monitoring system on such emission unit in accordance with the applicable requirements of 40 CFR 60, subpart A and appendix B, Performance Specifications 2 and 3, and appendix F, Quality Assurance Procedures, as incorporated by reference in Section 217.104 of this Part. The continuous emissions monitoring system must be used to demonstrate compliance with the applicable emissions limitation or emissions averaging plan on an ozone season and annual basis.

c) Fossil Fuel-Fired Stationary Boilers. The owner or operator of a fossil fuel-fired stationary boiler subject to Subpart M of this Part must install, calibrate, maintain, and operate a continuous emissions monitoring system on such emission unit for

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the measurement of NO_x emissions discharged into the atmosphere in accordance with 40 CFR 96, subpart H.

- d) Common Stacks. If two or more emission units subject to Subpart E, F, G, H, I, M, or Q of this Part are served by a common stack and the owner or operator of such emission units is operating a continuous emissions monitoring system, the owner or operator may, with written approval from the Agency, utilize a single continuous emissions monitoring system for the combination of emission units subject to Subpart E, F, G, H, I, M, or Q of this Part that share the common stack, provided such emission units are subject to an emissions averaging plan under this Part.
- e) Compliance with the continuous emissions monitoring system (CEMS) requirements by an owner or operator of an emission unit who is required to install, calibrate, maintain, and operate a CEMS on the emission unit under subsection (a)(1), (a)(2), (a)(3), or (b)(1) of this Section, or who has elected to comply with the CEMS requirements under subsection (a)(5) or (b)(5) of this Section, or who has elected to comply with the predictive emission monitoring system (PEMS) requirements under subsection (f) of this Section, is required by the following dates:
- 1) For the owner or operator of an emission unit that is subject to a compliance date in calendar year 2012 under Section 217.152, compliance with the CEMS or PEMS requirements, as applicable, under this Section for such emission unit is required by December 31, 2012, provided that, during the time between the compliance date and December 31, 2012, the owner or operator must comply with the applicable performance test requirements under this Section and the applicable recordkeeping and reporting requirements under this Subpart. For the owner or operator of an emission unit that is in compliance with the CEMS or PEMS requirements, as applicable, under this Section on January 1, 2012, such owner or operator is not required to comply with the performance test requirements under this Section.
 - 2) For the owner or operator of an emission unit that is subject to a compliance date in a calendar year other than calendar year 2012 under Section 217.152 of this Subpart, compliance with the CEMS or PEMS requirements, as applicable, under this Section for such emission unit is required by the applicable compliance date, and such owner or operator is

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not required to comply with the performance test requirements under this Section.

- f) As an alternative to complying with the requirements of this Section, other than the requirements under subsections (a)(1) and (c) of this Section, the owner or operator of an emission unit who is not otherwise required by any other statute, regulation, or enforceable order to install, calibrate, maintain, and operate a CEMS on the emission unit may comply with the specifications and test procedures for a predictive emission monitoring system (PEMS) on the emission unit for the measurement of NO_x emissions discharged into the atmosphere in accordance with the requirements of 40 CFR 60, subpart A and appendix B, Performance Specification 16. The PEMS must be used to demonstrate compliance with the applicable emissions limitation or emissions averaging plan on an ozone season and annual basis.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.158 Emissions Averaging Plans

- a) Notwithstanding any other emissions averaging plan provisions under this Part, an owner or operator of a source with certain emission units subject to Subpart E, F, G, H, I, or M of this Part, or subject to Subpart Q of this Part that are located in either one of the areas set forth under Section 217.150(a)(1)(A)(i) or (ii), may demonstrate compliance with the applicable Subpart through an emissions averaging plan. An emissions averaging plan can only address emission units that are located at one source and each unit may only be covered by one emissions averaging plan. Such emission units at the source are affected units and are subject to the requirements of this Section.
- 1) The following units may be included in an emissions averaging plan:
- A) Units that commenced operation on or before January 1, 2002.
- B) Units that the owner or operator may claim as exempt pursuant to Section 217.162, 217.182, 217.202, 217.222, 217.242, or 217.342 of this Part, as applicable, but does not claim exempt. For as long as such a unit is included in an emissions averaging plan, it will be treated as an affected unit and subject to the applicable emissions

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limitations, and testing, monitoring, recordkeeping and reporting requirements.

- C) Units that commence operation after January 1, 2002, if the unit replaces a unit that commenced operation on or before January 1, 2002, or it replaces a unit that replaced a unit that commenced operation on or before January 1, 2002. The new unit must be used for the same purpose and have substantially equivalent or less process capacity or be permitted for less NO_x emissions on an annual basis than the actual NO_x emissions of the unit or units that are replaced. Within 90 days after permanently shutting down a unit that is replaced, the owner or operator of such unit must submit a written request to withdraw or amend the applicable permit to reflect that the unit is no longer in service before the replacement unit may be included in an emissions averaging plan.
- 2) The following types of units may not be included in an emissions averaging plan:
- A) Units that commence operation after January 1, 2002, except as provided by subsection (a)(1)(C) of this Section.
- B) Units that the owner or operator is claiming are exempt pursuant to Section 217.162, 217.182, 217.202, 217.222, 217.242, or 217.342 of this Part, as applicable.
- C) Units that are required to meet emission limits or control requirements for NO_x as provided for in an enforceable order, unless the order allows for emissions averaging. In the case of petroleum refineries, this subsection (a)(2)(C) does not prohibit including industrial boilers or process heaters, or both, in an emissions averaging plan when an enforceable order does not prohibit the reductions made under the order from also being used for compliance with any rules or regulations designed to address regional haze or the non-attainment status of any area.
- b) An owner or operator must submit an emissions averaging plan to the Agency by January 1, 2012. The plan must include, but is not limited to, the following:

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- 1) The list of affected units included in the plan by unit identification number; and
 - 2) A sample calculation demonstrating compliance using the methodology provided in subsection (f) of this Section for the ozone season (May 1 through September 30) and calendar year (January 1 through December 31).
- c) An owner or operator may amend an emissions averaging plan only once per calendar year. Such an amended plan must be submitted to the Agency by January 1 of the applicable calendar year. If an amended plan is not received by the Agency by January 1 of the applicable calendar year, the previous year's plan will be the applicable emissions averaging plan.
- d) Notwithstanding subsection (c) of this Section:
- 1) If a unit that is listed in an emissions averaging plan is taken out of service, the owner or operator must submit to the Agency, within 30 days after such occurrence, an updated emissions averaging plan; or
 - 2) If a unit that was exempt from the requirements of Subpart E, F, G, H, I, or M of this Part pursuant to Section 217.162, 217.182, 217.202, 217.222, 217.242, or 217.342 of this Part, as applicable, no longer qualifies for an exemption, the owner or operator may amend its existing averaging plan to include such unit within 30 days after the unit no longer qualifies for the exemption.
- e) An owner or operator must:
- 1) Demonstrate compliance for the ozone season (May 1 through September 30) and the calendar year (January 1 through December 31) by using the methodology and the units listed in the most recent emissions averaging plan submitted to the Agency pursuant to subsection (b) of this Section, the monitoring data or test data determined pursuant to Section 217.157, and the actual hours of operation for the applicable averaging plan period; and

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- 2) Submit to the Agency, by March 1 following each calendar year, a compliance report containing the information required by Section 217.156(i).
- f) The total mass of actual NO_x emissions from the units listed in the emissions averaging plan must be equal to or less than the total mass of allowable NO_x emissions for those units for both the ozone season and calendar year. The following equation must be used to determine compliance:

$$\underline{N_{act}} \leq \underline{N_{all}}$$

Where:

$$\underline{N_{act}} \equiv \underline{\sum_{i=1}^n \sum_{j=1}^k EM_{act(i,j)}}$$

$$\underline{N_{all}} \equiv \underline{\sum_{i=1}^n \sum_{j=1}^k EM_{all(i,j)}}$$

$\underline{N_{act}}$ \equiv Total sum of the actual NO_x mass emissions from units included in the averaging plan for each fuel used (tons per ozone season and year).

$\underline{N_{all}}$ \equiv Total sum of the allowable NO_x mass emissions from units included in the averaging plan for each fuel used (tons per ozone season and year).

$\underline{EM_{act(i)}}$ \equiv Total mass of actual NO_x emissions in tons for a unit as determined in subsection (f)(1) of this Section.

i \equiv Subscript denoting an individual unit.

j \equiv Subscript denoting the fuel type used.

k \equiv Number of different fuel types.

n \equiv Number of different units in the averaging plan.

$\underline{EM_{all(i)}}$ \equiv Total mass of allowable NO_x emissions in tons for a unit as determined in subsection (f)(2) of this Section.

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For each unit in the averaging plan, and each fuel used by such unit, determine actual and allowable NO_x emissions using the following equations:

1) Actual emissions must be determined as follows:

When emission limits are prescribed in lb/mmBtu,

$$\underline{EM_{act(i)}} \equiv \underline{E_{act(i)} \times H_i / 2000}$$

When emission limits are prescribed in lb/ton of processed product,

$$\underline{EM_{act(i)}} \equiv \underline{E_{act(i)} \times P_i / 2000}$$

2) Allowable emissions must be determined as follows:

When emission limits are prescribed in lb/mmBtu,

$$\underline{EM_{all(i)}} \equiv \underline{E_{all(i)} \times H_i / 2000}$$

When emission limits are prescribed in lb/ton of processed product,

$$\underline{EM_{all(i)}} \equiv \underline{E_{all(i)} \times P_i / 2000}$$

Where:

$\underline{EM_{act(i)}}$ \equiv Total mass of actual NO_x emissions in tons for a unit.

$\underline{EM_{all(i)}}$ \equiv Total mass of allowable NO_x emissions in tons for a unit.

$\underline{E_{act}}$ \equiv Actual NO_x emission rate (lbs/mmBtu or lbs/ton of product) as determined by a performance test, a continuous emissions monitoring system, or an alternative method approved by the Agency.

$\underline{E_{all}}$ \equiv Allowable NO_x emission rate (lbs/mmBtu or lbs/ton of product) as provided in Section 217.164, 217.184, 217.204, 217.224, 217.244, or 217.344, as applicable. For an affected industrial boiler subject to Subpart E of this

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Part, or process heater subject to Subpart F of this Part, with a rated heat input capacity less than or equal to 100 mmBtu/hr demonstrating compliance through an emissions averaging plan, the allowable NO_x emission rate is to be determined from a performance test after such boiler or heater has undergone combustion tuning. For all other units in an emissions averaging plan, an uncontrolled NO_x emission rate from USEPA's AP-42, as incorporated by reference in Section 217.104, or an uncontrolled NO_x emission rate as determined by an alternative method approved by the Agency, will be used.

H ≡ Heat input (mmBtu/ozone season or mmBtu/year) calculated from fuel flow meter and the heating value of the fuel used.

P ≡ weight in tons of processed product.

- g) An owner or operator of an emission unit subject to Subpart Q of this Part that is located in either one of the areas set forth under Section 217.150(a)(1)(A)(i) or (ii) that is complying through an emissions averaging plan under this Section must comply with the applicable provisions for determining actual and allowable emissions under Section 217.390, the testing and monitoring requirements under Section 217.394, and the recordkeeping and reporting requirements under Section 217.396.
- h) The owner or operator of an emission unit located at a petroleum refinery who is demonstrating compliance with an applicable Subpart through an emissions averaging plan under this Section may exclude from the calculation demonstrating compliance those time periods when an emission unit included in the emissions averaging plan is shut down for a maintenance turnaround, provided that such owner or operator notify the Agency in writing at least 30 days in advance of the shutdown of the emission unit for the maintenance turnaround and the shutdown of the emission unit does not exceed 45 days per ozone season or calendar year and NO_x pollution control equipment, if any, continues to operate on all other emission units operating during the maintenance turnaround.
- i) The owner or operator of an emission unit that combusts a combination of coke oven gas and other gaseous fuels and **that is** located at a source that manufactures iron and steel who is demonstrating compliance with an applicable Subpart

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through an emissions averaging plan under this Section may exclude from the calculation demonstrating compliance those time periods when the coke oven gas desulfurization unit included in the emissions averaging plan is shut down for maintenance, provided that such owner or operator notify the Agency in writing at least 30 days in advance of the shutdown of the coke oven gas desulfurization unit for maintenance and such shutdown does not exceed 35 days per ozone season or calendar year and NO_x pollution control equipment, if any, continues to operate on all other emission units operating during the maintenance period.

- j) The owner or operator of an emission unit located at a petroleum refinery who is demonstrating compliance with an applicable Subpart through an emissions averaging plan under this Section may exclude from the calculation demonstrating compliance those time periods when NO_x pollution control equipment that controls one or more emission units included in the emissions averaging plan is shut down for a maintenance turnaround, provided that:
- 1) the owner or operator notify the Agency in writing, at least 30 days in advance of the shutdown, of the NO_x pollution control equipment for the maintenance turnaround;
 - 2) the shutdown of the NO_x pollution control equipment does not exceed 45 days per ozone season or calendar year; and
 - 3) except for those emission units vented to the NO_x pollution control equipment undergoing the maintenance turnaround, NO_x pollution control equipment, if any, continues to operate on all other emission units operating during the maintenance turnaround.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

SUBPART E: INDUSTRIAL BOILERS**Section 217.160 Applicability**

- a) The provisions of Subpart D of this Part and this Subpart apply to all industrial boilers located at sources subject to this Subpart pursuant to Section 217.150, except as provided in subsections (b) and (c) of this Section.

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- b) The provisions of this Subpart do not apply to boilers serving a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale, if such boilers meet the applicability criteria under Subpart M of this Part.
- c) The provisions of this Subpart do not apply to fluidized catalytic cracking units, their regenerator and associated CO boiler or boilers and CO furnace or furnaces where present, if such units are located at a petroleum refinery and such units are required to meet emission limits or control requirements for NO_x as provided for in an enforceable order.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.162 Exemptions

Notwithstanding Section 217.160 of this Subpart, the provisions of this Subpart do not apply to an industrial boiler operating under a federally enforceable limit of NO_x emissions from such boiler to less than 15 tons per year and less than five tons per ozone season.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.164 Emissions Limitations

- a) Except as provided for under Section 217.152, on and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any industrial boiler to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Fuel</u>	<u>Emission Unit Type and Rated Heat Input Capacity (mmBtu/hr)</u>	<u>No_x Emissions Limitation (lb/mmBtu) or Requirement</u>
<u>Natural Gas or Other Gaseous Fuels</u>	<u>Industrial boiler greater than 100</u>	<u>0.08</u>
	<u>Industrial boiler less than or equal to 100</u>	<u>Combustion tuning</u>

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<u>Distillate Fuel Oil</u>	<u>Industrial boiler greater than 100</u>	<u>0.10</u>
	<u>Industrial boiler less than or equal to 100</u>	<u>Combustion tuning</u>
<u>Other Liquid Fuels</u>	<u>Industrial boiler greater than 100</u>	<u>0.15</u>
	<u>Industrial boiler less than or equal to 100</u>	<u>Combustion tuning</u>
<u>Solid Fuel</u>	<u>Industrial boiler greater than 100, circulating fluidized bed combustor</u>	<u>0.12</u>
	<u>Industrial boiler greater than 250</u>	<u>0.18</u>
	<u>Industrial boiler greater than 100 but less than or equal to 250</u>	<u>0.25</u>
	<u>Industrial boiler less than or equal to 100</u>	<u>Combustion tuning</u>

b) For an industrial boiler combusting a combination of natural gas, coke oven gas, and blast furnace gas, the NO_x emissions limitation shall be calculated using the following equation:

$$\frac{\text{NO}_x \text{ emissions limitation for period in lb/mmBtu}}{=} \frac{\text{NO}_{x_{NG}} * \text{Btu}_{NG} + \text{NO}_{x_{COG}} * \text{Btu}_{COG} + \text{NO}_{x_{BFG}} * \text{Btu}_{BFG}}{\text{Btu}_{NG} + \text{Btu}_{COG} + \text{Btu}_{BFG}}$$

Where:

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$\frac{NO_{x_{NG}}}{Btu_{NG}}$	\equiv	<u>0.084 lb/mmBtu for natural gas</u>
$\frac{NO_{x_{COG}}}{Btu_{COG}}$	\equiv	<u>0.144 lb/mmBtu for coke oven gas</u>
$\frac{NO_{x_{BFG}}}{Btu_{BFG}}$	\equiv	<u>0.0288 lb/mmBtu for blast furnace gas</u>

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.165 Combination of Fuels

The owner or operator of an industrial boiler subject to this Subpart and operated with any combination of fuels must comply with a heat input weighted average emissions limitation to demonstrate compliance with Section 217.164.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.166 Methods and Procedures for Combustion Tuning

The owner or operator of an industrial boiler subject to the combustion tuning requirements of Section 217.164 must have combustion tuning performed on the boiler at least annually. The combustion tuning must be performed by an employee of the owner or operator or a contractor who has successfully completed a training course on the combustion tuning of boilers firing the fuel or fuels that are fired in the boiler. The owner or operator must maintain the following records that must be made available to the Agency upon request:

- a) The date the combustion tuning was performed;
- b) The name, title, and affiliation of the person who performed the combustion tuning;
- c) Documentation demonstrating the provider of the combustion tuning training course, the dates the training course was taken, and proof of successful completion of the training course;

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- d) Tune-up procedure followed and checklist of items (such as burners, flame conditions, air supply, scaling on heating surface, etc.) inspected prior to the actual tune-up; and
- e) Operating parameters recorded at the start and at conclusion of combustion tuning.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

SUBPART F: PROCESS HEATERS

Section 217.180 Applicability

The provisions of Subpart D of this Part and this Subpart apply to all process heaters located at sources subject to this Subpart pursuant to Section 217.150.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.182 Exemptions

Notwithstanding Section 217.180, the provisions of this Subpart do not apply to a process heater operating under a federally enforceable limit of NO_x emissions from such heater to less than 15 tons per year and less than five tons per ozone season.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.184 Emissions Limitations

Except as provided for under Section 217.152, on or after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any process heater to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Fuel</u>	<u>Emission Unit Type and Rated Heat Input Capacity (mmBtu/hr)</u>	<u>No_x Emissions Limitation (lb/mmBtu) or Requirement</u>
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<u>Natural Gas or Other Gaseous Fuels</u>	<u>Process heater greater than 100</u>	<u>0.08</u>
	<u>Process heater less than or equal to 100</u>	<u>Combustion tuning</u>
<u>Residual Fuel Oil</u>	<u>Process heater greater than 100, natural draft</u>	<u>0.10</u>
	<u>Process heater greater than 100, mechanical draft</u>	<u>0.15</u>
<u>Other Liquid Fuels</u>	<u>Process heater less than or equal to 100</u>	<u>Combustion tuning</u>
	<u>Process heater greater than 100, natural draft</u>	<u>0.05</u>
	<u>Process heater greater than 100, mechanical draft</u>	<u>0.08</u>
	<u>Process heater less than or equal to 100</u>	<u>Combustion tuning</u>

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.185 Combination of Fuels

The owner or operator of a process heater subject to this Subpart and operated with any combination of fuels must comply with a heat input weighted average emissions limitation to demonstrate compliance with Section 217.184.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.186 Methods and Procedures for Combustion Tuning

The owner or operator of a process heater subject to the combustion tuning requirements of Section 217.184 must have combustion tuning performed on the heater at least annually. The combustion tuning must be performed by an employee of the owner or operator or a contractor

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who has successfully completed a training course on the combustion tuning of heaters firing the fuel or fuels that are fired in the heater. The owner or operator must maintain the following records that must be made available to the Agency upon request:

- a) The date the combustion tuning was performed;
- b) The name, title, and affiliation of the person who performed the combustion tuning;
- c) Documentation demonstrating the provider of the combustion tuning training course, the dates the training course was taken, and proof of successful completion of the training course;
- d) Tune-up procedure followed and checklist of items (such as burners, flame conditions, air supply, scaling on heating surface, etc.) inspected prior to the actual tune-up; and
- e) Operating parameters recorded at the start and at conclusion of combustion tuning.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

SUBPART G: GLASS MELTING FURNACES

Section 217.200 Applicability

The provisions of Subpart D of this Part and this Subpart apply to all glass melting furnaces located at sources subject to this Subpart pursuant to Section 217.150.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.202 Exemptions

Notwithstanding Section 217.200, the provisions of this Subpart do not apply to a glass melting furnace operating under a federally enforceable limit of NO_x emissions from such furnace to less than 15 tons per year and less than five tons per ozone season.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

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Section 217.204 Emissions Limitations

- a) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any glass melting furnace to exceed the following limitations. Compliance must be demonstrated with the emissions limitation on an ozone season and annual basis.

<u>Product</u>	<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/ton glass produced)</u>
<u>Container Glass</u>	<u>Glass melting furnace</u>	<u>5.0</u>
<u>Flat Glass</u>	<u>Glass melting furnace</u>	<u>7.9</u>
<u>Other Glass</u>	<u>Glass melting furnace</u>	<u>11.0</u>

- b) The emissions during glass melting furnace startup (not to exceed 70 days) or furnace idling (operation at less than 35% of furnace capacity) shall be excluded from calculations for the purpose of demonstrating compliance with the seasonal and annual emissions limitations under this Section, provided that the owner or operator, at all times, including periods of startup and idling, to the extent practicable, maintain and operate any affected emission unit, including associated air pollution control equipment, in a manner consistent with good air pollution control practice for minimizing emissions. The owner or operator of a glass melting furnace must maintain records that include the date, time, and duration of any startup or idling in the operation of the glass melting furnace.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

SUBPART H: CEMENT AND LIME KILNS

Section 217.220 Applicability

- a) Notwithstanding Subpart T of this Part, the provisions of Subpart D of this Part and this Subpart apply to all cement kilns located at sources subject to this Subpart pursuant to Section 217.150.

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- b) The provisions of Subpart D of this Part and this Subpart apply to all lime kilns located at sources subject to this Subpart pursuant to Section 217.150.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.222 Exemptions

Notwithstanding Section 217.220, the provisions of this Subpart do not apply to a cement kiln or lime kiln operating under a federally enforceable limit of NO_x emissions from such kiln to less than 15 tons per year and less than five tons per ozone season.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.224 Emissions Limitations

- a) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any cement kiln to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/ton clinker produced)</u>
<u>Long dry kiln</u>	<u>5.1</u>
<u>Short dry kiln</u>	<u>5.1</u>
<u>Preheater kiln</u>	<u>3.8</u>
<u>Preheater/precalciner kiln</u>	<u>2.8</u>

- b) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any lime kiln to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Fuel</u>	<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/ton lime produced)</u>
<u>Gas</u>	<u>Rotary kiln</u>	<u>2.2</u>
<u>Coal</u>	<u>Rotary kiln</u>	<u>2.5</u>

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(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

SUBPART I: IRON AND STEEL AND ALUMINUM MANUFACTURING

Section 217.240 Applicability

- a) The provisions of Subpart D of this Part and this Subpart apply to all reheat furnaces, annealing furnaces, and galvanizing furnaces used in iron and steel making located at sources subject to this Subpart pursuant to Section 217.150.
- b) The provisions of Subpart D of this Part and this Subpart apply to all reverberatory furnaces and crucible furnaces used in aluminum melting located at sources subject to this Subpart pursuant to Section 217.150.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.242 Exemptions

Notwithstanding Section 217.240, the provisions of this Subpart do not apply to an iron and steel reheat furnace, annealing furnace, or galvanizing furnace, or aluminum reverberatory furnace or crucible furnace operating under a federally enforceable limit of NO_x emissions from such furnace to less than 15 tons per year and less than five tons per ozone season.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.244 Emissions Limitations

- a) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any reheat furnace, annealing furnace, or galvanizing furnace used in iron and steel making to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/mmBtu)</u>
<u>Reheat furnace, regenerative</u>	<u>0.18</u>

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<u>Reheat furnace, recuperative, combusting natural gas</u>	<u>0.09</u>
<u>Reheat furnace, recuperative, combusting a combination of natural gas and coke oven gas</u>	<u>0.142</u>
<u>Reheat furnace, cold-air</u>	<u>0.03</u>
<u>Annealing furnace, regenerative</u>	<u>0.38</u>
<u>Annealing furnace, recuperative</u>	<u>0.16</u>
<u>Annealing furnace, cold-air</u>	<u>0.07</u>
<u>Galvanizing furnace, regenerative</u>	<u>0.46</u>
<u>Galvanizing furnace, recuperative</u>	<u>0.16</u>
<u>Galvanizing furnace, cold air</u>	<u>0.06</u>

- b) On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any reverberatory furnace or crucible furnace used in aluminum melting to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/mmBtu)</u>
<u>Reverberatory furnace</u>	<u>0.08</u>
<u>Crucible furnace</u>	<u>0.16</u>

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

SUBPART M: ELECTRICAL GENERATING UNITS

Section 217.340 Applicability

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Notwithstanding Subpart V or W of this Part, the provisions of Subpart D of this Part and this Subpart apply to any fossil fuel-fired stationary boiler serving at any time a generator that has a nameplate capacity greater than 25 MWe and produces electricity for sale, excluding any units listed in Appendix D of this Part, located at sources subject to this Subpart pursuant to Section 217.150.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.342 Exemptions

- a) Notwithstanding Section 217.340, the provisions of this Subpart do not apply to a fossil fuel-fired stationary boiler operating under a federally enforceable limit of NO_x emissions from such boiler to less than 15 tons per year and less than five tons per ozone season.
- b) Notwithstanding Section 217.340, the provisions of this Subpart do not apply to a coal-fired stationary boiler that commenced operation before January 1, 2008, that is complying with 35 Ill. Adm. Code 225.Subpart B through the multi-pollutant standard or the combined pollutant standard.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.344 Emissions Limitations

On and after January 1, 2012, no person shall cause or allow emissions of NO_x into the atmosphere from any fossil fuel-fired stationary boiler to exceed the following limitations. Compliance must be demonstrated with the applicable emissions limitation on an ozone season and annual basis.

<u>Fuel</u>	<u>Emission Unit Type</u>	<u>No_x Emissions Limitation (lb/mmBtu)</u>
<u>Solid</u>	<u>Boiler</u>	<u>0.12</u>
<u>Natural gas</u>	<u>Boiler</u>	<u>0.06</u>
<u>Liquid</u>	<u>Boiler that commenced operation before January 1, 2008</u>	<u>0.10</u>

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Boiler that commenced operation on 0.08
or after January 1, 2008

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

Section 217.345 Combination of Fuels

The owner or operator of a fossil fuel-fired stationary boiler subject to this Subpart and operated with any combination of fuels must comply with a heat input weighted average emissions limitation to demonstrate compliance with Section 217.344.

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

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Section 217.APPENDIX H Compliance Dates for Certain Emission Units at Petroleum RefineriesExxonMobil Oil Corporation (Facility ID 197800AAA)

<u>Point</u>	<u>Emission Unit Description</u>	<u>Compliance Date</u>
<u>0019</u>	<u>Crude Vacuum Heater (13-B-2)</u>	<u>December 31, 2014</u>
<u>0038</u>	<u>Alky Iso-Stripper Reboiler (7-B-1)</u>	<u>December 31, 2014</u>
<u>0033</u>	<u>CHD Charge Heater (3-B-1)</u>	<u>December 31, 2014</u>
<u>0034</u>	<u>CHD Stripper Reboiler (3-B-2)</u>	<u>December 31, 2014</u>
<u>0021</u>	<u>Coker East Charge Heater (16-B-1A)</u>	<u>December 31, 2014</u>
<u>0021</u>	<u>Coker East Charge Heater (16-B-1B)</u>	<u>December 31, 2014</u>
<u>0018</u>	<u>Crude Atmospheric Heater (1-B-1A)</u>	<u>December 31, 2014</u>
<u>0018</u>	<u>Crude Atmospheric Heater (1-B-1B)</u>	<u>December 31, 2014</u>

ConocoPhillips Company Wood River Refinery (Facility ID 119090AAA)

<u>0017</u>	<u>BEU-HM-1</u>	<u>December 31, 2012</u>
<u>0018</u>	<u>BEU-HM-2</u>	<u>December 31, 2012</u>
<u>0004</u>	<u>CR-1 Feed Preheat, H-1</u>	<u>December 31, 2012</u>
<u>0005</u>	<u>CR-1 1st Interreactor Heater, H-2</u>	<u>December 31, 2012</u>
<u>0009</u>	<u>CR-1 3rd Interreactor Heater, H-7</u>	<u>December 31, 2012</u>
<u>0091</u>	<u>CR-3 Charge Heater</u>	<u>December 31, 2012</u>
<u>0092</u>	<u>CR-3 1st Reheat Heater, H-5</u>	<u>December 31, 2012</u>
<u>0082</u>	<u>Boiler 17</u>	<u>December 31, 2012</u>
<u>0080</u>	<u>Boiler 15</u>	<u>December 31, 2012</u>
<u>0073</u>	<u>Alky HM-2 Heater</u>	<u>December 31, 2012</u>
<u>0662</u>	<u>VF-4 Charge Heater, H-28</u>	<u>December 31, 2012</u>
<u>0664</u>	<u>DU-4 Charge Heater, H-24</u>	<u>December 31, 2014</u>
<u>0617</u>	<u>DCU Charge Heater, J-20</u>	<u>December 31, 2014</u>
<u>0014</u>	<u>HCU Fractionator Reboil, H-3</u>	<u>December 31, 2016</u>
<u>0024</u>	<u>DU-1 Primary Heater South, F-301</u>	<u>December 31, 2016</u>
<u>0025</u>	<u>DU-1 Secondary Heater North, F-302</u>	<u>December 31, 2016</u>

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<u>0081</u>	<u>Boiler 16</u>	<u>December 31, 2016</u>
<u>0083</u>	<u>Boiler 18</u>	<u>December 31, 2016</u>
<u>0095</u>	<u>DHT Charge Heater</u>	<u>December 31, 2016</u>
<u>0028</u>	<u>DU-2 Lube Crude Heater, F-200</u>	<u>December 31, 2016</u>
<u>0029</u>	<u>DU-2 Mixed Crude Heater West, F-202</u>	<u>December 31, 2016</u>
<u>0030</u>	<u>DU-2 Mixed Crude Heater East, F-203</u>	<u>December 31, 2016</u>
<u>0084</u>	<u>CR-2 North Heater</u>	<u>December 31, 2016</u>
<u>0661</u>	<u>CR-2 South Heater</u>	<u>December 31, 2016</u>

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

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- 1) Heading of the Part: Ambulatory Surgical Treatment Center Licensing Requirements
- 2) Code Citation: 77 Ill. Adm. Code 205
- 3) Section Number: 205.530 Adopted Action:
Amend
- 4) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 215]
- 5) Effective Date of Rulemaking: September 10, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: January 23, 2009; 33 Ill. Reg. 1425
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

In Section 205.530(b)(2), "F) *A podiatrist licensed under the Podiatric Medical Practice Act of 1987. (Section 6.5 of the Act)*" was inserted.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 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 the Rulemaking: Part 205 regulates ambulatory surgical treatment centers, including patient care, and the medical and other staff, including the staff of operating rooms. Public Act 94-915, enacted in 2006, amended the ASTC Act to mandate that a licensed registered nurse function as a circulating nurse during all invasive

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or operative procedures conducted in ASTCs. Public Act 94-861, also enacted in 2006, amended the Act to permit registered nurses to administer anesthesia under the supervision of a physician, podiatrist, or dentist. P.A. 95-911, enacted in 2008, permitted podiatrists to administer anesthesia.

Section 205.530 (Operative Care) was amended to implement the statutory language of all three Acts, including a statutory definition of "circulating nurse". "Requiring aseptic technique" was added to the statutory language to clarify that the circulating nurse will be moving from procedure to procedure without entering the sterile field surrounding each operative or invasive procedure.

Section 205.530 also was amended to revise language regarding the examination and disposal of tissue.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

217/782-2043
e-mail: dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 205
AMBULATORY SURGICAL TREATMENT CENTER LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section	
205.110	Definitions
205.115	Incorporated and Referenced Materials
205.118	Conditions of Licensure
205.120	Application for Initial Licensure
205.125	Application for License Renewal
205.130	Approval of Surgical Procedures
205.135	Diagnostic Cardiac Catheterization Procedures

SUBPART B: OWNERSHIP AND MANAGEMENT

Section	
205.210	Ownership, Control and Management
205.220	Organizational Plan
205.230	Standards of Professional Work
205.240	Policies and Procedures Manual

SUBPART C: PERSONNEL

Section	
205.310	Personnel Policies
205.320	Presence of Qualified Physician
205.330	Nursing Personnel
205.340	Basic Life Support
205.350	Laboratory Services

SUBPART D: EQUIPMENT, SUPPLIES, AND FACILITY MAINTENANCE

Section	
205.410	Equipment

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205.420 Sanitary Facility

SUBPART E: GENERAL PATIENT CARE

Section

205.510 Emergency Care
205.520 Preoperative Care
205.530 Operative Care
205.540 Postoperative Care

SUBPART F: RECORDS AND REPORTS

Section

205.610 Clinical Records
205.620 Statistical Data

SUBPART G: LIMITED PROCEDURE SPECIALTY CENTERS

Section

205.710 Pregnancy Termination Specialty Centers
205.720 Personnel (Repealed)
205.730 General Patient Care (Repealed)
205.740 Preoperative Requirements (Repealed)
205.750 Postoperative Requirements (Repealed)
205.760 Reports (Repealed)

SUBPART H: LICENSURE PROCEDURES

Section

205.810 Complaints
205.820 Notice of Violation
205.830 Plan of Correction
205.840 Adverse Licensure Action
205.850 Fines and Penalties
205.860 Hearings

SUBPART I: BUILDING DESIGN, CONSTRUCTION STANDARDS,
AND PHYSICAL REQUIREMENTS

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Section

205.1310	Plant and Service Requirements
205.1320	General Considerations
205.1330	New Construction, Additions and Major Alterations
205.1340	Minor Alterations and Remodeling Changes
205.1350	Administration Department and Public Areas
205.1360	Clinical Facilities
205.1370	Support Service Areas
205.1380	Diagnostic Facilities
205.1390	Other Building Services
205.1400	Details and Finishes
205.1410	Construction, Including Fire-Resistive Requirements, and Life Safety

SUBPART J: MECHANICAL

Section

205.1510	General
205.1520	Thermal and Acoustical Insulation
205.1530	Steam and Hot Water Systems
205.1540	Air Conditioning, Heating and Ventilating Systems

SUBPART K: PLUMBING AND OTHER PIPING SYSTEMS

Section

205.1610	General
205.1620	Plumbing Fixtures
205.1630	Water System
205.1640	Drainage Systems
205.1650	Identification

SUBPART L: ELECTRICAL

Section

205.1710	General
205.1720	Switchboards and Power Panels
205.1730	Panelboards
205.1740	Lighting
205.1750	Receptacles (Convenience Outlets)
205.1760	Grounding

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205.1770 Equipment Installation in Special Areas
205.1780 Emergency Electric Service
205.1790 Fire Alarm System

205.TABLE A General Pressure Relationships and Ventilation Rates of Ambulatory Surgery Area

AUTHORITY: Implementing and authorized by the Ambulatory Surgical Treatment Center Act [210 ILCS 5].

SOURCE: Amended July 18, 1974; emergency amendment at 3 Ill. Reg. 10, p. 43, effective February 23, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 30, p. 371, effective July 23, 1979; amended at 5 Ill. Reg. 12756, effective November 4, 1981; amended at 6 Ill. Reg. 6220, 6225, and 6226, effective May 17, 1982; amended at 6 Ill. Reg. 10974, effective August 30, 1982; amended at 6 Ill. Reg. 13337, effective October 20, 1982; amended at 7 Ill. Reg. 7640, effective June 14, 1983; codified at 8 Ill. Reg. 9367; amended at 9 Ill. Reg. 12014, effective July 23, 1985; amended at 10 Ill. Reg. 8806, effective June 1, 1986; amended at 10 Ill. Reg. 21906, effective January 15, 1987; amended at 11 Ill. Reg. 14786, effective October 1, 1987; amended at 12 Ill. Reg. 3743, effective February 15, 1988; amended at 12 Ill. Reg. 15573, effective October 1, 1988; amended at 13 Ill. Reg. 16025, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5596, effective March 26, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13802, effective August 15, 1990; amended at 15 Ill. Reg. 17770, effective December 1, 1991; amended at 17 Ill. Reg. 3507, effective March 3, 1993; amended at 18 Ill. Reg. 11939, effective July 22, 1994; amended at 18 Ill. Reg. 17250, effective December 1, 1994; amended at 22 Ill. Reg. 9335, effective May 20, 1998; amended at 22 Ill. Reg. 22019, effective December 4, 1998; amended at 24 Ill. Reg. 2691, effective February 18, 2000; amended at 25 Ill. Reg. 7471, effective May 31, 2001; amended at 26 Ill. Reg. 16556, effective October 25, 2002; amended at 27 Ill. Reg. 13457, effective July 25, 2003; amended at 31 Ill. Reg. 7278, effective May 7, 2007; amended at 32 Ill. Reg. 14326, effective August 12, 2008; amended at 33 Ill. Reg. 13395, effective September 10, 2009.

SUBPART E: GENERAL PATIENT CARE

Section 205.530 Operative Care

- a) Surgical procedures shall be performed only by a qualified physician, dentist or podiatrist within the limits of the defined specific surgical practice privileges ~~that~~which have been granted to that individual by the consulting committee or a committee designated by the consulting committee.

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- b) Administration of Anesthesia
- 1) For the purposes of this Section, anesthesia shall include general anesthesia, intravenous sedation, spinal or epidural anesthesia, and any other specific anesthesia technique that is designated by the consulting committee.
 - 2) Anesthesia may be administered only by the following persons, each having been granted specific anesthesia privileges by the consulting committee or a committee designated by the consulting committee:
 - A) A qualified anesthesiologist (as defined in Section 205.110 of this Part.)
 - B) A physician licensed to practice medicine in all its branches.
 - C) A dentist who has been approved by the Department of Financial and Professional Regulation~~Registration and Education~~ to administer anesthesia for dental surgery only pursuant to Section 8.1 of the Illinois Dental Practice Act [225 ILCS 25](Ill. Rev. Stat. 1986, Supp., ch. 111, par. 2308.1).
 - D) A certified registered nurse anesthetist (as defined in Section 205.110 of this Part) who is implementing the orders of a qualified anesthesiologist, or the physician, dentist, or podiatrist who is performing the procedure. The qualified anesthesiologist, physician, dentist, or podiatrist who has ordered the anesthesia must be on the premises of the facility during the administration of the anesthesia.
 - E) A registered nurse. If the ASTC policy allows the registered nurse to deliver moderate sedation ordered by a physician licensed to practice medicine in all its branches, podiatrist, or dentist, the following are required:
 - i) The registered nurse must be under the supervision of a physician licensed to practice medicine in all its branches, podiatrist, or dentist during the delivery or monitoring of

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- moderate sedation and have no other responsibilities during the procedure.
- ii) The registered nurse must maintain current Advanced Cardiac Life Support certification or Pediatric Advanced Life Support certification as appropriate to the age of the patient.
- iii) The supervising physician licensed to practice medicine in all its branches, podiatrist, or dentist must have training and experience in delivering and monitoring moderate sedation and possess clinical privileges at the ASTC to administer moderate sedation or analgesia.
- iv) The supervising physician licensed to practice medicine in all its branches, podiatrist, or dentist must remain physically present and available on the premises during the delivery of moderate sedation for diagnosis, consultation, and treatment of emergency medical conditions.
- v) The supervising physician licensed to practice medicine in all its branches, podiatrist, or dentist must maintain current Advanced Cardiac Life Support certification or Pediatric Advanced Life Support certification as appropriate to the age of the patient.
- vi) Local, minimal, and moderate sedation shall be defined by the Division of Professional Regulation of the Department of Financial and Professional Regulation. Registered nurses shall be limited to administering medications for moderate sedation at doses rapidly reversible pharmacologically as determined by rule by the Division of Professional Regulation of the Department of Financial and Professional Regulation. (Section 6.7(b) of the Act)
- vii) Nothing in the Act or this Section precludes a registered nurse from administering medication for the delivery of local or minimal sedation ordered by a physician licensed

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to practice medicine in all its branches, podiatrist, or dentist. (Section 6.7(a) of the Act)

F) A podiatrist licensed under the Podiatric Medical Practice Act of 1987. (Section 6.5 of the Act)

- 3) An anesthesia assistant who is licensed as a physician's assistant pursuant to the ~~Physician Assistant~~Physician's Assistants Practice Act of 1987 [225 ILCS 95](Ill. Rev. Stat. 1985, ch. 111, par. 4751 et seq.) may assist in the administration of anesthesia only under the direct supervision of a qualified anesthesiologist (as defined in Section 205.110 of this Part).
 - 4) The person administering anesthesia, or a person who has equivalent practice privileges, shall be present in the facility during the recovery of the patient to whom anesthesia was administered.
- c) Examination of Removed Tissues
- 1) All tissues removed during surgery shall be examined by a consulting pathologist, who shall provide a written report of the examination to the attending physician.
 - 2) A copy of the pathology report shall be filed in the patient's clinical record within seven days.
 - 3) The following tissues and materials are exempt from this requirement and do not need to be examined by a pathologist:
 - A) Foreskin, fingernails, toenails, and teeth ~~that, which~~ are removed during surgery.
 - B) Bone, cartilage, and soft tissue removed during the course of surgery and determined by the attending physician not to require pathological examination.~~Bone, cartilage, normal skin, and scar tissue, which are coincidentally removed during the course of cosmetic or corrective surgery.~~
 - C) Cataract lenses ~~that, which~~ are removed during the course of eye surgery.

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- D) Foreign substances (e.g., wood, glass, pieces of metal, including previously inserted surgical hardware) ~~that~~^{which} are removed during surgery.
- d) All x-rays, except those exempted by the consulting committee and as specified in the facility's policies and procedures manual, shall be read by a physician, podiatric physician, or dentist, each of whom shall have practice privileges at the facility, or by a consulting radiologist approved by the consulting committee. A copy of the x-ray report shall be filed in the patient's clinical record within seven days.
- e) *A registered nurse, qualified by training and experience in operating room nursing, shall be present in the operating room and function as the circulating nurse during all invasive or operative procedures requiring aseptic technique. As used in this subsection, "circulating nurse" means a registered nurse who is responsible for coordinating all nursing care, patient safety needs, and the needs of the surgical team in the operating room during an invasive or operative procedure requiring aseptic technique. (Section 6.5(2.5) of the Act)*

(Source: Amended at 33 Ill. Reg. 13395, effective September 10, 2009)

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- 1) Heading of the Part: Sex Offender Evaluation and Treatment
- 2) Code Citation: 20 Ill. Admin. Code 1905
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1905.10	Amendment
1905.30	Amendment
1905.310	Amendment
- 4) Statutory Authority: Sex Offender Management Board Act [20 ILCS 4026]
- 5) Effective Date of Rules: September 10, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including material incorporated by reference, is on file and is available for public inspection in the office of the Board's chair, which is located in the Attorney General's principal office in Chicago (12th Floor, James R. Thompson Center).
- 9) Notice of Proposal Published in Illinois Register: October 17, 2008; 32 Ill. Reg. 16704
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The only differences are non-substantive, primarily the inclusion of additional references to adults at the request of JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreements issued by JCAR.
- 13) Will this rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Part 1905 regulates the evaluation, treatment and supervision of those who have been convicted of having committed sexual offenses. It is

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amended so that its standards apply only with respect to adult offenders. A new Part 1910 that applies only to juvenile sexual offenders has been adopted and appears elsewhere in this issue of the *Illinois Register*.

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

Cara Smith, Chair
Sex Offender Management Board
James R. Thompson Center, 12th Floor
100 W. Randolph Street
Chicago, IL 60601

312/814-2970

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

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
CHAPTER VII: SEX OFFENDER MANAGEMENT BOARD

PART 1905

ADULT SEX OFFENDER EVALUATION AND TREATMENT

SUBPART A: GENERAL

Section

- 1905.10 Purpose and Scope
- 1905.20 Definitions

SUBPART B: PROVIDER LIST AND QUALIFICATIONS

- 1905.30 Provider List
- 1905.40 General Requirements for Approval of Evaluators and Providers
- 1905.50 Qualifications for Provision of Evaluations Before Sentencing
- 1905.60 Qualifications for Provision of Pre-release and SVP Evaluations
- 1905.70 Qualifications for Treatment Providers
- 1905.80 Supervision by Approved Providers

SUBPART C: APPROVAL AND REMOVAL PROCEDURES

- 1905.100 Application
- 1905.110 Application Review and Approval
- 1905.120 Appeal of Application Denial
- 1905.130 Removal from Provider List
- 1905.140 Complaints Against Providers

SUBPART D: STANDARDS OF PRACTICE

- 1905.200 Scope
- 1905.210 Ethical Standards
- 1905.220 Release of Information and Confidentiality
- 1905.230 General Standards for Conducting Evaluations
- 1905.240 Elements of Comprehensive Sex Offense Specific Evaluations
- 1905.250 Evaluator Recommendations
- 1905.300 General Standards for Treatment
- 1905.310 Treatment Provider Client Written Treatment Agreement

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1905.320 Completion of Treatment

AUTHORITY: Authorized by Section 15 of the Sex Offender Management Board Act [20 ILCS 4026/15] and implementing Sections 15 through 18 of the Act; Section 8 of the Sexually Dangerous Persons Act [725 ILCS 205/8]; Sections 10(c)(2), 25(e), 30(c), 40(b)(1), 55(b), 60(c) and 65(a)(2) and (b)(2) of the Sexually Violent Persons Commitment Act [725 ILCS 207/10(c)(2), 25(e), 30(c), 40(b)(1), 55(b), 60(c), and 65(a)(2) and (b)(2)]; and Sections 3-3-7(a)(7.5), 3-6-2(j) and (k), 3-9-7(b), 5-3-2(b-5), 5-6-3(a)(8.5) and 5-7-1(f-5) of the Unified Code of Corrections [730 ILCS 5/3-3-7(a)(7.5), 3-6-2(j) and (k), 3-9-7(b), 5-3-2(b-5), 5-6-3(a)(8.5) and 5-7-1(f-5)].

SOURCE: Adopted by emergency rulemaking at 28 Ill. Reg. 8300, effective May 27, 2004, for a maximum of 150 days; emergency expired October 23, 2004; adopted at 29 Ill. Reg. 1973, effective January 24, 2005; amended at 29 Ill. Reg. 12273, effective July 25, 2005; amended at 33 Ill. Reg. 13405, effective September 10, 2009.

SUBPART A: GENERAL

Section 1905.10 Purpose and Scope

Effective January 1, 2004, the Sex Offender Management Board Act [20 ILCS 4026] and various other statutes provide for the evaluation and/or treatment of convicted sex offenders in conformance with standards adopted by, and by persons approved by, the Sex Offender Management Board. This Part establishes requirements for evaluators and treatment providers to obtain Board approval to perform those functions with respect to adult sex offenders. It also establishes standards for conducting evaluations of, and providing treatment to, adult sex offenders in all circumstances in which where conformance with Board standards is required.

(Source: Amended at 33 Ill. Reg. 13405, effective September 10, 2009)

SUBPART B: PROVIDER LIST AND QUALIFICATIONS

Section 1905.30 Provider List

The Board will establish an approved provider list upon which will be placed the names of all individuals who are approved by the Board to provide evaluations and treatment of adult sex offenders, along with the category of the services the providers are approved to provide (e.g., pre-sentence or pre-release evaluations). Providers will be placed on the list if they complete the application process described in Section 1905.100, meet the general requirements of Section

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1905.40, and meet the specific qualifications and requirements that correspond to the designation sought.

- a) Individuals who meet the qualifications of Section 1905.50 will be approved for conducting pre-sentencing evaluations to meet the requirements for evaluations of:
 - 1) felony sex offenders who are to be considered for probation, pursuant to Section 16(b) of the Act ~~(adult or juvenile)~~;
 - 2) any adult who is being considered for probation before sentencing on a felony sex offense or any felony offense that is sexually motivated, pursuant to 730 ILCS 5/5-3-2(b-5) and 5-3-1, ~~and 3) a minor found guilty of a sex offense, pursuant to 705 ILCS 405/5-701.~~
- b) Individuals who meet the qualifications of Section 1905.60 will be approved for conducting evaluations to meet the requirements for evaluations of:
 - 1) every ~~adult~~ person convicted of a sex offense, prior to release into the community from the Department of Corrections, pursuant to 730 ILCS 5/5-4-1(e)(3.5);
 - 2) any ~~adult~~ person as required in Section 5 of the Sexually Violent Persons Commitment Act [725 ILCS 207/5].
- c) Individuals who meet the qualifications of Section 1905.70 will be approved to provide sex offender treatment to any ~~person, adult or juvenile,~~ who is required to undergo treatment from a provider approved by the Board.
- d) An individual who is approved to conduct pre-sentencing evaluations under subsection (a) is also approved to conduct the evaluations listed under subsection (b).

(Source: Amended at 33 Ill. Reg. 13405, effective September 10, 2009)

SUBPART D: STANDARDS OF PRACTICE

Section 1905.310 Treatment Provider Client Written Treatment Agreement

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- a) Prior to treatment and as a condition of treatment, a provider shall enter into a written contract with the sex offender prior to the commencement of treatment. The contract shall describe the responsibilities of both the provider and the sex offender. Breach of the contract by the offender may serve as the basis for revocation of probation or a recommendation to the Prisoner Review Board to revoke parole or other community supervision.
- b) The contract shall describe the role of the treatment provider in implementing the treatment plan, as well as the responsibility of the provider to:
 - 1) Define and provide timely statements of the costs of the assessment, evaluation, and treatment, including all medical and psychological tests, physiological tests, and consultations;
 - 2) Describe the releases of information that will be required for a provider to treat the sex offender for his/her sexual offending behavior, describe the various parties with whom treatment information will be shared during the treatment, describe the time limits on the releases, and describe the procedures necessary for the sex offender to revoke the releases;
 - 3) Describe the right of the sex offender to refuse treatment and/or to refuse to sign a release, and describe the risks and potential risks and outcomes of that decision;
 - 4) Describe the type, frequency, and requirements of the treatment and outline how the duration of treatment will be determined;
 - 5) Describe the limits of confidentiality imposed on the therapist by the mandatory reporting law.
- c) The contract shall describe the responsibilities of the sex offender (as applicable) to:
 - 1) Pay for the cost of evaluation and treatment for self and his or her family, if applicable;
 - 2) Pay for the cost of evaluation and treatment for the victims and their families, when ordered by the court, including all medical and psychological tests, physiological testing, and consultation;

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- 3) Inform the treatment provider, the sex offender's immediate family, and support system of the details of all past sexual offenses to ensure help and protection for past victims and/or as relevant to the development of the relapse prevention plan. Clinical judgment should be exercised in determining what information is provided to children;
 - 4) Actively involve members of the sex offender's family and support system, as indicated in the relapse prevention plan;
 - 5) Notify the treatment provider of any changes or events in the lives of the sex offender, the members of the sex offender's family, or support system;
 - 6) Comply with the limitations and restrictions placed on the behavior of the sex offender, as described in the terms and conditions of probation, parole, or conditional release for sexually violent persons or sexually dangerous persons and/or in the contract between the provider and the sex offender.
- d) The contract shall describe the responsibility of and restrictions on the sex offender to protect community safety by avoiding risky, aggressive, or re-offending behavior by avoiding high-risk situations, and by reporting any such behavior to the provider and supervising officer as soon as possible.
- e) The contract shall describe the responsibility of the provider to:
- 1) Identify, and provide timely statements of, the costs of assessment, evaluation, and treatment, including all medical and psychological tests, physiological tests, and consultations, to the sex offender as well as any court-appointed~~the parent or~~ guardian.
 - 2) Describe the information releases that will be required for a provider to treat the sex offender for his/her sexual offending behavior; describe the various parties with whom treatment information will be shared during the treatment; describe the time limits on the waivers of confidentiality; and describe the procedures necessary for the sex offender to revoke the waiver.
 - 3) Describe the right of the sex offender to refuse treatment and/or to refuse to consent to disclosure, and describe the consequences, risks and potential

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risks and outcomes of that decision, including the provider's right not to provide treatment if the necessary releases are not given.

- 4) Describe the type, frequency, and requirements of the treatment and outline how the duration of treatment will be determined.
 - 5) Describe the limits of confidentiality imposed on the therapist by the mandatory reporting law.
- f) The provider shall explain the terms of the contract to the sex offender in language that the sex offender understands.

(Source: Amended at 33 Ill. Reg. 13405, effective September 10, 2009)

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- 1) Heading of the Part: Juvenile Sex Offender Evaluation and Treatment
- 2) Code Citation: 20 Ill. Adm. Code 1910
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1910.10	New
1910.20	New
1910.30	New
1910.40	New
1910.50	New
1910.60	New
1910.70	New
1910.80	New
1910.90	New
1910.100	New
1910.110	New
1910.120	New
1910.130	New
1910.140	New
1910.150	New
1910.160	New
1910.170	New
1910.180	New
1910.190	New
1910.200	New
1910.210	New
1910.220	New
1910.230	New
1910.240	New
1910.250	New
1910.260	New
1910.270	New
- 4) Statutory Authority: Sex Offender Management Board Act [20 ILCS 4026]
- 5) Effective Date of Rules: September 10, 2009
- 6) Does this rulemaking contain an automatic repeal date? No

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- 7) Does this rule contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file and is available for public inspection in the office of the Board's chair, which is located in the Attorney General's principal office in Chicago (12th Floor, James R. Thompson Center).
- 9) Notice of Proposal Published in Illinois Register: October 17, 2008; 32 Ill. Reg. 16712
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: There are no substantive differences and only a few format or drafting changes.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking establishes a separate set of standards for the evaluation, treatment and supervision of juveniles who have committed sex offenses. Although based largely upon standards that have been in effect for both adults and juveniles, these standards include provisions for issues that are not relevant to the evaluation and treatment of adult sex offenders. In addition, these standards require that evaluators and treatment providers possess a professional license and have experience specifically with juvenile sex offenders in order to be approved as a provider for juveniles.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Cara Smith, Chair
Sex Offender Management Board
James R. Thompson Center, 12th Floor
100 W. Randolph Street
Chicago, IL 60601

312/814-2970

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

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NOTICE OF ADOPTED RULES

TITLE 20: CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT
CHAPTER VII: SEX OFFENDER MANAGEMENT BOARD

PART 1910
JUVENILE SEX OFFENDER EVALUATION AND TREATMENT

SUBPART A: GENERAL

- Section
1910.10 Purpose
1910.20 Definitions
1910.30 Victim Centered Focus

SUBPART B: PROVIDER QUALIFICATIONS AND APPROVAL

- Section
1910.40 Provider List
1910.50 Provider Qualifications
1910.60 Application
1910.70 Application Review and Approval
1910.80 Appeal of Application Denial
1910.90 Removal from Provider List
1910.100 Complaints Against Providers

SUBPART C: STANDARDS OF PRACTICE

- Section
1910.110 Ethical Standards
1910.120 Confidentiality
1910.130 Evaluation
1910.140 Phases of Juvenile Evaluation
1910.150 Elements of Juvenile Evaluation
1910.160 Evaluation Recommendations and Report
1910.170 Treatment
1910.180 Treatment Provider – Juvenile Contracts and Consent Agreements
1910.190 Treatment Plans
1910.200 Treatment Methods
1910.210 Progress Review and Discharge
1910.220 Successful Completion of Treatment

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SUBPART D: SUPERVISION, RISK MANAGEMENT
AND ACCOUNTABILITY

Section

1910.230	Multidisciplinary Team
1910.240	Placement
1910.250	Polygraph Examinations of Juveniles
1910.260	Accountability and Assignment/Acceptance of Responsibility
1910.270	Family Reunification

AUTHORITY: Illinois Sex Offender Management Board Act [20 ILCS 4026].

SOURCE: Adopted at 33 Ill. Reg. 13413, effective September 10, 2009.

SUBPART A: GENERAL

Section 1910.10 Purpose

- a) In 1997, the Illinois General Assembly approved legislation that established the Sex Offender Management Board. Since its inception, the Board has been charged with protecting victims and enhancing community safety. The purpose of this Part is to establish requirements for the evaluation, treatment, and monitoring of juvenile sex offenders to achieve these goals.
- b) The following principles were developed to guide individuals and groups toward practices and systems that achieve the Board's goal of "no more victims":
 - 1) Sexual abuse causes harm, and the safety of the community is paramount to any policy or practice concerning juveniles who commit sexual offenses.
 - 2) All juveniles adjudicated for a sex offense described in Section 10 of the Sex Offender Management Board Act [20 ILCS 4026/10] must be provided a comprehensive evaluation designed specifically for juveniles who commit sexual offenses.
 - 3) Comprehensive evaluation and treatment shall address the full range of the juvenile's sexually inappropriate behaviors, legal or illegal, and

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holistically describe the juvenile who commits sex offenses, including identifying the youth's strengths, weaknesses and needs.

- 4) A multidisciplinary team shall be established to ensure that the juvenile's need for treatment, supervision, and management and the victim's need for safety and well-being are met.
 - A) The team will make recommendations regarding the juvenile's placement in the community, supervision and treatment.
 - B) The team will engage the juvenile's family and/or caregivers in the process of decision making.
 - C) The team is responsible for ensuring that practices are guided and determined by the most current, empirically-based practices.
- 5) Decisions regarding any and all contact between the victim and the juvenile who committed the sexual offenses, including contact through family reunification, attendance at school, social activities and participation in treatment, will be based on community safety and the well-being of victims and the recommendations of the multidisciplinary team.
- 6) Progress in treatment must be demonstrated by a change in the juvenile's behaviors and attitudes that support sex offending, the elimination of sex offending and an increase in pro-social and interpersonal skills.

Section 1910.20 Definitions

Accountability: Accurate attributions of responsibility, without distortion, minimization or denial. Quality of being responsible for one's conduct; being responsible for causes, motives, actions and outcomes.

Act: Illinois Sex Offender Management Board Act [20 ILCS 4026]

Aftercare: Placement, services and monitoring that commence at the point when the multidisciplinary team approves completion of primary treatment and readiness for accountability through a less restrictive supervision plan. Aftercare requires continued input by members of the multidisciplinary team. The aftercare

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plan is developed by the multidisciplinary team prior to the juvenile's completion of treatment and addresses strengths, risks, deficits relative to treatment completion, follow-up, placement, and supervision.

Assessment: Standardized measurements, developed and normed for juvenile populations, and clinical interviews used to evaluate various domains of functioning and development, including cognitive, psychological, emotional, memory and learning, social stability, family dynamics, academics, vocational/career and accountability.

Board: Sex Offender Management Board.

Completion of Treatment: A series of accomplishments, demonstrated competence, and mastery of both constructs and improved results on instruments used in treatment, as determined by the treatment provider in consultation with the multidisciplinary team. Specifically, the completion of treatment is defined by the offender's accomplishment of the following:

demonstrated accountability for and disclosure of all offenses to ensure that there are no unreported victims;

elimination of offending behavior;

acceptance of the presence and management of deviant thinking and impulses;

development of pro-social attitudes and behaviors;

increase in situational skills, i.e., communication, problem solving, and decision making; and

establishment of safety plans for school and home.

Contact: Any verbal, physical or electronic communication, whether direct or indirect, between a juvenile who has committed a sexual offense and a victim or a potential victim.

Purposeful: A planned experience with an identifiable potential outcome.

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Incidental: Unplanned or accidental; by chance.

Dispositional Behavior: As a direct result of the successful completion of treatment, changes in the behavior, attitude and personality of the juvenile who committed the sex offense and in those elements of his/her behavior, attitude and personality that were present at the time of the offense and supported the offending behavior as a result of successful completion of treatment.

Evaluation: A sex-offender specific evaluation that systematically uses a variety of standardized measurements, assessments and information gathered collaterally and through face-to-face interviews. Sex-offender specific evaluations assess risk to the community; identify and document treatment and developmental needs, including safe and appropriate placement settings; determine amenability to treatment; and are the foundation of treatment, supervision, and placement recommendations.

Informed Assent: Assent means compliance; a willingness to do something in compliance with a request. The use of the word "assent" rather than "consent" recognizes that juveniles who have committed sexual offenses are not voluntary clients and that their choices are, therefore, more limited. Informed means a person's assent is based on a full disclosure of the facts needed to make the decision intelligently, e.g., knowledge of risks involved and the alternatives.

Informed Consent: Agreement including all of the following:

understanding what is proposed, based on age, maturity, developmental level, functioning, and experience, and mental status;

knowledge of societal standards for what is being proposed;

awareness of potential consequences and alternatives;

assumption that agreement or disagreement will be respected equally; and

voluntary decision to comply with recommendations.

Informed Supervision: Informed supervision is the ongoing, daily supervision and monitoring of a juvenile who has committed a sexual offense by an adult who:

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- is approved by the treatment provider;
- is aware of the juvenile's history of sexually offending behavior;
- does not deny or minimize the juvenile's responsibility for, or the seriousness of the sexual offense;
- can define all types of abusive behaviors and can recognize abusive behaviors in daily functioning;
- is aware of the laws relevant to the sexual behaviors of juveniles;
- is aware of the dynamic patterns associated with abusive behaviors and is able to recognize such patterns in daily functioning;
- understands the conditions of community supervision and treatment;
- can design, implement, and monitor safety plans for daily activities;
- is able to hold the juvenile accountable for his/her behavior;
- has the skills to intervene in and interrupt high risk patterns or behaviors;
- can share accurate observations of daily functioning;
- communicates regularly with members of the multidisciplinary team;
- is not under the influence of alcohol or drugs or under professional care for mental health or substance abuse problems;
- has not been convicted of or had any type of sexual abuse or offense allegations or charges substantiated by an official organization, agency or jurisdiction.

Juvenile: Any minor adjudicated for a sex offense under the jurisdiction of the juvenile court.

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Milieu Therapy: A residential or day treatment program where employees interact with juveniles in a therapeutic manner regarding day-to-day living.

Multidisciplinary Team or MDT: The multidisciplinary team has primary responsibility for management and supervision of the juvenile through shared information and for monitoring the juvenile's progress in treatment and overall functioning in the various situations and environments that the youth encounters. The consensus of the MDT guides the development of recommendations regarding treatment, placement, and supervision. Members of the MDT should include the treatment provider, the supervising agent or officer, members of the juvenile's family, the caregiver, victim representative or advocate, school personnel, caseworker, law enforcement, coaches, employers or others who have relevant information about the juvenile.

Needs: Interpersonal issues to be addressed therapeutically or by specific intervention through treatment and the supervision plan.

Overall Health: Consists of personal and ecological aspects of a juvenile's life including physical, emotional, intellectual, social, relational, spiritual, educational, and vocational.

Potential Victim: A person who cannot reliably repel the unwanted sexual advances of the juvenile.

Recidivism: Return to sex offending after some period of abstinence or restraint. Recidivism may be measured by re-offenses that are self-reported or reported by a reliable informant, or by adjudication for subsequent sexual offenses.

Relapse Prevention: An element of treatment designed to address behaviors, thoughts, feelings, and fantasies that were present in the juvenile's instant offense, abuse cycle, and, consequently, relapse cycle. Relapse prevention is directly related to community safety. Evaluation of the individual's risk to re-offend shall be the basis of the safety plan and determine the level of supervision required.

Safety Planning: The purposeful planning of individualized, preventive interventions that the juvenile and others can use to moderate risks in specific situations and in day-to-day environments. The treatment provider shall develop the safety plan in consultation with the MDT. (Sample safety plans are available from the Board.)

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Secondary or Indirect Victim: A family member or other person closely involved with the primary victim who is impacted emotionally and/or physically by the trauma suffered by the primary victim.

Sex Offense: An offense listed in Section 10(c) of the Sex Offender Management Board Act [20 ILCS 4026/10(c)].

Sex Offense Specific Treatment: A comprehensive set of planned therapeutic interventions and experiences to reduce the risk of further sexual offending and abusive behaviors by the juvenile. Treatment may include adjunct therapies to address the unique needs of the individual, but must include offense specific services by a treatment provider who meets the qualifications described in Section 1910.50. Treatment focuses on the situations, thoughts, feelings, and behavior that have preceded and followed past offending (abuse cycles) and promotes change in each area relevant to the risk of continued abusive, offending, and/or deviant sexual behaviors. Due to the heterogeneity of the juveniles who commit sex offenses, treatment is provided based on the individualized evaluation and assessment. Treatment is designed to stop sex offending and abusive behavior, while increasing the juvenile's ability to function as a healthy, pro-social member of the community. Progress in treatment is measured by change rather than the passage of time.

Sexual Abuse Cycle: A theoretical model of understanding the thoughts, feelings, behaviors, and events that fuel sex offending and abusive behavior.

Supervising Officer/Agent: A professional in the employ of State or county probation or parole, or the Departments of Corrections, Human Services, or Children and Family Services, who is responsible for community monitoring and case management.

Termination of Treatment: Removal from or stopping sex offense specific treatment due to changes in the juvenile's treatment needs, including but not limited to completion, lack of participation, increased risk, re-offense, or cessation of treatment that was mandated by the court for a specific period of time without successful completion of treatment.

Transition Point: Planned movement from one level of treatment and/or supervision to another.

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Section 1910.30 Victim Centered Focus

- a) The paramount goal of intervention with juveniles who commit sexual offenses shall be victim and community safety.
- b) Victims shall have the exclusive right to determine the extent to which they will provide input to the management and treatment of the juvenile. Parents/guardians of the victim shall act on behalf of the victim to exercise this right in the best interest of the victim. (See 725 ILCS 120/4(a)(7).)
- c) The only circumstance under which a victim and the perpetrator shall have contact or reside in the same home is when all other alternatives have been exhausted and:
 - 1) there is a well-designed safety plan in place, which has been developed by an approved provider in collaboration with the MDT and its implementation is monitored by informed supervisors; and
 - 2) the victim agrees, as expressed through an advocate for the victim.
- d) Evaluation, treatment and supervision are intended to decrease recidivism among juveniles who commit sex offenses, thereby reducing the number of victims of sexual assault.
- e) Treatment shall be clinically based with a clear plan to:
 - 1) build on the youth's personal competencies;
 - 2) improve the overall health of the juvenile and ensure that his/her environment promotes the development of internal and external resources to manage his/her sexual behavior; and
 - 3) reduce recidivism.

SUBPART B: PROVIDER QUALIFICATIONS AND APPROVAL

Section 1910.40 Provider List

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The Board will establish an approved provider list with the names of all individuals who are approved by the Board to provide evaluation and treatment of juvenile sex offenders, along with the category of services the providers are approved to provide (e.g., treatment or evaluation). Providers will be placed on the list if they complete the application process described in Section 1910.60, meet the requirements in Section 1910.50, and meet the qualifications and requirements that correspond to the designation sought.

- a) Individuals who meet the qualifications of Section 1910.50(b) will be approved for conducting evaluations of:
 - 1) Juveniles who have committed a sex offense that is a felony who are being considered for probation, pursuant to Section 16(b) of the Act; and
 - 2) Juveniles found guilty of a sex offense pursuant to 705 ILCS 405/5-701.
- b) Individuals who meet the qualifications of Section 1910.50(c) will be approved to provide sex offender treatment to any juvenile who is required to undergo treatment from a provider approved by the Board.

Section 1910.50 Provider Qualifications

- a) General Requirements
 - 1) An individual shall not provide evaluation or treatment services to juveniles who have committed sex offenses if he/she has:
 - A) been convicted of a felony;
 - B) been convicted of any misdemeanor involving a sex offense;
 - C) had a professional license placed on an inactive status, suspended, revoked or placed on probationary status for disciplinary reasons, unless the provider has been restored to full practice rights;
 - D) been found by any licensing body to have engaged in unethical or unprofessional conduct, unless the provider has been restored to full practice rights; or

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- E) been engaged in deceit or fraud in connection with the delivery of services or supervision or the documentation of their credentials.
 - 2) A provider has a continuing duty to notify the Board if he/she becomes disqualified under this subsection (a).
- b) Qualifications for Provision of Evaluations
Individuals who evaluate juveniles who have committed sex offenses must:
- 1) meet the definition of Licensed Practitioner of the Healing Arts (LPHA) as defined in 59 Ill. Adm. Code 132.25, which includes physicians licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60]; advanced practice nurses with a psychiatric specialty licensed under the Nursing and Advanced Practice Nursing Act [225 ILCS 65]; clinical psychologists licensed under the Clinical Psychologist Licensing Act [225 ILCS 15]; licensed clinical social workers licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]; licensed clinical professional counselors licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]; or licensed marriage and family therapists licensed under the Marriage and Family Therapist Licensing Act [225 ILCS 55];
 - 2) have 400 hours of supervised experience in the treatment/evaluation of sex offenders in the past 4 years, at least 200 of which are in face-to-face evaluation or treatment with juveniles who have committed sex offenses;
 - 3) have completed at least 10 sex offender evaluations of juveniles who have committed sex offenses within the past 4 years; and
 - 4) have at least 40 hours of documented training in the specialty of sex offender evaluation, treatment and management, 20 of which address juveniles who commit sex offenses, or work under the supervision of a provider who meets the requirements of this subsection (b).
- c) Qualifications for Treatment Providers
Individuals who provide treatment must:

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- 1) meet the definition of Licensed Practitioner of the Healing Arts (LPHA) as defined in 59 Ill. Adm. Code 132.25, which includes physicians licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60]; advanced practice nurses with a psychiatric specialty licensed under the Nursing and Advanced Practice Nursing Act [225 ILCS 65]; clinical psychologists licensed under the Clinical Psychologist Licensing Act [225 ILCS 15]; licensed clinical social workers licensed under the Clinical Social Work and Social Work Practice Act [225 ILCS 20]; licensed clinical professional counselors licensed under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]; or licensed marriage and family therapists licensed under the Marriage and Family Therapist Licensing Act [225 ILCS 55].
 - 2) have 400 hours of supervised experience in the treatment of sex offenders in the past 4 years, at least 200 of which are in face-to-face treatment of juveniles who have committed sex offenses; and
 - 3) have 40 hours documented training in the specialty of the evaluation, treatment and management of juveniles who have committed sex offenses, or work under the supervision of a treatment provider who meets the requirements of this subsection (c).
- d) Career entrants (graduate or undergraduate students; trainees, interns and/or new employees) must have 20 hours of pre-service training and work under the supervision of a staff member who meets the requirements of subsections (a) and (b) or (c) of this Section.
- e) Areas of training that will meet the requirements established in this Section include but are not limited to:
- 1) dynamics of juvenile sex offending
 - 2) sexual assault cycle
 - 3) prevalence of sexual assault
 - 4) re-offense and risk of re-offense

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- 5) offender characteristics
- 6) differences and similarities between juveniles and adults who commit sexual offenses
- 7) evaluation and assessment of juveniles
- 8) current professional research and practices
- 9) informed supervision: community management and supervision
- 10) interviewing skills
- 11) victim issues
- 12) sex offense specific treatment
- 13) qualifications and expectations of evaluators and treatment providers
- 14) relapse prevention
- 15) objective measurement tools
- 16) determining progress/outcome planning
- 17) denial
- 18) special needs populations
- 19) cultural, ethnic and gender awareness
- 20) family dynamics and interventions
- 21) developmental theory
- 22) trauma theory: secondary and vicarious
- 23) impact: professional's experience of secondary trauma

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- f) Client Records
- 1) Approved providers shall maintain client files in accordance with the professional standards of their individual disciplines and with Illinois law on health care records.
 - 2) The contents of the case record shall reflect compliance with the standards of the Board.

Section 1910.60 Application

- a) A provider seeking placement on the approved provider list must complete and submit to the Board an application form provided by the Board that contains the elements prescribed in this Section and identifies the services for which the provider seeks approval. The elements of the application include:
- 1) provider identification, including name, business address, telephone number, fax number and e-mail address;
 - 2) a listing of the counties in which the applicant provides services;
 - 3) a listing of any and all currently held licenses or certifications;
 - 4) identification of any languages other than English in which the applicant is fluent and can provide services;
 - 5) the applicant's separate attestations that none of the bars to eligibility listed in Section 1910.50(a)(1)-(5) apply;
 - 6) separate attestations that the applicant meets each of the qualifications applicable to the types of service he or she will provide;
 - 7) an agreement that the applicant will conduct sex offender evaluations and/or provide treatment in accordance with the requirements of this Part.
 - 8) attestation that the applicant's submission of false information will result in removal from the approved provider list; and

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- 9) an agreement to notify the Board immediately if the provider becomes ineligible under Section 1910.50(a)(1)-(5).
- b) Applicants shall provide certified copies of degrees, licenses, certifications or any other documentation upon request of the application review committee.
- c) Failure to provide any information requested by the committee, including certified copies of degrees, licenses or certifications, may result in denial of approval or removal from the approved provider list.

Section 1910.70 Application Review and Approval

Submitted applications will be referred to an application review committee, appointed by the Board, for review and approval.

- a) The committee will consist of no fewer than 3 members, including one sex offense specific treatment provider, one sex offense specific evaluator, and one victim advocate.
- b) No committee member holding a personal or financial interest in an application before the committee shall participate in the deliberation or the vote on approval of the application.
- c) The committee shall review the application and, within 45 days after receipt of the application, shall either:
 - 1) if it appears to the committee that all requirements for the type of approval applied for are met, direct that the applicant's name be added to the approved provider list and notify the applicant; or
 - 2) if deficiencies are found in the application, notify the applicant of the deficiencies in writing. An application may be resubmitted after the deficiencies have been corrected.

Section 1910.80 Appeal of Application Denial

An applicant whose application for placement on the approved provider list is denied may appeal the decision of the application review committee by requesting review by the Board.

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- a) The request must be made in writing and received by the Board within 30 days after the denial was mailed to the business address supplied by the applicant.
- b) The applicant must submit with the appeal all of the documentation necessary and available to support placement on the list.
- c) Copies of the appeal, including supporting documentation, will be provided to each Board member, and the appeal shall be considered on the next regularly scheduled meeting of the Board held more than two weeks after receipt of the appeal.
- d) The vote of the Board shall be final, and the Board will notify the applicant of the result within two weeks after the Board's action.
- e) Individuals whose applications have been denied may re-apply when the circumstances leading to the original denial of placement on the approved provider list have substantively changed.

Section 1910.90 Removal from Provider List

The Board may rescind its approval of a person on the approved provider listing for any of the following reasons:

- a) The provider was not, in fact, qualified for placement on the list at the time of application, but was placed on the list on the basis of false or erroneous information provided with the application.
- b) Circumstances have changed so that the provider is no longer eligible for placement on the list under Section 1910.50(a).
- c) The provider has substantially failed to follow the agreement to conduct evaluations and provide treatment in accordance with the requirements of this Part. For purposes of this Section, a substantial failure is one that is detrimental to the community and/or the juvenile who has committed a sex offense.
- d) If a provider is removed from the list, the Board will inform any regulatory body with jurisdiction over the provider's professional license, if any.

Section 1910.100 Complaints Against Providers

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Should any person have reason to believe that the Board's approval of a provider should be rescinded, the person may submit the concern to the Board in writing, together with any available documentation. Complaints will be reviewed in accordance with the procedures set forth in this Section.

- a) The Board will refer the complaint to a committee it empowers for that purpose, and the committee will make a determination of whether the complaint alleges cause to rescind approval under Section 1910.90. The Board will notify the provider in question of receipt of a complaint and its nature, and if the complaint does allege cause to rescind, will request a written response from the provider within 30 days after receipt of the notice.
- b) The committee shall review all information presented and determine whether the provider shall remain approved or whether approval shall be rescinded. The committee shall provide written notification of the decision, including the rationale, to the provider and the complainant within 30 days after the committee's receipt of the provider's response or, if there is no response, within 30 days after the committee's notification to the provider.
- c) If the committee rescinds approval, it shall instruct the provider as to circumstances under which the provider may be reinstated.
- d) For 35 days after the committee notifies the provider, the provider may appeal to the Board the decision of the committee to rescind approval. On appeal, the pertinent documentation shall be provided to the full Board for review at the next regularly scheduled meeting of the Board held more than 30 days after the receipt of the appeal. The provider shall have the opportunity to appear before the Board with respect to the appeal or, if unable to attend the meeting at which the matter is to be considered, to submit a statement to the Board. The provider shall be notified in writing of the decision of the Board within 30 days after Board consideration is complete.
- e) The decision of the Board shall be final.

SUBPART C: STANDARDS OF PRACTICE

Section 1910.110 Ethical Standards

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All providers of evaluation or treatment of juveniles who commit sex offenses subject to this Part are to adhere to the Ethical Principles in the Professional Code of Ethics (2001 Edition) published by the Association for the Treatment of Sexual Abusers (ATSA) (4900 S.W. Griffith Drive, Suite 274, Beaverton, Oregon 97005; Web: www.atsa.com). A copy of the Code is available at the Office of the Chair of the Board in the Office of the Illinois Attorney General, 100 W. Randolph St., 12th Floor, Chicago, Illinois 60601 or on the Board's web site at <http://www.illinoisattorneygeneral.gov/communities/somb>. This incorporation by reference does not include any later amendments or additions.

Section 1910.120 Confidentiality

- a) Service providers shall notify all clients of the limits of confidentiality imposed by Illinois mandatory reporting requirements. (See the Abused and Neglected Child Reporting Act [325 ILCS 5].)
- b) Juveniles who have committed sexual offenses and their parents or legal guardians shall be advised by the service provider to sign a consent for purposes of evaluation, treatment, supervision and case management, to protect victims or potential victims, and to support ongoing communication between members of the MDT.
- c) In the absence of consent, the juvenile and parent/guardian must be fully informed by the service provider of alternative dispositions that may occur.

Section 1910.130 Evaluation

- a) Juveniles who have been adjudicated for a sexual offense or for whom a continuance under supervision has been entered as a result of a sexual offense shall have a comprehensive evaluation.
- b) The evaluation of juveniles who have committed sexual offenses has the following purposes:
 - 1) To assess overall risk to the community;
 - 2) To provide protection for victims and potential victims;

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- 3) To provide a written clinical summary of the juvenile's strengths, risks, deficits, including any and all co-morbid conditions or developmental disorders;
 - 4) To identify and document treatment and developmental needs;
 - 5) To determine amenability for treatment;
 - 6) To identify individual differences, potential barriers to treatment, and static and dynamic risk factors;
 - 7) To make recommendations for the management and supervision of the juvenile; and
 - 8) To provide information that can help identify the type and intensity of community based treatment, or the need for a more restrictive setting.
- c) The evaluator shall describe to the juvenile and the parents or guardians evaluation methods, how the information will be used, with whom it will be shared and the nature of the evaluator's relationship with the juvenile and with the court.
 - d) The evaluator shall respect the juvenile's right to be fully informed about the evaluation procedures.
 - e) The evaluator shall review the results of the evaluation with the juvenile and the parent or guardian.
 - f) The evaluator shall disclose his/her responsibility as a mandated reporter to report suspected or known child abuse to the Department of Children and Family Services and/or to make a referral to law enforcement if additional crimes have been committed by the juvenile being evaluated.
 - g) Evaluators shall select evaluation procedures relevant to the individual circumstances of the case and commensurate with their level of training and expertise.
 - h) Evaluation methods shall include the use of clinical interviews and procedures, screening level tests, self-report, observational data, advanced psychometric

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measurements, special testing measures, examination of juvenile justice information, psychological reports, mental health evaluations, school records, details of the offense, including victim statements, and collateral information, including the juvenile's history of sexual offending and/or abusive behavior. A combination of these shall be used to evaluate juveniles who commit sex offenses.

- 1) When clinically-indicated, evaluators may use physiological instruments such as the polygraph, plethysmograph or Abel Assessment so long as the instrument is suited for use with juveniles whose functioning is consistent with that of the juvenile being evaluated.
- 2) The provider must consult the MDT prior to the use of physiological instruments for juveniles who have committed sex offenses and are being evaluated.

Section 1910.140 Phases of Juvenile Evaluation

Evaluation shall occur in 5 phases:

- a) Pre-trial investigation. The initial phase of information gathering shall involve law enforcement officers, child protective services, and other professionals deemed necessary for investigative purposes and management of community safety. Information and/or evaluations compiled before an admission of guilt are considered the least reliable and incomplete.
- b) Presentence and post-adjudication evaluation. The evaluation focuses on dangerousness, risk, placement and amenability to treatment and must be completed prior to sentencing to identify the juvenile's level of dangerousness and risk, residential needs, level of care, and treatment referrals.
- c) Ongoing needs assessment. Treatment planning and the juvenile's progress in treatment and compliance with supervision are reviewed on an ongoing basis. Level of risk shall be a critical consideration at transition points such as discharge from a residential treatment center to home or transfer from a campus school to a community school and includes considerations of level of functioning, monitoring, and follow-up.
- d) Release or termination evaluation. Prior to discharge from treatment or a residential treatment center or when the level of care changes, e.g., upon release

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from DOC, the evaluation is updated with a focus on community safety, reduced risk, and successful application of treatment tools. The final evaluation report shall make recommendations for follow-up and aftercare services.

- e) Follow-up/monitoring. Probation/parole or other supervising agents or the caseworker must continue monitoring the juvenile's level of risk and treatment needs for as long as the court retains jurisdiction.

Section 1910.150 Elements of Juvenile Evaluation

- a) Evaluation of juveniles who have committed sexual offenses shall be comprehensive and ongoing. The evaluator shall be sensitive to any cultural, language, ethnic, developmental, sexual orientation, gender, gender identification, medical, and/or educational issues that may arise during the evaluation.
- b) The comprehensive evaluation shall assess the juvenile in the following areas:
 - 1) cognitive functioning, including educational history;
 - 2) personality, mental health, mental disorders;
 - 3) social/developmental history;
 - 4) current individual functioning;
 - 5) current family functioning;
 - 6) sexual background and history, to include function and dysfunction;
 - 7) delinquency and conduct/behavioral issues, including substance or alcohol abuse;
 - 8) assessment of risk to re-offend;
 - 9) community risks and protective factors;
 - 10) victim impact;
 - 11) external relapse prevention strategies, including informed supervision; and

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- 12) amenability to treatment.

Section 1910.160 Evaluation Recommendations and Report

- a) Recommendations regarding intervention shall be based on a juvenile's level of risk and needs as determined by the sex offender-specific evaluation.
- b) Evaluation reports shall be provided in writing to members of the MDT, provided that consent has been given.
- c) Evaluation reports shall:
 - 1) describe the juvenile's strengths, deficits, risks for re-offense and all co-morbid conditions and/or developmental disorders;
 - 2) recommend the management and supervision strategies for the juvenile;
 - 3) recommend the type and intensity of treatment; and
 - 4) recommend placement options that protect victims and potential victims ranging from placement in a family home through secure care in a locked facility.

Section 1910.170 Treatment

- a) The primary treatment provider, in consultation with the MDT, shall refer juveniles living in the community, residential treatment programs, or correctional facilities for individual, group, or family therapy or other adjunct services.
- b) Sex offense specific treatment shall be designed to address strengths, risks and deficits and all areas of need identified by the evaluation (described in Section 1910.60) and shall:
 - 1) provide for the protection of past and potential victims and protect victims from unsafe or unwanted contact with the juvenile;

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- 2) include treatment goals and interventions that are individualized to improve individual and family functioning and enhance the abilities of support systems to respond to the juvenile's needs and concerns;
- 3) favor continuity in caregiver relationships;
- 4) implement interventions that address the juvenile's need for pro-social peer relationships, activities, and success in educational/vocational settings;
- 5) define participation and informed supervision expectations for the juvenile, the family/caregivers, educators, and members of the juvenile's support systems;
- 6) develop detailed, long-term relapse prevention, safety, and aftercare plans to address risks and deficits that remain unchanged; and
- 7) describe relevant and measurable outcomes that will be the basis of determining successful completion of treatment.

Section 1910.180 Treatment Provider – Juvenile Contracts and Consent Agreements

- a) Providers shall develop and utilize a written treatment contract and consent agreement with each juvenile who has committed a sexual offense prior to the commencement of treatment.
- b) Treatment contracts and consent agreements shall address victim and public safety and shall be consistent with the conditions of the supervising agency. The treatment contract and consent agreement shall define the specific responsibilities and rights of the provider, and shall be signed by the provider, parent/guardian, and the juvenile. (Sample treatment plans are available from the Board.)
- c) At a minimum, the treatment contract and consent agreement shall explain the responsibility of a provider to:
 - 1) define and provide timely statements of the applicable costs of evaluation, assessment, and treatment, including all medical and psychological testing, physiological tests, and consultations;

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- 2) describe the waivers of confidentiality, describe the various parties, including the MDT, with whom treatment information will be shared during the course of treatment, and inform the juvenile and parent/guardian that information may be shared with additional parties on a need to know basis;
 - 3) describe the right of the juvenile or the parent/legal guardian to refuse treatment and/or to refuse to waive confidentiality, and describe the risks and the potential outcomes of that decision;
 - 4) describe the procedure necessary for the juvenile or the parent/legal guardian to revoke the waiver and describe the relevant time limits;
 - 5) describe the type, frequency, and requirements of treatment and outline how the duration of treatment will be determined; and
 - 6) describe the limits of confidentiality imposed on providers by Illinois statutes on mandatory reporting [325 ILCS 5/4].
- d) At a minimum, the treatment contract and consent agreement shall explain the responsibilities of the juvenile and his/her parent/guardian and shall include but are not limited to:
- 1) compliance with the limitations and restrictions placed on the behavior of the juvenile as described in the terms and conditions of diversion, probation, parole, Department of Human Services, community corrections, or the Department of Corrections, and/or in the terms of the agreement between the provider and the juvenile;
 - 2) compliance with conditions that provide for the protection of past and potential victims, and that protect victims from unsafe or unwanted contact with the juvenile;
 - 3) participation and progress in treatment;
 - 4) payment for the costs of evaluation and treatment of the juvenile and family, if family treatment is identified as a treatment need in the evaluation;

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- 5) notification of third parties (i.e., employers, partners, etc.); and
- 6) notification of the treatment provider of any relevant changes or events in the life of the juvenile or the juvenile's family/support system.

Section 1910.190 Treatment Plans

- a) Providers, in concert with the MDT, shall develop written treatment plans with measurable goals based on the individualized evaluation and assessment of the juvenile.
- b) Sex offense specific treatment methods and intervention strategies shall be used and shall include a combination of individual, group and family therapy unless contraindicated.
- c) The treatment plan shall be reviewed by the treatment provider and the MDT at a minimum of every three months or at each transition point, and revisions shall be made as indicated by the youth's progress in treatment.

Section 1910.200 Treatment Methods

- a) Sex offense specific treatment shall focus on eliminating abusive behavior by decreasing deviant thinking, impulses, and dysfunction; restructuring distorted thinking patterns that are supportive of continued offending; and improving overall health with the goal of decreased risk.
- b) Sex offense specific treatment and intervention strategies shall be used and include a combination of individual, group, and family therapy unless contraindicated.
- c) When clinically indicated, the provider may use physiological instruments such as the polygraph, plethysmograph, or Abel Assessment of Sexual Interests so long as the instrument is suited for use with juveniles whose functioning is consistent with that of the juvenile receiving treatment.
- d) Empirically-supported treatment modalities currently indicated by research to be best practice based on treatment outcomes are preferred. The following are the preferred practices:

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- 1) Individual therapy shall be used to address sex offense specific issues and attendant mental health issues, if present, and/or to support the juvenile in addressing issues in group, family, or milieu therapy. Provider to client ratio shall be 1:1.
- 2) Group therapy, proven to be one of the most effective treatment modalities for juveniles, is recommended and may be used to provide psycho-education, promote development of pro-social skills, and provide positive peer support. It may also be used for group process. Provider to client ratios shall be no less than 1:8 or 2:12.
- 3) Family therapy addresses family systems issues and dynamics. This model shall address, at a minimum, informed supervision, therapeutic care, safety plans, relapse prevention, reunification, and aftercare plans. Provider to client ratios shall be no less than 1:8 or 2:12. Because victims of juveniles who have committed sex offenses are often family members (e.g., younger siblings or foster siblings), the following conditions must be met prior to the initiation of family therapy:
 - A) The parent or guardian must give consent;
 - B) The victim must be receiving victim advocacy services, including therapy, and agree to participate in family therapy;
 - C) A child advocate for the victim must approve the victim's participation in family therapy in writing; and
 - D) The approved service provider, along with the MDT, has considered the risk of re-traumatization of the victim by having contact with the juvenile who committed the sex offense, and concluded that family therapy would be beneficial. Offender accountability and the assignment of responsibility are major determinants of whether family contact occurs.
- 4) Multi-family groups provide education, group process, and/or support for the parent and/or siblings of the juvenile. Inclusion of the juvenile is optional.

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- A) The treatment provider is responsible for establishing and maintaining confidentiality.
 - B) Staff to client ratios shall be designed to provide safety for all participants.
 - C) Provider to client ratios shall be no less than 1:8; 2:15; 3:18; or 4:24.
- 5) Psycho-education is required to teach definitions, concepts, and pro-social skills and must be offered in a group setting. Provider to client ratios shall be no less than 1:12 or 2:20.
 - 6) Milieu therapy is used in residential treatment settings to supervise, observe, and intervene in the daily functioning of the juvenile. Provider to client ratios shall not be less than the following: 1:8 for juveniles 10-12 years of age; 1:10 for juveniles 13 years old and older.
 - 7) Dyadic therapy is used when the treatment provider deems it beneficial and clinically appropriate.
 - 8) Self-help or time limited treatments are used as adjuncts to enhance goal oriented treatment. Adjunct treatments must be complementary to sex offense specific treatment.

Section 1910.210 Progress Review and Discharge

- a) At least quarterly, and in advance of planned discharge, the treatment provider shall convene the MDT to appraise the youth's progress in treatment and update the treatment plan based on progress reports from the treatment provider.
- b) Discharge/termination recommendations shall be based on the youth's progress in treatment, improved functioning in home, school, and community, compliance with the safety plan, and acceptance of responsibility for the sex offense.

Section 1910.220 Successful Completion of Treatment

- a) Successful completion of sex offense specific treatment requires the following:

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- 1) accomplishment of all of the goals identified in the treatment plan;
 - 2) demonstrated application in the juvenile's daily functioning of the principles and tools learned in sex offense specific treatment;
 - 3) consistent compliance with treatment conditions;
 - 4) consistent compliance with supervision terms and conditions; and
 - 5) a completed written relapse prevention and aftercare plan that addresses remaining risks and deficits, and that has been reviewed and agreed upon by those responsible for the juvenile's treatment, care, support, supervision, and monitoring, including the MDT, the family and the community support system.
- b) Any exception made to any of the requirements for successful completion of treatment shall be made by the treatment provider in consultation with the MDT. The treatment provider shall document the reasons for the determination that treatment has been completed without meeting all treatment requirements and note the potential risk to the community.
- c) Based on a determination by the treatment provider and MDT, juveniles who pose an ongoing risk of harm to the victim or community, even though determined to have successfully completed treatment, will require ongoing supervision and/or treatment to manage their risk in aftercare as they re-integrate into the community.
- d) The supervising officer/agency may seek a means of continued court ordered supervision, i.e., extension or revocation and re-granting of probation/supervision for a juvenile who has been otherwise compliant but has not achieved his/her treatment goals by an approaching supervision expiration date.
- e) If the juvenile is no longer under the authority of the juvenile court, poses a known risk to others in the community, and is beyond the control of his or her parent, guardian or custodian, the treatment provider shall convene the MDT to consider petitioning the juvenile court to adjudicate the minor a "minor requiring of authoritative intervention".

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- f) If supervision is not continued and the juvenile has not completed treatment, the discharge summary shall note the continued risks and delineate the requirements for the juvenile's registration as a sex offender.
- g) The MDT shall not recommend termination of sex offense specific treatment without completion. When the approved provider and the MDT have determined that a juvenile is not making progress and will not benefit from continued sex offense specific treatment, the juvenile shall be referred to the referring or placing agent for further action.

SUBPART D: SUPERVISION, RISK MANAGEMENT
AND ACCOUNTABILITY**Section 1910.230 Multidisciplinary Team**

The purpose of the MDT is to supervise and monitor the juvenile through shared information. The MDT may include clinical providers, supervising agents, parents or caregivers, and others who have relevant information about the juvenile. The information that is gathered is the basis of the ongoing assessment of risk, identifies any changes in the youth's clinical needs or need for supervision, and documents the juvenile's progress in treatment. The MDT meets at least quarterly.

- a) The MDT may make recommendations regarding:
 - 1) the juvenile's evaluation, treatment, treatment plan, safety plan, placement, and supervision;
 - 2) any change in the level of supervision and/or in the juvenile's placement; and
 - 3) any proposed contact between the victim and the juvenile who committed the sexual offense.
- b) After adjudication or a continuance under supervision has been entered, and a referral to probation, parole, or out-of-home placement has been made, the MDT may be convened by the treatment provider, the supervising agent or the caseworker if one is assigned.
- c) The convener of the MDT shall invite the following individuals to team meetings:

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- 1) a designee from the supervising office/agent;
 - 2) Department of Children and Family Services caseworker, if the Department is responsible for the juvenile;
 - 3) the juvenile's caregiver (parent, guardian, residential placement representative);
 - 4) the sex offense specific treatment provider (outpatient or residential) and all other clinical services providers;
 - 5) the polygraph examiner, when utilized;
 - 6) victim representative or advocate; and
 - 7) others who can provide relevant information to the MDT.
- d) At the first meeting, members of the MDT shall determine:
- 1) whether others are necessary to the composition of the MDT;
 - 2) the frequency of MDT meetings:
 - A) if the schedule is different from the required quarterly meeting;
 - B) if meetings are scheduled because of a change in the youth's placement or level of supervision; or
 - C) if there is proposed contact with the victim;
 - 3) the content and goals of team meetings, including the information that will be exchanged; and
 - 4) who is responsible for maintaining records of the MDT's recommendations, decisions and actions.

Section 1910.240 Placement

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- a) The three goals of placement shall be the protection of victims and potential victims, community safety, and, as a part of treatment, building the competencies of the juvenile.
- b) Unless there is a court order regarding a juvenile's placement, placement recommendations shall be developed collaboratively by the treatment provider and other members of the MDT. The MDT shall consider whether the placement is the least restrictive setting that can provide adequate supervision, structure, and treatment to prevent future offending behavior.
- c) Parents or designated caregivers in any placement setting shall be informed about the juvenile's offense history, identified risks, treatment plan, and supervision needs. Placement should occur only if the parent/caregiver understands and agrees to comply with all supervision requirements.
- d) Placement decisions and placement review shall be based on an appraisal of the juvenile's level of risk and clinical needs identified during the evaluation.

Section 1910.250 Polygraph Examinations of Juveniles

- a) The approved provider, in consultation with the MDT, shall refer juveniles for polygraph examinations when therapeutically indicated.
- b) Prior to administering a polygraph, the polygraph examiner shall make the final determination of the juvenile's suitability for polygraph examination based on factors such as developmental and cognitive functioning, mental health, etc.
- c) The type and frequency of polygraph testing and the use of polygraph results in treatment and supervision shall be documented in the case record.
- d) Before commencing any polygraph examination with any juvenile who has committed a sexual offense, the polygraph examiner shall document that the juvenile, at each examination, has been provided a thorough explanation of the polygraph examination process and the potential relevance of the procedure to the juvenile's treatment and/or supervision. Review and documentation of informed assent will include information regarding the juvenile's right to terminate the examination at any time and to speak with his/her attorney if desired.

Section 1910.260 Accountability and Assignment/Acceptance of Responsibility

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- a) As an integral component of treatment, offenders are expected to establish their accountability, describe the nature of their behavior, and list what steps they have taken to accept responsibility for the offense in accountability sessions with others (i.e., victim's parents, family members, siblings, neighbors, fellow students).
- b) Assignment of the offender's accountability and responsibility for the offense is a process designed primarily to benefit the victim.
 - 1) Assignment of responsibility is a lengthy process that occurs over time, usually beginning with the juvenile's reduction of denial and ability to accurately self-disclose about the offending behavior.
 - 2) Information gained as a result of a specific issue polygraph is critical to the assignment of responsibility to the offender.
- c) The offender accountability process and the assignment of responsibility must be approved by the treatment provider in consultation with the MDT and specifically include the victim's therapist or an advocate. The following criteria shall be used to determine whether the accountability/assignment of responsibility process shall occur.
 - 1) The victim requests offender accountability and assignment of responsibility and the victim's therapist or advocate concurs that the victim would benefit.
 - 2) Parents/guardians of the victim (if a minor) and the juvenile offender are informed of and give approval for the accountability process and assignment of responsibility.
 - 3) The juvenile evidences empathic regard through consistent behavioral accountability, including an improved understanding of the victim's perspective, the victim's feelings, and the impact of the juvenile's offending behavior.
 - 4) The juvenile is able to acknowledge the victim's statements without minimizing, blaming, or justifying.

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- 5) All of the juvenile's statements should transfer any responsibility for the offense from the victim and to him/herself. The juvenile is prepared to answer questions, make a clear statement of accountability, and describe the rationale for victim selection to remove guilt and perceived responsibility from the victim.
 - 6) The juvenile is able to demonstrate the ability to manage abusive or deviant sexual interest/arousal specific to the victim.
 - 7) Any sexual impulses are at a manageable level and the juvenile can utilize cognitive and behavioral interventions to interrupt deviant fantasies as determined by continued assessment.
- d) The MDT may:
- 1) collaborate with the victim if age appropriate, victim's therapist or advocate, guardian, custodial parent, foster parent and/or guardian ad litem in making decisions regarding communication, visits, and reunification, in accordance with court directives.
 - 2) support the victim's wishes regarding contact with the juvenile to the extent that it is consistent with the victim's safety and well-being.
 - 3) arrange contact in a manner that places victim safety first. The psychological and physical well-being shall be a primary consideration.
- e) Contact between the victim and the juvenile who has committed the sex offense is first initiated through the process of assigning accountability and responsibility.
- f) Contact includes verbal or non-verbal communication, which may be indirect or direct, between a juvenile who has committed a sexual offense and a victim.
- g) Following commencement of the accountability/assignment of responsibility process and with the consensus of the approved provider and the MDT, contact may progress to supervised contact with an informed supervisor outside of a therapeutic setting.

Section 1910.270 Family Reunification

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- a) A goal of family reunification may be established only if victim safety and continued recovery can be assured.
- b) The treatment provider, in collaboration with the MDT, shall make recommendations regarding reunification.
 - 1) Family reunification shall never take precedence over the safety of any victim.
 - 2) If reunification is indicated, after careful consideration of all the potential risks, the process shall be closely monitored by the approved provider and the MDT.
- c) Reunification may be considered only when all of the following conditions are met:
 - 1) the offender has accepted full responsibility for the offense;
 - 2) the victim has received treatment and an advocate for the victim concurs with reunification;
 - 3) the treatment provider and the MDT conclude that the juvenile has made significant progress toward goals and outcomes as evidenced in the quarterly review by the MDT; and
 - 4) the treatment provider and the MDT have determined that the parent/guardian has demonstrated the ability to provide informed supervision and:
 - A) the parent/guardian demonstrates the ability to initiate consistent communication with the victim regarding the victim's safety;
 - B) the family believes the abuse occurred, has received support and education, and accepts that potential exists for future abuse or offending; and
 - C) the family has established a relapse prevention plan that extends into aftercare and includes evidence of a comprehensive

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understanding of the offending behaviors and implementation of safety plans.

- d) With the MDT, the treatment provider shall continue to monitor family reunification and recommend services according to the treatment plan.
 - 1) Family reunification does not indicate completion of treatment.
 - 2) Reunification may illuminate further or previously un-addressed treatment issues that may require amendments to the treatment plan.

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- 1) Heading of the Part: State (of Illinois) Employees' Deferred Compensation Plan
- 2) Code Citation: 80 Ill. Adm. Code 2700
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
2700.110	Amendment
2700.125	New Section
2700.200	Amendment
2700.310	Amendment
2700.311	New Section
2700.315	New Section
2700.320	Amendment
2700.410	Amendment
2700.415	Amendment
2700.430	Amendment
2700.435	Amendment
2700.440	Amendment
2700.610	Amendment
2700.620	Amendment
2700.630	Amendment
2700.640	Amendment
2700.670	Amendment
2700.680	Amendment
2700.700	Amendment
2700.730	Amendment
2700.740	Amendment
2700.745	Amendment
2700.810	Amendment
- 4) Statutory Authority: 40 ILCS 5/22(a)
- 5) Effective Date of Amendments: September 14, 2009
- 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.

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- 9) Notice of Proposal Published in Illinois Register: May 27, 2009; 33 Ill. Reg. 4433
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final notice version: The final version of "Section 2700.310 Responsibilities of the Board" contains a new subsection (f), which discusses the Board's procurement policy and the role of competitive bidding. The final version of "Section 2700.311 Standards Governing the Selection of Investment Options" establishes minimum and maximum thresholds and contains illustrative examples. In addition, non-substantive technical changes were made throughout the rulemaking.
- 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 Amendments: These amendments represent a better delineation of responsibilities among the Recordkeeper, ISBI and DCMS. Specifically, these Sections are amended to (i) add and outline the responsibilities of the Recordkeeper, (ii) further outline the responsibilities of the Board, (iii) amend the process for hardship withdrawals, (iv) clarify the composition of the Hardship Committee, (v) replace the term "investment fund" with the term "investment option", (vi) add language to identify ISBI policy regarding the Deferred Compensation program and (vii) update language to become compliant with current Internal Revenue Code standards.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Linsey Schoemehl
Investment Compliance Officer
Illinois State Board of Investment
180 N. LaSalle Street, Suite 2015
Chicago, IL 60610

312/793-1486
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The full text of the Adopted Amendments begins on the next page:

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NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE H: DEFERRED COMPENSATION
CHAPTER I: ILLINOIS STATE BOARD OF INVESTMENT

PART 2700

STATE (OF ILLINOIS) EMPLOYEES' DEFERRED COMPENSATION PLAN

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section	
2700.100	Establishment of Plan
2700.110	Purpose of Plan
2700.120	Economic Growth and Tax Relief Reconciliation Act of 2001 Good Faith Amendment (Repealed)
2700.125	Forms

SUBPART B: DEFINITIONS

Section	
2700.200	Definitions

SUBPART C: ADMINISTRATION

Section	
2700.300	Responsibilities of the Department
2700.310	Responsibilities of the Board
2700.311	Standards Governing the Selection of Investment Options
2700.315	Responsibilities of the Recordkeeper
2700.320	Deferred Compensation Hardship Committee
2700.330	Applicable Law

SUBPART D: PARTICIPATION IN THE PLAN

Section	
2700.400	Eligibility
2700.410	Enrollment
2700.415	Designation of Beneficiary
2700.420	Minimum Deferral
2700.430	Basic Annual Limitation

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- 2700.435 Age 50 Catch-up Annual Deferral Contribution
- 2700.440 Special Section 457 Catch-up Limitation
- 2700.450 Revocation of Deferral

SUBPART E: ESTABLISHMENT OF RETIREMENT AGE

Section

- 2700.500 Normal Retirement Age
- 2700.510 Alternative Normal Retirement Age

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section

- 2700.600 Deferred Compensation Accounts
- 2700.610 Allocation of Investment Earnings or Losses
- 2700.620 Investment ~~Option Fund~~ Valuation
- 2700.630 Administrative Costs
- 2700.640 Method of Making Investment Requests
- 2700.650 Participant Statements
- 2700.660 Custodial Account
- 2700.670 Investment ~~Options Funds~~
- 2700.680 Rollovers to the Plan
- 2700.690 Plan-to-Plan Transfers to the Plan

SUBPART G: DISTRIBUTIONS

Section

- 2700.700 Distribution Events
- 2700.710 Beneficiary Election of Method of Distribution
- 2700.720 Election of Delayed Distribution Date (Repealed)
- 2700.730 Election of Method of Distribution
- 2700.735 Distribution for Certain Balances of \$5,000 or Less
- 2700.740 Unforeseeable Emergency
- 2700.745 Plan-to-Plan Transfers from the Plan
- 2700.750 Permissive Service Credit Transfers
- 2700.760 Leave of Absence

SUBPART H: MISCELLANEOUS

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Section

2700.800	Nonassignability
2700.810	Payments to Minors and Incompetents
2700.820	Missing Persons
2700.830	Severability
2700.840	Days and Dates
2700.850	Domestic Relations Orders
2700.860	IRS Levy
2700.870	Mistaken Contributions

SUBPART I: AMENDMENT OR TERMINATION OF PLAN

Section

2700.900	Amendment of Plan
2700.910	Termination of Plan
2700.920	Merger with Prior Plans

2700.APPENDIX A	Administrative Rules (Repealed)
2700.EXHIBIT A	Administrative Rule I (Repealed)
2700.EXHIBIT B	Administrative Rule II (Repealed)
2700.EXHIBIT C	Administrative Rule III (Repealed)
2700.EXHIBIT D	Administrative Rule IV (Repealed)
2700.EXHIBIT E	Administrative Rule V (Repealed)
2700.EXHIBIT F	Administrative Rule VI (Repealed)

AUTHORITY: Implementing section 457 of the Internal Revenue Code (26 USCA 457, et seq., as now or hereafter amended) and implementing and authorized by Section 22A-111.1 and Article 24 of the Illinois Pension Code [40 ILCS 5/22A-111.1 and Art. 24].

SOURCE: Emergency rule adopted at 3 Ill. Reg. 11, p. 161, effective March 6, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 13, p. 7, effective March 19, 1979; amended at 3 Ill. Reg. 36, p. 436, effective August 29, 1979; amended at 4 Ill. Reg. 1, p. 45, effective December 26, 1979; amended at 6 Ill. Reg. 9655, effective July 23, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 10845, effective August 31, 1983; emergency amendments at 13 Ill. Reg. 629, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 9308, effective May 31, 1989; emergency amendment at 17 Ill. Reg. 19976, effective November 2, 1993, for a maximum of 150 days; emergency expired April 2, 1994; amended at 18 Ill. Reg. 7224, effective May 2, 1994; amended at 21 Ill. Reg. 10050, effective July 15, 1997; emergency amendment at 23 Ill. Reg. 566, effective January 1, 1999, for a maximum of 150 days;

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amendment at 23 Ill. Reg. 6039, effective May 5, 1999; emergency amendment at 26 Ill. Reg. 478, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7442, effective May 6, 2002; emergency amendment at 29 Ill. Reg. 20050, effective November 23, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8408, effective April 21, 2006; amended at 33 Ill. Reg. 13451, effective September 14, 2009.

SUBPART A: INTRODUCTION AND PURPOSE OF PLAN

Section 2700.110 Purpose of Plan

- a) The purpose of this Plan is to allow Employees to designate a portion of their Compensation to be withheld each month by the State of Illinois and invested at the discretion of and in a manner approved by the Board in accordance with section 457 of the Code until Severance of Employment, Unforeseeable Emergency or death of the Employee.
- b) Participation in this Plan shall not be construed to establish or create an employment contract between the Employee and the State of Illinois.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.125 Forms

Forms, including, but not limited to, Distribution Method Election Form, Change Form, Beneficiary Election Form and Authorization for Direct Deposit, can be provided by either the Department of Central Management Services or the Recordkeeper, unless specifically indicated otherwise in this Part.

(Source: Added at 33 Ill. Reg. 13451, effective September 14, 2009)

SUBPART B: DEFINITIONS

Section 2700.200 Definitions

- a) Whenever used in the Plan, the following terms shall have the meanings set forth in this Section below unless otherwise expressly provided, and when the defined meaning is intended, the term is capitalized:

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"Account Balance" means the bookkeeping account maintained with respect to each Participant that reflects the value of the Deferred Compensation credited to the Participant, including Annual Deferrals, the earnings or loss of the Investment ~~OptionFund~~ (net of Investment ~~OptionFund~~ expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the ~~Internal Revenue Code of 1954~~).

"Alternate Retirement System" means this Plan, which is described in section 457 of the Internal Revenue Code, when used for purposes of section 3121(b)(7)(F) of the Code to exclude contractual employees from mandatory Social Security coverage.

"Annual Deferral" means the amount of Compensation deferred in any year.

"Applicable Dollar Amount" means the amount of Compensation allowed to be deferred in any calendar year as established under section 457(e)(15) of the Code.

"Beneficiary" means the person, persons or legal entity entitled to receive any undistributed Deferred Compensation that becomes payable in the event of the Participant's death, as designated by the Participant, or provided for in accordance with the Plan.

"Board" means the Illinois State Board of Investment.

"Code" means the Internal Revenue Code ~~of 1954~~ (26 USC 1 et seq.), as amended from time to time, or any successor statute.

"Compensation" means all cash ~~Compensation~~ for services to the State, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includable in the Employee's gross income for the calendar year but for a ~~Compensation~~ reduction election under section 125, 132(f), 401(k), 403(b) or 457(b) of the Code.

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"Custodial Account" means the fund created under and subject to the Custodial Agreement.

"Custodial Agreement" means the written agreement made by and between the State and the Custodian under which the Custodial Account is maintained.

"Custodian" means a bank, as described in section 408(n) of the Internal Revenue Code, or a person who meets the non-bank trustee requirements in accordance with the regulations under section 408(a)(2) of the Code relating to the use of non-bank trustees.

"Deferred Compensation" means that portion of the Participant's Compensation that the Participant defers under this Plan.

"Deferred Compensation Account" means an account established under this Plan that is the basis for any distribution payable to the Participant under Section 2700.730 of this Part.

"Delayed Distribution Date" means the date a Participant elects to make a decision regarding distribution of the Participant's account.

"Department" means the Department of Central Management Services of the State of Illinois.

"Employee" means *any person, including a person elected, appointed or under contract, receiving ~~Compensation~~ compensation from the State for personal services rendered, including salaried persons [40 ILCS 5/24-102], except that any person under contract with the Employer shall be eligible only to the extent the Internal Revenue Service or the Illinois Department of Revenue shall permit or approve.*

"Employer" means the State of Illinois, including all officers, boards, commissions and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch, all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government that are created by or pursuant to statute other than units of local government and their officers, school districts and boards of election commissioners; all administrative units and corporate outgrowths of the above as

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may be created by executive order of the Governor.

"Hardship Committee" means a committee that is responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution as provided under Section 2700.740 of this Part.

"Includable Compensation" means the Employee's actual wages in box 1 of Form W-2 for a year for services to the State, as defined in section 457(e)(5) of the Code.

"Investment ~~Option Fund~~" means any and all investment vehicles~~funds~~ established by the Board for the investment of Deferred Compensation.

"Minor" means a Beneficiary who is under age 18 at the time a benefit under this Plan becomes payable to him or her, unless Illinois law defines another age.

"Minority Option" means an Investment Option with a minority-owned firm that has documented State certification.

"Normal Retirement Age" means age 70½ unless the Participant has elected an alternative Normal Retirement Age by written instrument delivered to the Department within 30 days after the Participant's Severance of Employment as provided in Section 2700.510 of this Part. A Participant's Normal Retirement Age determines:

the latest time when benefits may commence under this Plan (unless the Participant continues employment after Normal Retirement Age); and

the period during which a Participant may utilize the three-year Catch-up provision of Section 2700.440 of this Part.

"Participant" means any Employee who has enrolled in this Plan as provided in Section 2700.410 of this Part and has not had a complete distribution of his or her Deferred Compensation Account.

"Pay Period" means a regular accounting period established by the State of Illinois for measuring and paying Compensation earned by Employees. A Pay Period may be monthly, semi-monthly or bi-weekly.

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"Plan" means the State (of Illinois) Employees' Deferred Compensation Plan, as set forth in this Part, and as it may be amended from time to time.

"Plan Year" shall be the tax year as established by the Comptroller for payroll purposes.

"Prior Plan I" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on September 10, 1976.

"Prior Plan II" means the State Employees' Deferred Compensation Plan approved and adopted by the Board on May 18, 1979.

"Prior Plan III" means the State Employees' Deferred Compensation Plan (80 Ill. Adm. Code 2700) adopted at 7 Ill. Reg. 10845, effective August 31, 1983.

"Recordkeeper" means the non-fiduciary, non-discretionary entity that, under contract with the Board, performs functions as directed by the Board or Department, as appropriate, as described in this Part, in its contract with the Board, and as described in any other written agreements with the Board and/or the Department.

"Severance from Employment" means the permanent severance of the Participant's employment relationship with the Employer by means of:

retirement;

discharge;

resignation, provided seniority or continuous service is interrupted;

layoff, unless there is a designated date for return to paid status;

expiration or non-renewal of contract, appointment or term of office;

nonreelection; or

other form of permanent severance as may be provided by appropriate law, contract or rules and regulations.

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For the purposes of this definition, neither a break in State service for a period of less than 30 days nor transfers among various branches of State Government shall be considered a Severance from Employment.

An independent contractor is considered to sever service with the Employer upon the expiration of all contracts under which services are performed for the Employer, if the expiration constitutes a good faith and complete termination of the contractual relationship.

"State" means State of Illinois.

"Unforeseeable Emergency" means severe financial hardship to the Participant resulting from an unexpected illness or accident of the Participant or of a dependent of the Participant, loss of the Participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the Participant.

"Valuation Date" means the date on which an Investment OptionFund is valued and earnings and/or losses are allocated to Participants' Deferred Compensation Accounts. There shall be a Valuation Date at least once a month and, if practical at the discretion of the Board, more frequent Valuation Dates to reflect, as closely as possible, the earnings and/or losses of any particular Deferred Compensation Account from the time Compensation is deferred and invested in various Investment OptionsFunds until it is eventually distributed according to the Plan. It may also include each business day/the last day of the calendar month/the last day of the calendar quarter/each December 31.

- b) Except when otherwise indicated by context, any masculine terminology shall also include the feminine and neuter and vice-versa, and the definition of any terms in the singular may also include the plural.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

SUBPART C: ADMINISTRATION

Section 2700.310 Responsibilities of the Board

- a) The Board has the responsibility for general supervision of the Plan, which shall include, but not be limited to:

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- 1) establishment of the Plan;~~;~~
 - 2) approving or disapproving any proposed changes in the Plan;~~;~~
 - 3) if deemed necessary by the Board, obtaining Internal Revenue Service and Illinois Department of Revenue approval for the Plan or any amendments to the Plan; thereto, and
 - 4) reviewing any and all proposed investment offerings, each of which must be determined acceptable by the Board prior to being utilized for the investment of Deferred Compensation;~~;~~
 - 5) providing the Recordkeeper with the most recent copy of the Plan, the Plan's administrative procedures and forms, the Plan's Investment Options and all Plan data and other documents necessary to perform its functions;
 - 6) maintaining the tax qualification of the Plan under section 457 of the Code;
 - 7) reviewing, selecting and approving the services to be provided by the Recordkeeper; and
 - 8) resolving all benefit claims and claims appeals under the Plan.
- b) Following approval by the Board of one or more types of investments, if any, to be offered to Participants, the Board shall prepare specifications and make them available to known administrators or providers of that type of investment.
- c) The selection of the successful bidder for each investment ~~shall~~will be based on the bidder's relative ability to provide the program as specified. The Board shall have the authority to:
- 1) waive minor informalities in bidding,
 - 2) accept more than one bid, and
 - 3) reject any and all bids.

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- d) The Board has the responsibility for selecting the custodians to hold the assets of the Plan in accordance with ~~section~~Section 457(g) of the Code and for entering into related custodial agreements in connection ~~with the Plan~~therewith.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.311 Standards Governing the Selection of Investment Options

- a) The Board, with the input of an independent investment consultant, is responsible for the selection of the Investment Options for the Plan.
- b) The objective of the Board is to offer a sufficient range of Investment Options to allow Participants to diversify their account balances and construct portfolios that reasonably span the risk/return spectrum.
- c) The Board shall select Investment Options after satisfactory review of such factors as the investment experience of the underlying manager, the suitability of the investment approach used and the investment record. The criteria for index funds (those products designed to approximate the return of a specific index) are, in some cases, different from those of actively managed products. The criteria for suitable Investment Options, as well as illustrative examples, within the structure are:
- 1) The Investment Option has consistently adhered to clearly defined investment objectives. (For example, the Investment Option's investment portfolio matches the Investment Option's investment strategy/style.)
 - 2) The Investment Option has demonstrated investment results that consistently rank it in the upper 50% of the peer group universe of those investment options with similar objectives. (For example, the Investment Option's 5 and 10 year annualized performance returns were above the industry median over the same period.)
 - 3) The Investment Option has performed in the upper 50% of the peer group universe in difficult market environments relative to its peers and benchmarks over a long period of time. (For example, in a year when the market posted negative performance returns, the Investment Option posted returns that protected against declines better than the overall market.)

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- 4) The analysis of the volatility of investment returns of each Investment Option are favorable and commensurate with the stated investment objectives of the Plan. (For example, the Investment Option's volatility, as measured by standard deviation, was less than its benchmark with a similar investment style.)
 - 5) The expense ratio of the Investment Option is in the bottom two-thirds of a universe of investment options with similar objectives. (For example, the Investment Option's expense ratio is below its industry median expense ratio.)
 - 6) The Investment Option is an appropriate size to accommodate assets of the Plan. (For example, an Investment Option has sufficient assets to accommodate investor cash flow activity without impacting investment results.)
 - 7) The Investment Option sponsor or family of Investment Options has demonstrated over time that its depth of operation and management is superior. (For example, the Investment Option has been managed by the same investment portfolio team for several years.)
 - 8) The future outlook of the Investment Option is positive, considering the investment manager, portfolio structure and investment style. (For example, the Investment Option's portfolio manager has a long track record of outperformance. However, it is important to note that there is no guarantee for future investment performance.)
 - 9) Investment Option family or manager must be willing, by contract, to provide summary performance reviews of the Investment Option. (For example, the Investment Option's portfolio manager provides a quarterly commentary on performance results for the Investment Option.)
- d) The Board shall use best efforts to include representation of a State certified Minority Option in the Plan. The Plan shall seek to include at least one Investment Option managed by a State certified minority money manager, unless the Board determines that no such entity exists that conforms to the Board's fiduciary responsibility.

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- e) An independent investment consultant shall be responsible for performing thorough due diligence on each Investment Option. The investment consultant shall monitor the performance of the Investment Option on an ongoing basis and present a report to the Board on a quarterly basis. This analysis shall measure the performance of each Investment Option relative to the appropriate index and similar portfolios in a universe of same style Investment Options. All of the criteria that were considered by the Board in the selection process shall also be reviewed on a quarterly basis.
- f) The selection of Investment Options for the Plan occurs in an environment of full disclosure characterized by competitive selection, objective evaluation and proper documentation. The overriding consideration with respect to all decisions made by the Board concerning the Plan is that the decisions be made solely in the best interests of the Plan's participants and beneficiaries. The following protocols guide the Board's selection of Investment Options for the Plan:
- 1) The Board shall select Investment Options for the Plan, with the input of its independent investment consultant, through a competitive proposal process, using uniform documents for the solicitation, review and acceptance of the Investment Option. Uniform documents may vary by the investment structure of an Investment Option.
 - 2) The documents shall contain, at a minimum:
 - A) a description of the goal to be achieved;
 - B) the particular strategy of Investment Option;
 - C) the need for the Investment Option;
 - D) the qualifications that are necessary; and
 - E) a plan for post-performance review by the Board's investment consultant.
 - 3) The Board and its investment consultant shall determine parameters for the Investment Option search. Advertisements for the Investment Option search shall be placed in the State newspaper and in one or more industry periodicals at least 14 days before the response is due.

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- 4) All interested respondents shall return their responses to the Board, as directed by the proposal document. Investment staff and investment consultant shall open the responses, record them and thoroughly review each for content, quality and compliance with proposal document requirements.
- 5) Following review and evaluation of the responses from interested firms, the field of candidates is narrowed to a smaller list of the most highly qualified Investment Options. At this point, the Board's investment staff and investment consultant meet with representatives of each Investment Option to obtain an independent assessment of each option's capabilities.
- 6) Following the interviews with the selected Investment Options, the Board's investment staff and investment consultant recommend to the Board one or more Investment Options for the Plan. Generally, the finalists appear before the Board to present their qualifications.
- 7) The Board accepts or modifies the recommendation and makes the final decision with respect to the Investment Options for the Plan.
- 8) Subsequent to the Board's decision, the Board's legal counsel, investment staff and investment consultant coordinate with representatives of the Investment Option, CMS and the Recordkeeper, in order to provide an appropriate transition for the new Investment Option into the Plan and provide appropriate notice of the transition to the Plan.

(Source: Added at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.315 Responsibilities of the Recordkeeper

The Recordkeeper shall:

- a) accept Plan contributions from the Department and cause those contributions to be invested among the Investment Options, as directed by the Participant;
- b) process distributions upon receipt of information from the Department that indicates that a Participant is eligible for distribution;

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- c) process changes to Investment Options, as directed by the Board;
- d) process changes to investment allocations, as requested by the Participant, provided that the allocation is made to one of the available Investment Options and that the allocation reconciles with the Department's instructions, based upon the request from the Participant, for allocating the contribution;
- e) provide the production, printing and assembly of enrollment kits for distribution to eligible employees and provide enrollment representatives to assist with employee meetings;
- f) process all requests for hardship distribution due to an Unforeseeable Emergency resulting from:
 - 1) legal fees involving criminal charges and civil divorce charges against/for the Participant and/or the Participant's qualifying dependents;
 - 2) payment for the burial or funeral expenses for the parent, spouse and/or qualifying dependent of the Participant;
 - 3) costs associated with preventing eviction from, or foreclosure on the mortgage of, the Participant's primary residence;
 - 4) expenses for the repair of damage to the Participant's principal residence that would qualify for the casualty deduction under section 165 of the Code (regardless of whether the loss exceeds 10% of the Participant's adjusted gross income) beyond insurance reimbursement;
 - 5) unreimbursed medical expenses resulting from sudden illness or accident of the Participant or the Participant's spouse and/or qualifying dependents;
 - 6) involuntary loss of wages; or
 - 7) other extraordinary and unforeseeable circumstances arising as a result of events beyond the Participant's control that create a financial hardship;
- g) review and forward all requests for hardship distribution for an Unforeseeable Emergency as governed by 26 CFR 1.457-6 (2008), resulting from a cause not contemplated in Section 2700.315(f) to the Hardship Committee for review and

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determination:

- h) prepare and mail quarterly account statements to Participants;
- i) enter data provided by the Department into its recordkeeping system for the proper operation and maintenance of the records of the Plan;
- j) provide Code section 457 compliance monitoring, monitor for compliance with laws governing the use of electronic media for providing employee benefits notices and making benefit elections and consents, and monitor distributions in the normal course, plan-to-plan transfers and rollovers to ensure compliance with the terms of the Plan;
- k) provide Participant access to daily pricing valuations through its on-line access system, as well as provide directions and/or direct links to other pricing calculators when applicable; and
- l) monitor, calculate and process required minimum distributions under section 401(a)(9) of the Code.

(Source: Added at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.320 Deferred Compensation Hardship Committee

- a) A Hardship Committee shall be formed that shall be responsible for determining whether any Participant has suffered an Unforeseeable Emergency and is entitled to a distribution under Section 2700.740 of this Part.
- b) Members of ~~the~~this Hardship Committee shall ~~be appointed by the Department but shall include at least:~~
 - 1) one Department employee; ~~and~~
 - 2) one representative of the Board; and
 - 3) one person appointed by the Department who is not an employee~~two persons not employees~~ of the Department.
- c) Members of this Committee shall be entitled to defer Compensation so long as

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they are otherwise eligible; however, no member of the Hardship Committee shall make any determination with respect to any interest that he or she may have under the Plan.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

SUBPART D: PARTICIPATION IN THE PLAN

Section 2700.410 Enrollment

- a) Any Employee eligible to participate in the Plan may become a Participant by agreeing in writing, on a form to be provided under the Plan~~by the Department~~, to a deferral~~deferral~~ of his or her Compensation.
- b) The deferral shall~~deferral will~~ commence no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee, accepted by the Department, and for which the Agency payroll has not closed and provided that the form is completed in the month prior to the month in which the deferrals commence.
- c) A new Employee may defer Compensation payable in the calendar month during which the Participant first becomes an Employee if an agreement providing for the deferral is entered into on or before the first day on which the Participant performs services for the State and before the first day of the month in which deferrals commence.
- d) The amount to be deferred shall~~will~~ be selected by the Participant and will be agreed to at the time of enrollment. This amount may not be less than the minimum amount allowable or exceed the basic annual limitation.
- e) The amount deferred may be changed by the Participant at any time. The change shall become effective no sooner than the first Pay Period of the month following the date the form is properly completed by the Employee and accepted by the Department.
- f) A Participant's request to defer Compensation shall remain in effect until the Participant's Severance from Employment, unless revoked prior to that time. The Department shall suspend deferrals for the remainder of the calendar year for Participants who have deferred in excess of the allowable maximum. The

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Department shall also withdraw and return to the Participant the excess amount deferred.

- g) Deferrals can be made by reductions in Compensation only.
- h) The Participant election shall also include the designation of Investment ~~Options~~Funds and a designation of Beneficiary. This election shall remain in effect until a new election is filed.
- i) Acceptance by the Department shall be granted whenever forms are properly completed and the criteria set by the Plan for acceptance are met.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.415 Designation of Beneficiary

- a) A Participant may designate a Beneficiary or Beneficiaries who ~~shall~~will receive any balance in the Participant's Deferred Compensation Account in the event of his or her death.
- b) A designation of Beneficiary shall be effective for subsequent distributions when received by the Department. The designation shall be in writing on a form provided ~~under the Plan by the Department~~ for that purpose that has been signed by the Participant.
- c) A Participant may, at any time, change his or her Beneficiary by completion of the form provided ~~under the Plan by the Department~~.
- d) No Beneficiary shall have any rights under this Plan until the death of the Participant who has designated him or her and a separate account has been established by the ~~Recordkeeper, at the direction of the~~ Department, as provided for under this Section.
- e) Participants may designate primary and contingent Beneficiaries. A contingent Beneficiary's interest ~~shall~~will become effective only upon the death of any and all primary Beneficiaries, or if any and all of the primary Beneficiary designations have been found invalid.
- f) If more than one Beneficiary is named in either category, benefits ~~shall~~will be

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paid according to the following rules:

- 1) Beneficiaries can be designated to share equally or to receive specific percentages.
- 2) If a Beneficiary dies before the Participant, only the surviving Beneficiaries ~~shall~~ will be eligible to receive any benefits in the event of the death of the Participant. If more than two Beneficiaries are originally named to receive different percentages of the benefits, surviving Beneficiaries ~~shall~~ will share in the same proportion to each other as indicated in the original designation.
- g) A person, trust, estate or other legal entity may be designated as a Beneficiary.
- h) If a Beneficiary has not been designated, or a designation is ineffective due to the death of all Primary and Contingent Beneficiaries prior to the death of the Participant, or the designation is ineffective for any reason, the estate of the Participant shall be the Beneficiary.
- i) Upon the death of the Participant, any Beneficiary entitled to the value of the Deferred Compensation Account under the provisions of this Section shall become a "vested Beneficiary" and have all the rights of the Participant, with the exception of making any deferrals.
- j) Before the account can be distributed, the Beneficiary must provide the Department with his or her Social Security Number and a certified copy of the Participant's death certificate.
- k) In the event of a conflict between the provisions of this Section and any annuity contract purchased prior to January 1, 1999, this Section shall prevail.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.430 Basic Annual Limitation

The maximum amount of the Annual Deferral under the Plan for any calendar year shall not exceed the lesser of the Applicable Dollar Amount or the Participant's Includible Compensation for the calendar year. ~~The Applicable Dollar Amount in calendar year 2005 is \$14,000; and in 2006, or after, the Applicable Dollar Amount is \$15,000, adjusted for cost of living after 2006 to~~

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~~the extent provided under section 415(d) of the Code. The Applicable Dollar Amount in calendar year 2009 is \$16,500, adjusted for cost-of-living after 2009 to the extent provided under section 415(d) of the Code.~~

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.435 Age 50 Catch-up Annual Deferral Contributions

A Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Annual Deferrals, up to the maximum age 50 catch-up Annual Deferrals for the year. ~~The maximum dollar amount of the age 50 catch-up Annual Deferral for a year is \$4,000 for calendar year 2005; and for 2006, or after, the maximum age 50 catch-up dollar amount is \$5,000, adjusted for cost-of-living after 2006 to the extent provided under the Code.~~ The maximum dollar amount of age 50 catch-up Annual Deferral for a year is \$5,500 for calendar year 2009, adjusted for cost-of-living after 2009 to the extent provided under the Code.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.440 Special Section 457 Catch-up Limitation

- a) If the applicable year is one of a Participant's last 3 calendar years ending before the year in which the Participant attains Normal Retirement Age, and the amount determined under this Section exceeds the amount computed under Sections 2700.430 and 2700.435 of this Part, then the Annual Deferral limit in the Plan shall be the lesser of:
 - 1) An annual amount equal to 2 times the Applicable Dollar Amount for the applicable year as provided for in Section 2700.430 of this Part; or
 - 2) The sum of:
 - A) An amount equal to the aggregate limit, as defined in Section 2700.430 of this Part, for the current year plus each prior calendar year beginning after December 31, 2001 during which the Participant was an Employee under the Plan, minus the aggregate amount of Compensation that the Participant deferred under the Plan after December 31, 2001, plus

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- B) An amount equal to the aggregate limit referred to in section 457(b)(2) of the Code for each prior calendar year beginning after December 31, 1978 and before January 1, 2002 during which the Participant was an Employee (determined without regard to Section 2700.435 and this Section) minus the aggregate contributions to pre-2002 coordination plans for those years.
- b) In no event can the deferred amount be more than the Participant's Compensation for the applicable years.
- c) If the Participant is or has been a participant in one or more other eligible plans within the meaning of section 457(b) of the Code, then this Plan and all other eligible 457(b) plans shall be considered as one plan for purposes of applying foregoing limitations of this Section. For this purpose, the Department shall take into account any other eligible plan for which the Department receives, from the Participant, sufficient information concerning his or her participation in the other plan.
- d) In applying this Section, a year shall be taken into account only if the Participant was eligible to participate in the Plan during all or a portion of the year and Compensation deferred, if any, under the Plan during the year was subject to the basic annual limitation described in Section 2700.430 of this Part or any other plan ceiling required by section 457(b) of the Code.
- e) For purposes of subsection (a)(2)(B), "contributions to pre-2002 coordination plan" means any employer contribution, salary reduction or elective contribution under any other eligible Code section 457(b) plan, or a salary reduction or elective contribution under any Code section 401(k) qualified cash or deferred arrangement, Code section 402(h)(1)(B) simplified employee pension deferred arrangement, Code section 403(b) annuity contract, and Code section 408(p) simple retirement account, or under any plan for which a deduction is allowed because of a contribution to an organization described in section 501(c)(18) of the Code, including plans, arrangements or accounts maintained by the Employer or any employer for whom the Participant performed services. However, the contributions for any calendar year are only taken into account for purposes of subsection (a)(2)(B) of this Section to the extent that the total of the contributions does not exceed the aggregate limit referred to in section 457(b)(2) of the Code for that year.

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- f) If the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described in subsection (a), or the Annual Deferral on behalf of a Participant for any calendar year exceeds the limitations described in subsection (a) when combined with other amounts deferred by the Participant under another eligible deferred compensation plan under section 457(b) of the Code, for which the Participant provides information that is accepted by the Department, then the Annual Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable to the investment), shall be distributed to the Participant. The Participant shall be responsible for the proper tax reporting for any contributions in excess of the maximum deferral limitations set forth in Sections 2700.430, 2700.435 and 2700.440.
- g) An Employee whose employment is interrupted by qualified military service under Code section 414(u) or who is on a leave of absence for qualified military service under Code section 414(u) may elect to make additional Annual Deferrals upon resumption of employment with the State equal to the maximum Annual Deferrals that the Employee could have elected during that period if the Employee's employment with the State had continued (at the same level of Compensation) without the interruption or leave, reduced by the Annual Deferrals, if any, actually made for the Employee during the period of the interruption or leave. This right applies for 5 years following the resumption of employment (or, if sooner, for a period equal to 3 times the period of the interruption or leave).
- h) If a Participant is eligible both for the Age 50 Catch-Up in Section 2700.435 and the Special Section 457 Catch-Up Limitation in Section 2700.440 in a calendar year, the rule that allows for the greater catch-up contribution applies.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

SUBPART F: PARTICIPANT'S ACCOUNTS, INVESTMENTS AND STATEMENTS

Section 2700.610 Allocation of Investment Earnings or Losses

- a) To the extent that Investment OptionsFunds are established by the Board, Deferred Compensation Accounts shall be allocated among the Investment OptionsFunds according to the investment elections in effect on behalf of the Participants. Earnings and losses of each Investment OptionFund shall be based on the actual investment experience of the Investment OptionFund.

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- b) Earnings and losses ~~shall~~will be measured from the Valuation Date coincident with or immediately preceding the date on which any Deferred Compensation is invested in any Investment ~~OptionFund~~ to the Valuation Date coincident with or immediately preceding the date any Deferred Compensation is withdrawn from any Investment ~~OptionFund~~.
- c) The amount of earnings or losses allocated to each Deferred Compensation Account shall reflect the proportion a Participant's Deferred Compensation Account in relation to the other Deferred Compensation Accounts having an interest in that ~~OptionFund~~.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.620 Investment ~~OptionFund~~ Valuation

- a) Any Investment ~~OptionFund~~ under this Plan shall be valued at fair market value as of each Valuation Date.
- b) Any withdrawals or distributions made under this Plan shall be made in cash by electronic transfer, or as authorized by the State.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.630 Administrative Costs

- a) It is the intent of this Plan that it shall not be implemented or administered so as to be an expense to the State of Illinois, except for the State's obligation to pay the Deferred Compensation Accounts as provided in this Plan. Therefore, any expenses of maintaining and administering the Plan shall be borne by the Participants. Cost shall include, but not be limited to, the costs of:
- 1) making investments, exchanges, or distributions if any;
 - 2) collecting the Deferred Compensation; and
 - 3) providing information to Participants, Employees and other agencies of the State.

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- b) The method of ~~allocating, calculating and deducting~~ sharing any expenses ~~and the amount of those expenses~~ shall be determined by the ~~Department subject to the approval of the~~ Board.
- c) An asset charge at an annual rate not to exceed a cap of 1 percent (.01) shall be levied against the Account of each Participant in the Plan. This charge shall be assessed solely to offset the cost incurred by the State in administering the Plan. Any asset charge ~~shall~~ will be based on this cost, but in no case may the actual charge exceed the established cap.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.640 Method of Making Investment Requests

- a) A Participant shall, at the time of enrollment, make an investment request on a form provided for that purpose ~~under the Plan by the Department~~.
- b) Once made, an investment request shall continue for any deferrals unless later changed by the Participant.
- c) A Participant may change investment requests for future amounts of Deferred Compensation an unlimited number of times.
- d) A change in investment request shall be made to the Plan's ~~Recordkeeper~~ record keeper by telephone notice or use of internet on-line access programs. To the extent allowed by law, the Recordkeeper shall make a Participant financially whole in situations in which a Participant's transaction request was received timely and in good order, but, due to an error or omission by the Recordkeeper, was not executed in compliance with the Participant's instructions.
- e) A Participant may change an investment request governing amounts previously deferred. However, after June 1, 1994, amounts previously deferred into the stable value option shall not be exchanged directly or indirectly into a money market ~~or bond~~ fund. Any exchange from the stable value option must first be exchanged into one of the other investment options for a period of 90 days.
- f) ~~There will be no charge for the first exchange each quarter of each Plan Year. Each additional exchange will be assessed a transaction charge of \$10.~~

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(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.670 Investment ~~Options~~Funds

- a) The Board may establish any or all of the following ~~Options~~Funds for the investment of Deferred Compensation:
 - 1) Investment ~~Option~~Fund A, which shall be invested primarily in savings and loan or commercial bank deposits, commercial paper, or guaranteed interest contracts of insurance companies.
 - 2) Investment ~~Option~~Fund B, which shall be invested primarily in corporate or Government bonds or pooled investment vehicles, such as mutual funds, whose investment policies emphasize such investments.
 - 3) Investment ~~Option~~Fund C, which shall be invested in insurance company contracts, either on a group or individual basis, designed to provide an annuity.
 - 4) Investment ~~Option~~Fund D, which shall be invested primarily in common or preferred stocks, similar equity securities or other property expected to offer growth possibilities or pooled investment vehicles, such as mutual funds, whose investment policies emphasize such investments.
- b) The Board may establish more than one Investment ~~Option~~Fund for each category described in subsection (a) above if deemed appropriate.
- c) The Board is specifically authorized to utilize outside investment managers to the extent deemed appropriate by the Board.
- d) The Board also has the authority to eliminate any or all of the Investment ~~Options~~Funds created by the Plan, provided that, in such event, ~~the Department shall notify~~ any Participant who has requested that his or her Deferred Compensation Account be measured as if invested in the Investment ~~Option~~Fund or ~~Options that~~Funds which have been eliminated shall be notified of the elimination. Any such Participant shall then have the opportunity to change his or her investment request or revoke his or her deferral pursuant to Section 2700.450, regardless of any other provision of this Plan.

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(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.680 Rollovers to the Plan

- a) A Participant who is an Employee and who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan.
- b) The Department may require documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that the plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code.
- c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include:
 - 1) any installment payment for a period of 10 years or more;
 - 2) any distribution made as a result of an Unforeseeable Emergency or other distribution that is made to a Participant; or
 - 3) for any other distribution, the portion, if any, of that distribution that is a required minimum distribution under section 401(a)(9) of the Code. Section 401(a)(9) of the Code outlines required distributions and the manner in which those distributions must be made.
- d) In addition, an eligible retirement plan means an individual retirement account described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code that accepts the eligible rollover distribution.
- e) The Recordkeeper, at the direction of the Department, Plan shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is not an eligible governmental plan under section 457(b) of the Code.
- f) In addition, the Recordkeeper, at the direction of the Department, Plan shall

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establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan from any eligible retirement plan that is an eligible governmental plan under section 457(b) of the Code.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

SUBPART G: DISTRIBUTIONS

Section 2700.700 Distribution Events

- a) Distributions under this Plan ~~shall~~ will be made in accordance with ~~the regulations under~~ section 401(a)(9) of the Code (including, but not limited to, the Plan provisions described in Sections 2700.315 and 2700.740) and Treasury Regulations issued under section 401(a)(9), including the minimum distribution incidental benefit requirement of Code section 401(a)(9)(G) and Treasury Regulations 1.401(a)(9)-2 through 1.401(a)(9)-9 (26 CFR 1.401(a)(9)-2 through (a)(9)-9) (2008). However, these provisions of the Code and Treasury Regulations shall override the other distribution provisions of the Plan only to the extent that the other Plan provisions provide for a distribution that is less rapid than is required under the provisions of the Code and the Treasury Regulations. 26 CFR 54 (2005)). ~~The provisions reflecting section 401(a)(9) override any distribution options in the Plan inconsistent with section 401(a)(9).~~ In accordance with the suspension, under the Worker, Retiree and Employer Recovery Act of 2008, of required minimum distributions for calendar year 2009 only, the Plan will not make required minimum distributions to Plan Participants who otherwise would be required to take a required minimum distribution for calendar year 2009.
- b) A Participant's Deferred Compensation Account may begin to be distributed 30 days after the date of one of the following events:-
- 1) Severance from Employment,
 - 2) Death, or
 - 3) Delayed Distribution Date.
- c) A Participant's Deferred Compensation Account may begin to be distributed as soon as possible but not later than 30 days after determination of an Unforeseeable Emergency ~~by the Hardship Committee.~~

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- d) A Participant, with \$5,000 or less in his or her Deferred Compensation Account, may elect to cash out the Account in compliance with conditions specified in Section 2700.735 of this Part.
- e) No distributions ~~shall~~~~will~~ be made to a Participant who is employed as an independent contractor before a date that is at least 12 months after the day on which his or her employment contract expires. Should the independent contractor be re-employed by the State as either an Employee or independent contractor during the 12-month waiting period, no distribution ~~shall~~~~will~~ be started on the projected distribution date. If the contractor has attained age 70½ at the time the contract is terminated, the 12-month waiting period is waived.
- f) Participants are responsible for notifying the Department of their Termination of Service.
- g) Beneficiaries are responsible for notifying the Department of the death of the Participant and supplying the Department with a certified copy of the Death Certificate.
- h) A Participant who does not receive the initial distribution until the calendar year following the year in which he or she reaches age 70½ or separates, if he or she works past age 70½, ~~shall~~~~will~~ receive at least 2 taxable distributions in the same year.
- i) If a Participant has a separate account attributable to rollover contributions to the Plan, the Participant may at any time elect to receive a distribution of all or any portion of the amount held in the rollover account.
- j) An alternate payee, pursuant to the terms of a qualified domestic relations order, may at any time elect to receive a distribution of all or any portion of the amount held and maintained on behalf of the alternate payee upon the proper execution and designation under the qualified domestic relations order.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.730 Election of Method of Distribution

- a) In an election to commence benefits as provided for under Section 2700.700-~~of~~

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~~this Part~~, a Participant entitled to a distribution of benefits may elect to receive payment in any of the following forms of distribution:

- 1) a lump sum payment of the total Account Balance; or
 - 2) annual installment payments through the year of the Participant's death, the amount payable each year equal to a fraction of the Account Balance equal to 1 divided by the distribution period set forth in the Uniform Lifetime Table at 26 CFR 1.401(a)(9)-9, A-2 (~~2008~~2005) for the Participant's age on the Participant's birthday for that year.
 - A) If the Participant's age is less than age 70, the distribution period is 27.4 plus the number of years that the Participant's age is less than age 70.
 - B) At the Participant's election, this annual payment can be made in monthly, quarterly or semi-annual installments.
 - C) The Account Balance for this calculation (other than the final installment payment) is the Account Balance as of the end of the year prior to the year for which the distribution is being calculated.
 - D) For any year, the Participant can elect distribution of a greater amount (not to exceed the amount of the remaining Account Balance) rather than the amount calculated under subsection (a)(2)(C).
- b) A Participant or the surviving spouse of a Participant (or a Participant's former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed ~~under the Plan by the Department~~, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover. An eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403 (b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

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c) For purposes of this Section, an eligible rollover distribution means any distribution of all or any portion of a Participant's Account Balance, except that an eligible rollover distribution does not include:

- 1) any installment payment under subsection (a) ~~of this Section~~ for a period of 10 years or more;
- 2) any distribution made under Section 2700.740 ~~of this Part~~ as a result of an Unforeseeable Emergency; or
- 3) the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) ~~of the Code~~ other than those distributions described in subsections (c)(1) and (c)(2).

d) In no event shall any distribution under this Section begin later than the latter of:

- 1) April 1 of the year following the calendar year in which the Participant attains age 70½; or
- 2) April 1 of the year following the year in which the Participant retires or otherwise has a Severance from Employment.

e) If distributions commence in the calendar year following the latter of the calendar year in which the Participant attains age 70½ or the calendar year in which the Severance from Employment occurs, the distribution on the date that distribution commences must be equal to the annual installment payment for the year that the Participant has a Severance from Employment determined under subsection (a)(2) ~~of this Section~~, and an amount equal to the annual installment payment for the year after Severance from Employment determined under subsection (a)(2) ~~of this Section~~ must also be paid before the end of the calendar year of commencement.

f) Any election made under this Section may be revoked at any time.

g) Any portion of the Deferred Compensation Account that has not been distributed

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shall continue to be credited and/or debited according to the provisions of Sections 2700.600 and 2700.610 ~~of this Part.~~

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.740 Unforeseeable Emergency

- a) A distribution of all or a portion of a Participant's Deferred Compensation Account or a change in method of distribution to a Participant shall be permitted in the event the Participant experiences an Unforeseeable Emergency.
- b) Distributions shall not be made to the extent that the hardship is or may be relieved:
 - 1) through reimbursement or compensation by insurance or otherwise;
 - 2) by liquidation of the Participant's assets to the extent the liquidation of assets would not itself cause severe financial hardship; or
 - 3) by cessation of deferrals under the Plan.
- c) A Participant's deferrals ~~shall~~ will automatically be revoked upon application for a hardship distribution.
- d) If the application is approved, the Participant cannot re-enroll for 6 months following receipt of the hardship application, unless the application is to request cessation of distribution payments.
- e) For the purposes of this Plan, a Beneficiary whose interest has "vested" in accordance with Section 2700.415 ~~of this Part~~ shall have all rights of a Participant to request a distribution in the event of an Unforeseeable Emergency.
- f) A Participant desiring a distribution by reason of a serious Unforeseeable Emergency must apply to the ~~Recordkeeper~~ Hardship Committee and demonstrate that:
 - 1) the circumstances being experienced were not under the Participant's control; ~~and~~

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- 2) the circumstances constitute a real emergency that is likely to cause the Participant great financial hardship;-
- 3) the Unforeseeable Emergency that is the subject of the request occurred no more than 24 months prior to the date of the request;
- 4) the amount of the need cannot be reasonably relieved:
 - A) through reimbursement or compensation by insurance or otherwise;
 - B) by liquidation of assets (including those of the Participant's spouse and minor children), to the extent the liquidation would not itself cause an immediate and heavy financial need;
 - C) by stopping elective contributions to the Plan; or
 - D) by taking withdrawals from the plans maintained by the employer and any other company, or by borrowing from commercial resources on reasonable commercial terms; and
- 5) an Unforeseeable Emergency request form and 457 direct emergency withdrawal worksheet have been completed and submitted to the Recordkeeper, along with all documentation possessed by the Participant that supports the basis of the request.
- g) The ~~RecordkeeperHardship Committee~~ shall have the authority to require medical or other evidence ~~as~~ it may need to determine the necessity for Participant's withdrawal request. In the event this information is not provided, the case ~~shall~~will be considered closed 60 days after the date of ~~the~~ request for additional information by the Hardship Committee.
- h) The ~~RecordkeeperHardship Committee~~ shall reach its decision to process or reject~~approve or disapprove~~ the financial hardship withdrawal request, in accordance with Section 2700.315(f), within 30 days following receipt of the completed application and necessary information required by the application ~~or the Hardship Committee.~~
- i) In the event the basis for the hardship does not fall into the guidelines established

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~~by Section 2700.315(f), the Recordkeeper shall forward all relevant information to the Hardship Committee for consideration and a final decision. a Participant is not satisfied with the decision of the Hardship Committee on an application for an Unforeseeable Emergency distribution or change in distribution, the Participant may appeal in writing to the Board within 15 days after receipt of the Hardship Committee's decision.~~

- ~~j) The Hardship Committee may request additional information from the Participant in order to make its decision on applications processed through either subsection (h) or (i). The Hardship Committee shall reach its decision within 30 days after receipt of the application and information necessary to reach a final determination.~~
- ~~k) If a Participant is not satisfied with the decision of the Hardship Committee on an application for an Unforeseeable Emergency distribution or change in distribution, the Participant may appeal in writing to the Board within 15 days after receipt of the Hardship Committee's decision.~~
- lj) The Board shall, within 30 days after receipt of the appeal, conduct a hearing and review evidence presented by the Participant.
- mk) The Board shall then render a final decision within 15 days after the hearing that shall be binding on all parties.
- nl) If an application for an Unforeseeable Emergency distribution is approved, the distribution shall be limited to an amount sufficient only to meet the emergency and shall in no event exceed the amount of his or her Deferred Compensation Account as of the Valuation Date next preceding or coincident with the withdrawal.
- om) The allowed distribution shall be payable in a method determined by the ~~Recordkeeper~~~~Hardship Committee~~ and shall commence as soon as possible, but not later than 30 days after notice to the Participant and the Department of approval of the request ~~by the Committee~~.

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

Section 2700.745 Plan-to-Plan Transfers from the Plan

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- a) Participants and Beneficiaries may elect to have all or any portion of their Account Balance transferred to another eligible governmental plan within the meaning of section 457(b) of the Code and 26 CFR 1.457-2(f) (~~20082005~~).
- b) A transfer is permitted under this Section only if:
 - 1) the Participant has had a Severance from Employment with the State and is an employee of the entity that maintains the other eligible governmental plan; and
 - 2) the other eligible governmental plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and Beneficiaries and for each Participant and Beneficiary to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.
- c) Upon the transfer of assets under this Section, the Plan's liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount transferred for the Participant or Beneficiary.
- d) The ~~Recordkeeper~~Department may require documentation from the receiving plan as it deems appropriate or necessary to comply with this Section or to effectuate the transfer pursuant to 26 CFR 1.457-10(b) (~~20082005~~).

(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

SUBPART H: MISCELLANEOUS

Section 2700.810 Payments to Minors and Incompetents

If the Department is notified that a Participant or Beneficiary entitled to receive any benefit under this Plan is adjudicated by a Court of Law to be mentally incompetent, or that a Beneficiary is a minor at the time when a benefit under this Plan becomes payable to him or her, the Department shall, upon receipt of a Court order, ~~direct the Recordkeeper to~~ authorize payment of ~~thesuch~~ benefit to ~~anysuch~~ other person or institution, including a custodian under any State's Gift to Minors Act, who has been duly appointed as the Participant's or Beneficiary's guardian, or ~~asuch~~ person or institution who is then maintaining or has custody of the Participant or Beneficiary, or to a Court of Law for distribution pursuant to that Court's order.

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(Source: Amended at 33 Ill. Reg. 13451, effective September 14, 2009)

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- 1) Heading of the Part: Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies
- 2) Code Citation: 59 Ill. Adm. Code 50
- 3)

<u>Section Numbers:</u>	<u>Emergency Action:</u>
50.10	Amendment
50.20	Amendment
50.30	Amendment
50.40	Amendment
50.50	Amendment
50.60	Amendment
50.70	Amendment
50.80	Amendment
50.90	Amendment
50.100	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 1-17 of the Department of Human Services Act [20 ILCS 1305]
- 5) Effective date of amendments: September 10, 2009
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: Not applicable
- 7) Date filed with the Index Department: September 10, 2009
- 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) Reason for Emergency: The basis for this emergency rulemaking is the health and welfare of mental health and developmental disabilities clients that are under the care of the State. HB 3844 is effective immediately and expands the jurisdiction of the Inspector General to include financial exploitation. It is very important that the general public be notified of this expansion in order to facilitate the reporting of these allegations so OIG may initiate investigations into these allegations and prevent further abuse. The amendments also abolish appeal hearings in Section 50.80. It is in the public's best interest to notify employees that they no longer have this appeal right. The abuse and neglect definitions have also been amended and it is in the interest of the safety of those

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individuals, under the care of the State, that the general public be informed of these changes immediately.

- 10) A Complete Description of the Subject and Issues Involved: This rulemaking is necessary to comply with the requirements of HB 3844. The amendments will expand OIG's jurisdiction to include financial exploitation allegations of persons with disabilities under the care of the State. Section 50.80 will be amended to abolish Appeal Hearings and Written Responses will be added. For any cases in which OIG substantiates abuse or neglect or makes one or more recommendations, the community agency or facility shall submit a Written Response on a prescribed form to the respective DHS program division office.
- 11) Are there any other proposed rulemakings pending on this Part? No
- 12) Statement of statewide policy objectives: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding these amendments shall be directed to:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield, Illinois 62762

217/785-9772

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

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TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICESPART 50
OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS OF ALLEGED ABUSE OR NEGLECT IN
STATE-OPERATED FACILITIES AND COMMUNITY AGENCIES

Section

50.10 Definitions

EMERGENCY50.20 Reporting an allegation of abuse, ~~or~~ neglect, or financial exploitation and death reportsEMERGENCY

50.30 Responsibilities of OIG for intake assessment

EMERGENCY

50.40 Method of investigation

EMERGENCY

50.50 Conducting investigations

EMERGENCY50.60 Processing investigative reports, reconsideration and clarification request requirements, and the contents of case filesEMERGENCY

50.70 Completed investigations

EMERGENCY50.80 Written Responses ~~Appeals process~~EMERGENCY

50.90 Reporting by the Inspector General to the Illinois Department of Public Health Health Care Worker Registry

EMERGENCY50.100 Removal of an employee's name and finding from the Illinois Department of Public Health Health Care Worker RegistryEMERGENCY

AUTHORITY: Implementing and authorized by Section 1-17 of the Department of Human Services Act [20 ILCS 1305].

SOURCE: Adopted at 22 Ill. Reg. 19334, effective October 19, 1998; emergency amendment at 23 Ill. Reg. 4513, effective April 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg.

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10812, effective August 23, 1999; emergency amendment at 26 Ill. Reg. 484, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8352, effective May 24, 2002; amended at 32 Ill. Reg. 8132, effective May 16, 2008; emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days.

Section 50.10 Definitions**EMERGENCY**

For the purposes of this Part, the following terms are defined:

"Abuse-": See definitions for physical abuse, sexual abuse, mental abuse and financial exploitation. ~~Any physical injury, sexual abuse, or mental injury inflicted on an individual other than by accidental means.~~

"Access-": Admission to a community agency or facility for the purpose of conducting imminent risk assessments, conducting investigations, monitoring compliance with a written response, or completing any other statutorily assigned duty, such as annual unannounced site visits, and investigations, including but not limited to conducting interviews and obtaining and reviewing any documents or records that OIG believes to be pertinent to an investigation.

~~"Accidental-": Occurring unexpectedly or by chance without intent or volition.~~

"Act-": The Department of Human Services Act [20 ILCS 1305].

"Administrative action-": Measures taken by the community agency or the facility as a result of the findings or recommendations contained in the investigation that protect individuals from abuse, ~~or neglect,~~ or financial exploitation, prevent recurrences, and eliminate problems.

"Agency": See the definition for community agency.

"Aggravating circumstance-": A factor that is attendant to a finding and that tends to compound or increase the culpability of the accused. ~~Any circumstance related to a finding of abuse or neglect that increases the severity of the act or omission of the employee or agency or facility that is beyond the essential components of a neglect or abuse finding.~~

"Allegation-": An ~~Any~~ assertion, complaint, suspicion or incident involving any of

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the following conduct by an employee, facility or agency against an individual or individuals: mental abuse, physical abuse, sexual abuse, neglect or financial exploitation, when abuse or neglect of individual may have occurred.

"Authorized representative-": The administrative head or executive director of a community agency appointed by the community agency's governing body with overall responsibility for fiscal and programmatic management, or the facility director or hospital administrator of a Department facility. If this person is implicated in an investigation, the governing body of the community agency or the Secretary of the Department shall be deemed the authorized representative for that investigation.

"Bodily harm". Any injury, damage or impairment to an individual's physical condition, or making physical contact of an insulting or provoking nature with an individual.

"Community agency" or "agency-": A community agency licensed, funded or certified by the Department, but not licensed or certified by any other human services agency of the State, to provide mental health service or developmental disabilities service, or a program licensed, funded or certified by the Department, but not licensed or certified by any other human services agency of the State, to provide mental health service or developmental disability service.~~Any community entity or program providing mental health or developmental disabilities services that is licensed, certified or funded by the Department and not licensed or certified by any other human service agency of the State (e.g., Departments of Public Health, Public Aid, and Children and Family Services).~~

"Complainant-": The ~~required reporter or any~~ person who reports a death or an allegation of abuse, ~~or~~ neglect or financial exploitation directly to OIG and is not the required reporter.

"Complaint-": A report of a death or an allegation of abuse, ~~or~~ neglect or financial exploitation reported directly to the OIG Hotline.

"Credible evidence-": Any evidence that relates to the allegation or incident and that is considered believable and reliable.

"Day-": Working day, unless otherwise specified.

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"Deflection-": ~~A situation~~Those situations in which an individual is presented for admission to a facility or agency and the facility staff or agency staff do not admit that individual. Deflection~~This~~ includes triage, redirection and denial of admission.

"Department-": The Department of Human Services.

"Egregious neglect-": A finding of neglect as determined by the Inspector General that represents a gross failure to adequately provide for, or a callous indifference to, the health, safety or medical needs of an individual and results in an individual's death or other serious deterioration of an individual's physical condition or mental condition.~~The substantive failure by an employee to provide adequate medical or personal care or maintenance that results in the death, serious medical condition, or serious deterioration of an individual's physical or mental condition, as determined by the Inspector General.~~

"Employee-": Any person who provides~~currently (or formerly) providing~~ services at the ~~direction of the owner or operator of the~~ facility or the community agency on or off site. The service relationship can be with the individual, the facility or agency. Also, ~~any "employee"~~ includes any employee or contractual agent of the Department of Human Services or the community agency involved in providing or monitoring or administering mental health or developmental disability services. This includes but is not limited to: owners, operators, payroll personnel, contractors, subcontractors, and volunteers. For purposes of this Part, employee also includes someone who is no longer working for an agency or facility, but is the subject of an ongoing investigation for which OIG has jurisdiction.

"Facility" or "State-operated facility-": A mental health facility or developmental disabilities center operated by the Department.

"Final report-": A completed investigative report approved by the Inspector General that summarizes the evidence and that indicates whether the allegation of abuse, ~~or~~ neglect or financial exploitation is substantiated, unsubstantiated, or unfounded based on the evidence gathered from the investigation, when the reconsideration and response period has expired.

"Financial exploitation". Taking unjust advantage of an individual's assets, property or financial resources through deception, intimidation or conversion for the employee's, facility's or agency's own advantage or benefit.

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"Finding". The Office of Inspector General's determination regarding whether an allegation is substantiated, unsubstantiated or unfounded.

"Health Care Worker Registry" or "Registry". The Health Care Worker Registry created by the Nursing Home Care Act.

"Imminent danger". A preliminary determination of immediate, threatened or impending risk of illness, mental injury, or physical injury or deterioration to an individual's health that requires immediate action.

"Individual". Any person receiving mental health ~~services,~~ or developmental disabilities services, or both from a facility or ~~community~~-agency, while either on-site or off-site ~~operated, licensed, certified, or funded by the Department.~~

"Medical treatment". Any treatment, other than diagnostic procedures, that may only be ordered or rendered to an individual by a physician or dentist regarding an injury.

"Mental abuse". The use of demeaning, intimidating or threatening words, signs, gestures or other actions by an employee about an individual and in the presence of an individual or individuals that results in emotional distress or maladaptive behavior, or could have resulted in emotional distress or maladaptive behavior, for any individual present.

"Mental injury." Harm caused by an act or omission that precipitates emotional distress or maladaptive behavior in the individual, or could precipitate emotional distress or maladaptive behavior, including the use of words, signs, gestures or other actions toward or about and in the presence of individuals.

"Mitigating circumstance". A condition that is attendant to a finding and does not excuse or justify the conduct in question, but may be considered in evaluating the severity of the conduct, the culpability of the accused, or both the severity of the conduct and the culpability of the accused. ~~Any circumstance that, although it does not change a substantiated finding of abuse or neglect, lessens the culpability or severity of the act or omission by the employee, facility or community agency.~~

"Neglect". An employee's, agency's or facility's ~~The~~ failure to provide adequate medical care, ~~or~~ personal care or maintenance, and that, as a consequence, causes

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~~an individual pain, injury or emotional distress, results in either an individual's maladaptive behavior or the deterioration of an individual's physical condition or mental condition, or places an individual's health or safety at substantial risk of possible injury, harm or death, which failure results in physical or mental injury to an individual or in the deterioration of an individual's physical or mental condition.~~

~~"Non-accidental". Occurring with volition or consciousness; not occurring by chance.~~

~~"OIG-". The Office of Inspector General of the Department.~~

~~"Physical abuse-". An employee's non-accidental and inappropriate contact with an individual that causes bodily harm. "Physical abuse" includes actions that cause bodily harm as a result of an employee directing an individual or person to physically abuse another individual. Physical injury as defined in this Section.~~

~~"Physical injury." Physical harm to an individual caused by any non-accidental act or omission.~~

~~"Preliminary report." An investigative report that summarizes the evidence in an investigation with a recommendation as to whether the findings of the investigation indicate that the allegation should be substantiated, unsubstantiated, or unfounded.~~

~~"Preponderance of the evidence-". Proof sufficient to persuade the finder of fact that a fact sought to be proved proposition is more likely true than not true.~~

~~"Recommendation". Means an admonition, separate from a finding, that requires action by the facility, agency or Department to correct a systemic issue, problem or deficiency identified during an investigation.~~

~~"Required reporter-". Any employee who suspects, witnesses, or is informed of an allegation of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect or financial exploitation. abuse or neglect.~~

~~"Routine programmatic." Refers to services provided as part of the individual's habilitation plan, treatment plan, or as a regular or ongoing component of the community agency's or facility's general services or practices.~~

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"Secretary": The Chief Administrative Officer of the Department. ~~Secretary of the Department or his or her designee.~~

~~"Serious injury." An injury that requires medical treatment.~~

"Sexual abuse": Any sexual behavior, act of sexual contact or intimate physical contact between an employee and an individual, including an employee's coercion or encouragement of an individual to engage in sexual activity that results in sexual contact, intimate physical contact, sexual behavior or intimate physical behavior, sexual penetration, sexual coercion, or sexual exploitation of an individual.

"Sexual contact": Inappropriate sexual contact between an employee and an individual receiving services and another person involving either an employee's genital area, anus, buttocks or breasts or an individual's genital area, anus, buttocks or breasts. Sexual contact also includes sexual contact between individuals that is coerced or encouraged by an employee.

"Substantiated": There is a preponderance of the evidence to verify the substance of the allegation. ~~found during any investigation indicates that abuse or neglect occurred.~~

"Unfounded": There is ~~no~~ credible evidence, but less than a preponderance of the evidence, to verify support the substance of the allegation. ~~that abuse or neglect occurred.~~

"Unsubstantiated": There is credible evidence, but less than a preponderance of evidence to verify the substance of the allegation. ~~show that abuse or neglect occurred.~~

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

Section 50.20 Reporting an allegation of abuse, ~~or neglect,~~ or financial exploitation and death reports
EMERGENCY

- a) Reporting – by a facility, community agency or employee

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- 1) If an employee witnesses, is told of, or ~~suspects~~has reason to believe an incident of physical abuse, sexual abuse, mental abuse, financial exploitation,~~or~~ neglect or a death has occurred, the employee, community agency or facility shall report the allegation to the OIG hotline according to the community agency's or facility's procedures. The employee, community agency or facility shall report the allegation immediately, but no later than the time frames specified in subsections (a)(2) and (3) of this Section. Such an employee or representative of a community agency or facility shall be deemed the "required reporter" for purposes of this Part. Such reporting will additionally meet any requirements of 59 Ill. Adm. Code 115, 119 and 132 and Department administrative directives, as applicable.

- 2) Within four hours after the initial discovery of an incident of alleged physical abuse, sexual abuse, mental abuse, financial exploitation or neglect, the required reporter shall report the following allegations by phone to the OIG hotline:
 - A) Any allegation of physical, sexual or mental abuse by an employee;
 - B) Any allegation of neglect by an employee, community agency or facility;~~and~~
 - C) Any allegation of financial exploitation by an employee, community agency or facility; and
 - ~~D)E)~~ Any injury or death of an individual that occurs within a facility or community agency program when abuse or neglect may be~~is~~ suspected.
 - ~~E)D)~~ At a minimum, required reporters to the OIG hotline shall provide details concerning:
 - i) Information about the victim, including name, date of birth, sex, disability, identification number and/or social security number (if known);

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- ii) Information about the incident, including what happened, when it happened, where it happened, how it happened and the identification of all witnesses;
 - iii) Information about the accused (if known), including name, contact information and if the accused is presently working with or will be working with the alleged victim ~~within the next 72 hours~~; and
 - iv) Information about the person initiating the complaint, complainant, including name, contact information, relationship to the victim and the need for anonymity (if applicable).
- 3) Written documentation of deaths from the required reporter
Within 24 hours after initial discovery, the required reporter shall call the OIG ~~hotline~~Hotline and report (as described in Section 50.30):
 - A) Any death occurring within 14 calendar days after discharge or transfer of an individual from a residential program or facility;
 - B) Any death of an individual occurring within 24 hours after deflection from a residential program or facility;
 - C) Any other death of an individual occurring within a residential program or facility or at any Department-funded site even though not alleged to be a result of abuse or neglect.
- 4) Screening of reports prohibited by community agency or facility
Screening, delaying or withholding reports of incidents or allegations of abuse or neglect from OIG is strictly prohibited ~~not allowed~~.
- 5) Retaliation
It is a violation of Sections 1-17(k)(3) of the Act for any employee or administrator of an agency or facility to take retaliatory action against an employee who acts in good faith in conformance with his or her duties as a required reporter.
- 6) Other community agency and facility requirements

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- A) Reporting to OIG shall not relieve the community agency or facility from any statutory or regulatory reporting requirements applicable to the community agency or facility.
- B) If the authorized representative or his or her designee reviews the agency's or facility's form or any other internal document regarding alleged abuse, neglect or death at the respective community agency or facility, he/she shall not delete, delay, withhold, limit or otherwise restrict any of the information contained in the form. Information may be added by the authorized representative or his or her designee for clarification purposes only.

b) OIG hotline

The OIG hotline (#1-800-368-1463) shall be communicated to individuals and guardians at the time of admission and the number shall be posted in plain sight at each community agency and facility location where individuals receive services.

c) Other reports of allegations of abuse, ~~and~~ neglect and financial exploitation

- 1) Any other person, individual, family member, guardian, ~~or~~ advocate, ~~or staff from another community agency or facility~~ who witnesses, is told of or ~~suspects~~ has reason to believe an incident of alleged abuse, ~~or~~ neglect, financial exploitation or a death of an individual may have occurred, may report the incident to OIG by telephoning the OIG hotline, or in writing by fax or other electronic reporting system offered by OIG to the OIG Intake or mail at:

Office of Inspector General
901 Southwind Road
Springfield, Illinois 62703

2) Notifications

- A) OIG shall notify the authorized representative of the community agency or facility or his or her designee within 3 ~~working~~ days that an allegation has been received unless such notification compromises the integrity of the investigation, such as, an allegation involving the authorized representative or his or her

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designee.

- B) The authorized representative of the community agency or facility shall notify the victim or guardian (if applicable) and the accused that an allegation has been received within 24 hours. If the authorized representative or designee is unable to reach the guardian by phone, a letter of notification shall be sent within 24 hours.
- C) OIG shall also contact the complainant immediately but no later than within 3 ~~working~~ days regarding the allegation.

d) Training and technical assistance/Other requirements

- 1) Agencies and facilities shall have a policy detailing procedures for reporting allegations of abuse, neglect, financial exploitation and deaths as set forth in Sections 50.10 and 50.20.
- 2) All employees, as defined in Section 50.10, shall be trained in Part 50 requirements upon being hired and at least biennially.
- 3) Any person, community agency, or facility may request training or technical assistance from OIG in identifying, reporting, investigating and preventing abuse, ~~or~~ neglect, financial exploitation, reporting of deaths, or participation in applicable OIG-sponsored training as referenced in Section 1-17(h)(j) of the Act.

e) Misleading reports

Nothing in this ~~Part~~rule protects persons who knowingly make misleading reports to harass or compromise community agency or facility effectiveness from action available to either the community agency or facility. Nothing in this Part prohibits OIG, other enforcement authorities, or any employee jeopardized by such reporting from obtaining allowable remedies.

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

Section 50.30 Responsibilities of OIG for intake assessment

EMERGENCY

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- a) Availability of OIG
OIG shall be available 24 hours a day to assess reports of allegations of abuse, neglect financial exploitation or death and provide any technical assistance with making the report.
- b) Responsibility of OIG for receiving the report
OIG staff receiving the report of the allegation are responsible for assessing, based on the information received at intake, whether the allegation could constitute abuse, ~~or neglect,~~ or financial exploitation and whether OIG has the authority to investigate in accordance with the Act. OIG shall make these assessments within one day after receiving the call.
- c) Reports involving routine programmatic, licensure or certification matters
- 1) OIG shall have no supervision over or involvement in routine, programmatic, licensure or certification operations of the Department, the Bureau of Accreditation, Licensure and Certification, or any of the Department's funded agencies. (Section 1-17(a) of the Act)
 - 2) If the reported allegation relates to licensure or certification standards or routine programmatic operations and is deemed not to be abuse, ~~or neglect,~~ or financial exploitation, OIG shall refer the allegation to the appropriate agency or unit of government.
 - 3) If the reported allegation is not within OIG's authority or does not constitute abuse, ~~or neglect,~~ or financial exploitation, OIG shall refer the complainant to the appropriate agency or unit of government.
- d) Investigations by two or more State agencies
When two or more State agencies could investigate an allegation of abuse or neglect at a community agency or facility, OIG shall not conduct an investigation that is redundant to an investigation conducted by another State agency (Section 1-17(a) of the Act) unless another State agency has requested that OIG participate in the investigation (such as the Departments of State Police, Children and Family Services, or Public Health).
- e) Referral to the Department of State Police/Local Law Enforcement
The Inspector General shall, within 24 hours after determining that there is

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~~credible evidence indicating that a criminal act may have been committed in connection with receiving a report of~~ an allegation of abuse, ~~or neglect, financial exploitation~~ or death of an individual served by a facility ~~or agency, determine whether the evidence indicates that any possible criminal act has been committed, or that~~ law enforcement expertise is required, ~~and shall~~ refer such allegations to the Department of State Police ~~or ensure that notification is made to the respective local law enforcement entity~~ for investigation in accordance with Section 1-17(1)(b) of the Act. ~~Also see Section 50.50(h)(1) of this Part.~~

- f) Authorized representative
- If the allegation ~~of constitutes~~ abuse, ~~or neglect or financial exploitation~~ and is within the jurisdiction of OIG, the authorized representative or his or her designee of a community agency or facility shall:
- 1) Ensure the immediate health and safety of involved individuals and employees, including ordering medical examinations when applicable; and
 - 2) ~~Remove removing~~ alleged accused employees from having contact with ~~the involved~~ individuals at the facility or agency when there is credible evidence supporting the allegation of abuse pending the outcome of any further investigation, prosecution or disciplinary action against the employee [405 ILCS 5/3-210]; and ~~and neglect;~~
 - 3) ~~2)~~ Ensure OIG is notified; and
 - 4) ~~3)~~ Unless otherwise directed by OIG, initiate the preliminary steps of the investigation by a designated employee who has been trained in the OIG-approved methods to ~~conduct initial interviews and~~ gather evidence and documents and for whom there is no conflict of interest. This may include the need to:
 - A) Secure the scene of the incident and preserve evidence, if applicable;
 - B) Identify, ~~and~~ separate potential witnesses, and interview when applicable;
 - C) Identify and record the names of all persons at the scene at the time

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of the incident and, when relevant, those who had entered the scene prior to the scene being secured;

- D) Secure all relevant documents and physical evidence, such as clothing, if applicable;
 - E) Photograph the scene of the incident and the individual's injury, when applicable.
- g) OIG may determine what further action, if any, is necessary to protect the safety of any individual, secure the scene of the alleged incident, preserve the evidence and maintain the integrity of the investigation. Such action may include immediate emergency referrals (such as medical or housing services), the notification of law enforcement officials, requesting hospital services or contacting the Department or other State agencies for assistance.

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

Section 50.40 Method of investigation**EMERGENCY**

- a) Determination of primary responsibility for investigation
 - 1) The Office of Inspector General shall determine whether OIG, or the community agency with OIG's investigative protocol, ~~or the facility~~ shall take primary responsibility for investigating the allegation. This determination shall be based on the nature of the allegation, frequency of allegations and complaints of a comparable type and knowledge of the facility or agency.
 - 2) OIG shall determine who shall assume primary responsibility for the investigation within one day after receipt of an allegation.
 - 3) OIG shall notify the authorized representative, the alleged victim or guardian (if applicable) and the accused in writing when an investigation will be opened and to whom the primary responsibility for the investigation will be assigned.

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- 4) OIG shall assume primary responsibility for investigating the following allegations: ~~of abuse or neglect:~~
 - A) Allegations of physical abuse or sexual abuse by an employee or allegations of financial exploitation over \$300 by an employee, facility or agency; ~~other than mental injury;~~
 - B) Allegations of neglect by an employee that result in an individual's death or other serious deterioration of an individual's physical or mental condition. ~~or of neglect with an injury requiring medical treatment by a physician.~~
 - 5) For any other allegation, OIG may designate primary responsibility for the investigation to the community agency on a case-by-case basis using the OIG investigative protocol. ~~or to the facility.~~ If at any time during the course of the investigation, the community agency requests that OIG assume primary responsibility for the investigation, OIG shall do so.
 - 6) When OIG designates primary responsibility for the investigation to the agency, another entity (community agency or facility), OIG will provide investigative guidance and be available for assistance and shall retain the right to assume primary responsibility for the investigation at any time.
 - 7) If an investigation results in a substantiated finding of physical abuse, sexual abuse or egregious neglect, ~~other than mental injury or results in a substantiated finding of neglect that has been determined to be egregious neglect,~~ it shall result in the accused employee's identity and the OIG finding being reported to the Health Care Worker Registry in accordance with Section 50.90.
- b) OIG investigations may include, but are not limited to, site visits, telephone contacts, requests for written statements and responses from the community agency or the facility.
 - c) Nothing in this Part precludes a community agency or facility from taking immediate action that may include protecting the individuals from danger or harm, notifying appropriate law enforcement officials, or taking any other administrative action deemed necessary by the community agency or facility, unless otherwise directed by OIG. However, the community agency or facility

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~~can take initial investigative steps in keeping with the requirements of Section 50.30(f). The agency shall~~should request approval from OIG prior to conducting its own full investigation, ~~and before attempting to gather information related to the investigation.~~

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

Section 50.50 Conducting investigations**EMERGENCY**

- a) Depending on the nature of the allegation, an investigation shall consist of, but not be limited to, the following procedures whether done by OIG, the community agency or the facility:
- 1) Ensure that the victim is not in imminent danger;
 - 2) Protect the integrity of the investigation at all times;
 - 3) Secure the scene of the incident;
 - 4) Identify and separate witnesses;
 - 5) Preserve and secure all evidence;
 - 6) Obtain statements from persons involved including victims, alleged perpetrators, and witnesses by face-to-face interviews, in writing, or by telephone; and
 - 7) Obtain copies of pertinent documents relating to the investigation, i.e., progress notes, incident or injury reports, patient or resident records, photographs, etc.
- b) Confidentiality
Any allegations or investigations of reports of abuse, ~~and~~ neglect and financial exploitation shall remain confidential until a final report is completed (Section 1-17(m)(a) of the Act). The identity of any person as a complainant (~~other than a required reporter~~) shall remain confidential in accordance with the Freedom of Information Act [5 ILCS 140] or unless identification is authorized by the

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complainant. Information concerning diagnosis and treatment for alcohol or drug abuse shall be disclosed to OIG by community agencies only in accordance with federal regulations at 42 CFR 2. Information concerning tests for human immunodeficiency virus (HIV) and diagnosis and treatment for acquired immune deficiency syndrome (AIDS) shall be disclosed to OIG by community agencies only in accordance with the AIDS Confidentiality Act [410 ILCS 305]. All personal health related information contained in OIG investigative reports shall remain confidential in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) [45 CFR 160, 162 and 164].

- c) All investigations shall be conducted in a manner that respects the dignity and human rights of all persons involved.
- d) Representation during interviews: An employee may request representation at an interview with OIG if he or she has reasonable grounds to believe that the interview may be used to support disciplinary action against him or her. If the investigator denies the request, the employee's statement may not be used in any subsequent disciplinary proceeding against that employee. The community agency or facility that employs the interviewee does not have the right to be present at an investigative interview. Union representation for AFSCME employees, Council 31 (State-operated facilities), shall be granted in accordance with the applicable union contract.
- e) No person shall interfere with or obstruct an OIG interview or investigation.
- f) If the community agency ~~or facility~~ has responsibility for conducting the investigation, OIG shall be available on request to answer questions and provide advice or technical assistance regarding the investigatory process.
- g) OIG shall be granted access, for the purpose of investigating abuse, ~~or~~ neglect, or financial exploitation, to any facility or program operated, funded, licensed or certified by the Department that is subject to the provisions of Section 1-17 of the Act.
 - 1) When advance notice to an authorized representative or his or her designee is not provided, OIG shall, on arrival at the community agency or facility site, request that an on-duty and on-site employee notify the authorized representative or his or her designee of OIG's arrival.

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- 2) Facilities and community agencies shall obtain and provide OIG with all written statements and any requested documents in a timely manner.
- ~~3) There is reason to believe that a violation of an existing Department Rule may have occurred, OIG shall immediately notify the authorized representative or his or her designee of the community agency and the appropriate Department office or division.~~
- h) If OIG determines that:
 - ~~1) The allegation involves a possible criminal act or that special expertise is required, OIG shall notify, within 24 hours, the Department of State Police or local law enforcement authorities, as appropriate.~~
 - ~~1)2) An individual's health or safety is in imminent danger, the Inspector General shall immediately notify the Secretary or his or her designee and the authorized representative of the community agency or facility or his or her designee.~~
 - ~~2)3) There is reason to believe that a violation of an existing Department rule may have occurred, OIG shall notify the authorized representative of the community agency or his or her designee and the appropriate Department office or division.~~

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

Section 50.60 Processing investigative reports, reconsideration and clarification request requirements, and the contents of case files
EMERGENCY

- a) Processing investigative reports
 - 1) The investigative reportfile shall be submitted to the Inspector General within 60 days from assignment unless there are extenuating circumstances including, but not limited to, such as the unavailability of witnesses or official documents.
 - 2) Upon receipt of an investigative report, the Inspector General will

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determine whether to accept the findings. The Inspector General may require additional documentation or further investigation by the community agency ~~or facility~~, or may determine that further investigation by OIG is warranted.

- 3) When the Inspector General determines that abuse, ~~or neglect~~ or financial exploitation of an individual is substantiated against an employee, the Inspector General shall note in the investigative report any aggravating or mitigating circumstances as those terms are defined in this Part.
- 4) When the Inspector General substantiates neglect against an employee, the Inspector General shall make a determination in the investigative report if the neglect is egregious.
- 5) Finalizing investigative reports and notifications to community agencies and facilities
 - A) Cases investigated by OIG – After determining the finding, for substantiated cases or unsubstantiated and unfounded cases with recommendations, the Inspector General shall notify the community agency or facility by submitting to it a copy of the investigative report. For unsubstantiated and unfounded cases without recommendations, a letter of finding will be sent to the facility or agency.
 - B) Cases investigated by community agencies ~~and facilities~~ – After determining the finding, the Inspector General shall notify the community agency ~~or facility~~ that the finding was accepted, or if additional information is required to complete the investigation.
 - C) The community agency or facility shall submit a written response as described in Section 50.80. ~~written response within 30 calendar days after receiving the investigative report when OIG assumed primary responsibility for the investigation and there are substantiated findings or other recommendations. The written response shall meet all requirements in subsection (c)(1)(C) of this Section.~~
- 6) After determining the finding in all cases, the Inspector General shall

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notify the complainant or the required reporter, the individual who was allegedly abused, ~~or~~ neglected or financially exploited or his or her legal guardian (if applicable), and the person alleged to have committed the offense. The notice shall identify the outcome of the investigation and include a statement of the right to request clarification or reconsideration of the finding. In substantiated cases, the Inspector General shall provide the perpetrator with a redacted copy of the investigative report.

- b) Reconsideration and clarification requirements: Requests that the Inspector General provide clarification of the findings or reconsideration of the findings must be submitted within 15 ~~working~~ days after receipt of the report or notification of the findings.
- 1) All clarification and reconsideration requests must be in writing.
 - 2) Community agency or facility clarification and reconsideration requests must be on letterhead signed by the authorized representative.
 - 3) All clarification and reconsideration requests must clearly identify the nature of the request and reconsideration requests must include new evidence information that could change the finding.
 - 4) If a reconsideration request is denied or after clarification has been provided, the community agency or facility shall submit a written response as set forth in Section 50.80, ~~written response to the Inspector General within 15 days after the receipt of the clarification or denial of reconsideration.~~
 - 5) If the Inspector General determines further investigation is necessary based on the request for reconsideration or clarification of the findings, an amended investigative report shall be issued.
- c) Contents of case files
- 1) An investigative file submitted by a community agency after an investigation is completed ~~or facility~~ shall include:
 - A) All investigatory materials, including physical and documentary evidence, such as photographs, interview statements and records;

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- B) An investigative report to the Inspector General with a recommendation as to whether the findings of the investigation indicate that the allegation should be substantiated, unsubstantiated, or unfounded;
- C) A written response when required by Section 50.80(a). ~~On a prescribed form, a written response from the community agency or facility that addresses the actions that it will take or has taken to protect individuals from abuse or neglect, prevent recurrences and eliminate problems, including implementation and completion dates, for all such actions as a result of the findings or recommendations contained in the investigation.~~
- 2) In addition to subsections (c)(1)(A) and (B) of this Section, when abuse, neglect or financial exploitation is substantiated, ~~when abuse or neglect is substantiated,~~ investigative files, shall include:
- A) An assessment of the egregiousness of actions in reports that substantiated neglect.
- B) Identification of the mitigating and aggravating circumstances, if any.
- 3) In addition to subsections (c)(1)(A) and (B) of this Section, when OIG has conducted the investigation, ~~when OIG has conducted the investigation,~~ investigative files, shall include: on a prescribed form, a written response from the community agency or facility that addresses the actions that it will take or has taken to protect individuals from abuse, ~~or~~ neglect, or financial exploitation, prevent recurrences, and eliminate problems, including implementation and completion dates for all such actions, as a result of the findings or recommendations contained in the investigation. (Section 50.80 of this Part).

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

Section 50.70 Completed investigations**EMERGENCY**

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- a) The investigative report and the investigation shall be considered complete 30 calendar days after the notice required in Section 50.60(a)(5)(A) and (B) has been sent to the facility or agency, barring cases when a reconsideration request has been granted to any requestor.
- b) Distribution of completed investigative reports
 - 1) *Within ten days after the transmittal of a completed investigative report substantiating an allegation, or if a recommendation is made, the Inspector General shall provide the investigative report on the case to the Secretary and to the director of the facility or agency where the abuse, neglect or financial exploitation occurred. ~~The Inspector General shall provide a complete investigative report within 10 calendar days, to the Secretary, when abuse or neglect is substantiated or administrative action is recommended including a written response from a community agency or facility if one has been provided.~~* (Section 1-17(m)(e) of the Act)
 - 2) The Inspector General shall provide a completed investigative report within 10 calendar days to Equip for Equality, Inc., and the Illinois Guardianship and Advocacy Commission.
 - 3) The Inspector General shall provide a completed investigative report of all substantiated cases from Department facilities serving individuals with developmental disabilities within 10 calendar days to the Illinois Department of Public Health and the Department's Office of Developmental Disabilities.
 - 4) The Inspector General shall provide a completed investigative report of all substantiated cases from Department facilities serving individuals with mental illness within 10 calendar days to the Department's Office of Mental Health.
 - 5) If the Inspector General substantiates abuse, ~~or~~ neglect or financial exploitation at a community agency serving individuals with developmental disabilities or recommends administrative action, the investigative report shall be provided to the Department's Office of Developmental Disabilities within 10 calendar days.

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- 6) If the Inspector General substantiates abuse, ~~or neglect~~ or financial exploitation at a community agency serving individuals with mental illness or recommends administrative action, the investigative report shall be provided to the Department's Office of Mental Health within 10 calendar days.
 - 7) The Inspector General shall provide a completed investigative report of all cases substantiating abuse, ~~or neglect~~ or financial exploitation or recommending administrative action in community agencies within 10 calendar days to the Department's Bureau of Accreditation, Licensure and Certification.
 - 8) The Inspector General shall provide a completed investigative report in all cases substantiating abuse, ~~or neglect~~ or financial exploitation against a Department employee within 10 calendar days to the Department's Bureau of Labor Relations.
 - 9) The Inspector General shall provide a completed investigative report substantiating abuse, ~~or neglect~~ or financial exploitation if a legal issue is involved within 10 calendar days to the Department's General Counsel.
 - 10) When an accused employee in a substantiated case is licensed by the Department of Financial and Professional Regulation, the Inspector General shall provide a copy of the investigative report to that agency.
- c) The facility or agency shall inform the victim and the legal guardian (if applicable) and the accused employee whether the reported allegation was substantiated, unsubstantiated or unfounded. If the authorized representative or designee is unable to reach the guardian by phone, a letter of notification shall be sent within 24 hours.
 - d) The Office of the Inspector General shall inform the accused employee of the results of a reconsideration request or of any changes in the finding that resulted from a reconsideration request within 15 days.
 - e) If the finding substantiates physical abuse, sexual abuse or egregious neglect, the other than mental injury or results in a substantiated finding of neglect that has been determined to be egregious, the Inspector General shall report the identity of the accused employee and finding to the Health Care Worker Registry. The

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Inspector General shall notify the accused employee of the right to appeal the action that ~~will place~~ placed his or her identity on the Health Care Worker Registry as described in Section 50.90 of this Part.

~~f) The Inspector General shall inform any person or a community agency who is subject to any action based on the findings of an investigation of their applicable appeal rights and responsibilities contained in Section 50.80 of this Part.~~

~~f)g)~~ Release of investigative reports

1) ~~*All investigative reports prepared by the Office of the Inspector General shall be considered confidential and shall not be released except as provided by the law of this State or as required under applicable federal law. Any allegations or investigations of reports of abuse and neglect shall remain confidential until a final report is completed.*~~ (Section 1-17(m)(a) of the Act)

2) Substantiated findings shall be released in accordance with the Act, the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110] and the Freedom of Information Act [5 ILCS 140].

3) ~~*Unsubstantiated and/or unfounded investigative reports findings shall not be disclosed remain confidential except as allowed that investigative reports shall be released pursuant to Section 6 of the Abused and Neglected Long Term Care Facility Residents Reporting Act [210 ILCS 30] or a valid court order.*~~ (Section 1-17(m)(a) of the Act)

4) The identity of any person as a complainant shall remain confidential in accordance with the Freedom of Information Act [5 ILCS 140], or unless authorized by the complainant in writing. The identity of a required reporter shall only remain confidential under certain circumstances as determined by OIG on a case-by-case basis.

~~g)h)~~ Recommendations for sanctions

1) The Inspector General may recommend to the Illinois Department of Public Health and the Department of Human Services that sanctions be imposed against ~~mental health and developmental disabilities~~ facilities or community agencies to protect residents, including:

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- A) appointment of on-site monitors or receivers;
 - B) transfer or relocation of an individual or individuals; residents; and
 - C) closure of units; and-
 - D) Termination of any one or more of the following:
 - i) Department licensing;
 - ii) Department funding; or
 - iii) Department certification.
- 2) The Inspector General may seek the assistance of the Attorney General of Illinois or the State's attorney for imposing sanctions listed in subsection (h)(1).

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

Section 50.80 Written Responses ~~Appeals process~~
EMERGENCY

- a) For any case in which OIG substantiates abuse or neglect or makes one or more recommendations, the community agency or facility shall submit a written response on a prescribed form to the respective DHS program division office.
 - 1) The written response shall address the actions that it will take or has taken to protect individuals from abuse or neglect, prevent recurrence and eliminate problems. Each substantiated finding or recommendation shall be addressed separately.
 - 2) All written responses shall include the following information:
 - A) Investigative findings and/or recommendations by OIG;
 - B) Specific actions for each finding or recommendation, identifying

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the persons the actions address, if any;

- C) Persons responsible for implementing each action;
- D) For each action, the actual or anticipated completion date;
- E) Signature of the Authorized Representative or, if the Authorized Representative is named in the investigation, the President of the Board of Directors.

3) The written response shall be submitted within 30 calendar days after receiving the investigative report. If OIG has assigned the investigation to a community agency with an approved investigative protocol, the written response shall be submitted within 30 calendar days after the Inspector General accepts the investigative report.

4) If a reconsideration request is received by OIG, the written response is due within 15 calendar days after the following:

- A) The date the community agency or facility is notified that the reconsideration is denied;
- B) The date the community agency or facility receives a revised cover letter based on a granted reconsideration indicating the finding remains substantiated, or there are recommendations.

5) If a reconsideration request is granted and the revised cover letter indicates the finding is unsubstantiated or unfounded and there are no recommendations, a written response is no longer required.

b) Division Responsibilities

1) The respective DHS program division shall promptly review the submitted written response and may require the community agency or facility to plan or take additional administrative actions in response to the findings and/or recommendations.

2) When the division agrees with the written response, the division's director, or designee, shall approve the written response by signing and dating the

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form. The actions listed on the written response do not need to be completed for the division to approve it.

- 3) To ensure timely implementation of identified actions, the division shall promptly do the following:
- A) Notify the community agency, facility and OIG of the approval; and
 - B) Send to OIG the approved written response and any documentation received that confirms implementation of the designated actions.

c) Implementation Status Reports

1) Community Agency or Facility

- A) If the actions listed in the written response have not been completed by the time the division notifies the community agency or facility that the written response is approved, the Authorized Representative shall send OIG an implementation status report within 30 days of the date the written response was approved.
- B) The implementation status report shall detail the status of each administrative action taken or planned, including the actual or anticipated completion date.
- C) An updated implementation status report must be sent to OIG every 60 days thereafter until all administrative actions have been completed.
- D) Upon completion of actions for which at least one implementation status report was submitted, the community agency or facility shall promptly do the following:
 - i) Notify OIG in writing of the completion date and the names of any persons who were the subject of the action; and
 - ii) Submit to OIG documentation confirming implementation of each of those actions.

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- 2) OIG may review approved written responses and notify any community agency or facility when an implementation status report is overdue. Failure of the community agency or facility to comply with implementation status reports is a violation of the statute.
- d) Compliance Reviews
 - 1) OIG shall conduct a review of the following:
 - A) Any written response in which an action takes more than 120 days after approval to complete; and
 - B) A random sample of written responses approved by the division. The sample shall be chosen at least quarterly, shall be at least 10% of all written responses approved during that time period, and shall be proportionate by community agency and facility cases among the approved written responses.
 - 2) OIG shall determine compliance with the completed action as approved, which may include, but not be limited to, written and verbal requests for documentation, phone contacts or site visits.
 - 3) Community agencies and facilities shall fully cooperate with OIG during these compliance reviews, including providing access as defined in Section 50.10. Cooperation with compliance reviews additionally includes the following:
 - A) Arranging for interviews as requested and providing copies of any personnel action taken as a result of the findings or recommendations; and
 - B) Responding promptly to OIG requests for documentation and related information.

There shall be an appeals process for any person or community agency that is subject to any action based on the findings of an investigation. (Section 1-17(e) of the Act)

- a) A person or community agency may appeal an action taken based on a finding of

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~~an investigation on the grounds that the action was unduly punitive or unduly lenient.~~

- ~~b) The Inspector General shall inform the agency or employees of the right to appeal under this Part.~~
- ~~c) The employee or community agency may request a hearing no later than 30 calendar days after the action occurred. The employee or community agency shall submit a letter to the Bureau of Administrative Hearings, Department of Human Services, 100 S. Grand Ave. East, Springfield, Illinois 62762, requesting a hearing and setting out the reasons why the action was in error.~~
- ~~d) The hearings under this Section shall be conducted in accordance with the Department's rules on the conduct of hearing and appeals at 89 Ill. Adm. Code 508.~~
- ~~e) At the hearing, the community agency, the facility or the Department shall have the burden of proving that its action was fair and supported by a preponderance of credible evidence.~~

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

Section 50.90 Reporting by the Inspector General to the Illinois Department of Public Health Health Care Worker Registry**EMERGENCY**

- a) An employee's identity and the investigative finding will not be forwarded to the Health Care Worker Registry when:
 - 1) The Inspector General has issued an amended investigative report, as a result of a reconsideration, that no longer contains a substantiated finding;
or-
 - 2) The parties have jointly requested the administrative law judge consider a stipulated disposition of the proceeding and the Secretary agrees with the stipulated disposition; or
 - 3) The employee has notified the Inspector General in writing, including any

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supporting documentation, that he or she is formally contesting an adverse employment action resulting from a substantiated finding by a complaint filed with the Illinois Civil Service Commission, or has filed an action pursuant to any applicable collective bargaining agreement; or

4) The employee has requested a hearing to appeal the placement of his/her name on the Health Care Worker Registry and it has not been completed.

b) After the Inspector General's investigative report becomes a final report, the Inspector General shall notify the employee against whom the Inspector General has substantiated physical abuse, sexual abuse or egregious neglects defined in this Part other than mental injury, or against whom the Inspector General has substantiated neglect that has been determined to be egregious, that his or her identity and the investigative finding will be placed on the Health Care Worker Registry maintained by the Illinois Department of Public Health. ~~The employee's identity will not be forwarded to the Registry when:~~

~~1) The grievance and arbitration rights of the employee have not been exhausted, unless three months have expired since the initiation of the grievance process by the employee, whichever comes first.~~

~~2) A Health Care Worker Registry hearing has been requested and has not been completed.~~

c) The notification to the employee of the decision to place his or her name and the investigative finding on the Health Care Worker Registry shall be provided to the last known address of the employee by certified mail and shall include:

1) A clear and concise statement of the grounds on which the report to the Health Care Worker Registry is based.

2) Information on the opportunity to request a Registry hearing to contest the decision to place the employee's name and the reporting of the investigative finding on the Health Care Worker Registry, or in lieu of a request for a hearing, the opportunity to submit a written response to the decision to place the employee's name and the reporting of the investigative finding to the Health Care Worker Registry.

3) Explanation of the mechanism by which the employee can request a

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hearing.

d) If the employee requests a Registry hearing:

~~1)~~ ~~The Registry hearing shall be separate and distinct from the Inspector General's appeal process described in Section 50.80.~~

~~1)2)~~ The employee and the Department may provide documentary, physical~~written~~ and oral evidence at the hearing.

~~2)3)~~ The Department shall be required to establish by a preponderance of the evidence that the Office of the Inspector General's finding of physical abuse, sexual abuse or egregious neglect~~other than mental injury or OIG's finding of neglect that has been determined to be egregious~~ warrants reporting to the Health Care Worker Registry.

~~3)4)~~ Hearings under this Section shall be conducted in accordance with the Department's rules on the conduct of hearings and appeals at 89 Ill. Adm. Code 508. In the event there is a conflict between 89 Ill. Adm. Code 508 and this Part, the provisions of this Part shall prevail.

~~4)5)~~ If applicable, in addition to notice to the Inspector General, the employee must give written notice to the Department's Bureau of Administrative Hearings, Department of Human Services, Office of the General Counsel, 401 S. Clinton, 6th Floor, Chicago IL 60607, Attn: Bureau of Administrative Hearings, 100 South Grand Avenue East, Springfield, Illinois 62762 that he or she has initiated the grievance or arbitration process and the date of initiation, or has filed an action with the Civil Service Commission. The notice must include a copy of the grievance or the filing with the Civil Service Commission.

~~5)6)~~ The employee may request a hearing no later than 30 calendar days after receipt of the notice issued pursuant to Section 50.70(e). The employee shall file an appeal in writing to the Bureau of Administrative Hearings, Department of Human Services, Office of the General Counsel, 401 S. Clinton, 6th Floor, Chicago IL 60607, Attn: Bureau of Administrative Hearings, 100 South Grand Avenue East, Springfield, Illinois 62762, requesting a hearing and stating~~setting~~ out the reasons why the proposed report to the Registry is not warranted.

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- e) If the employee does not request a hearing or if the hearing results in a decision finding that the reporting of the Inspector General's finding report to the Health Care Worker Registry is warranted valid, the Inspector General shall report the name of the employee to the Health Care Worker Registry maintained by the Illinois Department of Public Health and notify the employee of the report.
- f) The Inspector General's report to the Health Care Worker Registry shall include:
- 1) The identity of the employee, including the employee's social security number, and identification of the substantiated finding that resulted in the name of the employee being placed on the Health Care Worker Registry;
 - 2) the final decision finding from the Department's Registry hearing, if one was held; and
 - 3) A brief statement from the reported employee if the employee chooses to make a statement.
- g) ~~If an employee's name and the finding has been reported to the Health Care Worker Registry because three months since the initiation of the grievance process has elapsed, where the grievance and arbitration process or a decision from the Civil Service Commission ultimately overturns the action, the authorized representative must give written notice to the Office of the Inspector General. The Inspector General shall report the results of the grievance or arbitration process to the Health Care Worker Registry maintained by the Illinois Department of Public Health and notify the employee of the report.~~

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

Section 50.100 Removal of an employee's name and finding from the Illinois Department of Public Health Health Care Worker Registry

EMERGENCY

- a) ~~If a~~A name and ~~the finding has been sent to~~will be removed from the Health Care Worker Registry and if a grievance or arbitration proceeding or a Civil Service Commission decision subsequently overturns the action against the employee, the name and finding shall be removed from the Registry.

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- b) An employee may petition, in writing, the Department of Human Services for removal of the finding against the employee at any time after the name has been placed on the Health Care Worker Registry, but not more than once in every 12 months.
- c) The petition shall be sent to the Department's Bureau of Administrative Hearings, Office of the General Counsel, 401 S. Clinton, 6th Floor, Chicago IL 60607, Attn: Bureau of Administrative Hearings, 400 South Grand Avenue East, Springfield, Illinois 62762.
- d) The Office of Inspector General shall conduct an investigation ~~into~~ the petition.
- e) Following the investigation, the Department's Bureau of Administrative Hearings shall conduct a hearing in accordance with 89 Ill. Adm. Code 508 and inform the Department of its decision.
- f) The parties may jointly request that the administrative law judge consider a stipulated disposition of the proceedings, and if the Secretary agrees with the stipulated disposition, a hearing need not take place.
- g)f) At the hearing, the petitioner shall have the burden to demonstrate by a preponderance of evidence that removal of the name and finding from the Health Care Worker Registry is in the public interest.
- h)g) The hearing officer's recommended decision shall take into account, but not be limited to, the following considerations included in the petition:
- 1) Statement of the nature of the physical abuse, sexual abuse or egregious neglect ~~that has been determined to be egregious~~ for which the petitioner's name was placed on the Health Care Worker Registry;
 - 2) Evidence that the petitioner is now rehabilitated, trained or educated and able to perform duties in the public interest;
 - 3) Evidence of the petitioner's conduct since name was placed on the Health Care Worker Registry; and
 - 4) Evidence of the petitioner's candor and forthrightness in presenting

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information in support of the petition.

- i)h) The Inspector General shall, upon receiving the Department's hearing decision, request the Department of Public Health to remove a name and finding from the Health Care Worker Registry ~~when:in instances in which~~
- 1) ~~The~~ hearing decision finds that it is in the public interest to do so; or:
- 2) The parties have jointly requested the administrative law judge consider a stipulated disposition of the proceeding and the Secretary agrees with the stipulated disposition.
- j) The waiver process for Department of Public Health findings does not apply to the Office of Inspector General findings on the Registry.

(Source: Emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days)

DEPARTMENT OF TRANSPORTATION

NOTICE OF AGENCY RESPONSE TO A RECOMMENDATION OF THE
JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Selection of Architectural, Engineering and Land Surveying Services
- 2) Code Citation: 44 Ill. Adm. Code 625
- 3) Section Numbers: 625.20 625.90
- 4) Date Notice of Emergency Amendments Published in the Register: 33 Ill. Reg. 11127; July 24, 2009
- 5) Date JCAR Statement of Recommendation Published in the Register: 33 Ill. Reg. 12418; September 4, 2009
- 6) Summary of Action Taken by the Agency: At its meeting on August 18, 2009, the Joint Committee on Administrative Rules considered the above-cited rulemaking and recommended that, in the future, DOT be more timely in updating its rules. Statute created the \$25,000 small contract threshold for professional service contracts in 1992. DOT is now reflecting that statute through amendments to Part 625.

In response to the Joint Committee's recommendation of August 18, 2009, the Department agrees and will make every effort to act more promptly in updating its rules in the future.

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LISTING OF DERIVED WATER QUALITY CRITERIA

Pursuant to 35 Ill. Adm. Code 302.595 and 302.669, the following water quality criteria have been derived as listed. This listing updates revisions to existing criteria for the period April 1, 2009 through June 30, 2009.

A cumulative listing of criteria as of July 31, 1993 was published in 17 Ill. Reg. 18904, October 29, 1993. Listings of waterbodies for which water quality criteria were used during subsequent three month periods were published in 18 Ill. Reg. 318, January 7, 1994; 18 Ill. Reg. 4457, March 18, 1994; 18 Ill. Reg. 8734, June 10, 1994; 18 Ill. Reg. 14166, September 9, 1994; 18 Ill. Reg. 17770, December 9, 1994; 19 Ill. Reg. 3563, March 17, 1995; 19 Ill. Reg. 7270, May 26, 1995; 19 Ill. Reg. 12527, September 1, 1995; 20 Ill. Reg. 649, January 5, 1996; 20 Ill. Reg. 4829, March 22, 1996; 20 Ill. Reg. 7549, May 30, 1996; 20 Ill. Reg. 12278, September 6, 1996; 20 Ill. Reg. 15619, December 6, 1996; 21 Ill. Reg. 3761, March 21, 1997; 21 Ill. Reg. 7554, June 13, 1997; 21 Ill. Reg. 12695, September 12, 1997; 21 Ill. Reg. 16193, December 12, 1997; 22 Ill. Reg. 5131, March 13, 1998; 22 Ill. Reg. 10689, June 12, 1998; 22 Ill. Reg. 16376, September 11, 1998; 22 Ill. Reg. 22423, December 28, 1998; 23 Ill. Reg. 3102, March 12, 1999; 23 Ill. Reg. 6979, June 11, 1999; 23 Ill. Reg. 11774, September 24, 1999; 23 Ill. Reg. 14772, December 27, 1999; 24 Ill. Reg. 4251, March 17, 2000; 24 Ill. Reg. 8146, June 9, 2000; 24 Ill. Reg. 14428, September 29, 2000; 25 Ill. Reg. 270, January 5, 2001; 25 Ill. Reg. 4049, March 16, 2001; 25 Ill. Reg. 7367, June 8, 2001; 25 Ill. Reg. 12186, September 21, 2001; 25 Ill. Reg. 16175, December 14, 2001; 26 Ill. Reg. 4974, March 29, 2002; 26 Ill. Reg. 13370, September 6, 2002; 27 Ill. Reg. 1736, January 31, 2003; 27 Ill. Reg. 7350, April 18, 2003; 27 Ill. Reg. 17128, November 7, 2003; 28 Ill. Reg. 5038, March 19, 2004; 28 Ill. Reg. 8363, June 11, 2004; 28 Ill. Reg. 12943, September 17, 2004; 29 Ill. Reg. 1449, January 21, 2005; 29 Ill. Reg. 7239, May 20, 2005; 29 Ill. Reg. 12672, August 12, 2005; 29 Ill. Reg. 18963, November 18, 2005; 30 Ill. Reg. 5458, March 17, 2006; 30 Ill. Reg. 9195, May 12, 2006 and 30 Ill. Reg. 14377, September 1, 2006; 31 Ill. Reg. 4941, March 23, 2007; 31 Ill. Reg. 7477, May 25, 2007; 31 Ill. Reg. 13233, September 14, 2007; 31 Ill. Reg. 15875, November 26, 2007; 32 Ill. Reg. 4271, March 21, 2008; 32 Ill. Reg. 8454, June 6, 2008; 32 Ill. Reg. 13595, August 15, 2008; 32 Ill. Reg. 19961, December 19, 2008; 33 Ill. Reg. 3683, February 27, 2009 and 33 Ill. Reg. 9191, June 26, 2009.

Aquatic life and human health criteria for General Use (35 Ill. Adm. Code 303.201) and Lake Michigan Basin (35 Ill. Adm. Code 303.443) waters are listed below. General Use human health criteria are derived for protection of primary contact waters, criteria derived for waters not supportive of primary contact recreation are specified, where applicable. General Use and Lake Michigan Basin waters used as Public and Food Processing Water Supplies (35 Ill. Adm. Code 303.202) are subject to more stringent human health criteria as specified in their respective derivation procedures (35 Ill. Adm. Code 302.648 and 302.657 and 35 Ill. Adm. Code 302.585

ENVIRONMENTAL PROTECTION AGENCY

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LISTING OF DERIVED WATER QUALITY CRITERIA

and 302.590, respectively). Newly derived criteria or criteria used in NPDES permitting this quarter are highlighted in bold print.

General Use Criteria

Chemical: Acenaphthene	CAS #83-32-9
Acute criterion: 120 ug/l	Chronic criterion: 62 ug/l
Date criteria derived: November 14, 1991; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Acenaphthylene	CAS # 208-96-8
Acute criterion: 190 ug/L	Chronic criterion: 15 ug/L
Date criteria derived: March 1, 1998	
Applicable waterbodies: Not used during this period.	
Chemical: Acetochlor	CAS #34256-82-1
Acute criterion: 150 ug/l	Chronic criterion: 12 ug/l
Date criteria derived: September 26, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Acetone	CAS #67-64-1
Acute criterion: 1,500 mg/l	Chronic criterion: 120 mg/l
Date criteria derived: May 25, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Acetonitrile	CAS #75-05-8
Acute criterion: 380 mg/l	Chronic criterion: 30 mg/l
Human health criterion (HTC): non-primary contact, 20 mg/L	
Date criteria derived: December 7, 1993; revised January 23, 2007	
Applicable waterbodies: Not used during this period.	
Chemical: Acrolein	CAS #107-02-8
Acute criterion: 2.7 µg/l	Chronic criterion: 0.22 µg/l
Date criteria calculated: February 1999; reviewed January 2008	
Applicable waterbodies: Segment J-36 of Mississippi River.	
Chemical: Acrylonitrile	CAS #107-13-4
Acute criterion: 910 ug/l	Chronic criterion: 73 ug/l
Human health criterion (HNC): 0.21 ug/l	
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	

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LISTING OF DERIVED WATER QUALITY CRITERIA

<p>Chemical: Bis(2-ethylhexyl)phthalate CAS #117-81-7 Human health criterion (HNC): 1.9 ug/l</p> <p>Date criteria derived: February, 1999; reviewed: June 2009 Applicable waterbodies: Unnamed Tributary to Segment CP-EF-C2 of Salt Creek.</p>
<p>Chemical: Carbon tetrachloride CAS #56-23-5 Acute criterion: 3,500 ug/l Chronic criterion: 280 ug/l Human health criterion (HNC): 1.4 ug/l Date criteria derived: June 18, 1993 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 2-Chloroaniline CAS #95-51-2 Acute criterion: 75 ug/l Chronic criterion: 6 ug/l Date criteria derived: June 21, 1996; reviewed April 15, 2009 Applicable waterbodies: Segment J-36 of Mississippi River.</p>
<p>Chemical: 4-Chloroaniline CAS #106-47-8 Acute criterion: 2.4 ug/l Date criteria derived: February 26, 1992; reviewed April 15, 2009 Applicable waterbodies: Segment J-36 of Mississippi River.</p>
<p>Chemical: Chlorobenzene CAS #108-90-7 Acute criterion: 990 ug/l Chronic criterion: 79 ug/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Chloroethane CAS #75-00-3 Acute criterion: 13 mg/l Chronic criterion: 1 mg/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Chloromethane CAS #74-87-3 Acute criterion: 16 mg/l Chronic criterion: 1.3 mg/l Date criteria derived: December 11, 1991 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Chloroform CAS #67-66-3 Acute criterion: 1,900 ug/l Chronic criterion: 150 ug/l Human health criterion (HNC): 130 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Chrysene CAS #218-01-9</p>

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LISTING OF DERIVED WATER QUALITY CRITERIA

Acute criterion: 14 mg/l	Chronic criterion: 1.1 mg/l
Date criteria derived: November 18, 2008	
Applicable waterbodies: Segment BOZ-C3 of Ellis Branch.	
Chemical: 2,4-dichlorophenol	CAS #120-83-2
Acute criterion: 630 ug/l	Chronic criterion: 83 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2-dichloropropane	CAS #78-87-5
Acute criterion: 4,800 ug/l	Chronic criterion: 380 ug/l
Date criteria derived: December 7, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: 1,3-dichloropropylene	CAS #542-75-6
Acute criterion: 99 ug/l	Chronic criterion: 7.9 ug/l
Date criteria derived: November 13, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dimethyl phenol	CAS #105-67-9
Acute criterion: 740 ug/l	Chronic criterion: 220 ug/l
Date criteria derived: October 26, 1992	
Applicable waterbodies: Segment BOZ-C3 of Ellis Branch.	
Chemical: 4,6-dinitro-o-cresol = 2-methyl-4,6-dinitrophenol	CAS #534-52-1
Acute criterion: 29 ug/l	Chronic criterion: 2.3 ug/l
Date criteria derived: November 14, 1991	
Applicable waterbodies: Not used during this period.	
Chemical: 2,4-dinitrophenol	CAS #51-28-5
Acute criterion: 85 ug/l	Chronic criterion: 4.1 ug/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Segment J-36 of Mississippi River.	
Chemical: 2,6-dinitrotoluene	CAS #606-20-2
Acute criterion: 1,900 ug/l	Chronic criterion: 150 ug/l
Date criteria derived: February 14, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Diquat	CAS #85-00-7
Acute criterion: 990 ug/l	Chronic criterion: 80 ug/l
Date criteria derived: January 30, 1996	
Applicable waterbodies: Not used during this period.	
Chemical: Ethyl mercaptan (ethanethiol)	CAS #75-08-1

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LISTING OF DERIVED WATER QUALITY CRITERIA

Acute criterion: 17 ug/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	Chronic criterion: 2 ug/l
Chemical: Fluoranthene Acute criterion: 4.3 ug/L Human health criterion (HTC): 120 ug/l Date criteria derived: August 10, 1993; revised June 6, 2007 (Acute/Chronic) Applicable waterbodies: Not used during this period.	CAS #206-44-0 Chronic Criterion: 1.8 ug/L
Chemical: Fluorene Acute criterion: 59 ug/L Date criteria derived: June 6, 2007 Applicable waterbodies: Not used during this period.	CAS #86-73-7 Chronic Criterion: 16 ug/L
Chemical: Formaldehyde Acute criterion: 4.9 mg/l Date criteria derived: January 19, 1993 Applicable waterbodies: Not used during this period.	CAS #50-00-0 Chronic criterion: 0.39 mg/l
Chemical: Hexachlorobenzene Human health criterion (HNC): 0.00025 ug/l Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.	CAS #118-74-1
Chemical: Hexachlorobutadiene Acute criterion: 35 ug/l Date criteria derived: March 23, 1992 Applicable waterbodies: Not used during this period.	CAS #87-68-3 Chronic criterion: 2.8 ug/l
Chemical: Hexachloroethane Acute criterion: 380 ug/l Human health criterion (HNC): 2.9 ug/l Date criteria derived: November 15, 1991 Applicable waterbodies: Not used during this period.	CAS #67-72-1 Chronic criterion: 31 ug/l
Chemical: n-Hexane Acute criterion: 250 ug/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	CAS #110-54-3 Chronic criterion: 20 ug/l
Chemical: Indeno(1,2,3-cd)pyrene Human health criterion (HNC): 0.16 ug/l Date criteria calculated: February, 1992, reviewed June 2007	CAS #193-39-5

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Applicable waterbodies: Not used during this period.	
Chemical: Isobutyl alcohol = 2-methyl-1-propanol	CAS #78-83-1
Acute criterion: 430 mg/l	Chronic criterion: 35 mg/l
Date criteria derived: December 1, 1993	
Applicable waterbodies: Not used during this period.	
Chemical: Methylene chloride	CAS #75-09-2
Acute criterion: 17 mg/l	Chronic criterion: 1.4 mg/l
Human health criterion (HNC): 330 ug/l	
	Non-primary contact: 490 ug/l
	Public and food processing water supply: 4.6 ug/l
Date criteria derived: January 21, 1992; revised November 25, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Methylethylketone	CAS #78-93-3
Acute criterion: 320 mg/l	Chronic criterion: 26 mg/l
Date criteria derived: July 1, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 4-methyl-2-pentanone	CAS #108-10-1
Acute criterion: 46 mg/l	Chronic criterion: 1.4 mg/l
Date criteria derived: January 13, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 2-methyl phenol	CAS #95-48-7
Acute criterion: 4.7 mg/l	Chronic criterion: 0.37 mg/l
Date criteria derived: November 8, 1993	
Applicable waterbodies: Segment BOZ-C3 of Ellis Branch.	
Chemical: 4-methyl phenol	CAS #106-44-5
Acute criterion: 670 ug/l	Chronic criterion: 120 ug/l
Date criteria derived: January 13, 1992	
Applicable waterbodies: Segment BOZ-C3 of Ellis Branch.	
Chemical: Methyl tert-butyl ether (MTBE)	CAS #134-04-4
Acute criterion: 67 mg/l	Chronic criterion: 5.4 mg/l
Date criteria derived: September 18, 1997	
Applicable waterbodies: Not used during this period.	
Chemical: Metolachlor	CAS #51218-45-2
Acute criterion: 380 ug/l	Chronic criterion: 30.4 ug/l
Date criteria derived: February 25, 1992; revised October 1, 2007	
Applicable waterbodies: Not used during this period.	

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Chemical: Naphthalene Acute criterion: 510 ug/l Date criteria derived: November 7, 1991; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #91-20-3 Chronic criterion: 68 ug/l
Chemical: 4-nitroaniline Acute criterion: 1.5 mg/l Date criteria derived: May 5, 1996 Applicable waterbodies: Segment J-36 of Mississippi River.	CAS #100-01-6 Chronic criterion: 0.12 mg/l
Chemical: Nitrobenzene Acute criterion: 15 mg/l Human health criterion (HTC): 0.52 mg/l Date criteria derived: February 14, 1992; revised February 1999 Applicable waterbodies: Not used during this period.	CAS #98-95-3 Chronic criterion: 8.0 mg/l
Chemical: Pentachlorophenol Acute criterion: 20 ug/l Date criteria derived: national criterion at pH of 7.8, September 1986 Applicable waterbodies: Not used during this period.	Chronic criterion: 13 ug/l
Chemical: Phenanthrene Acute criterion: 46 ug/l Date criteria derived: October 26, 1992 Applicable waterbodies: Not used during this period.	CAS #85-01-8 Chronic criterion: 3.7 ug/l
Chemical: Propylene Acute criterion: 4.0 mg/l Date criteria derived: April 8, 2002 Applicable waterbodies: Not used during this period.	CAS #115-07-1 Chronic criterion 0.40 mg/l
Chemical: Pyrene Human health criterion (HTC): 3.5 mg/l Date criteria derived: December 22, 1992 Applicable waterbodies: Not used during this period.	CAS #120-00-0
Chemical: Styrene Acute criterion: 2.5 mg/L Date criteria derived: October 26, 1992; reviewed May 4, 2009 Applicable waterbodies: Segment BOZ-C3 of Ellis Branch.	CAS #120-42-5 Chronic criterion: 0.2 mg/L
Chemical: Tetrachloroethylene Acute criterion: 1,200 ug/l Date criteria derived: March 23, 1992	CAS #127-18-4 Chronic criterion: 150 ug/l

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Applicable waterbodies: Segment BOZ-C3 of Ellis Branch.	
Chemical: Tetrahydrofuran	CAS #109-99-9
Acute criterion: 220 mg/l	Chronic criterion: 17 mg/l
Date criteria derived: March 16, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: Thallium	CAS #7440-28-0
Acute criterion: 86 ug/l	Chronic criterion: 11 ug/l
Human health criterion (HTC): 3.0 ug/l	
Non-primary contact: 3.0 ug/l	
Public and food processing water supply: 1.2 ug/l	
Date criteria derived: October 22, 2007; revised November 18, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: 1,2,4-trichlorobenzene	CAS #120-82-1
Acute criterion: 370 ug/l	Chronic criterion: 72 ug/l
Date criteria derived: December 14, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: 1,1,1-trichloroethane	CAS #71-55-6
Acute criterion: 4,900 ug/l	Chronic criterion: 390 ug/l
Date criteria derived: October 26, 1992	
Applicable waterbodies: Not used during this period.	
Chemical: 1,1,2-trichloroethane	CAS #79-00-5
Acute criterion: 19 mg/l	Chronic criterion: 4.4 mg/l
Human health criterion (HNC): 12 ug/l	
Date criteria derived: December 13, 1993; revised February 1999	
Applicable waterbodies: Not used during this period.	
Chemical: Trichloroethylene	CAS #79-01-6
Acute criterion: 12,000 ug/l	Chronic criterion: 940 ug/l
Human health criterion (HNC): 25 ug/l	
Non-primary contact: 26 ug/l	
Public and food processing water supply: 2.5 ug/l	
Date criteria derived: October 23, 1992; revised November 18, 2008	
Applicable waterbodies: Segment BOZ-C3 of Ellis Branch.	
Chemical: Vinyl chloride	CAS #75-01-4
Acute criterion: 22 mg/l	Chronic criterion: 1.7 mg/l
Human health criterion (HNC): 1.5 ug/l	
Non-primary contact: 2 ug/l	

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Public and food processing water supply: 0.025 ug/l
 Date criteria derived: October 23, 1992; revised January 23, 2007; revised November 17, 2008
 Applicable waterbodies: Not used during this period.

Lake Michigan Basin Criteria

<p>Chemical: Antimony CAS #7440-36-0 <u>Aquatic Life Criteria:</u> Acute criterion: 470 ug/l Chronic criterion: 120 ug/l Date criteria derived: September 29, 2008 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Bis(2-ethylhexyl)phthalate CAS #117-81-7 <u>Aquatic Life Criteria:</u> Acute criterion: 76 ug/l Chronic criterion: 17 ug/l <u>Human Health Non-threshold Criteria:</u> Public and food processing water supply: 2.8 ug/l Non-drinking water: 3.2 ug/l Date criteria derived: June 20, 2006 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: 1,2-dichloroethylene CAS #540-59-0 <u>Aquatic Life Criteria:</u> Acute criterion: 8.8 mg/l Chronic criterion: 0.98 mg/l Date criteria derived: November 18, 2008 Applicable waterbodies: Not used during this period.</p>
<p>Chemical: Methylene Chloride CAS #75-09-2 <u>Aquatic Life Criteria:</u> Acute criterion: 10,803 ug/l Chronic criterion: 1,200 ug/l <u>Human Health Non-threshold Criteria:</u> Public and food processing water supply: 47 ug/l Non-drinking water: 2,600 ug/l Date criteria derived: June 20, 2006 Applicable waterbodies: Not used during this period.</p>

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Chemical: Thallium	CAS #7440-28-0
<u>Aquatic Life Criteria:</u>	
Acute criterion: 54 ug/l	Chronic criterion: 15 ug/l
<u>Human Health Threshold Criteria:</u>	
Public and food processing water supply: 1.3 ug/l	
Non-drinking water: 3.7 ug/l	
Date criteria derived: June 20, 2006; revised November 18, 2008	
Applicable waterbodies: Not used during this period.	
Chemical: Vinyl Chloride	CAS #75-01-4
<u>Aquatic Life Criteria:</u>	
Acute criterion: 8,380 ug/l	Chronic criterion: 931 ug/l
<u>Human Health Non-threshold Criteria:</u>	
Public and food processing water supply: 0.25 ug/l	
Non-drinking water: 14.4 ug/l	
Date criteria derived: June 20, 2006	
Applicable waterbodies: Not used during this period.	

For additional information concerning these criteria or the derivation process used in generating them, please contact:

Brian Koch
Illinois Environmental Protection Agency
Division of Water Pollution Control
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217-558-2012

OFFICE OF THE TREASURER

NOTICE OF PUBLIC INFORMATION

NOTICE OF NAMES OF PERSONS APPEARING
TO BE OWNERS OF ABANDONED PROPERTY WHOSE
LAST KNOWN ADDRESSES ARE IN CERTAIN STATES

Pursuant to Public Act 91-0016, the Illinois State Treasurer's Office is publishing the names and last known addresses of abandoned property owners whose last known addresses are allegedly in a state other than Illinois. The other state does not have a reciprocity arrangement with Illinois.

If your name or that of a person you represent appears below, you may contact this Agency for further information about the assets.

INQUIRIES MUST BE IN WRITING. The written inquiry should include the name and address as listed, and the correct name and address for reply. If inquiring about a name other than your own, you must indicate your authority to act on behalf of that person.

Address written inquiries to:

ILLINOIS STATE TREASURER'S OFFICE
UNCLAIMED PROPERTY DIVISION
P.O. Box 19495
Springfield, Illinois 62794-9495

AUTHORITY: Implementing and required by the Illinois Uniform Disposition of Unclaimed Property Act, [765 ILCS 1025/12].

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OFFICE OF THE TREASURER

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40 FRACCIONAMIENTO LOS GIRASOLES MEXICO

CHAPMAN FRANK C II RTE DE VAUDAGNE 1670 LES HOUCHES

CHARLES SARA 1725 EDGE HILL APT 1 OTTAWA ON

CHIENGMAI OF THAILAND

CHOR WILLIAM P 7357 W 56TH STREET PIEMETT

CHRISTEN COLLEEN P 26 CHARING CROSS RD LONDON

CHRISTEN EDWARD L 26 CHARING CROSS RD LONDON

CITICORP INSURANCE A LENORE

CLEAVE GLENDA 361 CURTIS LOCEPVILLE

CLEAVE GLENDA 361 CURTIE LOCERVILL

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DOMINGUEZ AGUSTIN T

8 EJIDOS TEPEPAN 16010 D F

DRAZIC JOHN

MAPLE ST

EDGEMONT

DUNN JAMES

WEST SUBURBAN

DWYER AUTUMN E

114 PTE CLAIRE AVE

PTE CLAIRE QC

ELLASCHUK BEVERLY J

PO BOX 5053 STATION FORCES

BELLEVILLE ON

ELSLAGER ALBERT

BOULEVARD MAN

ENGEL ANNE

5360 MACDONALD APT 405

MONTREAL

ESPIRITU HELEN

45 BALLIOT ST APT 905

TORONTO ON

ESTRADA ALFREDO

65 BARRIO SAN DIEGO

MEXICO

EVANS HEATHER

2740 RETALLACK 2ND FL

REGINA

EVERGREEN NURSERY

EXELON CORPORATION

2011 SWIFT DRIVE

LLOYD LOWE

FAJARDO MARCO SR A

47 CD JARDIN

MEXICO

FAJARDO VAZQUEZ MARCO A 47 CD JARDIN

MEXICO

FAUCHER ANNIE

33 PIERRE

ST LUC QC

FILAN FINBARR

38 ASHBROOK ORANMORE

GALWAY

FLAKE TERESA

GREENWOOD

FLORES FRANCISCO

54090 CONVENTO DE TECPAN

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FLORIDA STATE

FOOTE BRITTANY

FORGET ME NOT NURSERY

FORMOLO THOMAS JOSEPH

LEAWOOD

FORTIER LISE

7762 RENEE

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SHANGHAI PRCHINA

GELLER JOHN A

7 SILVERWOOD AVENUE

TORONTO ON

GEORGIA STATE

GHIONE FABIEN

343 CHEMIN DES MOULIERES

GIRERD CLAUDE

18 RUE DE VILLEVERT

BONNELLES

GLAXCO SMITHKLINE PHARMACEUTICALS

LIMITED DR ANNIE BESANT ROAD

MUMBAI

GLYNN TOMAS

COROFIN CROSS CUMMER

GALAWAY IRELAND

GONZALEZ IGNACIO

RT 1 BOX 17

GARZA

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GREEN MATTHEW

ROEBURN CRESENT EMERSON VALLEY

MILTON KEYNES BUCKIN

GREENWOOD COLIN

2 BETHEL TERRACE HURST ROAD WEST YORKSHIRE

GREFVE ANNE L HARDARD 10 941 48 SWEDEN

GROVE LISA 6 BARRA PLACE STEVENSTON AYRSHIRE

GUARANTEE CO OF NA 1010 DE LA GAUCHIERE MONTREAL QUEBEC

GUNNING ORLA LISANENNA COLLOONEY SLIGO

GUTIERREZ CARLOS A 19 CANDELARIA COYOCAN MEXICO

GUTIERREZ JUAN E 26 COL ADOLFO PRIETO GUADALUPE

HAMILL HUGH RD 1 PARK GROVE

HARGREAVES STEVE

PROSPECT COTTAGE DUNNINGTON COMMON YORK

HARVEY CHRIS 17 HEATHWAY SURREY

HEADING SARA

8 BERTIE TERRACE FLAT 2 WARWICK PLACE LEAMINGTON

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HERNANDEZ JOSE A 4726 COL PANAMERICANA MEXICO

HERNANDEZ JOSE E 20 FRACC VALLE DE LOS PINOS MEXICO

HERNANDEZ LEON JOSE A

4726 COL PANAMERICANA MEXICO

HERNANDEZ REFUGIO

MATAMOROS CLAZARO CARDENAS 18

HERNANDEZ RUBEN H

2909 C CONJUNTO AMANECER PUEBLA PUE CP

HERNANDEZ VALERIO 4 COL JARDINES DEL ALVA CUAITLAN ISCALI EDO

HOBBS KELLIE 309 3278 HEATHERST VANCOUVER BC

HOUSTON CITY OF

HOWLAND PENNIE L PO BOX 37 ST JOHN

IGLESIA GUILLERMO

64 FRACCIONAMIENTO PASEOS DE CHUR MEXICO

IINUMA KAZUSHIGE 578 4 MATSUHIDAI MATSUDO CHIBA

INTELLECTUAL PROPERTY SERVICES LTD

BLDG 2 MUDALIGE MAWATHA

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IOWA STATE

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JARVIS JOHN 13 SANSPAREIL AVE MINSTER SHEPPEY KENT

JAWOREK ZYGMUNT WIOSNY LUDOW 12 MALOPOSKIE POLSKA

JAWOREK ZYGMUNT LUDOW 12 POLSKA

JOHNSON CO CLERK OF THE DISTRICT COURT

JOKSCH STEFAN HOCHLANDSTR 55 BERLIN

JONES SANDRA D PSC 80 BOX 11855 APO

JORDAN SUSAN 2 RATHBRAUGHAN PARK BALLYLIVNAN SLIGO

JORGENSEN FRANCES M HEDEVEJEN 3 MESING SKANDERBORG

JUNIOR SYLVESTER PO BOX 6480 VER

KALISZKY ZOLTAN L 1202 YORK MILLS RD ONTARIO

KANSAS STATE

KASMYA MOHAMMED

5340 FLORAL HILL CRESCENT MISSISSAUGA ON

KEANEY THERESE DERRY GRANGE SLIGO

KEARNS TERESA 35 MCNEILL DRIVE SLIGO

KEDILHAC NAVARRO EDWIN R

96 COLONIA TORIELLO GUERRA TLALPAN CP

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KELLY GRACE

14 GLENOUGHLY CLOSE GLENCAR LETTERKENNY DONEGAL

KENNEDY RICHARD 13 FOYLE ROAD FAIRVIEW DUBLIN

KENTUCKY STATE TREASURER

KIELY DAVID O 27 PATRICK STREET KILKENNY ERIE

KIELY JULIAN R 27 PATRICK STREET KILKENNY ERIE

KILBURN RUTH V RR 1 EHGLEWOOD

KIM JUNG W 121ST GENERAL HOSPITAL 86 APO

KIM KYUNG M 121ST GENERAL HOSPITAL 86 APO

KLAPPROTT GERTRUDE 467 BELKNAP PLACE KEOHUL

KLAPPROTT OSCAR L 467 BELKNAP PLACE KEOHUL

KLYMKO CAROLYN 97 CALLANDER DR GUELPH ONTARIO

KORTENHORST AREND JAN

34 12579 ALCOSSEBRE

KOTT MARTHA BLVD MANOR

KUZMINSKI PETER 350 FRONT ST UNIT 202E BELLEVILLE ON

LABOSSIÈRE ISABELLE 3731 STE FAMILLE MONTREAL QC

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LAFRENIÈRE JULIE 1035 F DE LA PRAIRIE QUE ST JEAN CHRYSOSTONE

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MACDONALD JOHN	17 PARKVALE SANDYFORD	DUBLIN
MACDONALD JOHN D	17 PARKVALE SANDYFORD	DUBLIN
MACLEAN IK	L HOLLYWELL RD	KNOWLE SOLIHULL
MARIE ANNE	77 LOON OP ZAND NE	
MARTIN DARYL	PO BOX 8090	MASAKAN NASAR CITY
MARTINEZ ARTURO R	34 8 VILLA COAPA	MEXICO
MARTINEZ IRENE	28010 SANTA ENGARCIA	MADRID
MARTINEZ LETICIA	19 COL AGRICOLA ORIENTAL	MEXICO
MARTINEZ MANUEL P	210 LOMAS VALLE DORADO	MEXICO
MASTERMAN AMANDA		
	BRIARS COTTAGE ULCOMBE HILL MAIDSTONE	KENT
MCCLLENON ANN M	PSC 2 BOX 7838	APO
MCCLLENON EDWARD J	PSC 2 BOX 7838	APO
MCCORMICK JANE	1486 JOHNSON UNIT 2B	COQUITLAM BC
MCGEARY EILEEN	48 MOUNTAIN VIEW RD	RANELAGH DUBLIN
MCGOWAN DEIRDRE	15 THE MALL	SLIGO
MCTIERNAN SONYA	30 LANGAN DRIVE	SLIGO
MEDINA EUGENIO O	45 CASA 1 COL DEL VALLE	MEXICO
MEENMORE HANNAH M	DUNGLOE DONEGAL	IRELAND
MEJIA EUSTORGIO	2 CIRCUITO POETAS	MEXICO

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MISSOURI STATE

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MOORE CHRISTOPHER G 19 TUDOR COURT POINTE CLAIRE QC

MORALES ALFREDO C 22 PRADO COAPA MEXICO

MORALES OSCAR M 492 COL VERTIZ NARVARTE MEXICO

MORIKAWA TETSUYA 195403 GOKONISHI MATSUDO CHIBA

NASHVILLE & MIDDLE TENNESSE YMCA

NATOUR 53 BEN YEHUDA STREET TEL AVIV

NAVARRETTE SERGIO F 55 APTO 14 FOVISSSTE MEXICO

NEGRI MARTHA MAXINE 426 S MAPLE AVE WEBSTER GROVES

NEGRI PETER 426 S MAPLE AVE WEBSTER GROVES

NELSON BILL 11 KITTIWAKE DR TYNE AND WEAR

NESS FREDA 10 MARCHFIELD PARK EDINBURGH

NESS HENRY 10 MARCHFIELD PARK EDINBURGH

NEW HAMPSHIRE STATE

NEW MEXICO

NGASSAM KATHLEEN 750 A QUERBES OUTREMONT QC

NICHOLSON JENNIFER 3519 49TH ST NW UNIT 60 CALGARY AB

NICOL KAY 61 CONNELL ROAD OYSTER BAY

NOORANI MOHAMMED 150 LAKESHORE RD WEST MISSISSAUGA ON

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NORMAN KAREN	103 ORCHID AVENUE	TRINIDAD WEST INDIES
OBERNDORFF ERNA M		NORTH AUSTIN
CONNELL DANIEL G	DUNGLOE DONEGAL	IRELAND
ODONNELL SEAN	13 STRANDHILL CO	SLIGO
OH CHANGLOK	43514 SEOSEOKDONG DONG GU	KWANGHU
OHTA YUMI	1210 MOTNOAKAYAMA FUNABASHI	CHIBA
OKLAHOMA COUNTY RECORDER		
OLIVEIRA BRUNO	16 RUE DE ST REMY	LOUVILLIERS
OLIVER CINDI	1834 JEANETTE	WICHITA
ONEILL CATHERINE	1255 ROLAND DESMEULES	STE FOY QC
ONODERA YOICHI	203715 KAMARIYANISHI	YOKOHAMA
ORDONEZ GUSTAVO E	4 COLONIA PORTALES	MEXICO
OSULLIVAN JOHN	127 RATHEDMOND ESTATE	SLIGO
OWEN SARAH E	1141 FAIRWAY VIEWS WYND	DELTA BC
OXNARD CITY OF		
PAR INDUSTRIES		
PARKES NUALA	KNOCKNAHUR CO	SLIGO
PARKLANE SURGERY	MID GLAMORGAN MILL	
PASTERNAK WALTER		
PATONE ANTONIO	17329 BOUL BRUNSWICK	KIRKLAND QC

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PHILADELPHIA CITY OF		
PIGOTT ANNE	2639 WEST 5TH AVE	VANCOUVER BC
PIM CHERYL	34 CADILLAC BLVD	KIRKLAND QC
PLASENCIA JORGE V	106 COLONIA CIPRES	TOLUCA
PLUNKETT ANTHONY	12 CASHEL DRIVE	KILKENNY
POLIVKA RAINA	13100 AIXENPROVENCE	
POMERLEAU ANNIE	377 RUE TESSIER	RIMO
PORTEOUS DOROTHY	2 CHAPEL ROAD	LISBURN
PORTEOUS DOROTHY	2 CHAPEL ROAD	ANTRIM
PORTEOUS DOROTHY	2 CHAPEL ROAD	LISBURN
POWELL ALEXANDRA	5 NEWBURY NEWARK	NOTTINGHAMSHIRE
PPM 2000	1088 102 AVENUE SUITE 1307	EDMONTON
PRASCHBERGER JOHANN	DORFPLATZ 4	
R BLADEK TRUST	2031 UNGAUA RD NW	CALGARY AB
RAIMOND KEDILHAC EDWIN	96 COLONIA	MEXICO
RAJA MUGASIMANGALAM	105 3RD MAIN	BANGALORE
RAMIREZ FERNANDO R	314 COL ESCUADRON 201	MEXICO
RAMIREZ RICARDO	BOGOTA CALLE 93	SANTA FE
RAMIREZ RICARDO B	4A PRIV 206 VILLA	MEXICO

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RAYWORTH SCOTT D PO BOX 927 WOLFVILLE

RENDON AGUILERA CARLOS E 25 COL MEXICO

RENDON CARLOS E 25 COL LA CONCORDIA MEXICO

RHODE ISLAND STATE

RICHARD MICHAEL 35 KEEFER ST BROCKVILLE ONT

RIVER WILDERNESS COUNTRY PARRISH

RIVERA HERIBERTO C 1622 COL DEL VALLE MEXICO

RIVERO FERNANDO 314 COL ESCUADRON 201 MEXICO

ROD ANTONIO B 4230 DELEGACION MEXICO

RODRIGUEZ ANTONIO B 4230 DELEGACION MEXICO

RODRIGUEZ FERNANDO M 2631 CAMPESTRE MEXICO

ROHRIG KAY BRECKENHEIMER WEG 16 WIESBADEN

ROSA ALTAIR A 900 APTO 141 MOEMA SAO PAULO BRAZIL

RYAN ROBERT NORTH VERNON

SAMARAKOON PRIYANKA SHAMAL

39A INNER FAIRLINE RD DEHIWALA

SARASOTA COUNTY

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SARKIS ZIAD	88 BOULEVARD VICTOR HUGO	NEUILLY SUR SEINE
SAULNIER CLAUDE	364 DU FOYER 2	CHICOUTIMI QC
SAUVE MONIQUE	435 GALLAND 3E	DORVAL QC
SAYERS ERNEST M		NORTH AUSTIN
SCHMITT FREDERIQUE	4220 ST DOMINIQUE C3	MONTREAL QC
SCOTT CHRISTINE M	PSC 80 BOX 11668	APO
SCOTT JAMES M	PSC 80 BOX 11668	APO
SERIO BERNADETTE		
SERIO JOE		
SERRANO EMMANUEL	270 PALMDALE DRIVE	SCARBOROUGH ON
SHAFER JOSEPHD	179A LOVE AVE	GREENWOOD
SHAIKH NISHAT J	DRUSMANSHAIKH	SHARJAH
SHENKMAN GREGORY C	819 MEDITERRANEAN	LEES SUMMIT
SHINNO CHIE	15 YASHIKI SAKASAGAWA	FUKUSHIMA
SHIRAISHI AKIRA	229 NAKAMACHI MUSASHIMOSHI	TOKYO
SHOWA UNIVERSITY FUJIGAOKA HOS		
	130 FUJIGAOKA AOBAKU	JPN
SIMPSON CHRISTIE	95 LIMERICK RD FREDERICTON	NB
SIMPSON CHRISTIE	5679 AVENUE DE LESPLANADE	MONTREAL QC
SMITH CAROL		

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TELEFLEX MEDICAL IRELAND		ARMAGH
TELLEZ GERARDO A	72 COL COMUNIDAD	MEXICO
TEMPLE MARY	435 NELSON ST 23	LONDON ON
TENNESSEE DEPT OF HUMAN SERVICES		
THACKWAY HELEN	60 HANSON ROAD	ABINGDON
THOME KROMER BIRGIT		KLEINMACHNOW
THORNLEY RAY	122 TUCKWELL ROAD	CASTLE HILL
THORNLEY RAYMOND A	122 TUCKWELL	SYDNEY
TIMMONS BARBARA A	244 SO	PLUM GROVE
TORRES GERARDO L	49 COLINAS DEL SUR	MEXICO
TREASURER STATE OF TENNESSEE		
TRETYAKOV ANDREI	STUDENCHESKAY 11	MOSCOW
TROTTIER JULIE	50 DES CONIFERES APT 305	AYLMER QC
TRUST BANQUE NATIONALE		MONTREAL QC
TSOULUHAS ANNA	6010 HUTCHISON 2	OUTREMONT QC
TURKISH PATENT INSTITUTE		ANKARA
TURNER IRVING H	250 PARK RD	PEACEFIELD
UMB BANK NA MISSOURI		
UNIV OF COLORADO		
UNIV OF THE PHILIPPINES	4031 LAGUNA	LOS BANOS

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VALDEZ JOSE A 34C COL ALVARO OBREGON MEXICO

VANDERLINDEN MARK 77 LOON OP ZAND NE

VEJLENS ANNA 21 MCFARLAND RD NORTH HATLEY QC

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VILLENEUVE SYLVAIN 7 DES PATRIOTES BROMONT QC

VOLPI JEWELL MONTCLARE

WALCOT ELMA 88 ELEVETH STREET TOR ONT

WARRINER VICKY 59 SYCAMORE DRIVE HIXON STAFFORDSHIRE

WATKIN JARED L 11 KYSBIE ABINGDON

WILLIAMS JOANNE RR 3 BROCKVILLE ON

WISCONSIN DEPARTMENT OF REVENUE

WOMERSLEY REBECCA 47 NAUTILUS DRIVE KENT

WOOD WAYNE 232 STARWOOD LANE TECUMSEH

WORLD SCIENTIFIC CONGRESS GO

WRIGHT PATRICK BALLYMUNAIRE BIG BALEY KILLI

WYNN CYNTHIA 602 FARMVIEW COURT UNIVERSITY

WYNN MARIUS A 602 FARMVIEW COURT UNIVERSITY

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ZAFRA RAMIRO		MADRID
ZAPATA JORGE A	131 A REAL	MEXICO
ZAPATA SOLIS JORGE A	131 A REAL	MEXICO
ZAYAS VICTOR M	15 COL PRADOS COYOACAN	MEXICO

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of September 8, 2009 through September 14, 2009 and have been scheduled for review by the Committee at its October 14, 2009 meeting. 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>
10/23/09	<u>Secretary of State</u> , Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)	7/24/09 33 Ill. Reg. 10959	10/14/09
10/23/09	<u>Department of Transportation</u> , Selection of Architect-Engineer Consultant Firms (44 Ill. Adm. Code 625)	7/24/09 33 Ill. Reg. 11079	10/14/09
10/24/09	<u>Department of Natural Resources</u> , Consignment of Licenses, Stamps and Permits (17 Ill. Adm. Code 2520)	6/12/09 33 Ill. Reg. 7541	10/14/09
10/28/09	<u>Environmental Protection Agency</u> , Procedures for Issuing Loans from the Water Pollution Control Loan Program (35 Ill. Adm. Code 365)	6/19/09 33 Ill. Reg. 7957	10/14/09
10/28/09	<u>Environmental Protection Agency</u> , Procedures for Providing Financial Assistance from the Water Pollution Control Loan Program under the American Recovery and Reinvestment Act of 2009 (35 Ill. Adm. Code 369)	6/19/09 33 Ill. Reg. 7960	10/14/09
10/28/09	<u>Environmental Protection Agency</u> , Procedures for Issuing Loans from the Public Water Supply Loan Program (35 Ill. Adm. Code 662)	6/19/09 33 Ill. Reg. 7964	10/14/09

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

10/28/09	<u>Environmental Protection Agency, Procedures for Providing Financial Assistance from the Public Water Supply Loan Program under the American Recovery and Reinvestment Act of 2009 (35 Ill. Adm. Code 664)</u>	6/19/09 33 Ill. Reg. 7967	10/14/09
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2009-271
Cultural Month of Jalisco

WHEREAS, the Jaliscienses represent one of the largest groups of Mexicans living in the United States; and

WHEREAS, of the 400,000 Jaliscienses living in the Midwest, 200,000 have chosen the State of Illinois as their newly adopted home; and

WHEREAS, the Federación de Jaliscienses del Medio Oeste is a not-for-profit organization that promotes the wellbeing and advancement of the Jaliscienses in the Midwest, as well as Mexico, through educational, cultural, civic and social projects; and

WHEREAS, the Federación de Jaliscienses del Medio Oeste has especially distinguished itself for welcoming, cultivating and encouraging leadership by youth and women; and

WHEREAS, the Federación de Jaliscienses del Medio Oeste has chosen the Land of Lincoln as the home of Casa Jalisco, which will serve as the social, cultural, and economic development center for the community; and

WHEREAS, this year, the Honorable Emilio González Márquez, Governor of the Mexican State of Jalisco, will visit Chicago September 4-6 for an annual commemoration that brings together Jaliscienses from all over the region to celebrate the rich culture of Jalisco:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 2009 as **CULTURAL MONTH OF JALISCO** in Illinois, in recognition of the contributions of Jalisco culture and in support of the Federación de Jaliscienses del Medio Oeste en Illinois.

Issued by the Governor September 1, 2009

Filed by the Secretary of State September 11, 2009.

2009-272
Steel Day

WHEREAS, the structural steel industry in Illinois annually provides structural steel framing systems for more than 35 million square feet of new building construction in Illinois; and

WHEREAS, the structural steel industry provides employment for more than 2,000 Illinois citizens; and

WHEREAS, the structural steel industry has demonstrated a significant commitment to sustainable construction through the use of structural steel products made from 93 percent recycled materials from old cars, appliances, stoves, manufacturing waste, curb-side recycling and deconstructed buildings; and

WHEREAS, 98 percent of the structural steel in a building is recycled at the end of the building's life; and

WHEREAS, structural steel's high strength-to-weight ratio and low carbon footprint help to minimize environmental impacts; and

WHEREAS, the American Institute of Steel Construction has declared Friday, September 18, 2009 as SteelDay throughout the United States, and will recognize this observance with more than 160 events nationwide; and

WHEREAS, the American Institute of Steel Construction is hosting its national flagship event in Millennium Park in its home city of Chicago, Illinois:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 18, 2009 as **STEEL DAY** in Illinois, in recognition of the contributions of our State's structural steel industry to the economy and infrastructure of the State of Illinois.

Issued by the Governor September 9, 2009

Filed by the Secretary of State September 11, 2009

2009-273

Influenza Vaccination Awareness Month

WHEREAS, vaccines are among the 20th Century's most successful and cost-effective public health tools available for preventing disease and death; and

WHEREAS, individuals and health care providers in every community have a responsibility to ensure that everyone is immunized on time and receives the full schedule of vaccines required to protect them from serious diseases; and

WHEREAS, influenza is a contagious respiratory illness and annually in the United States, on average 5 percent to 20 percent of the population gets the flu; more than 200,000 people are hospitalized from flu-related complications; and about 36,000 people die from flu-related causes; and

WHEREAS, the best way to prevent the flu is by getting a flu vaccination each year; and

WHEREAS, The Center for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices recommends routine influenza vaccination for all children aged 6 months through 18 years with influenza vaccine, effective July 1, 2008; and

WHEREAS, children and young adults 5 years to 19 years of age are 3 to 4 times more likely to be infected with influenza than adults; and

WHEREAS, school-aged children are the population group most responsible for transmission of contagious respiratory viruses, including influenza; and

WHEREAS, school-based vaccination programs are effective ways to vaccinate children while reducing transmission and infection rates to the larger community and at the same time reducing rates of school absenteeism due to influenza; and

WHEREAS, increased focus on providing influenza vaccine to children targeted for immunization will also help efforts to build a sound foundation for future vaccination efforts; and

WHEREAS, annual influenza vaccination activities, including school-based programs, can be helpful in improving pandemic planning by identifying known and effective pandemic vaccination centers; and

WHEREAS, in preparing for an influenza pandemic, a critical component in protecting people against a pandemic is to increase its participation in seasonal influenza programs; and

WHEREAS, maintaining high immunization rates against influenza decreases the need for antiviral medications and may slow down the development of resistant strains of influenza in the community; and

WHEREAS, health care providers play a critical role in educating patients and parents about the importance of influenza immunization and ensuring that their families are fully immunized:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 2009 as **INFLUENZA VACCINATION AWARENESS MONTH** in Illinois, and applaud the efforts of State and local public health departments to increase immunization rates, and encourage all citizens to recognize the importance of influenza vaccination by talking to their health care providers to ensure that their and their family's immunizations are up to date for protection against influenza and other vaccine-preventable diseases.

Issued by the Governor September 9, 2009

Filed by the Secretary of State September 11, 2009

2009-274
Illinois Lifeline Awareness Week

WHEREAS, in today's highly interconnected world, telephones provide a lifeline to emergency help and a vital link to government services, community resources, friends and family; and

WHEREAS, not everyone can afford the cost of a home telephone, thus many of our nation's households still do not have telephone service in their homes; and

WHEREAS, the Federal Communications Commission (FCC) and the Illinois Commerce Commission have joined in a collaborative effort to make telephone service more affordable for the nation's low-income consumers by providing a discount on the connection fee and monthly charges for local telephone service; and

WHEREAS, the Link-Up America (Link-Up) and Lifeline Assistance (Lifeline) programs offer tremendous benefits for eligible consumers in America and make basic telephone service more affordable; and

WHEREAS, the Link-Up program provides a generous discount to consumers on the installation of telephone service in their homes; and

WHEREAS, the Lifeline program provides a discount to eligible low-income customers on their monthly phone bill; and

WHEREAS, consumers should not be without local phone service because they cannot afford it, therefore the promotion of Link-Up and Lifeline is imperative to ensure that every citizen has access to basic local telephone service; and

WHEREAS, the FCC, the National Association of Regulatory Utility Commissioners (NARUC), the National Association of State Utility Consumer Advocates (NASUCA), other state and federal agencies, cities, counties, organizations, and telecommunications companies are committed to increasing awareness about the availability of the Link-Up and Lifeline programs and are encouraging eligible citizens to sign up for the programs; and

WHEREAS, the FCC, NARUC, and NASUCA have joined together to design and implement a comprehensive outreach plan to promote Link-Up and Lifeline subscribership:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 14-20, 2009 as **ILLINOIS LIFELINE AWARENESS WEEK**, and call upon government

agencies, industry leaders and consumer advocates to educate residents about state and federal programs for telephone connectivity and further initiate and promote outreach events during this special week.

Issued by the Governor September 9, 2009

Filed by the Secretary of State September 11, 2009

2009-275

Illinois Arts and Humanities Month

WHEREAS, the arts and humanities are the embodiment of all things beautiful and entertaining in the world - the enduring record of human achievement; and

WHEREAS, the arts and humanities enhance every aspect of life in Illinois, improving our economy, enriching our civic life, driving tourism and exerting a profound positive influence on the education of our children; and

WHEREAS, arts education research shows that the arts help to foster discipline, creativity, imagination, self-expression and problem solving skills while also helping to develop a heightened appreciation of beauty and cross-cultural understanding; and

WHEREAS, we use the humanities - history, literature, philosophy - to explore what it means to be human; and

WHEREAS, the arts and humanities play a unique and intrinsically valuable role in the lives of our families, our communities and our state; and

WHEREAS, the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities, and states across the country, as well as by the White House and Congress for more than two decades:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 2009 as **ILLINOIS ARTS AND HUMANITIES MONTH** and urge all citizens to celebrate and promote the arts and culture in our state and to take action for the arts and humanities in their towns and cities.

Issued by the Governor September 9, 2009

Filed by the Secretary of State September 11, 2009

2009-276

Campus Fire Safety Month

WHEREAS, college students living on their own for the first time are particularly susceptible to the danger posed by fires; and

WHEREAS, in recent months, student housing fires have occurred in Illinois in DeKalb and Edwardsville; and

WHEREAS, since January 2000, 69 campus-related fires have occurred, claiming the lives of 99 victims; and

WHEREAS, most of those deaths occurred in off-campus occupancies where the majority of students live unsupervised; and

WHEREAS, fire education and prevention are vital to ensuring the safety of Illinoisans and Americans; and

WHEREAS, most fires can be avoided by practicing some simple commonsense behaviors and routines, such as: checking and turning off the oven and stove before going to sleep or leaving home, not overloading electrical circuits, safely stowing all dangerous and hazardous materials, keeping any electrical devices clear of water, checking and maintaining alarm and sprinkler systems, and noting the location of fire extinguishers to use in the event of an emergency; and

WHEREAS, education significantly helps minimize the risk of fire by raising awareness of those behaviors and routines, but many students do not receive effective fire safety education throughout their college career when they are generally most at risk:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 2009 as **CAMPUS FIRE SAFETY MONTH** in Illinois, to encourage educators to provide educational programs on the dangers and prevention of fire as students begin and return to college, and to urge local fire officials to work with college and university administrators to help raise awareness among students of the importance of fire safety in college life.

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Filed by the Secretary of State September 11, 2009

2009-277

Chiari Malformation Awareness Month

WHEREAS, Chiari Malformation is a serious neurological disorder affecting approximately 300,000 people in the United States; and

WHEREAS, Chiari malformations (CMs) are defects in the cerebellum, the part of the brain that controls balance, that create pressure on the cerebellum and brainstem, which may block the flow of cerebrospinal fluid to and from the brain; and

WHEREAS, the condition was first identified by German pathologist Professor Hans Chiari in the 1890's. Professor Chiari categorized the malformations in order of severity: types I, II, III, and IV; and

WHEREAS, the cause of Chiari I malformations are unknown, but scientists believe it is either a congenital condition caused by exposure to harmful substances during fetal development, or that it could be a genetic condition, as it sometimes appears in more than one member of a family; and

WHEREAS, symptoms usually appear during adolescence or early adulthood and can include severe head and neck pain, vertigo, muscle weakness, balance problems, blurred or double vision, difficulty swallowing and sleep apnea; and

WHEREAS, the National Institute of Neurological Disorders and Stroke of the National Institutes of Health is conducting research to find alternative surgical options and identify the cause of the CMs in order to create improved treatment and prevention plans; and

WHEREAS, throughout the month of September, groups dedicated to increasing awareness of the disorder and raising funds to support critical research will be holding Conquer Chiari Walk Across America events throughout the country:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 2009 as **CHIARI MALFORMATION AWARENESS MONTH** in Illinois, to raise awareness of this devastating neurological disorder, and in support of the organizations working to improve the quality of life for those afflicted.

Issued by the Governor September 9, 2009

Filed by the Secretary of State September 11, 2009

2009-278

Metastatic Breast Cancer Awareness Day

WHEREAS, metastatic breast cancer is Stage IV breast cancer that has spread from the original breast site to the bones and organs like the liver, lungs, and brain; and

WHEREAS, according to the American Cancer Society, 178,480 women and men will be diagnosed with breast cancer in 2009, and an estimated 30 percent will develop Stage IV advanced or metastatic breast cancer; and

WHEREAS, there are 155,000 Americans currently living with metastatic breast cancer, underscoring the immediate need for increased public awareness; and

WHEREAS, currently, there is no cure for metastatic breast cancer, and the disease can move quickly, or be active some times and not others; and

WHEREAS, statistics suggest that most of those with metastatic breast cancer have a life expectancy of two to three years from initial diagnosis; and

WHEREAS, metastatic breast cancer frequently involves one treatment after another (surgery, chemotherapy, radiation, hormonal treatment, targeted therapies), with the goal of extending life as long as possible with the best quality of life possible, resulting in metastatic breast cancer patients living with the constant fear that treatments will stop working and treatment options will be exhausted; and

WHEREAS, metastatic breast cancer is rarely discussed during Breast Cancer Awareness Month, however those living with the disease should never feel isolated or ignored; and

WHEREAS, the observance of Metastatic Breast Cancer Awareness Day emphasizes the urgent need for new, targeted breast cancer treatments that will provide a high quality of life and prolong life expectancy for patients by making Stage IV cancer a chronic, but not fatal disease; and

WHEREAS, raising awareness of this largely misunderstood disease will help bring about acceptance, support, and solidarity, and will help advocate for medical advances. It is critical to educate the public and to help provide metastatic breast cancer patients with a more supportive and productive environment:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 13, 2009 as **METASTATIC BREAST CANCER AWARENESS DAY** in Illinois, and call upon citizens to support efforts to raise awareness about metastatic breast cancer and support clinicians and researchers who work to extend the lives of those who have this disease.

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Filed by the Secretary of State September 11, 2009

2009-279
Day of Service and Remembrance

WHEREAS, on September 11, 2001, terrorists ruthlessly attacked the United States leading to the tragic deaths of thousands of innocent United States citizens and other citizens from more than 90 different countries and territories; and

WHEREAS, in response to the attacks in New York City, Washington D.C., and Shanksville, Pennsylvania, firefighters, police officers, emergency medical technicians, physicians, nurses, military personnel, and other first responders immediately and without concern for their own well-being rose to service, in a heroic attempt to protect the lives of those still at risk, consequently saving thousands of men and women; and

WHEREAS, in the days, weeks, and months following the attacks, thousands of people in the United States and other nations spontaneously volunteered to help support the rescue and recovery efforts, braving both physical and emotional hardship; and

WHEREAS, hundreds of thousands of brave men and women continue to serve every day, having answered the call to duty as members of our nation's armed forces, with thousands having given their lives, or been injured to defend our nation's security and prevent future terrorist attacks; and

WHEREAS, the entire nation witnessed and shared in the tragedy of 9/11 and in the immediate aftermath of the September 11 attacks became unified under a remarkable spirit of service and compassion that inspired and helped heal the nation; and

WHEREAS, in the years immediately following the September 11, 2001 attacks, the U.S. Bureau of Labor Statistics documented a marked increase in volunteerism among citizens in the United States; and

WHEREAS, hundreds of thousands of people in the United States from all 50 states as well as others who live in 170 different countries already observe the anniversary of the September 11, 2001 attacks each year by personally engaging in service, good deeds, and other charitable acts; and

WHEREAS, families of 9/11 victims, survivors, first responders, rescue and recovery workers, and volunteers called for Congress to pass legislation to formally authorize the establishment of September 11 as an annually recognized "National Day of Service and Remembrance," and for the President of the United States to proclaim the day as such; and

WHEREAS, as on March 31, 2009, Congress passed the Edward M. Kennedy Serve America Act, which included for the first time the authorization and Federal recognition of September 11 as a "National Day of Service and Remembrance," a bill signed into law on April 21, 2009, by President Barack Obama; and Congresswoman Matsui

introduced a house resolution declaring September 11, 2009 a "National Day of Service and Remembrance"; and

WHEREAS, under the banner of "United We Serve," the Corporation for National and Community Service, in conjunction with thousands of national and local service agencies and non-traditional partners, has created the website Serve.gov to make it easier to find volunteer opportunities on September 11 and throughout the year and to promote impact-oriented service; and

WHEREAS, September 11, 2009 will mark the culmination of the summer phase of "United We Serve," President Obama's nationwide initiative to create a sustained, collaborative, and focused effort to meet community needs and make service a way of life for all Americans, and also will mark an opportunity for Americans to recommit to service:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 11, 2009 as a **DAY OF SERVICE AND REMEMBRANCE** in Illinois, and urge all citizens to commit to community service on this day and an ongoing basis.

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Filed by the Secretary of State September 11, 2009.

ILLINOIS ADMINISTRATIVE CODE
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