2012

ILLINOIS REGISTER

Rules of
Governmental Agencies

Volume 36, Issue 17

April 27, 2012

Pages 6077-6783

Index Department
Administrative Code Division
111 E. Monroe St.
Springfield, IL 62756
217-782-7017

Printed by authority of the State of Illinois. April 2012 — 75

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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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 peremptory 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 2012

Issue #	Rules Due Date	Date of Issue
1	December 27, 2011	January 6, 2012
2	January 3, 2012	January 13, 2012
3	January 9, 2012	January 20, 2012
4	January 17, 2012	January 27, 2012
5	January 23, 2012	February 3, 2012
6	January 30, 2012	February 10, 2012
7	February 6, 2012	February 17, 2012
8	February 14, 2012	February 24, 2012
9	February 21, 2012	March 2, 2012
10	February 27, 2012	March 9, 2012
11	March 5, 2012	March 16, 2012
12	March 12, 2012	March 23, 2012
13	March 19, 2012	March 30, 2012
14	March 26, 2012	April 6, 2012
15	April 2, 2012	April 13, 2012
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21	May 14, 2012	May 25, 2012
22	May 21, 2012	June 1, 2012
23	May 29, 2012	June 8, 2012

24	June 4, 2012	June 15, 2012
25	June 11, 2012	June 22, 2012
26	June 18, 2012	June 29, 2012
27	June 25, 2012	July 6, 2012
28	July 2, 2012	July 13, 2012
29	July 9, 2012	July 20, 2012
30	July 16, 2012	July 27, 2012
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33	August 6, 2012	August 17, 2012
34	August 13, 2012	August 24, 2012
35	August 20, 2012	August 31, 2012
36	August 27, 2012	September 7, 2012
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40	September 24, 2012	October 5, 2012
41	October 1, 2012	October 12, 2012
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48	November 19, 2012	November 30, 2012
49	November 26, 2012	December 7, 2012
50	December 3, 2012	December 14, 2012
51	December 10, 2012	December 21, 2012
52	December 17, 2012	December 28, 2012

Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from May 1st to July 2nd, 2012.

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Private Business and Vocational Schools

2) Code Citation: 23 Ill. Adm. Code 1095

3)

Section Numbers:	Emergency Action:
1095.10	New
1095.20	New
1095.30	New
1095.40	New
1095.50	New
1095.60	New
1095.70	New
1095.80	New
1095.90	New
1095.100	New
1095.110	New
1095.120	New
1095.200	New
1095.210	New
1095.220	New
1095.230	New
1095.240	New
1095.250	New
1095.260	New
1095.270	New

4) Statutory Authority: Implementing and authorized by the Private Business and Vocational Schools Act of 2012 [Public Act 97-560]

5) A Complete Description of the Subjects and Issues Involved: The Private Business and Vocational Schools Act of 2012 [P.A. 97-650] transferred the oversight of the private business and vocational schools from the Illinois State Board of Education (ISBE) to the Illinois Board of Higher Education (IBHE) on February 1, 2012. Pursuant to the Act, schools granted approval by ISBE prior to the transfer date will retain approval to operate through June 30, 2012.

The Act of 2012 includes the basic tenets of the original Private Business and Vocational Schools Act. The purpose is "to provide for the protection, education, and welfare of the citizens of this State; to provide for the education, protection, and welfare of the students

of its private business and vocational schools; and to facilitate and promote quality education and responsible, ethical, business practices in each of the private business and vocational schools enrolling students in this State." [Section 5 of the P.A. 97-650]

The private business and vocational schools retain the same basic definition in the Act of 2012. In general, a private business and vocational school offers courses of instruction for which tuition is charged to prepare students to follow a trade, pursue training for an occupation, and to improve skills and abilities relative to a career or occupation. State review and approval prior to operating a private business and vocational school are still required. Upon meeting the criteria for a permit of approval, the school is issued a 5-year permit and agrees to submit annual renewal applications during the term of the permit. At the end of the five years, the school will submit an updated application for approval.

Private business and vocational schools, once approved, are authorized to award certificates of completion in one or more programs of study consistent with the agreed upon approval of the school. A certificate signifies the graduate has satisfactorily completed a program of study that is beyond the secondary school level, but is not a postsecondary degree program.

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? 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 proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Bob Blankenberger, Deputy Director of Academic Affairs

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

Illinois Board of Higher Education
431 East Adams Street, 2nd Floor
Springfield, Illinois 62701

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Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, 2nd Floor
Springfield, Illinois 62701

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13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Private business and vocational schools providing one or more programs of study that are beyond the secondary school level, but are not postsecondary degree programs. According to the records provided by ISBE, Illinois has approximately 300 private business and vocational schools with enrollments that range from less than 50 students to more than 2,600 per school.

B) Reporting, bookkeeping or other procedures required for compliance: The compliance requirements in the Private Business and Vocational Act of 2012 [P.A. 97-650] are similar but not identical to the prior requirements in statutes and rules [105 ILCS 425 and 23 Ill. Adm. Code 451]. Schools will continue to submit initial approval applications; annual renewals; applications for changes to existing programs; and surety bonds. Also, the Act of 2010 heightens the disclosure requirements of information given to prospective students and enrolled students.

C) Types of Professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2012

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

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1095
PRIVATE BUSINESS AND VOCATIONAL SCHOOLS

SUBPART A: SCHOOL APPROVAL

Section
1095.10 Introduction
1095.20 Institutions Required to Receive Approval
1095.30 Definitions
1095.40 Criteria for Evaluation of the Application for a Permit of Approval
1095.50 Procedures for Obtaining a Permit of Approval
1095.60 Criteria for New Programs
1095.70 Requirements for Technologically Mediated Instruction Offered from a Distance
1095.80 Procedures for Obtaining Approval to Offer One or More New Certificates
1095.90 Change of Location
1095.100 Classroom Extension
1095.110 Change of Ownership
1095.120 School Application and Renewal Fees

SUBPART B: MAINTENANCE OF APPROVAL

Section
1095.200 Annual Renewal
1095.210 Surety Bond
1095.220 Liability Insurance
1095.230 Lack of Compliance
1095.240 Disclosures
1095.250 Student Complaints
1095.260 Cease and Desist Order
1095.270 School Closing and Student Transcripts

AUTHORITY: Implementing and authorized by Private Business and Vocational Schools Act of 2012 [105 ILCS 426].

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

SOURCE: Emergency rules adopted at 36 Ill. Reg. 3067, effective February 8, 2012, for a maximum of 150 days; adopted at 36 Ill. Reg. _____, effective _____.

SUBPART A: SCHOOL APPROVAL

Section 1095.10 Introduction

The State of Illinois recognizes the importance and significant public contributions of private schools offering occupational training to its citizens. Effective February 1, 2012, the General Assembly has delegated responsibility for rulemaking and for approving and monitoring these schools to the Board of Higher Education through the Private Business and Vocational Schools Act of 2012 [105 ILCS 426]. That Act provides for the establishment of rules and standards that schools and individuals must meet prior to the issuance of original permits of approval and the renewal of those permits.

Section 1095.20 Institutions Required to Receive Approval

No person or groups of persons subject to the *Act* and this Part *may establish and operate or be permitted to become incorporated for the purpose of operating a private business and vocational school without obtaining from the Board a permit of approval, provided that a permit of approval is not required for a program that is devoted entirely to religion or theology or a program offered by an institution operating under the authority of the Private College Act* [110 ILCS 1005], *the Academic Degree Act* [110 ILCS 1010], *or the Board of Higher Education Act* [110 ILCS 205] (Section 20 of the Act).

a) "Private business and vocational school" or "school" means:

1) *An educational institution privately owned or operated by a person, partnership, corporation, or other entity offering courses of instruction for which tuition is charged, whether such courses of instruction are offered on site, through correspondence, by distance education, or by other methods, to prepare individuals to do any of the following:*

A) *To follow a trade or artistic occupation.*

B) *To pursue a manual, mechanical, technical, industrial, business, commercial, office, personal service (other than nursing), or other non-professional occupation.*

C) *To follow a profession, if the profession is not subject to licensing or registration under any existing State statute requiring the licensing or registration of persons practicing such profession or if the school is not subject to the regulation of the agency with such licensing or registration authority.*

D) *To improve, enhance, or add to the skills and abilities of the individual relative to occupational responsibilities or career opportunities* (Section 15 of the Act).

2) A school that has not provided instruction in any approval year and desires to resume operations in Illinois. Such school shall file a permit of approval application and pay the permit of approval application fee.

3) A new or additional non-degree program of study. Such new or additional non-degree program must be approved by the Board as well.

b) It does not mean an entity that receives a letter of exemption from the Board, and re-certifies the exemption annually. The following are eligible for an exemption:

1) *Any institution devoted entirely to the teaching of religion or theology* (Section 30 of the Act).

2) *Any in-service program of study and subject offered by an employer, provided that no tuition is charged and the instruction is offered only to employees of the employer* (Section 30 of the Act).

3) *Any educational institution that:*

A) *Enrolls a majority of its students in degree programs and has maintained an accredited status with a regional accrediting agency that is recognized by the U.S. Department of Education; or*

B) *Enrolls students in one or more bachelor-level programs, enrolls a majority of its students in degree programs, and is accredited by a national or regional accrediting agency that is recognized by the U.S. Department of Education or that:*

i) *Is regulated by the Board under the Private College Act or the Academic Degree Act or is exempt from such regulation under either the Private College Act or the Academic Degree Act solely for the reason that the educational institution was in operation on the effective date of either the Private College Act or the Academic Degree Act; or*

ii) *Is regulated by the State Board of Education* (Section 30 of the Act).

4) *Any institution and the franchisees of that institution that exclusively offer a program of study in income tax theory or return preparation at a total contract price of no more than $400, provided that the total annual enrollment of the institution for all such courses of instruction exceeds 500 students and further provided that the total contract price for all instruction offered to a student in any one calendar year does not exceed $3,000* (Section 30 of the Act).

5) *Any person or organization selling mediated instruction products through a media, such as tapes, compact discs, digital video discs, or similar media, so long as the instruction is not intended to result in the acquisition of training* as a credential *for a specific employment field, is not intended to meet a qualification for licensure or certification in an employment field, or is not intended to provide credit that can be applied toward a certificate or degree program* (Section 30 of the Act).

6) Any person, group of persons, partnership or corporation that is located outside of the State of Illinois that is or contemplates offering instruction in Illinois above the high school level is not required to obtain a permit of approval if the institution has no physical presence or a limited physical presence in the State. *In determining whether an institution has a physical presence, the Board shall require all of the following:*

A) *Evidence of authorization to operate in at least one other state and that the school is in good standing with that state's authorizing agency* (Section 30 of the Act); and

B) Evidence of accreditation by a body recognized by the U.S. Department of Education and/or the Council for Higher Education Accreditation; and

C) *Evidence that the school has a means of receiving and addressing student complaints in compliance with any federal or state requirements* (Section 30 of the Act); and

D) *Evidence that the institution is providing no instruction in this State* (Section 30 of the Act); and

E) *Evidence that the institution is not providing core academic support services, including, but not limited to, admissions, evaluation, assessment, registration, financial aid, academic scheduling, and faculty hiring and support in this State* (Section 30 of the Act); and

F) Evidence that the institution does not maintain a physical facility in Illinois.

7) An approved school that wants to add a course to an approved program of study when the addition has a direct relationship to the existing program and does not result in a significant change in curriculum, objectives, or resources for the program.

Section 1095.30 Definitions

"Ability to benefit" means a standard for admission by which a student who does not possess a high school diploma or GED has demonstrated that he or she can profit materially or personally from a certain course of study through passage of an ability to benefit test that has been approved by the U.S. Department of Education and administered in compliance with U.S. Department of Education guidelines related to ability to benefit test policies and procedures outlined in federal financial aid regulations. (See 34 CFR 668.145 and 668.152.)

"Act" means the Private Business and Vocational Schools Act of 2012 [105 ILCS 426].

"Board" means the Board of Higher Education established under the Board of Higher Education Act or its Division of Public Business and Vocational Schools (Section 15 of the Act). In those cases in which the term is used to refer to prior approval or lack of prior approval for a school application prior to February 1, 2012, the term "Board" shall mean the State Board of Education or State Superintendent of Education.

"Certificate of completion" or "certificate" means any designation, appellation, series of letters or words, or other symbol that signifies or purports to signify that the recipient thereof has satisfactorily completed a private business and vocational school's program of study that is beyond the secondary school level, but not a post-secondary degree program at the associate, baccalaureate, master's, doctoral, or post-baccalaureate, professional degree level (Section 15 of the Act).

"Chief managing employee" is the individual who is the head administrator or supervisor at a school's principal location (Section 15 of the Act).

"Classroom extension" means the school has existing approval or is seeking additional Board approval to offer an existing program of study at a location other than the school's principal location.

"Educational institution" or "institution" means an organization that promotes business and vocational education, even though the institution's principal effort may not be exclusively educational in nature. (Section 15 of the Act)

"Enrollment agreement" means any agreement or instrument, however named, that creates or evidences an obligation binding a student to purchase a program of study from a school (Section 15 of the Act).

"Faculty" means any individual or group of individuals who are qualified by education and experience to give expert instruction and evaluation in their specialties, to supervise curricular experiences, and to evaluate learning for credit.

"Institution size" means the total number of students enrolled in the school during a fiscal year (i.e., July 1 to June 30 of the following year).

"Mediated instruction" means, for the purposes of this Part, the delivery of instruction from a distance facilitated by technology, such as via teleconferencing,

video-conferencing, or internet.

"Non-degree program of study" or "program of study" means any designation, appellation, series of letters or words, or other symbol that signifies or purports to signify that the recipient has satisfactorily completed an organized academic program of study beyond the secondary school level, such as a certificate, but below the associate's degree level and that does not include any recognized degree program such as an associate's, baccalaureate, master's, or doctoral degree, a post-baccalaureate, professional degree, or a post-degree certificate, such as a post-baccalaureate certificate, post-master's certificate, or post-doctoral certificate (Section 15 of the Act).

"Out-of-state school" means an institution described in this Part that is not otherwise exempted from approval and meets one of the following:

Private corporation, limited liability company, or other entity that is initially incorporated or organized under domestic laws other than the laws of this State, if required, and initially operated outside the State; or

Not-for-profit corporation, limited liability company, or other entity that maintains its primary place of business or home office outside this State.

"Program of study" as used in this definition means any academic program beyond the secondary school level, except for a program that is devoted entirely to religion or theology, a program offered by an institution operating under the authority of the Private College Act, the Academic Degree Act, or the Board of Higher Education Act, or a program of study of less than one year in length operating under the statutory authority granted to the Department of Financial and Professional Regulation (Section 15 of the Act).

"Permit of approval" means a non-transferable permit, issued by and pursuant to the authority of the Board of Higher Education through its Division of Private Business and Vocational Schools to a private business and vocational school in the name of the school, that authorizes the school to solicit students and to offer and maintain one or more courses of instruction in compliance with the provisions of the *Act and such standards and rules as may be adopted by the Board* (Section 15 of the Act).

"Tuition" means, solely for the purposes of this Part, the total student cost of the course of instruction and all other fees for services and facilities furnished or made available to the student by or through the school in connection with the student's matriculation and study and completion of a non-degree program of study, including all charges made by the school for tuition, room and board, books, materials, supplies, laboratory, shop and studio fees, and other expenses.

"Unearned prepaid tuition" means the amount paid to the school by a student or on behalf of a student for which educational services have not yet been rendered. For example, a student pays a school the total amount of $500 dollars prior to the first day of class. In this scenario, the school initially holds $500 in unearned prepaid tuition from that student. After 10% of the course is completed, the school will hold $450 in unearned prepaid tuition from that student. After 20% of the course is completed, the school will hold $400 in unearned prepaid tuition from that student and so on.

Section 1095.40 Criteria for Evaluation of the Application for a Permit of Approval

The Board shall approve all schools described in Sections 1095.20(a) and (b) that are not otherwise exempted in Section 1095.20(d). *The following standard criteria are intended to measure the appropriateness of the stated educational objectives of the educational programs of a given institution and the extent to which suitable and proper processes have been developed for meeting those objectives. Information related to the satisfaction of the approval criteria outlined in Section* 35 of the Act and this Part *must be supplied to the Board by institutions on forms provided by the Board. Additional information may be requested by the Board to determine the institution's ability to satisfy the criteria* (Section 35 of the Act).

a) *Qualifications of Governing Board Members, Owners, and Senior Administrators At a minimum, these individuals must be of good moral character and have no felony criminal record* (Section 35 of the Act).

b) *Qualifications of Faculty and Staff* (Section 35 of the Act)

1) The education, experience and other qualifications of faculty, staff and instructors shall reasonably ensure that the students will receive education consistent with the objectives of the program of study.

2) The faculty, staff and instructors of the school shall be of good professional reputation and character.

3) Schools are required to submit faculty credentials required for teaching a program of study as part of the submission for institution's approval. Faculty do not have to be approved by the Board prior to the start of the instructional period. Individual faculty hires and their appropriate qualification will be submitted by the institution during designated reporting periods and need not be submitted prior to teaching the course. Failure to hire faculty according to the credentials outlined by the institution may be grounds for revocation of the permit of approval.

c) *Demonstration of Student Learning and Quality of Program Delivery* (Section 35 of the Act)

1) Schools must show the capacity to develop, deliver, and support academic programs. Procedures and policies that will assure the effective design, conduct, and evaluation of the certificate program under the academic control of the school must be developed. Assessment plans must demonstrate that the school has identified clear and appropriate program and student learning goals and must have defined appropriate outcomes. Appropriate data must be collected and may be requested by the Board to show the level of student learning that has occurred as a result of participation in the school's programs of study.

2) Adequate records shall be maintained by the school to show attendance, progress or grades, and consistent standards should be enforced relating to attendance, progress and performance.

3) Upon satisfactory completion of the program of study, the student shall be given the appropriate certificate by the institution, indicating that a specifically approved course of instruction or study has been satisfactorily completed by the student.

d) *Sufficiency of Institutional Finances* (Section 35 of the Act)
The school should be financially stable and capable of assuring the revenues needed for meeting stated objectives and fulfilling commitments to students.

e) *Accuracy, Clarity, and Appropriateness of Program Descriptions*
Institutional promotional, advertising, and recruiting materials must be clear, appropriate, and accurate (Section 35 of the Act).

1) *Prior to the issuance of a permit of approval by the Board, no person or organization shall advertise a school or any program of study or solicit prospective students unless the person or organization has applied for and received from the Board authorization to conduct such activity. If the Board has authorized such activity, all advertisements or solicitations must reference the Board's approval by stating that the school is approved by the "Division of Private Business and Vocational Schools of the Illinois Board of Higher Education"* (Section 65 of the Act).

2) Schools are required to submit information about the recruiting process and the information provided to students as a part of the submission for the school's approval. Individual recruiters do not have to be approved by the Board prior to the start of the employment period. Individual recruiters hired and their appropriate qualifications will be submitted by the institution during designated reporting periods and need not be submitted prior starting employment. The actions of the recruiters are the responsibility of the institution. Failure to adhere to the information about the recruiting process and the information provided to students outlined by the institution in the application process may be grounds for revocation of the permit of approval.

3) The Board, at any time, may require that a school furnish proof to the Board of any of its advertising claims. If proof acceptable to the Board cannot be furnished, a retraction of the advertising claims, published in the same manner as the claims themselves, must be published by the institution and continuation of that advertising shall constitute cause for revocation of the institution’s permit of approval.

4) For schools requiring approval, the objectives for the school and its programs of study must be consistent with what the school name and program titles imply.

   A) The term "university" shall only be used in the name of an institution of higher education when the institutional structure includes two or more distinct colleges (e.g., College of Business, College of Education, and College of Liberal Arts and Sciences) providing instruction at the baccalaureate and graduate levels, and is involved in public service activities, scholarship and research.

B) The term "college" shall only be used to refer to a school providing instruction at the postsecondary level.

C) Program names shall adhere to the Classification of Instructional Programs (CIP) developed by the National Center for Educational Statistics.

f) *Sufficiency of Facilities and Equipment*
At a minimum, these must be appropriate and must meet applicable safety code requirements and ordinances (Section 35 of the Act).

1) The school shall have adequate and suitable space, equipment, and instructional materials to provide education of suitable quality.

2) The school shall be maintained and operated in compliance with all pertinent local, State and national ordinances and laws.

g) *Fair and Equitable Refund Policies*
At a minimum, these must be fair and equitable, must satisfy any related State or federal rules, and must abide by the standards established in the *Act and* this Part (Section 35 of the Act).

1) *The Board shall establish minimum standards for a fair and equitable refund policy that must be applied by all institutions subject to* the *Act* (Section 60 of the Act).

2) *The same refund policy must be applied to all students even if they are not eligible for federal financial aid* (Section 60 of the Act).

3) *Schools that are accredited by an accrediting body recognized by the U.S. Department of Education and approved to participate in offering Federal Title IV student financial aid may apply the required federal refund policy as long as the same policy is applied to all students even if they are not eligible for federal financial aid* (Section 60 of the Act).

h) *Appropriate and Ethical Admissions and Recruitment Practices*
At a minimum, recruiting practices must be ethical and abide by any State or federal rules (Section 35 of the Act).

1) Neither the school nor its agents shall engage in advertising, sales, collection, credit or other practices of any type that are false, deceptive, misleading or unfair.

2) Schools and agents should not:

A) Use a photograph or other such illustration in public documents, sales literature or otherwise in such a manner as to convey a false impression as to size, importance or location of the institution or equipment and facilities associated with the institution;

B) Make a deceptive statement concerning other institutional activities in attempting to enroll students;

C) Quote a dollar amount in any advertisement as representative or indicative of the earning potential of graduates;

D) State or represent that students will be guaranteed employment while enrolled in the institution or that employment will be guaranteed for students after graduation;

E) Misrepresent opportunities for employment upon completion of any program of study;

F) State or represent that the programs and/or courses or exams are transferable to another institution without current documentation by an authorized official of the receiving institution.

i) *Recognized Accreditation Status*
Accreditation with an accrediting body approved by the U.S. Department of Education may be counted as significant evidence of the institution's ability to meet curricular approval criteria (Section 35 of the Act).

1) Any school applying for a permit of approval in the state of Illinois must specify its accreditation status.

2) The school must have the appropriate accreditation if the school offers a program where professional qualification in a field is necessary for a

graduate to obtain employment.

3) In the case of a program requiring accreditation pursuant to Section 1095.40(i)(2), an institution without accreditation from an accrediting authority recognized by the U.S. Department of Education or the Council for Higher Education Accreditation shall provide a clearly defined plan to move from candidate to affiliate status. The plan should include the name of the accrediting organization, the basic outline of the accreditation process, and the projected time line for obtaining affiliate status within five years after the date of Board approval, unless the Board waives the original time line because it is found to be an unrealistic expectation.

j) *Meeting Employment Requirements in the Field of Study* (Section 35 of the Act)

1) *The institution must clearly demonstrate how a student's completion of the program of study satisfies employment requirements in the occupational field. Such information must be clearly and accurately provided to students* (Section 35 of the Act).

2) *If licensure, certification, or their equivalent is required of program graduates to enter the field of employment, the institution must clearly demonstrate that completion of the program will allow students to achieve this status* (Section 35 of the Act).

k) *Enrollment Agreements that Meet the Requirements Outlined in* the *Act* and this Part (Section 35 of the Act)

1) *A copy of the enrollment agreement must be provided to the Board. Enrollment agreements may be used by schools only if approved by the Board* (Section 40 of the Act).

2) *The Board shall develop a standard enrollment agreement for use by schools approved or seeking approval under* the *Act* and this Part. *Schools may create an enrollment agreement that meets the minimum requirements of this Section* and this Part, *but it must be approved by the Board prior to implementation* (Section 40 of the Act).

3) Enrollment agreements shall include, at a minimum, the following:

A) *A clear description of costs, refund policies, program information, all disclosures required by* the *Act* (Section 40 of the Act);

B) *The Board's Internet website, the address and phone number of the Board for students to report complaints, and any additional information the Board may require by rule* (Section 40 of the Act);

C) An explanation of all criteria and requirements for retention, progress towards certificate, and graduation of the student;

D) The institution's tuition, cancellation and refund policies; and

E) A statement of the purpose and amount of any fees assessed.

4) If the school requires the student to sign an enrollment agreement or a similar type of agreement with a different title, the document must be distributed as follows:

A) *The student must be given a copy of the enrollment agreement at the time the student signs that agreement and at the time of the agreement's acceptance, if those events occur at different times* (Section 40 of the Act).

B) *The school shall retain a signed copy of the fully executed enrollment agreement as a part of the student's permanent record* (Section 40 of the Act).

5) *No school may enter into an enrollment agreement wherein the student waives the right to assert against the school or any assignee any claim or defense he or she may have against the school arising under the agreement. Any provisions in an enrollment agreement wherein the student agrees to such a waiver shall be rendered void* (Section 40 of the Act).

6) *No school may have an enrollment agreement that requires that a student register for more than a single semester, quarter, term, or other such period of enrollment as a condition of the enrollment nor shall any school charge a student for multiple periods of enrollment prior to completion of*

the single semester, quarter, term, or other such period of enrollment (Section 35 of the Act).

l) *Clearly Communicated Tuition and Fee Charges* (Section 35 of the Act)

1) *Tuition and fees and any other expense charged by the school must be appropriate to the expected income that will be earned by graduates* (Section 35 of the Act).

2) *No school may have a tuition policy that requires that a student register for more than a single semester, quarter, term, or other such period of enrollment as a condition of the enrollment nor shall any school charge a student for multiple periods of enrollment prior to completion of the single semester, quarter, term, or other such period of enrollment* (Section 35 of the Act).

m) *Legal Action Against the Institution, Its Parent Company, Its Owners, Its Governing Board, or Its Board Members*
Any such legal action must be provided to the Board and may be considered as a reason for denial or revocation of the permit of approval (Section 35 of the Act).

n) The school shall provide a catalog or brochure, either in print or electronically, to each prospective student prior to enrollment. Upon request, the school shall provide a catalog or brochure without gathering personal information from an individual unless such information is volunteered. The catalog or brochure shall contain the following:

1) Descriptions of the programs offered, program objectives, lengths of program and institutional calendars with program start and end dates;

2) Schedule of tuition, fees and all other charges and expenses necessary for completion of the course of study, and cancellation and refund policies;

3) Student success data as required pursuant to Section 37 of the Act and this Part and any data to satisfy Board reporting requirements;

4) A statement of the institution's accreditation status with a U.S. Department of Education recognized accrediting body. If no such accreditation exists, the institution must prominently state this in its advertising and published

materials;

5) Statements regarding the transferability of a certificate to other institutions of higher education and the importance of consulting with institutions to which the student may seek to transfer;

6) Evidence of articulation arrangements with institutional counterparts, when these arrangements exist; and

7) Other material facts concerning the institution and the program or course of instruction as are likely to affect the decision of the student to enroll, together with any other information specified by the Board and defined in this Part.

Section 1095.50 Procedures for Obtaining a Permit of Approval

Each application required to be filed in accordance with the provisions of this Act and this Part *must be accompanied by the required fee under the provisions of* the *Act* and this Part*, and all such applications must be made on forms prepared and furnished by the Board* (Section 20 of the Act).

a) The school representatives shall complete the application supplied by the Board. The application requests information and supporting evidence to demonstrate that the school meets the criteria established.

b) *If an applicant school has not remedied all deficiencies cited by the Board within 12 months after the date of its original application for a* permit *of approval, an additional original application fee for the continued cost of investigation of its application is added* (Section 75(6) of the Act).

c) Following the receipt of the formal application, accompanying documentation, and applicable fee, staff will review and analyze all materials.

d) If a completed original application is rejected, the Board shall:

1) Issue a written response specifying the reason for the rejection; or

2) Issue a permit of approval only after the reasons for rejecting the application have been removed.

e) If a school is in disagreement with the Board's findings regarding its original application, it may, within 60 business days of receipt of the application deficiency report, petition the Board in writing for a reexamination of the application. The petition shall include the reasons for disagreement with the findings, and documentation and exhibits supporting the school's contentions of approvability. If, based on the petition and reexamination of the application, the Board finds and issues a report stating that the school still has not fulfilled all requirements for approval, the school may make a written request within 30 business days of receipt of this report for an informal hearing to show why it believes it has satisfied all application requirements. The request will be granted within 30 business days of receipt of that request. If, as a result of the presentation by the applicant, the Executive Director determines that application deficiencies cannot be resolved, the Executive Director shall call for a hearing as provided in Section 85 of the Act, to refuse to issue a Permit of Approval; or if it appears that the school can resolve application deficiencies within the time limitations of subsection (b), the Executive Director shall allow the applicant to continue efforts to remove application deficiencies, subject to the provisions of subsection (b) of this Section.

Section 1095.60 Criteria for New Programs

The Board requires that a school demonstrate that it can maintain and operate a new program that meets the standard criteria for those programs. The following standard criteria are designed to measure the appropriateness of the stated educational objectives to the programs of a given school and the extent to which suitable and proper processes have been developed for meeting those objectives:

a) All criteria defined in Section 1095.40 for evaluating an application for a permit of approval shall apply.

b) The objectives of the program must be consistent with what the program title implies.

c) The requested program shall be congruent with the purpose, goals, objectives and mission of the school.

d) The caliber and content of the curriculum shall assure that the stated objectives for which the program is offered will be achieved.

e) The school shall have adequate and suitable space, equipment and instructional materials to provide education of suitable quality.

f) The education, experience and other qualifications of directors, administrators, supervisors and instructors shall ensure that the students will receive education consistent with the objectives of the program.

g) The information the school provides for students and the public shall accurately describe the programs offered, program objectives, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and such other material facts concerning the school and the program or course of instruction as are likely to affect the decision of the student to enroll. This information, including any enrollment agreements or similar agreements, shall be available to prospective students prior to enrollment.

h) Fiscal and personnel resources shall be sufficient to permit the school to meet obligations to continuing programs while assuming additional resource responsibilities for the new program.

i) The faculty, staff and instructors of the school shall be of good professional reputation and character.

Section 1095.70 Requirements for Technologically Mediated Instruction Offered from a Distance

In addition to meeting other requirements in Section 1095.60, programs offered through electronically mediated distance learning must, at a minimum, meet the following requirements:

a) The institution assures adequacy of technical and physical plant facilities, including appropriate staffing and technical assistance, to support its electronically offered programs.

b) The institution provides students, faculty and staff with effective technical support and training for each educational technology hardware, software and delivery system required in a program. The help desk function is available to students during hours when it is likely to be needed, which shall be, at a minimum, 18 hours a day.

c) Appropriate measures for security of systems and adequacy of support are maintained. The selection of technologies is based on appropriateness for the students, faculty and curriculum.

d) Faculty are full participants in decisions regarding curricula and program oversight.

e) Demonstration of student learning and program outcomes are appropriate to the field and consistent regardless of program delivery method.

f) Appropriate admission processes, policies and assessments are used to ensure that students are capable of succeeding in an on-line learning environment. Students are adequately informed of the nature and expectations of on-line learning.

g) Assessments of student learning, especially exams, take place in circumstances that include definite student identification and assurance of the integrity of student work.

h) Assessment of electronically offered programs by the institution occurs in the context of the regular evaluation of all academic programs.

Section 1095.80 Procedures for Obtaining Approval to Offer One or More New Certificates

The Board shall approve all new programs of study in institutions described in Section 1095.20(a) that are not otherwise exempted in Section 1095.20(d). Following is a description of the steps in the approval process:

a) New Program Request

1) The school requesting permission to offer a new program will complete an application provided by the Board.

2) Information to be provided by the school shall include:

A) Program titles and descriptions;

B) Program objectives;

C) Curriculum;

D) Relationship of new programs to existing programs;

E) Faculty;

F) Recommendation of internal governance bodies;

G) Facilities;

H) Finances; and

I) Program publicity information.

b) Staff Analysis
Following receipt of the application, staff will review and analyze the application and documentation submitted.

c) Additional Documentation and Site Visit
In the case of a proposed new program for which staff determines it is necessary to verify or supplement the information supplied in the application, the staff may request additional written documentation and/or arrange for a site visit.

d) Outside Consultants
The Executive Director of the Board, at his or her discretion, may utilize the services of outside consultants to assist the staff in a site visit and in the evaluation of the documentation submitted.

e) Staff Report
Following the analysis, staff will summarize its findings and develop a recommendation regarding the new program request. This recommendation will be shared with the applicant. This recommendation will be one of the following:

1) That the program be approved to admit students, with the appropriate certificates being awarded upon program completion; or

2) That the approval requested not be granted.

f) New Application
Any school denied approval to award a new certificate must file a new application in order to be given subsequent consideration for approval.

g) Advertising of Programs

1) *Advertisements or solicitations must reference the Board's approval by stating that the school is approved by the "Division of Private Business and Vocational Schools of the Illinois Board of Higher Education"* (Section 65 of the Act).

2) A school may state that it is approved to award a certificate in the State of Illinois only after that approval has been officially granted and received in writing from the Board.

3) A school shall not advertise or state in any manner that it is "accredited" by the Board to award certificates.

4) No school shall publish or otherwise communicate to prospective students, faculty, staff or the public misleading or erroneous information about the certificate-granting status of a given school.

Section 1095.90 Change of Location

A school must have approval prior to operating at a location and must make application to the Board for any change of location (Section 20 of the Act).

a) A school shall notify the Board at least 30 calendar days in advance of any change of its principal location. It shall file an application on forms provided, pay the fee specified in Section 1095.120, and secure approval prior to operating at the new location.

b) Included in the application for change of location shall be the following:

1) The address and telephone number of the new location;

2) Assurance that the site will be operated in accordance with the school's policies and guidelines as previously submitted to the Board;

3) Inventories of instructional equipment if different from those previously submitted to the Board;

4) Floor and training ground plans showing space is available for the school to deliver programs in accordance with this Part;

5) Certificate of liability coverage or a rider indicating coverage of the new site;

6) Documentation that the new site meets local health and safety requirements (e.g., fire marshal reports, occupancy certificates, public health certificates);

7) Documentation of school surety bond coverage for the site (i.e., the surety bond indicating coverage of the site in the amount required by this Part);

8) A copy of the new or revised catalog or a copy of the supplement to the catalog that gives a description of the new site and its address;

9) The academic calendar for the new location.

c) A school shall notify the Board when it is prepared for a visit to the site of any changed location of the school, which shall be conducted prior to the Board's issuing of a permit of approval.

Section 1095.100 Classroom Extension

A school must have approval prior to operating at a location and must make application to the Board for a classroom extension at a new or changed location (Section 20 of the Act).

a) A school shall be permitted to provide instructional services at locations other than its principal location only upon filing a separate application for approval of each classroom extension and payment of the application fee specified in this Part. There shall be no instruction conducted at any extension site without the Board's written approval of the site. If instruction has been conducted at the extension site during the previous approval year, the school shall make application for continued approval of the site with its annual renewal application.

b) The approval year for extensions shall coincide with that of the original application or any renewal applications.

c) Included in the original application for each extension shall be the following:

1) The address and telephone number of the extension site;

2) The name, business address, and telephone number of the site administrators during hours of instruction;

3) Inventories of instructional equipment;

4) Facility plans showing space is available for the school to deliver programs in accordance with Sections 1095.40 and 1095.60;

5) Certificate of liability insurance coverage for the site or a rider to the certificate indicating site coverage;

6) Documentation verifying that the site meets local health and safety requirements (e.g., fire marshal reports, occupancy certificates, public health certificates);

7) Descriptions of the specific courses of instruction to be offered;

8) Projected enrollment figures;

9) Description of the plans and procedures for ensuring supervision during the hours that instruction is being given and students are present;

10) A list of all faculty and the subjects they are assigned to teach;

11) Verification of qualification of faculty and administrators pursuant to requirements in Sections 1095.40 and 1095.60;

12) Indication of surety bond coverage for the site (i.e., the surety bond indicating coverage of the site in the amount required in Section 1095.210);

13) A copy of the new or revised catalog or a copy of the supplement to the catalog which gives information on the extension site;

14) Copies of advertising materials to be used for the extension site.

d) A school shall have written policies and procedures for the administration and control of its extensions which describe provisions for continuous:

1) Supervision and control of activities at the site during its hours of operation;

2) Evaluation of instructional activities at the site.

e) If an administrator appointed under this Part is not at the site when students are present and instruction is being given, the policies and procedures shall provide for an administrator to be immediately on call to answer student and faculty questions and give direction for any contingencies which may occur. The school shall furnish students and faculty with the name, address, and telephone number of the extension administrator.

f) The Board will deny or revoke approval of an extension if it is found that the extension's instructional program is not comparable to that provided at the principal location or other extension sites; or a school has not provided instruction at the extension site during the previous year, unless the school presents the Board with plans for correction of the problem.

g) A school shall notify the Board at least 5 business days prior to closure of any extension during any approval year.

Section 1095.110 Change of Ownership

Whenever a change of ownership of a school occurs, an application for a permit of approval for the school under the changed ownership must immediately be filed with the Board. Permits of approval are not transferable (Section 20 of the Act).

a) A school shall send a notification letter to the Board within 10 business days after a change in ownership.

b) Following a change of ownership the new owners must obtain a permit of approval in order to operate the school.

c) When a school has a change of ownership that is 50 percent or more of the school's stock or assets, in one or a series of transactions occurring within a three year period, it shall file a permit of approval application within 60 days pursuant to Section 1095.50 with the fee specified in Section 1095.120. The school is in compliance during the 60-day period prior to filing and compliance will continue after the date of filing until the Board makes a final decision.

d) The Board will review the application for change of ownership and, upon determining that the application is complete and the school is in compliance with the Act and Sections 1095.40 and 1095.50, issue a permit of approval.

Section 1095.120 School Application and Renewal Fees

Each school and each of the non-degree programs of study offered by the school shall be approved for 5 years, subject to the terms and conditions of approval, including without limitation the submission of required reporting and the payment of required charges and fees under the provisions of Section 75 of the *Act* and this Part*, and compliance with any other requirements in* the *Act or supporting rules* (Section 50 of the Act).

a) Fees
Section 75 of the Act authorizes the Board to set fees. Fees are assessed in connection with school applications for the permit of approval, annual renewal of permit of approval, change of ownership, new program of study, change of location, and classroom extension.

1) Application Fees
The fees are based on the institution size as outlined in subsection (a)(2).

A) Permit of approval. This is the initial fee for the application for approval. Schools shall re-apply for the permit every 5 years. (See Sections 1095.20 and 1095.40.)

B) Annual renewal. This fee is paid in each of the 4 years following the issuance of a permit of approval. (See Section 1095.200.)

C) New program of study. This fee is submitted with the application when an approved school requests approval of a new or additional non-degree program of study. (See Sections 1095.60, 1095.70 and 1095.80.)

D) Change of ownership. This is the fee to submit with an application for a permit of approval whenever there is a change of ownership of an approved school. (See Section 1095.110.)

E) Change of location. This is the fee to submit with the application for a change of location prior to moving the approved school's principal location. (See Section 1095.90.)

F) Classroom extension. This fee is submitted with the application to expand the offering of instructional services at locations other than its principal location. (See Section 1095.100.)

2) Schedule of Fees

	Institution Size			
	< 100 Students	100-399 Students	400-699 Students	> 700 Students
Permit of Approval	$ 880	$ 1,760	$ 3,520	$ 5,000
Annual Renewal	440	880	1,760	2,500
New Program of Study	280	560	1,120	1,590
Change of Ownership	880	1,760	3,520	5,000
Change of Location	130	260	520	740
Classroom Extension	260	520	1,040	1,480

b) Remittance

1) Fees shall be submitted as check, certified check, cashier's check, or money order payable to the Illinois Board of Higher Education.

2) The Board shall return fees if, after further investigation, the Board determines that the institution's request does not require Board approval. No refund shall be awarded for any application that requires Board approval and has been reviewed by Board staff. Applications withdrawn by the institution shall receive no refund.

3) Fees shall be submitted to:

Illinois Board of Higher Education
Division of Private Business and Vocational Schools
431 East Adams, Second Floor
Springfield, Illinois 62701-1404

c) Processing

1) Applications submitted to the Board with insufficient fees shall be considered incomplete. The Board will notify the institution of the amount due. No further action shall be taken by the Board until the full amount due is submitted.

2) Applications submitted to the Board with incorrect fees shall be considered incomplete. The incorrect fee amount will be returned to the institution. No further action shall be taken by the Board until the full and correct fee amount due is submitted.

3) *If an applicant school has not remedied all deficiencies cited by the Board within 12 months after the date of its original application for a* permit *of approval, an additional original application fee for the continued cost of investigation of its application* will be charged to the school (Section 75 (6) of the Act).

4) The Board will not accept a new or additional application from an institution that has been unwilling or unresponsive to prior requests for information from the Board, unless the prior application is withdrawn by the applicant.

SUBPART B: MAINTENANCE OF APPROVAL

Section 1095.200 Annual Renewal

Information requested by the Board must be submitted annually or, in special circumstances, at the request of the Board. Failure to do so is grounds for immediate revocation of the permit of approval. Each non-degree program of study must be approved by the Board as well. Regardless of when the program was approved, all programs of study must be approved again with the institutional approval at the end of the 5-year approval period or in conjunction with an earlier review if so required under the *Act* or this Part. *The Board's Executive Director has the authority to order any school subject to* the *Act to cease and desist operations if the school is found to have acted contrary to the standards set forth in* the *Act or* this Part (Section 50 of the Act).

a) A school shall submit a renewal application each year for the 4 years following the issuance of a permit of approval by the Board. An application for the permit of approval is required in the last year of the 5-year period.

b) The fees for the applications are set forth in Section 1095.120.

c) The Board shall provide the forms to update the information previously submitted by the school and which call for information that has not been reported by the school since the filing of the application for the prior permit of approval.

d) The information shall include:

1) *An alphabetical list of* student *names, addresses, and dates of admission by course or course of instruction and a sample copy of* each type of *enrollment agreement employed to enroll the students listed shall be filed with the Board's Executive Director on an annual basis. The list shall be signed and verified by the school's chief managing employee* (Section 37 of the Act).

2) *Student retention and graduation rates must be maintained that are appropriate to standards in the field. A State licensing examination or professional certification examination passage rate of at least 50% of the average passage rate for schools within the industry for any State licensing examination or professional certification examination must be maintained. In the event that the school fails to* meet the minimum standards, *then that school shall be placed on probation for one year. If that school's passage rate in its next reporting period does not exceed 50% of the average passage rate of that class of school as a whole, then*

the Board shall revoke the school's approval for that program to operate in this State. Such revocation also *shall be grounds for reviewing the institution's approval to operate.* (Section 55 of the Act).

Section 1095.210 Surety Bond

Each school shall provide evidence to the Board of a surety bond to protect the interests of the students. *The amount of the bond must be sufficient to provide for the repayment of full tuition to all students enrolled at the institution in the event of closure of the institution. Evidence of the continuation of the bond must be filed annually with the Board* (Section 55 of the Act).

a) A school shall supply the Board with a copy of a fully executed, continuous surety bond written by a company authorized to do business in Illinois in an amount sufficient to provide cumulative unearned prepaid tuition for the Illinois students enrolled at any one time. The amount shall be no less than $10,000.

b) The school shall submit its projection of greatest amount of unearned prepaid tuition with its initial application for a certificate and the actual amount, based upon the record of the previous fiscal year, with each succeeding application.

c) Should the Board determine after applying the provisions of this Section that the school must increase the amount of bond coverage, the school shall file a bond rider acknowledging increased coverage within 30 calendar days of receipt of the Board's notice requiring such increase.

d) In the event of cancellation of the bond by a bonding company, the school shall furnish a fully executed replacement bond to the Board within 30 calendar days of the Board's receipt of the notice of cancellation.

e) The bonding company shall on the Board's request provide reasons for bond termination within 30 calendar days of the Board’s receipt of notice of such termination.

f) Termination of the school's surety bond coverage shall be grounds for revocation of its permit of approval.

g) When the school provides instruction at extensions, the surety bond or riders attached thereto shall indicate coverage for all Illinois students at all sites where instruction is or will be given.

Section 1095.220 Liability Insurance

A school shall maintain continuous liability insurance from a company authorized to do business in Illinois for the protection of the school's students and employees *at the school's places of business and at all classroom extensions, including any work-experience locations* (Section 55 of the Act).

a) The liability insurance policy shall specify limits of liability of not less than $100,000 per person and $300,000 per occurrence for bodily injury liability and not less than $50,000 per occurrence for property damage liability.

b) The insurance policy shall include coverage for off-campus learning experiences such as student commercial employment as a part of the instructional program, internships/externships, cooperative education, and experiential learning activities; unless the school furnishes the Board a certificate of insurance evidencing such coverage is being provided by the employer or other person responsible for the off-campus learning experience.

c) The school shall furnish the Board with a certificate of insurance which indicates compliance with the minimum amounts of liability insurance required by this Section.

1) The insurance policy shall provide that the company issuing the policy must give written notice to the Board at least 30 days prior to the effective date of a cancellation.

2) If the certificate does not so indicate, the insurer shall provide riders verifying coverage at all sites where instruction is being or will be given to Illinois students.

Section 1095.230 Lack of Compliance

A school shall permit the Board's Executive Director or his or her designees to inspect the school or classes thereof from time to time with or without notice and to make available to the Board's Executive Director or his or her designees, at any time when required to do so, information, including, financial information, pertaining to the activities of the school required for the administration of the *Act and* this Part (Section 55(8) of the Act).

a) The staff of the Board shall initiate an investigation upon receipt of a verified written complaint and may initiate an investigation in response to oral or written information concerning any of the following:

1) Alleged violation of any of the conditions governing issuance of the permit of approval;

2) Alleged failure to comply with this Part;

3) Alleged fraudulent conduct on the part of any person operating the institution or of any person, acting within the scope of his/her employment by the institution, on account of which any student ever enrolled in the institution has been injured or has suffered financial loss;

4) Loss, suspension, probation or similar adverse action taken by an accrediting body with which the institution is or was affiliated;

5) Actions of federal or state regulatory agencies or Offices of Attorneys General, Offices of Inspectors General, or similar bodies that affect an institution's status with those bodies.

b) Whenever an inspection or other information reveals lack of compliance with the Act or this Part, the Board shall send the school a report of deficiencies. The school shall have 10 business days to respond to the report of deficiencies and report on actions that have been taken to correct these deficiencies.

Section 1095.240 Disclosures

All schools shall make, at a minimum, the disclosures required under Section 37 of the Act and this Part *clearly and conspicuously on their Internet websites. The disclosure shall consist of a statement containing the following information for the most recent 12-month reporting period of July 1 through June 30* (Section 37 of the Act):

a) For each program of study, report:

1) The number of students who were admitted in the program as of July 1 of that reporting period.

2) The number of additional students who were admitted in the program during the next 12 months and classified in one of the following categories:

A) New starts;

B) Re-enrollments; and

C) Transfers into the program from other programs at the school.

3) The total number of students admitted in the program during the 12-month reporting period (the number of students reported under subsection (a)(1) plus the total number of students reported under subsection (a)(2)).

4) The number of students enrolled in the program during the 12-month reporting period who:

A) Transferred out of the program and into another program at the school;

B) Completed or graduated from a program;

C) Withdrew from the school;

D) Are still enrolled.

5) The number of students enrolled in the program who were:

A) Placed in their field of study;

B) Placed in a related field;

C) Placed out of the field;

D) Not available for placement due to personal reasons;

E) Not employed.

b) *The number of students who took a State licensing examination or professional certification examination, if any, during the reporting period, as well as the number who passed* (Section 37 of the Act).

c) *The number of graduates who obtained employment in the field who did not use the school's placement assistance during the reporting period; such information may be compiled by reasonable efforts of the school to contact graduates by written correspondence* (Section 37 of the Act).

d) *The average starting salary for all school graduates employed during the reporting period; such information may be compiled by reasonable efforts of the school to contact graduates by written correspondence* (Section 37 of the Act).

e) *The following clear and conspicuous caption, set forth with the address and telephone number of the Board's office: "COMPLAINTS AGAINST THIS SCHOOL MAY BE REGISTERED WITH THE BOARD OF HIGHER EDUCATION"* (Section 37 of the Act). (See Section 1095.250.)

Section 1095.250 Student Complaints

Schools approved by the Board must *provide to the Board and each student the school's policy for addressing student complaints. Included in this process, the school must provide in its promotional materials and on its Internet website the Board's address and Internet website for reporting complaints* (Section 55(2) of the Act).

a) *Student complaints must be submitted in writing to the Board* (Section 85(i)(1) of the Act).

1) The Board will provide forms that may be used to submit a complaint. Information about the complaint may be submitted online through the IBHE website (www.ibhe.org). Signed forms should be sent to the Board at:

Illinois Board of Higher Education
Division of Private Business and Vocational Schools
431 East Adams, Second Floor
Springfield, Illinois 62701-1404

Fax Number: (217)782-8548

2) Verbal instructions on how to submit a student complaint are available by calling the Board at (217)782-2551.

b) *Board staff shall contact the school about the complaint by registered mail or other appropriate notification. The school has 10 business days to respond to the Board about the complaint. The Board shall provide a resolution determination to the school. The school may request a hearing about the proposed resolution within 10 business days after the delivery of the complaint by registered mail or other appropriate notification. If the school does not abide by the resolution determination, then the Board can issue a cease and desist order to the school. If the school does not comply with the cease and desist order, then the Board may revoke the school's permit of approval* (Section 85(i)(2) of the Act).

c) *The complaint may be forwarded to the institution's accrediting body* (Section 85(i)(3) of the Act).

d) *The Board shall annually issue a public report about the complaints received. At a minimum, the report shall include the institution, the nature of the complaint, and the current resolution status of the complaint. No individual student shall be named in the report* (Section 85(i)(4) of the Act).

Section 1095.260 Cease and Desist Orders

The Board's Executive Director has the authority to order any school subject to the *Act to cease and desist operations if the school is found to have acted contrary to the standards set forth in* the *Act* and this Part (Section 85 of the Act).

a) On receipt of a cease and desist order the school shall immediately cease and desist from all sales, advertising, marketing and enrollment activities. It shall report to the Board in writing within 15 days on actions which will be taken to correct the deficiencies cited. The report shall include the dates for completion of corrective activities.

b) The Board shall notify the school in writing immediately when conditions relating to issuance of the order have been rectified and the school is again eligible to resume its normal sales, advertising, marketing and enrollment functions.

c) If deficiencies noted by the Board are not corrected within 30 days following the school's receipt of the report, the Board shall proceed to a hearing to show why the school's permit of approval should not be placed on probation, suspended or revoked.

Section 1095.270 School Closing and Student Transcripts

a) Notice Required
A school that is closing, either voluntarily or involuntarily, shall send to the Board the following:

1) Notice of the closure immediately by certified mail;

2) Provide the name, address, and telephone number of the person who will be responsible for closing arrangements;

3) Provide the name, address, and telephone number and the name of the course of instruction for each student who has not completed his or her course of instruction;

4) Provide information on the amount of class time left for each student to complete the course with the amount of refund, if any, for which each student is eligible;

5) Furnish copies of the written notice being mailed to all enrolled students explaining the procedures they are to follow to secure refunds or to continue their education; and

6) Return its permit of approval immediately by mail upon cessation of instruction or termination of approved status.

b) Teach-Out Plan
When a postsecondary educational institution now or hereafter operating in this State proposes to discontinue its operation, such institution shall cause to be created a teach-out plan acceptable to the Board, which shall fulfill the school's educational obligations to its students. Should the school fail to deliver or act on the teach-out plan, the Board is in no way responsible for providing the teach-out (Section 70 of the Act).

1) A school shall have written plans designed to protect the contractual rights of its students and graduates in the event the school closes or undergoes a change of status (e.g., if the school changes location or if its permit of approval is revoked), including the right to complete the course of instruction in which they enrolled.

2) If students are receiving instruction prior to the school's closing, the school shall file a plan including the information described in subsection (b)(2)(A) with the Board to ensure that the school's students will continue to receive training of the same quality and content as that for which they contracted, as indicated in subsection (b)(2)(B).

A) Arrangements for transferring students to a public or another approved private school shall be filed with the Board prior to any student transfer.

B) Prior to approving the school's arrangements for completing its teaching obligations to students, the Board shall verify that students transferring will receive the same kind of program and instructional services as those for which they contracted.

c) Academic Records
In the event a school proposes to discontinue its operations, the chief administrative officer of the school shall cause to be filed with the Board the original or legible true copies of all such academic records of the institution as may be specified by the Board (Section 70 of the Act).

1) *These records shall include, at a minimum, the academic records of each former student that is traditionally provided on an academic transcript, such as, but not limited to, courses taken, terms, grades, and other such information* (Section 70 of the Act).

2) *In the event it appears to the Board that any such records of an institution discontinuing its operations is in danger of being lost, hidden, destroyed, or otherwise made unavailable to the Board, the Board may seize and take possession of the records, on its own motion and without order of court* (Section 70 of the Act).

3) *The Board shall maintain or cause to be maintained a permanent file of such records coming into its possession* (Section 70 of the Act).

4) *As an alternative to the deposit of such records with the Board, the institution may propose to the Board a plan for permanent retention of the records* that may include the transfer of records to a similar institution. *The plan must be put into effect only with the approval of the Board* (Section 70 of the Act).

d) Refund Requirements

1) The school shall refund all tuition, fees, and other charges if the Board, in any situation in which students are receiving instruction prior to a school's closing, determines that:

A) The school has not fulfilled its contractual obligations; or

B) A student has reasonable objections to transfer resulting from the closing.

2) *The school and its designated surety bonding company are responsible for the return to students of all prepaid, unearned tuition. As identified in Section 55 of* the *Act, the surety bond must be a written agreement that provides for monetary compensation in the event that the school fails to fulfill its obligations. The surety bonding company shall guarantee the return to the school's students and their parents, guardians, or sponsors of all prepaid, unearned tuition in the event of school closure. Should the school or its surety bonding company fail to deliver or act to fulfill the obligation, the Board is in no way responsible for the repayment or any related damages or claims* (Section 70 of the Act). (See Section 1095.210 for requirements of the surety bond.)

e) Transcript Requests

1) The Board is the custodian of records for student transcripts from closed private business and vocational schools who have turned over their student records to the Board.

2) The Board shall maintain a list of the private business and vocational schools that have closed and will publish the list on the Board website (www.ibhe.org).

3) A student who attended a Board-approved school that has since closed shall use the transcript request form and procedure developed by the Board along with the applicable fees.

4) The fee for a student transcript is $10 per copy and shall be submitted as check, certified check, cashier's check, or money order payable to the Illinois Board of Higher Education.

5) Fees shall be submitted to:

Illinois Board of Higher Education
Division of Private Business and Vocational Schools
431 East Adams, Second Floor
Springfield, Illinois 62701-1404

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Orthotics, Prosthetics and Pedorthics Practice Act

2) Code Citation: 68 Ill. Adm. Code 1325

3)

Section Number:	Proposed Action:
1325.5	Amendment
1325.10	Amendment
1325.15	Amendment
1325.20	Amendment
1325.25	Amendment
1325.35	Amendment
1325.40	Amendment
1325.45	Amendment
1325.50	Amendment
1325.55	Amendment
1325.60	Amendment
1325.65	Amendment
1325.75	Amendment
1325.80	Amendment

4) Statutory Authority: Implementing the Orthotics, Prosthetics and Pedorthics Practice Act [225 ILCS 5] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15]

5) A Complete Description of the Subjects and Issues Involved: Public Act 96-682 was the sunset reauthorization of the Orthotics, Prosthetics and Pedorthics Practice Act; this proposed rulemaking implements various provisions reflecting that statutory reauthorization. A number of changes reflect the merger of the certifying bodies whose test is used by the Department during the licensure process (The Board for Certification in Pedorthics was integrated with the American Board for Certification in Orthotics and Prosthetics and is now the Board for Certification in Orthotics, Prosthetics & Pedorthics, Inc. (ABC)). It also increases the fee for restoration of a non-renewed license from $20 to $50. Makes numerous 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. Obsolete language, including long-expired "grandfather" provisions, has also been removed.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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 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 IL62786
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 services as an orthotist, prosthetist and/or pedorthist.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Orthotic, prosthetic and pedrothic skills are required for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: July 2011

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1325
~~ILLINOIS~~ ORTHOTICS, PROSTHETICS AND PEDORTHICS PRACTICE ACT

Section

1325.5 Definitions
1325.10 Examination
1325.15 Application for Licensure as an Orthotist
1325.20 Application for Licensure as a Prosthetist
1325.25 Application for Licensure as a Pedorthist
1325.30 Clinical Residency in Orthotics and Prosthetics
1325.35 Qualified Work Experience in Pedorthics
1325.40 Supervision
1325.45 Classification of Devices
1325.50 Fees
1325.55 Renewals
1325.60 Endorsement
1325.65 Dishonorable, Unethical or Unprofessional Conduct
1325.70 Granting Variances
1325.75 Restoration
1325.80 Continuing Education

AUTHORITY: Implementing the Orthotics, Prosthetics and Pedorthics Practice Act [225 ILCS 84] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Adopted at 25 Ill. Reg. 3883, effective March 1, 2001; amended at 26 Ill. Reg. 16543, effective October 28, 2002; amended at 27 Ill. Reg. 19378, effective December 11, 2003; amended at 36 Ill. Reg. _____, effective _____.

Section 1325.5 Definitions

"Act" means the ~~Illinois~~ Orthotics, Prosthetics and Pedorthics Practice Act [225 ILCS 84].

"Board" means the Board of Orthotics, Prosthetics, and Pedorthics.

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

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

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

"Orthotist" means a person who measures, designs, fabricates, fits, or services orthoses and assists in the formulation of the order of orthoses as ordered by a licensed physician for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities.

"Pedorthist" means a person who measures, designs, fabricates, fits or services pedorthic devices and assists in the formulation of the order of pedorthic devices as ordered by a licensed physician or licensed podiatrist for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities.

"Prosthetist" means a person who measures, designs, fabricates, fits, or services prostheses and assists in the formulation of the order of prostheses as ordered by a licensed physician for the replacement of external parts of the human body lost due to amputation or congenital deformities or absences.

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

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.10 Examination

a) Orthotics. The examination for licensure as an orthotist shall be the orthotics certification examination of the American Board for Certification in Orthotics, ~~and~~ Prosthetics~~,~~ & Pedorthics, Inc. (ABC).

b) Prosthetics. The examination for licensure as a prosthetist shall be the prosthetics certification examination of the American Board for Certification in Orthotics, ~~and~~ Prosthetics~~,~~ & Pedorthics, Inc. (ABC).

c) Pedorthics. The examination for licensure as a pedorthist shall be the American Board for Certification in Orthotics, Prosthetics & ~~pedorthics certification examination of the Board for Certification in~~ Pedorthics, Inc. (ABC) ~~(BCP)~~.

d) Candidates shall make application for the examination, and pay the examination fee, directly to the designated testing service.

e) Unsuccessful candidates may retake the examination as many times as they wish. Retake application shall be made to the designated testing service.

f) Application to the designated testing service for purposes of taking the examination shall not constitute application to the Division~~Department~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.15 Application for Licensure as an Orthotist

a) Any person seeking licensure as an orthotist shall file an application with the Division~~Department~~ on forms provided by the Division~~Department~~. The application shall include the following:

1) Either:

A) Proof of a baccalaureate degree in an orthotics and prosthetics program approved by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its predecessor or successor agency; or

B) Proof of a baccalaureate degree from a regionally accredited school, college or university and a certificate from a CAAHEP accredited orthotics program;

2) Proof of a clinical residency as set forth in Section 1325.30;

3) Verification of successful completion of the orthotics examination set forth in Section 1325.10 received directly from the designated testing service; and

4) ~~A complete work history, on forms provided by the Department, since completion of a baccalaureate program; and 5)~~ The required fee specified in Section 1325.50 ~~of this Part~~.

~~b)~~ ~~Any person seeking licensure as an orthotist pursuant to Section 55 (Transition Period) of the Act shall file an application with the Department postmarked no later than January 1, 2002, on forms provided by the Department. The application shall include the following:~~

~~1)~~ ~~Either:~~

~~A)~~ ~~Proof of current certification as a Certified Orthotist (CO) or Certified Prosthetist/Orthotist (CPO) from ABC; or~~

~~B)~~ ~~Proof of full-time practice for 7 years prior to January 1, 2000 in orthotics as defined in Section 10 of the Act. The 7 years of practice has to be between January 1, 1993 and January 1, 2000. The application shall include:~~

~~i)~~ ~~Three affidavits from physicians licensed under the Medical Practice Act and/or podiatrists licensed under the Illinois Podiatric Medical Practice Act who have referred clients to the applicant; and~~

~~ii)~~ ~~Verification of orthotic experience. Experience shall be full-time in an orthotic/prosthetic facility. Full-time is defined as 30 hours per week. (Part-time experience shall be accepted if done in combination with acceptable prosthetic and pedorthic experience.);~~

~~2)~~ ~~A complete work history on forms provided by the Department;~~

~~3)~~ ~~The fee required in Section 1325.50 of this Part; and~~

~~4)~~ ~~Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant is currently licensed, if applicable, stating:~~

~~A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license; and~~

~~B) Whether the file on the applicant contains any record of disciplinary actions taken or pending.~~

b~~e~~) An individual who meets the requirements of the Act and this Part and obtains a license in Illinois is considered to have met the internationally accepted standards of orthotics and prosthetics as set forth by the International Society for Prosthetics and Orthotics.

c)~~d)~~ 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 licensure shall be requested to:

1) Provide ~~such~~ information as may be necessary; and/or

2) Appear for an interview before the Board to explain the~~such~~ relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.20 Application for Licensure as a Prosthetist

a) Any person seeking licensure as a prosthetist shall file an application with the Division~~Department~~ on forms provided by the Division~~Department~~. The application shall include the following:

1) Either:

A) Proof of a baccalaureate degree in an orthotic and prosthetic program approved by the Commission on Accreditation of Allied Health Education Programs (CAAHEP) or its predecessor or successor agency; or

B) Proof of a baccalaureate degree from a regionally accredited school, college or university and a certificate from a CAAHEP accredited prosthetic program;

2) Proof of a clinical residency as set forth in Section 1325.30;

3) Verification of successful completion of the prosthetics examination set forth in Section 1325.10 received directly from the designated testing service; and

4) ~~A complete work history since completion of a baccalaureate program; and 5)~~ The required fee specified in Section 1325.50 ~~of this Part~~.

~~b)~~ ~~Any person seeking licensure as a prosthetist pursuant to Section 55 (Transition Period) of the Act shall file an application with the Department postmarked no later that January 1, 2002, on forms provided by the Department. The application shall include the following:~~

~~1)~~ ~~Either:~~

~~A)~~ ~~Proof of current certification as a Certified Prosthetist (CP) or Certified Prosthetist/Orthotist (CPO) from ABC; or~~

~~B)~~ ~~Proof of full-time practice for 7 years prior to January 1, 2000 in prosthetics as defined in Section 10 of the Act. The 7 years of practice has to be between January 1, 1993 and January 1, 2000; The application shall include:~~

~~i)~~ ~~Three affidavits from physicians licensed under the Medical Practice Act who have referred clients to the applicant; and~~

~~ii)~~ ~~Verification of prosthetic experience. Experience shall be full-time in an orthotic/prosthetic facility. Full-time is defined as 30 hours per week. (Part-time experience shall be accepted if done in combination with acceptable orthotic and pedorthic experience.);~~

~~2)~~ ~~A complete work history on forms provided by the Department;~~

~~3) The fee required in Section 1325.50 of this Part; and~~

~~4) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant is currently licensed, if applicable, stating:~~

~~A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license; and~~

~~B) Whether the file on the applicant contains any record of disciplinary actions taken or pending.~~

b~~c~~) An individual who meets the requirements of the Act and this Part and obtains a license in Illinois is considered to have met the internationally accepted standards of orthotics and prosthetics as set forth by the International Society for Prosthetics and Orthotics.

c)~~d)~~ 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 licensure shall be requested to:

1) Provide ~~such~~ information as may be necessary; and/or

2) Appear for an interview before the Board to explain the~~such~~ relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.25 Application for Licensure as a Pedorthist

a) Any person seeking licensure as a pedorthist shall file an application with the Division~~Department~~ on forms provided by the Division~~Department~~. The application shall include the following:

1) Proof of graduation from high school or its equivalent;

2) Proof of formal pedorthic education from a program recognized by the Division~~Department~~ for certification in Pedorthics pursuant to Section 10 of the Act;

3) Proof of completion of a qualified work experience set forth in Section 1325.35~~ of this Part~~;

4) Verification of successful completion of the pedorthic examination set forth in Section 1325.10 received directly from the designated testing service; and

5) ~~A complete work history since completion of pedorthic education; and 6)~~ The required fee specified in Section 1345.50~~ of this Part~~.

~~b)~~ ~~Any person seeking licensure as a pedorthist pursuant to Section 55 (Transition Period) of the Act shall file an application with the Department, on forms provided by the Department, postmarked no later than January 1, 2002. The application shall include the following:~~

~~1)~~ ~~Either:~~

~~A)~~ ~~Proof of certification as a Certified Pedorthist (CPed) by the Board of Certification in Pedorthics, Inc. (BCP) or certification as a Certified Orthotist (CO) or Certified Prosthetist/Orthotist (CPO) from ABC; or~~

~~B)~~ ~~Proof of full-time practice for 7 years prior to January 1, 2000 in pedorthics as defined in Section 10 of the Act. The 7 years of practice has to be between January 1, 1993 and January 1, 2000. The application shall include:~~

~~i)~~ ~~Three affidavits from physicians licensed under the Medical Practice Act and/or podiatrists licensed under the Illinois Podiatric Medical Practice Act who have referred clients to the applicant; and~~

~~ii) Verification of pedorthic experience. Experience shall be full-time in a pedorthic or orthotic/prosthetic facility. Full-time is defined as 30 hours per week. (Part-time experience shall be accepted if done in combination with acceptable orthotics and prosthetics experience.);~~

~~2) A complete work history on forms provided by the Department;~~

~~3) The fee required in Section 1325.50 of this Part; and~~

~~4) Certification, on forms provided by the Department, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant is currently licensed, if applicable, stating:~~

~~A) The time during which the applicant was licensed in that jurisdiction, including the date of the original issuance of the license; and~~

~~B) Whether the file on the applicant contains any record of disciplinary actions taken or pending.~~

b~~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 licensure shall be requested to:

1) Provide ~~such~~ information as may be necessary; and/or

2) Appear for an interview before the Board to explain the~~such~~ relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.35 Qualified Work Experience in Pedorthics

a) Applicants must complete a qualified work experience of at least 1000~~80~~ hours in

pedorthics. This is a hands on internship program designed to promote the applicant's ability to provide quality patient care by enhancing his/her performance level of basic pedorthic tasks. The applicant shall meet the following critera:

1) The clinical experience shall be under the direct supervision of a licensed pedorthist or a licensed orthotist or a person~~BCP~~ certified as a Certified Pedorthist (C.Ped) or Certified Orthotist (CO) whose practice is located outside of the State. The clinical experience shall be in an accredited facility pursuant to Section 10 of the Act~~pedorthist and shall be in a pedorthic facility that has received accreditation by the BCP~~.

2) A maximum of 45 hours worked in any 7 day period may be applied toward meeting the 1000~~80~~ hour requirement. The 1000~~80~~ hours may be accumulated~~accumluated~~ over a period not to exceed 24~~12~~ months. The 1000~~80~~ hour period must have been obtained within 5 years prior to the date of the application.

3) Experience shall be obtained subsequent to education. Experience shall be at all levels of pedorthic care.

b) Applicants who submit evidence of completion of a qualified work experience that is approved by the American Board for Certification of Orthotics, Prosthetics & Pedorthics~~in Pedothics~~, Inc., meet the requirements set forth in this Section.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.40 Supervision

a) Non-licensed caregivers (assistants, technicians, residents, or students) may provide orthotic, prosthetic, or pedorthic services only under the supervision of a licensee under the Act. All services must be performed pursuant to the supervisor's order, control, oversight, guidance and full professional responsibility. The following sets forth four levels of supervision and identifies the supervisory relationship between the licensed orthotist, prosthetist, or pedorthist and other non-licensed orthotic, prosthetic, or pedorthic caregivers.

1) Independent – The licensed caregiver is qualified to provide independent, unsupervised, direct patient care as well as confer or consult with

colleagues, physicians or other allied health professionals in providing patient care within the scope of practice.

2) Indirect Supervision – The non-licensed caregiver is qualified to provide patient care independent of a licensee; however, the licensed supervisor must review and countersign all entries in the patient's clinical record within 15 working days following the delivery of care. The supervisor must be physically available for consultation within 60 minutes during the delivery of care.

3) Close Supervision – The non-licensed caregiver is qualified to provide patient care independent of the designated clinical supervisor (licensed orthotist, prosthetist, or pedorthist); however, the supervisor must personally review the assessment and care rendered. The supervisor must be physically present in the facility and available for consultation throughout the delivery of care. The supervisor is responsible for countersigning all entries in the patient's clinical record.

4) Direct Supervision – The non-licensed caregiver is not qualified to provide patient care independent of the designated clinical supervisor (licensed orthotist, prosthetist, or pedorthist) and is only qualified to provide care under supervision. The supervisor must review the results of care rendered by the supervised individual before dismissal of the patient. The supervisor is available for consultation throughout the patient care process. The supervisor is responsible for countersigning all entries by the caregiver in the patient's clinical record before dismissal of the patient.

b) Assistants may provide all levels of care. Supervision is based on training and experience of the assistant and the classification of the device. Custom fabricated and fitted devices and custom fitted devices (high complexity) should be provided under direct or close supervision. Custom fitted devices (low complexity) should be provided under close or indirect supervision. Off-the-shelf devices and over-the-counter devices may be provided under indirect supervision.

c) Technicians shall only provide care involving technical implementation skills and no clinical assessment or patient management skills. The care shall be under close or direct supervision depending on the complexity of the care.

d) Residents shall provide all levels of care under supervision. Supervision should

progress from direct supervision to indirect supervision as the resident progresses through the residency program.

e) Students shall provide all levels of care under direct supervision.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.45 Classification of Devices

a) The Centers for Medicare and Medicaid Services' (CMMS) Common Procedure Coding System (HCPCS) is used as a universal coding database for orthotic, prosthetic, and pedorthic devices. To determine the appropriate level of supervision, the following categorizations are used:

1) "Custom fabricated and fitted device" means an orthosis, prosthesis, or pedorthic device fabricated to original measurements and/or a mold for patient use ~~by a patient~~ in accordance with a prescription and that requires substantial clinical and technical judgment in its design and fitting. Licensees or non-licensed caregivers under direct or close supervision of a licensee should provide custom fabricated and fitted devices.

2) "Custom fitted device" means a prefabricated orthosis, prosthesis, or pedorthic device sized and/or modified for patient use ~~by the patient~~ in accordance with a prescription, and that requires substantial clinical judgment and substantive alteration for appropriate use. Licensees or non-licensed caregivers under close or indirect supervision of a licensee should provide custom fitted devices. Custom fitted devices are sub-classified as "high complexity" or "low complexity".

A) Custom fitted device (high complexity): A prefabricated orthosis, prosthesis, or pedorthic device sized and/or modified for patient use ~~by the patient~~ in accordance with a prescription and that requires substantial clinical judgment (involving high clinical assessment and patient management skills) or substantive alteration (involving medium technical implementation skills) for appropriate use.

B) Custom fitted device (low complexity): A prefabricated orthosis, prosthesis, or pedorthic device sized and/or modified for patient

use ~~by the patient~~ in accordance with a prescription and that requires substantial clinical judgment (involving medium clinical assessment and patient management skills) or substantive alteration (involving low technical implementation skills) for appropriate use.

3) "Off-the-shelf device" means a prefabricated orthosis, prosthesis or pedorthic device sized and/or modified for patient use ~~by the patient~~ in accordance with a prescription and that does not require substantial clinical judgment and substantive alteration for appropriate use. Licensees or non-licensed caregivers under indirect supervision of a licensee may provide off-the-shelf devices.

4) "Over-the-counter device" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgement in either size selection or use, including fabric or elastic supports, corsets, generic insoles, elastic hose. Over-the-counter devices do not require the supervision of a licensee.

b) The Division~~Department~~ hereby incorporates by reference the Categorization of Orthotic and Prosthetic HCPCS Payment Codes, American Orthotic & Prosthetic Association, 330 John Carlyle Street, Suite 200, Alexandria VA 22314, January 2002, with no later amendments or editions. Classification of HCPCS codes not included within this document shall be made by the Board on an annual basis.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.50 Fees

The following fees shall be paid to the Department and are nonrefundable:

a) Application fees

1) The fee for application for a license as an orthotist, prosthetist or pedorthist is $400.

2) The fee for application as a continuing education sponsor is $500.

b) Renewal fees

1) The fee for renewal of an orthotist, prosthetist or pedorthist license is $125 per year.

2) The fee for renewal as a continuing education sponsor is $250.

c) General fees

1) The fee for restoration of a license other than from inactive status is $50~~$20~~ plus payment of all lapsed renewal fees.

2) The fee for issuance of a duplicate license or for the issuance of a replacement license for a license that has been lost or destroyed is $20.

3) The fee 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 printed.

4) The fee for certification of a license for any purpose is $20.

5) The fee for a wall certificate showing licensure is the actual cost of producing the certificate.

The fee for a roster of persons licensed under the Act is the actual cost of producing the roster.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.55 Renewals

a) The first license issued shall expire on September 30, 2003 and every September 30 of odd-numbered years. Beginning with the September 30, 2005 renewal and every renewal thereafter, in order to renew a license, a licensee shall be required to complete 30 hours of continuing education in accordance with Section 1325.80. The holder of the license may renew the license during the month preceding the expiration date by paying the required fee.

b) It is the responsibility of each license holder 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.

c) Practice on an expired license shall be considered the unlicensed practice of orthotics, prosthetics, or pedorthics and subject to discipline or other penalties set forth in Section 90 of the Act.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.60 Endorsement

a) An applicant seeking licensure in Illinois who is licensed/registered under the laws of another jurisdiction shall file an application with the Division~~Department~~, on forms provided by the Division~~Department~~, that includes:

1) Certification of education and experience set forth in Sections 1325.15, 1325.20 and 1325.25~~ of this Part~~;

2) Proof of successful completion of the examination set forth in Section 1325.10~~ of this Part~~;

3) ~~A work history on forms provided by the Department since completion of education; 4)~~ The fee required in Section 1325.50~~ of this Part~~; and

4)~~5)~~ Certification from the state or territory of the United States in which the applicant was originally licensed and the states in which the applicant is currently licensed, stating:

A) The time during which the applicant was licensed/registered in that jurisdiction; and

B) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

b) The Division~~Department~~ may request additional information to determine if the requirements in the state or territory of original licensure were substantially equivalent to the requirements then in effect in Illinois or to determine whether the requirements of another state or territory, together with education and

professional experience qualifications of the applicant, are substantially equivalent to the requirements in Illinois at the time of application or is certified by a national certification organization with educational and testing standards equal to or more stringent than the licensing requirements of this State.

c) In lieu of the documentation required in subsections (a)(1) and (2), the Division~~Department~~ will accept proof of current certification from the American Board for Certification in Orthotics, ~~and~~ Prosthetics & ~~, Inc., or current certification from the Board for Certification in~~ Pedorthics, Inc.

d) The Division~~Department~~ shall either issue a license by endorsement to the applicant or notify him/her of the reasons for the denial of the application.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.65 Dishonorable, Unethical or Unprofessional Conduct

a) Pursuant to Section 90(a)(9) of the Act, engaging in dishonorable, unethical or unprofessional conduct in the practice of orthotics, prosthetics, or pedorthics shall include but not be limited to:

1) The promotion of the sale of services and devices in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party.

2) Directly or indirectly offering, giving, soliciting, or receiving, or agreeing to receive, any fee or other consideration to or from a third party for the referral of a patient or client.

3) Revealing of personally identifiable facts, data or information about a patient or client obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law.

4) Providing care or services without an order from a licensed physician or podiatrist.

5) Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform.

6) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that the person to whom the responsibilities were delegated is not qualified by training, experience, or licensure to perform them.

7) Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed orthotist, prosthetist, or pedorthist.

8) Overutilizing services by providing excessive evaluation or treatment procedures not warranted by the condition of the patient or by continuing treatment beyond the point of possible benefit.

9) Making gross or deliberate misrepresentations or misleading claims, including but not limited to:

A) professional qualifications;

B) the efficacy or value of the treatments, remedies or devices given or recommended.

10) Gross and willful and continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

11) Failing to maintain a record for each patient that accurately reflects the evaluation and treatment of the patient.

12) Advertising or soliciting for patronage in a manner that is fraudulent or misleading. Examples of advertising or soliciting that are considered fraudulent or misleading shall include, but not be limited to:

A) Advertising by means of testimonials, anecdotal reports of orthotic, prosthetic, or pedorthic practice successes or claims of superior quality of care to entice the public; or

B) Advertising that contains false, fraudulent, deceptive or misleading materials, warranties or guarantees of success, statements that play

upon vanities or fears of the public or statements that promote or produce unfair competition.

b) ~~Pedorthics: The Department hereby incorporates by reference the Code of Ethical Conduct of the Board for Certification in Pedorthics, Inc., 7150 Columbia Gateway Drive, Suite G, Columbia MD 21046-1151, July 2000, with no later amendments or editions. c)~~ Orthotics, ~~and~~ Prosthetics and Pedorthics: The Division~~Department~~ hereby incorporates by reference the Code of Professional Responsibility~~Canons of Ethical Conduct~~, American Board for Certification in Orthotics, ~~and~~ Prosthetics~~,~~ & Pedorthics, Inc., 330 John Carlyle St., Ste. 210~~1650 King Street, Suite 500~~, Alexandria VA 22314, March 2010~~22314-2747, December 1999~~, with no later amendments and editions; and the Code of Ethics, International Society for Prosthetics and Orthotics, Education Committee, 22-24 Rue du Luxembourg B-1000 Brussels, Belgium~~Borgervaenget 5, 2100 Copenhagen, Denmark~~, January 1998, with no later amendments and editions.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.75 Restoration

a) A person seeking restoration of a license that has expired for less than 5 years shall have the license restored upon payment of ~~$20 plus all lapsed renewal~~ fees ~~as~~ set forth in Section 1325.50~~1325.45 of this Part~~. A person seeking restoration of a license shall provide evidence of successful completion of 30 hours of continuing education in accordance with Section 1325.80~~1325.75~~ earned within the 2 years immediately preceding the restoration.

b) A person seeking restoration of a license that has been placed on inactive status for less than 5 years shall have the license restored upon payment of the current renewal fee specified in Section 1325.50~~1325.45 of this Part~~. A person seeking restoration of a license shall provide evidence of successful completion of 30 hours of continuing education in accordance with Section 1325.80~~1325.75~~ earned within the 2 years immediately preceding the restoration.

c) A person 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~~, together with the fees set forth in Section 1325.50 and proof of 30 hours or continuing education (e.g., certificate of attendance or completion) in accordance with Section 1325.80~~subsections (a) and (b)~~. The

application shall also include one of the following documents:

1) Sworn evidence of active practice in another jurisdiction. The 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

2) An affidavit attesting to military service as provided in Section 60 of the Act; or

3) Other evidence of continued active participation in orthotics, prosthetics or pedorthics for at least the last 2 years. The evidence shall show that he/she has been:

A) Has been: i) Employed in a responsible capacity under the supervision of a licensed orthotist, prosthetist, or pedorthist; or

B)ii) An officer or employee of the United States government as an orthotist, prosthetist, or pedorthist; or

C)iii) Teaching orthotics, prosthetics, or pedorthics in a college or university.; and

dB) A registrant who is unable to submit proof of satisfaction of the requirments of subsection (a), (b) or (c) shall submit proof of completion of 15 clock hours of approved continuing education for each year the license was expired completed during the 2 years proceeding application for restoration. The requirements of this subsection (d) shall be in addition to the 30 hours of continuing education required by subsections (a), (b) and (c)Has attended, during the 2 years preceding application for restoration, orthotics, prosthetics, or pedorthics educational programs conducted by an accredited college or university or a professional orthotics, prosthetics, or pedorthics association or similar program approved by the Department upon recommendation of the Illinois Orthotics, Prosthetics, and Pedorthics Board. An applicant shall submit proof of 30 hours of continuing education in accordance with Section 1325.80 of this Part.

ed) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the DivisionDepartment because of lack of information, discrepancies or conflicts in

information given or a need for clarification, the person seeking restoration of a license shall be required to:

1) Provide any information as may be necessary; and/or

2) Appear for interviews before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Division~~Department~~, an applicant shall have the license restored.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1325.80 Continuing Education

a) Continuing Education Hour Requirements

1) Renewal applicants shall complete 30 hours of Continuing Education (CE) relevant to the practice of orthotics, prosthetics, or pedorthics during each pre-renewal period. The Division~~Department~~ shall conduct audits to verify compliance with this Section. The pre-renewal period is the 24 months preceding the expiration date of the license.

2) Orthotists, prosthetists, or pedorthists licensed in Illinois but residing and practicing in another state must comply with the CE requirements set forth in this Section.

3) A renewal applicant is not required to comply with CE requirements for the first renewal after original licensure.

b) Activities for which CE credit may be earned are as follows:

1) Verified attendance or participation in any continuing education approved by the American Board for Certification in Orthotics, ~~and~~ Prosthetics &~~, Inc. or the Board for Certification in~~ Pedorthics, Inc.

2) Verified attendance at or participation in a program given by a sponsor as set forth in subsections (c)(1) and (2) of this Section.

3) A maximum of 15 hours per pre-renewal period for:

A) Papers prepared for or delivered before recognized orthotic, prosthetic, or pedorthic organizations;

B) Papers published in nationally recognized orthotic, prosthetic, or pedorthic journals;

C) Writing a chapter in a book about orthotics, prosthetics, or pedorthics;

D) Self-study courses taken through an accredited college or university or an approved sponsor; and

E) Training taken via teleconferencing with a live moderator through an accredited college or university or an approved sponsor.

4) A licensee who serves as an instructor, speaker or discussion leader of a course given by an approved sponsor will be allowed CE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course. In no case shall credit for actual time of presentation and preparation be given for more than 9 hours during any renewal period.

5) The continuing education hours used to satisfy the CE requirements for renewal of an orthotic, prosthetic, or pedorthic license held in another jurisdiction shall be applied toward the CE requirements for renewal of an Illinois orthotic, prosthetic, or pedorthic license.

6) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.

7) A CE hour equals 60 minutes. After completion of the initial CE hour, credit may be given in one-quarter hour increments.

8) Cardiopulmonary resuscitation (CPR) certification by the American Red Cross, American Heart Association, National Safety Council, or their

international affiliates, or automated external defibrillation (AED) certification by the American Red Cross or other qualified organization as authorized by the Automated External Defibrillator Act. Five hours of continuing education may be earned for one CPR or AED certification. No more than one certification may be submitted per renewal.

c) CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean:

A) The American Academy of Orthotists and Prosthetists, or its affiliates;

B) The American Orthotic & Prosthetic Association, or its affiliates;

C) The Pedorthic Footwear Association, or its affiliates;

D) The International Society of Prosthetics and Orthotics, or its affiliates;

E) Illinois Society of Orthotists, Prosthetists and Pedorthists~~Orthotics and Prosthetics~~;

F) The American Academy of Orthopaedic Surgeons, or its affiliates;

G) The Association of Children's Orthotic-Prosthetic Clinics, or its affiliates;

H) The Illinois Podiatric Medical Society;

I) The American Podiatric Medical Society and its affiliates;

J) American Academy of Physical Medicine and Rehabilitation, and its affiliates;

K) Association of Academic Physiatrists, and its affiliates;

L) Any other school, college or university, State agency, or any other person, firm or association that has been approved and authorized

by the Division~~Department~~ to coordinate and present continuing education courses and programs in conjunction with this Section.

2) Entities seeking a license as a CE sponsor pursuant to subsection (c)(1)(L) shall file a sponsor application, along with the required fee set forth in Section 1325.50~~ of this Part~~. The applicant shall certify to the following:

A) Certification:

i) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c) of this Section and all other criteria in this Section. The applicant shall be required to submit a sample 3 hour CE program with course materials, presenter qualifications and course outline for review prior to being approved as a CE sponsor;

ii) That the sponsor will be responsible for verifying attendance at each course or program and provide a certificate of completion as set forth in subsection (c)(8); and

iii) That, upon request by the Division~~Department~~, the sponsor will submit evidence as is necessary to establish compliance with this Section. Evidence shall be required when the Division~~Department~~ has reason to believe that there is not full compliance with the Act and this Part and that this information is necessary to ensure compliance;

B) A copy of a certificate of attendance or participation that meets the requirements set forth in subsection (c)(8); and

C) A sample of a CE course that includes, but is not limited to, course materials, books, and instructor credentials.

3) Each sponsor shall submit a written notice to the Division~~Department~~ of a course offering at least 30 days prior to the course date. The notice shall include a course outline and the location, date and time the course is to be offered. The notice shall also contain the credit hours earned upon

successful completion of the course.

4) Each sponsor shall submit by August 31 of odd numbered years a renewal application, along with the required renewal fee set forth in Section 1325.50~~ of this Part~~. With the application the sponsor shall be required to submit to the Division~~Department~~ a list of all courses and programs offered in the past 2 years, which includes a description, location, date and time the course was offered.

5) State agencies, State colleges and State universities in Illinois shall submit a sponsor application in accordance with subsections (c)(2) and (3); however, they shall be exempt from payment of the fee.

6) All courses and programs shall:

A) Contain materials that contribute to the advancement, extension and enhancement of professional skills and knowledge in the practice of orthotics, prosthetics, or pedorthics;

B) Specify the course objectives, course content and teaching methods to be used;

C) Be developed and presented by persons with education and/or experience in the subject matter of the program;

D) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal; and

E) Include some mechanism by which participants evaluate the overall quality of the program.

7) All programs given by approved sponsors shall be open to all licensed orthotists, prosthetists, or pedorthists and not be limited to the members of a single organization or a group and shall specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.

8) It shall be the responsibility of the sponsor to provide each participant in an approved program or course with a certificate of attendance or participation, which shall contain the following information:

A) The name, address and license number of the sponsor;

B) The name and license number of the participant;

C) A brief statement of the subject matter;

D) The number of clock hours actually attended in each program;

E) The date and place of the program; and

F) The signature of the sponsor.

9) The sponsor shall maintain course materials and attendance records containing all information in subsection (c)(8) for not less than 5 years, except for the signature of the sponsor.

10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

11) The Division~~Department~~, upon recommendation of the Board, shall withdraw, suspend or place on probation the approval of a CE sponsor when, at any time, the quality of the CE fails to meet the established criteria set forth in this Section or if the sponsorship approval was based upon false or deceptive information or if any other related license of the sponsor or instructor is suspended, revoked or otherwise disciplined.

12) Notwithstanding any other provision of this Section, the Division ~~Department~~ or Board may evaluate any sponsor of any continuing education program at any time.

13) The Division~~Department~~ shall maintain a list of all approved continuing education sponsors.

d) Continuing Education Earned in Other Jurisdictions

1) If a renewal applicant will be earning or has earned CE hours in another jurisdiction, the applicant is not licensed in that jurisdiction and the course is not presented by an 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 (c)(6) 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 at least 90 days prior to the expiration date of the license.

2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the $20 processing fee plus a $10 per CE hour late fee not to exceed $150. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

e) 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. A licensee shall be required to keep his/her CE records for 5 years. This 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].

f) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Division~~Department~~ a renewal application, the renewal fee set forth in Section 75(d) of the Act, a statement setting forth the facts concerning the

non-compliance, and a request for waiver of the CE requirements on the basis of those facts. If the Division~~Department~~, upon the written recommendation of the Board, finds from this affidavit or any other evidence submitted that good cause has been shown for granting a waiver, the Division~~Department~~ shall waive enforcement of the 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 pre-renewal period because of:

A) Full-time service in the armed forces of the United States of America during a substantial part of such 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;

ii) A physical inability to travel to the sites of approved programs; or

iii) Any other similar extenuating circumstances.

3) If an interview with the Board is requested at the time the request for the 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 interview by certified mail, return receipt requested.

4) Any renewal applicant who submits a request for a waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Division's~~Department's~~ final decision on the application has been made.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Clinical Psychologist Licensing Act

2) Code Citation: 68 Ill. Adm. Code 1400

3)

Section Number:	Proposed Action:
1400.20	Amendment
1400.30	Amendment
1400.40	Amendment
1400.50	Amendment
1400.60	Amendment
1400.65	Amendment
1400.70	Amendment
1400.75	Amendment
1400.80	Amendment
1400.85	New Section
1400.90	Amendment

4) Statutory Authority: Implementing the Clinical Psychologist Licensing Act [225 ILCS 15] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]

5) A Complete Description of the Subjects and Issues Involved: Public Act 96-1050 provided that the Department shall adopt rules establishing minimum requirements of continuing education and means for verification of the completion of the continuing education requirements; this proposed rulemaking implements that requirement with the addition of Section 1400.85. Beginning with the September 30, 2014 renewal, licensees will be required to complete 24 hours of continuing education (CE) as a condition of license renewal. Section 1400.60 is being amended concerning endorsement to provide additional means for applicants to show substantial equivalency to Illinois requirements. Additional non-substantive changes are being made to the entire Part by changing references from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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 on this Part? No

11) Statement of Statewide Policy Objective: 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: Licensed clinical psychologists will be affected.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Clinical psychology skills are required for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: July 2011

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1400
CLINICAL PSYCHOLOGIST LICENSING ACT

Section

1400.10 Statutory Authority (Repealed)
1400.20 Licensure Qualifications
1400.30 Experience Defined
1400.40 Application for Examination
1400.50 Examination
1400.60 Endorsement
1400.65 Renewals
1400.70 Restoration
1400.75 Fees
1400.80 Unethical, Unauthorized, or Unprofessional Conduct
1400.85 Continuing Education
1400.90 Granting Variances

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

SOURCE: Adopted at 5 Ill. Reg. 935, effective January 15, 1981; codified at 5 Ill. Reg. 11057; 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 400 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1400 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2972; emergency amendment at 13 Ill. Reg. 2519, effective February 8, 1989, for a maximum of 150 days; emergency expired July 8, 1989; amended at 14 Ill. Reg. 4515, effective March 12, 1990; amended by adding Section 1400.20(b)(10) and (c)(2)(H) and Section 1400.30(a)(4), (b)(4) and (c)(5) at 14 Ill. Reg. 12735, effective July 30, 1990; amended at 18 Ill. Reg. 11191, effective June 30, 1994; expedited correction at 19 Ill. Reg. 989, effective June 30, 1994; amended at 20 Ill. Reg. 7868, effective May 30, 1996; emergency amendment at 21 Ill. Reg. 9217, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15240, effective November

17, 1997; amended at 24 Ill. Reg. 11658, effective July 24, 2000; amended at 28 Ill. Reg. 358, effective December 19, 2003; amended at 36 Ill. Reg. _____, effective _____.

Section 1400.20 Licensure Qualifications

An individual applying for licensure as a clinical psychologist pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15] (the Act) shall meet the following educational/experience requirements pursuant to Section 10 of the Act:

a) In accordance with Section 10(3)(a) of the Act, the individual shall be a graduate of a doctoral program in clinical, school or counseling psychology accredited by the American Psychological Association or approved by the Council for the National Register of Health Service Providers in Psychology and shall complete two years of supervised clinical, school or counseling psychology experience in accordance with Section 1400.30(a) and (d)~~ of this Part~~, one of which shall be an internship and one of which shall be postdoctoral.

b) In accordance with Section 10(3)(b) of the Act, the individual shall be a graduate of a doctoral program that is equivalent to a clinical, school or counseling psychology program and shall complete two years of supervised clinical, school or counseling psychology experience in accordance with Section 1400.30(a) and (d)~~ of this Part~~, one of which shall be an internship and one of which shall be postdoctoral.

1) In determining equivalent programs, the following minimum standards shall be met:

A) The program is from a regionally accredited university, college or school;

B) The program constitutes the university, college or school's clinical, school or counseling psychology program as certified by the dean of the institution and includes a practicum as defined in Section 1400.30(b). (If there is an additional clinical, school or counseling program that exists under the clinical, school or counseling psychology name, the applicant shall apply under Section 10(5) of the Act and subsection (c) of this Section);

C) The program, wherever administratively housed, must be clearly

identified and labeled as a psychology program. The program must specify in institutional catalogues and brochures its intent to educate and train psychologists;

D) The program is an organizational entity within the institution;

E) The program has an integrated, organized sequence of study;

F) The program has an identifiable core psychology faculty on-site and a psychologist responsible for the program;

G) The program has an identifiable body of students who are matriculated in that program for a degree;

H) The program encompasses a minimum of three academic years of full-time graduate study;

I) The program has a one year residence. Residence requires interaction with psychology faculty and other matriculated psychology students. One year's residence or its equivalent is defined as follows:

i) 30 semester hours taken on a full-time or part-time basis at the institution, accumulated within 24 months; or

ii) A minimum of 350 hours of student-faculty contact involving face-to-face individual or group courses or seminars accumulated within 18 months. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90% of the time, be fully documented by the institution, and relate substantially to the program and course content. The institution must clearly document how the applicant's performance is assessed and evaluated.

2) The~~the~~ applicant's program shall include the 7 core content areas pursuant to Section 10(3)(B) of the Act as follows~~set forth below~~:

A) Scientific and professional ethics in pyschology, which include the standards set forth in Section 1400.80(k) and (l);

B) Biological basis of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;

C) Cognitive-affective basis of behavior such as learning, thinking, motivation, emotion;

D) Social basis of behavior such as social psychology, group processes, organizational and systems theory;

E) Individual differences that include~~which includes~~ instruction in theories of normal and abnormal personality functioning;

F) Assessment that include~~which includes~~ instruction in clinical interviewing and the administration, scoring and interpretation of psychological test batteries for the diagnosis of mental abilities and personality functioning;

G) Treatment modalities that include~~which includes~~ instruction in the theory and application of a diverse range of psychological interventions for the treatment of mental, emotional, behavioral or nervous disorders.

c) In accordance with Section 10(5) of the Act, the individual shall be a graduate of a doctoral psychology program or a graduate of a doctoral program that is psychological in nature; complete a course in each of the 7 core content areas listed in Section 10(3)(b) of the Act; complete a practicum in accordance with Section 1400.30(a) and (b)~~ of this Part~~; complete an internship or equivalent supervised clinical experience in accordance with Section 1400.30(a) and (c)~~ of this Part~~; and complete two years of supervised clinical psychology experience in accordance with Section 1400.30(a) and (d)~~ of this Part~~, one of which must be postdoctoral.

1) The applicant's doctoral program shall meet the following requirements:

A) The program is accredited by the Association of State and

Provincial Psychology Boards or Council for the National Register of Health Service Providers in Psychology and is not a designated clinical or counseling psychology program; or

B) The program is psychological in nature as determined by the Department of Financial and Professional Regulation-Division of Professional Regulation (Division)~~(Department)~~ upon the recommendation of the Clinical Psychologists Licensing and Disciplinary Board (the Board). In determining what program is psychological in nature, the Board shall consider:

i) A program that is from a regionally accredited institution of higher education;

ii) A program, wherever administratively housed, that is clearly identified and labeled as offering psychology programs. The program must specify in institutional catalogues and brochures its intent to educate and train psychologists;

iii) A program that is an organizational entity within the institution;

iv) A program that has an integrated, organized sequence of study;

v) A program that has an identifiable core psychology faculty on-site and a psychologist responsible for the program;

vi) A program that has an identifiable body of students who are matriculated in that program for a degree;

vii) A program that encompasses a minimum of three academic years of full-time graduate study;

viii) A program that has a one year residence. Residence requires interaction with psychology faculty and other matriculated psychology students. One year's residence or its equivalent is defined as follows:

30 semester hours taken on a full-time or part-time basis at the institution accumulated within 24 months; or

A minimum of 350 hours of student-faculty contact involving face-to-face individual or group courses or seminars accumulated within 18 months. Such educational meetings must include both faculty-student and student-student interaction, be conducted by the psychology faculty of the institution at least 90% of the time, be fully documented by the institution, and relate substantially to the program and course content. The institution must clearly document how the applicant's performance is assessed and evaluated.

2) The applicant shall complete a course in each of the 7 core content areas pursuant to Section 10(3)(b) of the Act as follows~~set forth below~~:

A) Scientific and professional ethics in psychology set forth in Section 1400.80(k) and (l);

B) Biological basis of behavior such as physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology;

C) Cognitive-affective basis of behavior such as learning, thinking, motivation, emotion;

D) Social basis of behavior such as social psychology, group processes, organizational and systems theory;

E) Individual differences that include~~which includes~~ instruction in theories of normal and abnormal personality functioning;

F) Assessment that~~which~~ includes instruction in clinical interviewing and the administration, scoring and interpretation of psychological test batteries for the diagnosis of mental abilities and personality functioning;

G) Treatment modalities that include~~which includes~~ instruction in the theory and application of a diverse range of psychological interventions for the treatment of mental, emotional, behavioral or nervous disorders.

d) For the purposes of this Section, course shall be defined as an integrated, organized didactic sequence of study that~~which~~ encompasses a minimum of one school term. No independent study courses may be used to satisfy the 7 core content areas set forth in Section 10 of the Act and subsections (b)(2) and (c)(2) of this Section.

e) Remediation of Deficiencies

1) Individuals who are deficient in any of the 7 core content areas may complete any one or all of these courses in a clinical, school or counseling psychological program accredited by the American Psychological Association, approved by the Council for the National Register of Health Service Providers in Psychology or a program approved in accordance with subsection (b)~~ above~~.

2) Individuals who are deficient in the practicum, internship or equivalent supervised clinical experience, or clinical experience requirements may obtain this experience in accordance with the standards set forth in Section 1400.30~~ of this Part~~.

3) The applicant will be required to submit proof to the Division~~Department~~ that he or she has completed such a course~~course(s)~~ and/or the experience. Documentation shall include, but not be limited to, curriculum/course syllabus, transcripts~~transcript(s)~~, practicum, and program materials; internship handbook/brochures and course materials; and internship training plan.

4) The deficienies~~deficiency(s)~~ may be completed at any time.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1400.30 Experience Defined

The following sets forth standards for practicums, internships or equivalent supervised

experience and the 2 years of supervised experience required for licensure as a clinical psychologist pursuant to Section l0 of the Act and Section 1400.20~~ of this Part~~:

a) Practicums, internships or equivalent supervised experience and the 2 years of supervised experience:

1) Shall be experience obtained after enrollment in a doctoral psychology program.

2) Shall involve the practice of clinical psychology as defined in Section 2(5) of the Act. Illustrative tasks are: assessing, diagnosing and treating individuals with mental, emotional, behavioral or nervous disorders or conditions, or individuals with developmental disabilities.

3) Shall not be limited to repetitious and routine tasks that~~which~~, although involving psychological activities, are at the pre-professional level. Tasks illustrative of pre-professional experience are: administering and scoring structured tests; conducting standardized interviews; collecting data; academic guidance counseling; and assisting in a laboratory or teaching situation.

4) Shall not be supervised experience in which the supervisor receives monetary payment or other considerations from the supervisee or in which the supervisor is hired by or otherwise employed by the supervisee.

b) Practicum. In addition to the requirements set forth in subsection (a)~~ above~~, the applicant's practicum (externship or clerkship) shall:

1) Be a part of the coursework in the doctoral program or be an equivalent 400 hours of coursework or training completed with a grade of satisfactory or better in a new area of competence approved by the Board prior to initiating the training.

2) Involve the applicant in direct clinical psychology services to the client.

3) Provide for personal supervision by a licensed clinical psychologist, licensed psychologist who is engaged in the practice of clinical psychology or by a person possessing the educational and experience qualifications necessary for licensure under the Act. However, failure of

the licensing examination disqualifies one as a supervisor.

4) Be performed pursuant to the order, control and full professional responsibility of the supervisor who shall meet with the applicant face-to-face for a minimum of 40 hours.

5) Be a minimum of 400 hours in duration. This 400 hours does not have to take place in a single setting.

6) Not count toward the two years of supervised experience required for licensure.

7) Clearly delineate between practicum, internship and supervised work experience, using identifiable dates at the time of application.

c) Internship. To meet the requirements of internship in accordance with Section 1400.20 or equivalent supervised clinical experience in an organized health care setting pursuant to Section 10(5) of the Act and Section 1400.20(c)~~ of this Part~~, the internship or clinical experience shall, in addition to the requirements set forth in subsection (a)~~ above~~:

1) Be an organized pre-planned training program (in contrast to supervised experience or on the job training) designed to provide the applicant with a pre-planned, programmed sequence of training experiences which includes documented goals and objectives. The primary focus and purpose is assuring breadth and quality of training.

2) Include a minimum of one hour per week of regularly scheduled, face-to-face individual supervision with the specific intent of dealing with health services rendered directly by the applicant. There must also have been at least two additional hours per week in learning activities such as case conferences, including cases in which the intern was actively involved; seminars dealing with clinical issues; co-therapy with a staff person, including discussion; group supervision; and additional individual supervision.

3) Involve the applicant in direct clinical psychology services to the client (Section 2 of the Act) as a part of the training experience.

4) Be under the individual and personal supervision of a licensed clinical psychologist or a licensed psychologist who is engaged in clinical psychology whose license is active and in good standing (i.e., no disciplinary action in accordance with Section 15 of the Act).

5) Be performed pursuant to the order, control and full professional responsibility of the supervisor.

6) Include a minimum of 1750 hours completed within 24 months. The 1750 hours may not be completed in less than 50 weeks regardless of the number of hours worked per week.

A) Full-time experience shall be at least 35 hours per week and shall be obtained in a single setting for a minimum of 6 months.

B) Part-time experience will only be counted if it is 18 hours or more per week for a minimum of 9 months and is in a single setting.

7) Be post-practicum (post-clerkship or post-externship) level.

8) The experience must be evaluated by the supervisor as satisfactory or better.

9) If experience takes place in a work setting, there should be a distinction between the regular work duties of the applicant and the internship or equivalent clinical experience.

10) May include both paid and unpaid experience obtained by the applicant.

d) Clinical Experience. To meet the experience requirements of Section 10 of the Act, the experience shall, in addition to the requirements set forth in subsection (a) ~~above~~:

1) Contain/include clinical psychology experience, at least one year of which must be post-doctoral. Practicum experience may not be counted toward fulfilling the 2 years of supervised experience.

A) A year of experience is defined as 1750 hours obtained in not less than 50 weeks and completed within a 36 month period.

B) Full-time work experience must be obtained in a single setting for a minimum of 6 months with at least 35 hours per week.

C) Part-time experience will only be counted if it is 18 hours or more a week for a minimum of 9 months and is in a single setting.

D) Post-doctoral experience may begin upon completion of degree requirements for the doctoral degree, if verification of the date of completion of the degree requirement, when different from the date of graduation, is certified to the Division~~Department~~ by the appropriate administrative official of the applicant's educational institution.

2) Be personally and individually supervised by a licensed clinical psychologist or a licensed psychologist who is engaged in the practice of clinical psychology whose license is active and in good standing (i.e., no disciplinary action in accordance with Section 15 of the Act). The experience must be performed pursuant to the order, control and full professional responsibility of the supervisor.

3) Be evaluated by the supervisor as satisfactory or better.

4) Be obtained prior to the date of the examination. Applicants completing the required experience after the examination date will be considered for the next examination. All supervised experience completed prior to the application date shall be listed on the application in order to be considered.

5) May include both paid and unpaid experience obtained by the applicant.

6) Include a minimum of one hour per week of regularly scheduled, face-to-face individual supervision with the specific intent of dealing with health services rendered directly by the applicant.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1400.40 Application for Examination

a) An applicant shall file an application on forms supplied by the

DivisionDepartment at least 120 days prior to an examination date. The application shall include:

1) Certification of receipt of a doctoral degree as defined in Section 1400.20 of this Part and official transcripts from the applicant's doctoral program. Submission of official transcripts shall be for the purpose of verifying participation in the educational program;

2) Professional experience reference forms verifying the length, exact time, number of hours per week and description of functions of the applicant's employment and that the experience was obtained pursuant to Section 1400.30 of this Part. All experience information shall be submitted at the time of application. References shall be completed by the person who supervised the applicant pursuant to Section 1400.30 of this Part; and

3) A complete work history since enrollment in the doctoral program; and 4)The required fee set forth in Section 1400.75 of this Part.

b) In addition to the above documents listed in subsection (a), candidates applying under Section 1400.20(b) and (c) shall submit documentation as required in Section 1400.20 (b) and (c) of the practicum and internship training.

c) Applicants who are graduates from educational institutions outside the United States shall provide, in addition to those requirements listed in subsections (a) and (b)above, a certified translation of all documents submitted in any language other than English.

d) In addition, the applicant shall cause to be sent directly to the DivisionDepartment certification of the date of completion of degree requirements, if different from the date of the awarding of thesuch degree, by the certifying educational administration official, for computation of post-doctoral experience as provided for in Section 1400.30 of this Part.

e) Each application shall be reviewed on an individual basis by the Board in accordance with this Section.

f) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the DivisionDepartment 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 such information as may be necessary; and/or

2) Appear for ~~an~~ oral interviews~~interview(s)~~ before the Board.

g) Upon recommendation by the Board and approval by the Division,~~Department~~ the applicant shall be notified of eligibility to sit for the examination or notified of the reasons for denial of the application.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1400.50 Examination

a) The required examination shall be the Examination for Professional Practice in Psychology (EPPP) developed by the Association of State and Provencial Psychology Boards (ASPPB) Examination for Professional Practice in Psychology.

b) The minimum passing grade on the examination shall be the passing score set by the testing entity.

c) The Division~~Department~~ will accept proof of completion of the EPPP taken in another jurisdiction with the passing score set by the testing entity. Such proof must be forwarded directly to the Division~~Department~~ from the testing service.

d) The Division~~Department~~ will accept, in lieu of passage of the examination specified in subsection (a)~~ above~~, passage of the examination in clinical or counseling psychology of the American Board of Professional Psychology Inc.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1400.60 Endorsement

a) Any person who is currently licensed in another state or territory of the United States or a foreign country desiring to obtain a license as a licensed clinical psychologist pursuant to Section 11 of the Act shall file an application with the Division~~Department~~, on forms provided by the Division~~Department~~, that~~which~~

shall include:

1) A certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, stating:

A) The date of issuance of the applicant's license;

B) The basis of licensure and a description of the examination by which the applicant was licensed, if any; and

C) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;

2) ~~A complete work history since enrollment in the doctoral program; 3)~~ Certification of graduation from a psychology program, as defined in Section 1400.20~~ of this Part~~, and official transcripts from the applicant's doctoral program. Submission of official transcripts shall be for the purpose of verifying participation in the educational program;

3)~~4)~~ Professional experience reference forms verifying the length, exact time, number of hours per week and description of functions of the applicant's employment and that the experience was obtained pursuant to Section 1400.30~~ of this Part~~. All experience information shall be submitted at the time of application. References shall be completed by the person who supervised the applicant pursuant to Section 1400.30~~ of this Part~~; and

4)~~5)~~ The required fee specified in Section 1400.75~~ of this Part~~.

b) An individual applying under subsection (a) may satisfy the requirements of subsections (a)(2) and (a)(3) by submitting proof that the licensing standards of his or her original jursidiction were substantially equivalent to those of Illinois as of the date of his or her licensure in that jurisdiction. The Division, upon recommendations of the Board, has determined that the following shall be proof of substantial equivalence:

1) A valid Certificate of Professional Qualification in Psychology (CPQ) issued by the Association of State and Provincial Psychology Boards if a doctoral degree was conferred in the areas of clinical or counseling psychology; or

2) For an individual who is currently credentialed by the National Register of Health Service Providers in Psychology, evidence of having an active licensing and practicing psychology independently at the doctoral level for a minimum of five years.

c) Any person currently licensed in the United States or Canada desiring to obtain a license as a licensed clinical psychologist under the provisions for senior psychologists who have been licensed for at least 20 years pursuant to Section 11 of the Act shall file an application with the Division~~Department~~ that shall include:

1) A certification from the jurisdiction of original licensure and any other jurisdiction in which the applicant is or has ever been licensed, stating:

A) The date of issuance of the applicant's license and the level of licensure;

B) The basis of licensure and a description of the examination by which the applicant was licensed, if any;

C) If multiple levels of practice are licensed, that the license is at the highest level of practice in that jurisdiction; and

D) Whether the records of the licensing authority contain any record of disciplinary action taken or pending;

2) Proof that the applicant has been actively and lawfully licensed to practice clinical psychology in another state or Canada for at least 20 consecutive years and that his or her licenses have~~such license(s) has~~ never been disciplined by another state or Canada. An applicant whose license has been disciplined by another jurisdiction shall not be eligible nor shall the applicant be issued a license pursuant to this subsection (c~~b~~); however, the~~such~~ applicant's credentials may be reviewed pursuant to subsection (a) or by examination;

3) Verification of a doctoral degree in psychology from a college, university or school that was regionally accredited in the jurisdiction in which it is located by a body recognized by the Council on Postsecondary Accreditation at the time the degree was granted and an official transcript;

and

4) ~~A complete work history since licensure as a psychologist; and 5)~~ The required fee specified in Section 1400.75~~ of this Part~~.

d)~~c)~~ Each application shall be reviewed on an individual basis by the Board in accordance with this Section. The Division~~Department~~ or Board may request from the applicant a copy of the Act and Rules from the state of original licensure that were in effect at the time of licensure.

e)~~d)~~ 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 such information as may be necessary; and/or

2) Appear for ~~an~~ oral interviews~~interview(s)~~ before the Board.

f)~~e)~~ Upon recommendation of the Board and approval by the Division~~Department~~, the applicant shall be notified of eligibility to sit for the examination, issued a license by endorsement or notified of the reasons for denial of the application.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1400.65 Renewals

a) Every license issued under the Act shall expire on September 30 of each even numbered year. The holder of a license may renew the~~such~~ license during the month preceding the expiration date ~~thereof~~ by paying the required fee.

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 a license.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1400.70 Restoration

a) A person seeking restoration of a license that~~which~~ has lapsed or been on inactive status for less than 5 years shall have it restored upon payment of the required fees specified in Section 1400.75~~ of this Part~~.

b) A person seeking restoration of his/her license that~~which~~ has lapsed or been on inactive status for more than five years shall file a completed application, on forms supplied by the Division~~Department~~, with the required fee set forth in Section 1400.75~~ of this Part~~. The applicant shall also be required to either:

1) Submit certification of current licensure from another jurisdiction and verification of active practice in that jurisdiction; or

2) Submit proof of one year of study completed within the past 5 years in an approved educational program in accordance with Section 1400.20~~ of this Part~~; or

3) Submit verification of six months of full-time supervised experience, as described in Section 1400.30(a)~~ of this Part~~; or

4) Pass the examination as set forth in Section 1400.50~~ of this Part~~.

c) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Division~~Department~~, because of discrepancies or conflicts in information, the need for further clarification, and/or missing information, the person seeking restoration of his license will be requested to:

1) provide such information as may be necessary; and/or

2) explain the~~such~~ relevance or sufficiency during an oral interview; or

3) appear for additional oral interviews~~interview(s)~~ before the Board when the information available to the Board is insufficient to evaluate the individual's current competency to practice under the Act. Upon the recommendation of the Board and approval of the Director, an applicant shall have his license restored.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1400.75 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 by examination or acceptance of examination as a clinical psychologist is $50. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

2) The application fee for a license as a clinical psychologist certified or licensed under the laws of another jurisdiction is $100.

3) The application fee for a license as an association or partnership to practice clinical psychology is $50.

4) The fee for application as a continuing education sponsor is $500. State colleges, State universities and State agencies are exempt from payment of this fee.

b) Renewal Fees.

1) The fee for the renewal of a license shall be calculated at the rate of $80 per year.

2) The fee for renewal as a continuing education sponsor is $250 for the renewal period.

c) General Fees.

1) The fee for the restoration of a license other than from inactive status is

$50~~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 which has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is $20. No fee is required for name and address changes on 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 scoring of an examination administered by the Department reviewed and verified is $20.

5) The fee for a wall certificate showing licensure shall be the actual cost of producing such certificate.

6) The fee for a roster of persons licensed as clinical psychologists in this State shall be the actual cost of producing such a roster.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1400.80 Unethical, Unauthorized, or Unprofessional Conduct

The Division~~Department~~ may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary action, based upon its finding of "unethical, unauthorized, or unprofessional conduct" within the meaning of Section 15(7) of the Act, which is interpreted to include, but is not limited to, the following acts or practices:

a) Practicing or offering to practice beyond one's competency (for example, providing services or using techniques for which one is not qualified by education, training and experience);

b) Revealing facts, data~~,~~ or information relating to a client or examinee, except as allowed under Section 5 of the Act or under the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110]. The release of information "with the expressed consent of the client" as provided for in Section 6 of the Act is interpreted to mean that the psychologist, prior to the release of the information, obtained written consent and made certain that the client understood

the possible uses or distributions of the information. Case history material may be used for teaching or research purposes or in textbooks or other literature, provided that proper precautions are taken to conceal the identity of the clients or examinees involved;

c) Making gross or deliberate misrepresentations or misleading claims as to his/her professional qualifications or of the efficacy or value of his/her treatments or remedies, or those of another practitioner;

d) Failing to inform prospective research subjects or their authorized representative fully of potential serious after effects of the research or failing to remove the after effects as soon as the design of the research permits;

e) Refusing to divulge to the Division~~Department~~ techniques or procedures used in his/her professional activities upon request;

f) Directly or indirectly giving to or receiving from any person, firm or corporation any fee, commission, rebate or other form of compensation for any professional services not actually rendered;

g) Impersonating another person holding a psychology license or allowing another person to use his/her license;

h) The commission of any dishonest, corrupt~~,~~ or fraudulent act that~~which~~ is substantially related to the functions or duties of a psychologist providing services or supervising psychological services;

i) The commission of any act of sexual misconduct, sexual abuse or sexual relations with one's client, patient, student supervisee or ~~with an~~ ex-client within 24 months after termination of treatment;

j) Submission of fraudulent claims for services to any health insurance company or health service plan or third party payor;

k) Pursuant to Section 15(7) of the Act, the Division~~Department~~ hereby incorporates by reference the "Ethical Principles of Psychologists and Code of Conduct". American Psychological Association, 750 First Street, NE, Washington D.C. 20002, American Psychologist, June 1, 2003, with no later amendments or editions.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1400.85 Continuing Education

a) Continuing Education (CE) Hours Requirements

1) Beginning with the September 30, 2014 renewal and every renewal therafter, in order to renew a license, a licensee shall be required to complete 24 hours of continuing education. At least 3 of the 24 hours must include content related to the ethical practice of Clinical Psychology.

2) A prenewal period is the 24 months proceeding September 30 of each even numbered year.

3) One CE hour shall equal one clock hour of attendance. After completion of the initial CE hour, credit may be given in one-half hour increments.

4) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

5) Clinical psychologists licensed in Illinois but residing and practicing in other states shall comply with the CE requirement set forth in this Section.

6) Continuing education credit hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois.

b) Approved Continuing Education

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

2) A maximum of 18 CE credits per renewal period may be earned for completion of distance-learning courses or programs that are offered by an approved sponsor who meets the requirements set forth in subsection (c).

Examples of distance-learning courses include, but are not limited to, first class mail, magazines, email, message boards, websites and webinars. Each distance-learning CE course shall include an examination.

3) CE credit may be earned through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of graduate level psychology related courses that are a part of the curriculum of a college, university or graduate school. Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded. Courses that are audited shall not satisfy the requirements of this Section.

4) CE credit may be earned for verified teaching in the field of psychology in an accredited college, university or graduate school and/or as an instructor of continuing education programs given by approved sponsors. Credit will be applied at the rate of 1.5 hours for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations of the same program). A maximum of 10 hours of CE credit may be obtained in this category per prerenewal period.

c) Approved CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean:

A) American Psychological Association or its affiliates

B) Council for the National Register of Health Service Providers in Psychology

C) Association of State and Provincial Psychology Boards or Council for the National Register of Health Service Providers in Psychology

D) American Medical Association or its affiliates

E) Illinois Psychological Association or its affiliates

F) Any regionally accredited school, college or university, or any State agency

G) Any other person, firm, or association that has been preapproved and authorized by the Division pursuant to subsection (c)(2) of this Section to coordinate and present continuing education courses and programs.

2) An entity seeking approval as a CE sponsor pursuant to subsection (c)(1)(G) shall submit an application, on forms supplied by the Division, along with the fee set forth in Section 1400.75. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The application shall include:

A) Certification:

i) That all programs offered by the sponsor for CE credit shall comply with the criteria in subsection (c)(3) and all other criteria in this Section;

ii) That the sponsor shall be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(9);

iii) That, upon request by the Division, the sponsor shall submit evidence (e.g., certificate of attendance or course material) 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 the statute and this Part and that this information is necessary to ensure compliance;

B) A copy of a sample program with faculty, course materials and syllabi.

3) All programs shall:

A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of clinical psychology;

B) Foster the enhancement of general or specialized clinical psychology practice and values;

C) Be developed and presented by persons with education and/or experience in the subject matter of the program;

D) Specify the course objectives, course content and teaching methods to be used; and

E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.

4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program presentation or an evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and the instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.

5) An approved sponsor may subcontract with individuals and organizations to provide approved programs. All advertising, promotional materials, and certificates of attendance must identify the licensed sponsor and the sponsor's license number. The presentor of the program may also be identified, but should be identified as a presenter. When a licensed sponsor subcontracts with a presenter, the licensed sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.

6) All programs given by approved sponsors shall be open to all licensed clinical psychologists and not be limited to members of a single organization or group.

7) To maintain approval as a sponsor pursuant to subsection (c)(2), each shall submit to the Division by September 30 of each even numbered year a renewal application, the fee set forth in Section 1400.75 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 by the sponsor and by any subcontractor.

8) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

A) The name, address and license number of the sponsor;

B) The name and address of the participant;

C) A brief statement of the subject matter;

D) The number of hours attended in each program;

E) The date and place of the program; and

F) The signature of the sponsor or person responsible for the CE program.

9) The sponsor shall maintain attendance records for not less than 5 years.

10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

11) Upon the failure of a sponsor to comply with any of the requirements of this Section, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Division receives assurances of compliance with this Section.

12) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in this Section.

2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance for the previous 8 years.

3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

e) Continuing Education Earned in Other Jurisdictions

1) If a licensee has earned or is seeking CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a $25 processing fee, prior to participation in the program or within 90 days after expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

2) If a licensee fails to submit an out-of-state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the $25 processing fee plus a $50 per CE hour late fee not to exceed $300. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.

f) Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Division shall restore the license upon payment of the required fee as provided in Section 1400.75.

g) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application, along with the required fee, a statement setting forth the facts concerning noncompliance and 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 finds, upon the written recommendation of the Board and from the affidavit or any other evidence submitted, that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;

B) An incapacitating illness documented by a statement from a currently licensed physician;

C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or

D) Any other similar extenuating circumstances.

3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section, shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1400.90 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 ~~Clinical Psychologists Licensing and Disciplinary~~ Board of the granting of the~~such~~ variance, and the reasons for granting the variance~~therefor~~, at the next meeting of the Board.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Veterinary Medicine and Surgery Practice Act of 2004

2) Code Citation: 68 Ill. Adm. Code 1500

3)

Section Numbers:	Proposed Action:
1500.15	Amendment
1500.25	Amendment
1500.35	Amendment
1500.47	Amendment

4) Statutory Authority: Implementing the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]

5) A Complete Description of the Subjects and Issues Involved: Section 1500.35 adds a means for individuals not actively practicing in another jurisdiction to restore an Illinois license by taking CE courses. The fee for restoring a lapsed license is also being increased due to the considerable time and resources involved in their processing. The United States Department of Agriculture (USDA) is being added as a pre-approved CE sponsor, as well as any organization approved by the USDA to offer the USDA Recertification Course. Finally, obsolete temporary permit language for endorsement candidates is being removed from Section 1500.15.

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 (if applicable): This rulemaking has no impact on local governments.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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 the services of veterinarians.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Veterinary skills are required for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: January 2012

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1500
VETERINARY MEDICINE AND SURGERY PRACTICE ACT OF 2004

Section

1500.5 Approved Veterinary Medicine and Surgery Programs
1500.10 Application for Examination by Graduates of Approved Programs
1500.11 Application by Graduates of Unapproved Programs
1500.15 Temporary Permit
1500.20 Examination
1500.25 Continuing Education
1500.30 Endorsement
1500.35 Restoration
1500.45 Renewals
1500.47 Fees
1500.49 Supervision
1500.50 Standards of Professional Conduct
1500.51 Impaired Veterinarian Program of Care, Counseling or Treatment
1500.55 Advertising
1500.60 Conduct of Hearings (Repealed)
1500.65 Annual Report of Board (Repealed)
1500.70 Granting Variances

AUTHORITY: Implementing the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115] 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 Veterinary Medicine and Surgery Practice Act, effective January 1, 1984; amended at 2 Ill. Reg. 23, p. 13, effective June 10, 1978; codified at 5 Ill. Reg. 11070; amended at 6 Ill. Reg. 2004, effective January 30, 1982; Part repealed, new Part adopted at 9 Ill. Reg. 16327, effective October 10, 1985; amended at 11 Ill. Reg. 20966, effective December 9, 1987; transferred from Chapter I, 68 Ill. Adm. Code 500 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1500 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2982; amended at 13 Ill. Reg. 3826, effective March 10, 1989; amended at 15 Ill. Reg. 16702, effective October 30, 1991; amended at 18 Ill. Reg. 11212, effective June

30, 1994; amended at 19 Ill. Reg. 12488, effective August 18, 1995; amended at 22 Ill. Reg. 15353, effective August 10, 1998; amended at 24 Ill. Reg. 653, effective December 31, 1999; amended at 26 Ill. Reg. 12294, effective July 24, 2002; amended at 28 Ill. Reg. 9621, effective June 28, 2004; amended at 31 Ill. Reg. 15767, effective November 13, 2007; amended at 36 Ill. Reg. _____, effective _____.

Section 1500.15 Temporary Permit

a) A person who desires to obtain a temporary permit and who qualifies under Section 11 of the Act shall submit a written request with the application to the Division or its designated testing service and a statement of employment completed by the supervising licensed veterinarian on forms supplied by the Division or its designated testing service. A temporary permit is nonrenewable.

b) For an applicant for original licensure, the temporary permit shall be valid from the date he/she takes the examination until the results of that examination are reported.

~~c) For a person who is a licensed veterinarian in another jurisdiction and who has applied for licensure on the basis of endorsement, the temporary permit shall be valid for 6 months or until the withdrawal or denial of the application, whichever occurs first.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1500.25 Continuing Education

a) Continuing Education Hours Requirements

1) Each person who applies for renewal of a license as a veterinarian is required to complete 40 hours of continuing education (CE) relevant to the practice of veterinary medicine and surgery during the prerenewal period.

2) A prerenewal period is the 24 months preceding the expiration date of the license.

3) A renewal applicant is not required to comply with CE requirements for the first renewal.

4) CE credit hours used to satisfy the CE requirements of another state may be applied to fulfillment of the CE requirements of the State of Illinois if the CE required by the other state is consistent with the CE requirements set forth in this Section.

5) CE credit hours used to satisfy this requirement may be achieved through self study courses offered by an approved provider.

6) A licensee who serves as an instructor, speaker or discussion leader of an approved provider will be allowed CE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Time shall not be allowed for repetitious presentations of the same course.

7) CE course credit will be allowed for actual authorship of published articles and books, provided the subject matter of such article or book complies with this Section. CE course credit shall be allowed for actual time spent in writing or researching.

b) Approved CE Providers

1) CE credit may be earned for verified attendance at or participation in any program given or approved by one of the following:

A) An approved veterinary program, as provided in Section 1500.5(a)(2) and (a)(3);

B) The American Veterinary Medical Association or any of its constituent organizations;

C) The Illinois State Veterinary Medical Association or any other state or provincial veterinary medical association or any of its constituent organizations;

D) The American Animal Hospital Association;

E) National Registry of Approved Continuing Education (RACE) of the American Association of Veterinary State Boards (AAVSB); ~~and~~

F) Programs provided by, or appropriate for, veterinary specialty organizations; and.

G) United States Department of Agriculture (USDA), or any organization approved by the USDA to offer the USDA Recertification Course.

2) Course Requirements

A) All courses or programs shall:

i) Be a minimum of 1 hour in duration. An hour is defined as 50 to 60 minutes of contact time;

ii) Contribute to the advancement, extension and enhancement of professional skills and/or scientific knowledge in the practice of veterinary medicine;

iii) Provide experiences that contain scientific integrity, relevant subject matter and course materials;

iv) Be developed and presented by persons with education and/or experience in the subject matter of the program; and

v) Specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.

B) The Division may periodically review approved providers to ensure compliance.

c) The licensees shall maintain their CE records for 4 years.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsection (a).

2) The Division may require additional evidence demonstrating compliance

with CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

e) Continuing Education Earned in Other Jurisdictions

1) If a licensee has earned or is seeking CE hours offered in another jurisdiction for a program not approved by the Division for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a $25 processing fee, prior to participation in the program or within 90 days prior to expiration of the license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in this Section.

2) If a licensee fails to submit an out-of-state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the $25 processing fee plus a $100 per hour of CE late fee not to exceed $500. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in this Section.

f) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a 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 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 the 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 CE requirements for the renewal period for which the applicant has applied. At that time, the renewal applicant will be requested to submit the required renewal fee.

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 the prerenewal period;

B) An incapacitating illness; or

C) Undue hardship (e.g., prolonged hospitalization, being disabled or unable to practice veterinary medicine for a majority of the duration of the renewal cycle) as determined by the Board. Every attempt should be made by the applicant to comply with CE through self-study.

3) If an interview is requested at the time the request for a 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 36 Ill. Reg. _____, effective _____)

Section 1500.35 Restoration

a) A licensee seeking restoration of a license that has been expired for 5 years or less shall have the license restored upon payment of the fee~~$20 plus all lapsed renewal fees as~~ specified in Section 1500.47 and proof of completion of the continuing education requirements set forth in Section 1500.25 for a single renewal period.

b) A licensee seeking restoration of a license that has been expired or on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee specified in Section 1500.47 and proof of 40 hours of approved continuing education (e.g., certificate of attendance or completion) in accordance with Section 1500.25. The licensee shall also submit:

1) Sworn evidence of active veterinarian practice in another jurisdiction. This 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 active practice; or

2) An affidavit attesting to military service as provided in Section 15 of the Act; or

3) Other evidence~~Evidence~~ of experience within the profession other than active practice (such as research, teaching or publishing) during the time when the license was expired; or~~, and proof of completion of the continuing education requirements for a single renewal period.~~

4) 20 hours of approved continuing education for each year the license was expired completed during the 2 years proceeding application for restoration. These hours will be in addition to the 40 hours stated in subsection (b).

c) A licensee seeking restoration of a license that has been on inactive status for 5 years or less shall file an application, on forms provided by the Division, together with proof of completion of continuing education requirements for a single renewal period and the current renewal fee.

d) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 15 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the continuing education requirements.

e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1500.47 Fees

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

a) Application Fees. The fee for application for a veterinary license is $100. In

addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service shall result in the forfeiture of the examination fee.

b) Renewal Fees. The fee for the renewal of a license shall be calculated at the rate of $50 per year.

c) General Fees

1) The fee for the restoration of a license other than from inactive status is $50~~$20~~ plus payment of all lapsed renewal fees, but not to exceed $300.

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 records when no duplicate license is issued.

3) The fee for a certification of a licensee's record for any purpose is $20.

4) The fee to have the scoring of an examination authorized by the Division reviewed and verified is $20 plus any fees charged by the applicable testing service.

5) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

6) The fee for a roster of persons licensed as veterinarians in this State shall be the actual cost of producing the roster.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Certified Veterinary Technicians

2) Code Citation: 68 Ill. Adm. Code 1505

3)

Section Number:	Proposed Action:
1505.40	Amendment
1505.52	Amendment
1505.55	Amendment

4) Statutory Authority: Implementing the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]

5) A Complete Description of the Subjects and Issues Involved: Section 1505.40 adds a means for individuals not actively practicing in another jurisdiction to restore an Illinois license by taking CE courses. The fee for restoring a lapsed license is also being increased due to the considerable time and resources involved in their processing. The United States Department of Agriculture (USDA) is being added as a pre-approved CE sponsor, as well as any organization approved by the USDA to offer the USDA Recertification Course.

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

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 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

320 West Washington, 3rd Floor
Springfield, IL 62786

Ph.: 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 the services of veterinary technicians.

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: Veterinary skills are required for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: January 2012

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1505
CERTIFIED VETERINARY TECHNICIANS

Section
1505.10 Application for Examination
1505.20 Examination
1505.30 Endorsement
1505.40 Restoration
1505.50 Renewals
1505.52 Fees
1505.55 Continuing Education
1505.60 Permissible Functions for Veterinary Technicians
1505.70 Granting Variances

AUTHORITY: Implementing the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 10 Ill. Reg. 19500, effective November 5, 1986; transferred from Chapter I, 68 Ill. Adm. Code 505 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1505 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2918; amended at 18 Ill. Reg. 11180, effective June 30, 1994; amended at 24 Ill. Reg. 501, effective December 31, 1999; amended at 26 Ill. Reg. 12300, effective July 24, 2002; amended at 31 Ill. Reg. 15792, effective November 13, 2007; amended at 36 Ill. Reg. _____, effective _____.

Section 1505.40 Restoration

a) A veterinary technician seeking restoration of a certificate that has expired for less than 5 years shall have the certificate restored upon payment of the fees required by Section 1505.52(c)(1). However, a veterinary technician seeking restoration of a certification within 2 years after termination of military service as provided in Section 15 of the Act shall, upon submission of an affidavit attesting to such service, be excused from the payment of any fees.

b) A veterinary technician seeking restoration of a certificate that has expired or

been 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 1505.52(c)(1) and proof of 15 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1505.55. The veterinary technician shall also submit:

1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the person was authorized to practice during the term of the active practice; or

2) Two affidavits attesting to the applicant's practice as a veterinary technician in a jurisdiction where licensure is not required; or

3) An affidavit attesting to military service as provided in Section 15 of the Act; or

4) Evidence of experience within the profession other than active practice (such as research, teaching or publishing) during the time in which the certificate was expired; or~~.~~

5) 8 hours of approved continuing education for each year the license was expired completed during the 2 years proceeding application for restoration. These hours will be in addition to the 15 hours stated in subsection (b).

c) A veterinary technician seeking restoration of a certificate that has been on inactive status for less than 5 years shall have the certificate restored upon filing an application, on forms provided by the Division, and paying the current renewal fee.

d) After January 31, 1997, a veterinary technician seeking restoration of a license shall be required to complete the continuing education requirements set forth in Section 1505.55 for one renewal period.

e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to explain the relevance or sufficiency of course work or experience, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1505.52 Fees

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

a) Application Fees. The fee for application for a certificate as a veterinary technician is $50. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service shall result in the forfeiture of the examination fee.

b) Renewal Fees. The fee for the renewal of a certificate shall be calculated at the rate of $25 per year.

c) General Fees

1) The fee for the restoration of a certificate other than from inactive status is $50~~$20~~ plus payment of all lapsed renewal fees, but not to exceed $150.

2) The fee for the issuance of a duplicate certificate, for the issuance of a replacement certificate for a certificate that has been lost or destroyed, or for the issuance of a certificate 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 certificate is issued.

3) The fee for a certification of a registrant's record for any purpose is $20.

4) The fee to have the scoring of an examination authorized by the Division

reviewed and verified is $20 plus any fees charged by the applicable testing service.

5) The fee for a wall certificate showing registration shall be the actual cost of producing the certificate.

6) The fee for a roster of persons certified as veterinary technicians in this State shall be the actual cost of producing the roster.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1505.55 Continuing Education

a) Continuing Education Hours Requirements

1) Each person who applies for renewal of a certificate as a veterinarian technician is required to complete 15 hours of continuing education (CE) relevant to veterinary medicine and surgery during the prerenewal period.

2) A prerenewal period is the 24 months preceding January 1 in the year of the renewal.

3) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the certificate.

4) CE credit hours used to satisfy the CE requirements of another state may be applied to fulfillment of the CE requirements of the State of Illinois.

5) CE credit hours used to satisfy this requirement may be achieved through self study courses offered by an approved provider.

b) Approved CE Providers

1) CE credit may be earned for verified attendance at or participation in any program given by one of the following:

A) An approved veterinary program, as provided in 68 Ill. Adm. Code 1500.5, or a veterinary technician program;

B) The American Veterinary Medical Association Committee on

Veterinary Technician Education and Activities (CVTEA);

C) The Illinois State Veterinary Medical Association or any other state or provincial veterinary medical association or any of its constituent organizations;

D) The American Animal Hospital Association;

E) National Registry of Approved Continuing Education (RACE) of the American Association of Veterinary State Boards (AAVSB); ~~and~~

F) Programs provided by, or appropriate for, veterinary specialty organizations; and~~.~~

G) United States Department of Agriculture (USDA) or any organization approved by USDA to offer the USDA Recertification Course.

2) Courses Requirements

A) All courses or programs shall:

i) Be a minimum of 1 hour in duration. An hour is defined as 50 to 60 minutes of contact time;

ii) Contribute to the advancement, extension and enhancement of professional skills and/or scientific knowledge in the practice of veterinarian medicine;

iii) Provide experiences that contain scientific integrity, relevant subject matter and course materials;

iv) Be developed and presented by persons with education and/or experience in the subject matter of the program; and

v) Specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.

B) The Division may periodically review approved providers to

ensure compliance.

c) The certificate holder shall maintain CE records for 4 years.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on a renewal application, full compliance with the CE requirements set forth in subsection (a).

2) The Division may require additional evidence demonstrating compliance with CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

e) Continuing Education Earned in Other Jurisdictions

1) If an individual has earned or is seeking CE hours offered in another jurisdiction for a program not approved by the Division for which the individual will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a $25 processing fee, prior to participation in the program or within 90 days prior to expiration of the certificate. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in this Section.

2) If an individual fails to submit an out-of-state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the $25 processing fee plus a $50 per hour of CE late fee not to exceed $250. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in this Section.

f) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a certificate without having fully complied with these CE requirements shall file with the Division a renewal application, a statement setting forth the facts concerning noncompliance, a request for waiver of the CE requirements on the basis of those facts and, if desired, a request for an interview before the Board. If the Division finds from the 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 CE requirements for the renewal period for which the applicant has applied. At that time, the renewal applicant will be requested to submit the required renewal fee.

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 the prerenewal period;

B) An incapacitating illness; or

C) Undue hardship (e.g., prolonged hospitalization, being disabled or unable to practice as a veterinary technician for a majority of the duration of the renewal cycle) as determined by the Board. Every attempt should be made by the applicant to comply with CE through self-study.

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 36 Ill. Reg. _____, effective _____)

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Video Gaming (General)

2) Code Citation: 11 Ill. Adm. Code 1800

3)

Section Numbers:	Proposed Action:
1800.250	Amendment
1800.270	Amendment
1800.930	Amendment

4) Statutory Authority: Authorized by the Video Gaming Act [230 ILCS 40], specifically Section 78 (a) (3) of that Act [230 ILCS 40/78 (a) (3)]

5) A Complete Description of the Subjects and Issues Involved: The present rulemaking adds amendatory language to the video gaming rules pertaining to notification of assignments, responsibility for provision of liability insurance coverage, and the conditions under which financing lenders must register with the Illinois Gaming Board. Each of these amendatory changes are summarized below.

At present, a terminal operator can assign a location agreement without notifying either the Board or the affected location. The Board needs this notification to ensure there are no gaps in its regulation of terminal operators and licensed locations, and the affected location should likewise receive notification as a matter of basic business fairness and contract transparency. The proposed rule change will amend Section 1800.250 of the video gaming rules (11 Ill. Adm. Code 1800.250) to require a terminal operator that assigns a location agreement to provide both the Board and the affected location with prompt notification of the assignment.

The rulemaking also establishes consistency between the Video Gaming Act and its implementing rules on the subject of responsibility for liability insurance coverage. Section 57 of the Video Gaming Act [230 ILCS 40/57] currently provides that a terminal operator shall maintain liability insurance coverage on any gaming device that it places in a licensed location. In contradiction to this statutory provision, Section 1800.270 of the video gaming rules (11 Ill. Adm. Code 1800.270) imposes responsibility for purchase of the liability coverage on the licensed location. The proposed rule change deletes the inconsistent language in Section 1800.270, thus making clear that responsibility for purchase of liability coverage rests solely with the terminal operator.

Finally, the rulemaking provides that registration of financing lenders shall be mandatory only when video gaming terminals (VGTs) are secured as collateral. Section 1800.930 of

the video gaming rules (11 Ill. Adm. Code 1800.930) currently provides that "[f]inancing for video gaming terminals may only be secured from a person who has registered with the Board on forms provided by the Board." This provision is too broad. There is no regulatory need or authority for Board registration of lenders for the acquisition of video gaming terminals unless there is a possibility that the lenders will be enforcing a security interest in the VGTs (for example, the lender forecloses on the VGTs) if the borrower defaults. The rulemaking therefore changes the language of Section 1800.930 to require registration with the Board only for those financing arrangements wherein one or more VGTs are secured as collateral.

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

Section Numbers:	Proposed Action:	Illinois Register Citation:
1800.590	New Section	36 Ill. Reg. 4012; March 16, 2012
1800.1065	New Section	36 Ill. Reg. 4012; March 16, 2012
1800.110	Amendment	36 Ill. Reg. 5935; April 20, 2012

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:

Lynn J. Carter
Chief Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

312/814-7137
Fax No. 312/814-4143
lynn.carter@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: None

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 in a regulatory agenda.

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

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section
1800.110 Definitions
1800.115 Gender
1800.120 Inspection

SUBPART B: DUTIES OF LICENSEES

Section
1800.210 General Duties of All Video Gaming Licensees
1800.220 Continuing Duty to Report Violations
1800.230 Duties of Licensed Manufacturers
1800.240 Duties of Licensed Distributors
1800.250 Duties of Licensed Video Terminal Operators
1800.260 Duties of Licensed Technicians
1800.270 Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section
1800.310 Grounds for Disciplinary Actions
1800.320 Minimum Standards for Use Agreements
1800.330 Economic Disassociation

SUBPART D: LICENSING QUALIFICATIONS

Section
1800.410 Coverage of Subpart
1800.420 Qualifications for Licensure
1800.430 Persons with Significant Influence or Control

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART E: LICENSING PROCEDURES

Section
1800.510 Coverage of Subpart
1800.520 Applications
1800.530 Submission of Application
1800.540 Application Fees
1800.550 Consideration of Applications by the Board
1800.555 Withdrawal of Applications
1800.560 Issuance of License
1800.570 Renewal of License
1800.580 Renewal Fees and Dates

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section
1800.610 Coverage of Subpart
1800.615 Requests for Hearing
1800.620 Appearances
1800.625 Appointment of Administrative Law Judge
1800.630 Discovery
1800.635 Subpoenas
1800.640 Motions for Summary Judgment
1800.650 Proceedings
1800.660 Evidence
1800.670 Prohibition on Ex Parte Communication
1800.680 Sanctions and Penalties
1800.690 Transmittal of Record and Recommendation to the Board
1800.695 Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section
1800.710 Coverage of Subpart
1800.715 Notice of Proposed Disciplinary Action Against Licensees
1800.720 Hearings in Disciplinary Actions
1800.725 Appearances
1800.730 Appointment of Administrative Law Judge
1800.735 Discovery

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

1800.740 Subpoenas
1800.745 Motions for Summary Judgment
1800.750 Proceedings
1800.760 Evidence
1800.770 Prohibition on Ex Parte Communication
1800.780 Sanctions and Penalties
1800.790 Transmittal of Record and Recommendation to the Board

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN LICENSED VIDEO GAMING LOCATIONS

Section
1800.810 Location and Placement of Video Gaming Terminals

SUBPART I: SECURITY INTERESTS

Section
1800.910 Approvals Required, Applicability, Scope of Approval
1800.920 Notice of Enforcement of a Security Interest
1800.930 Prior Registration

SUBPART J: TRANSPORTATION AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section
1800.1010 Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020 Transportation of Video Gaming Terminals into the State
1800.1030 Receipt of Video Gaming Terminals in the State
1800.1040 Transportation of Video Gaming Terminals Between Locations in the State
1800.1050 Approval to Transport Video Gaming Terminals Outside of the State
1800.1060 Placement of Video Gaming Terminals
1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

Section
1800.1110 State-Local Relations

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. _____, effective _____.

SUBPART B: DUTIES OF LICENSEES

Section 1800.250 Duties of Licensed Video Terminal Operators

In addition to all other duties and obligations required by the Act and this Part, each licensed terminal operator has an ongoing duty to comply with the following:

a) Assume the primary responsibility for the operation and maintenance of video gaming terminals and for payment of tax remittance to the State as required by the Act;

b) Maintain and provide, either directly or through a licensed manufacturer, distributor, supplier or technician, an inventory of associated video gaming equipment to ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;

c) Ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;

d) Assume responsibility for the payment of valid receipt tickets issued by video gaming terminals it operates;

e) Maintain at all times an approved method of payout for valid receipt tickets and pay all valid receipt tickets;

f) Assume responsibility for terminal and associated video gaming equipment malfunctions, including any claim for the payment of credits arising from malfunctions;

g) Promptly notify the Board of electronic or mechanical malfunctions or problems experienced in a terminal that affect the integrity of terminal play;

h) Extend no form of deferred payment for video gaming terminal play in which an individual receives something of value now and agrees to repay the lender in the future for the purpose of wagering at a video gaming terminal;

i) Maintain a separate bank account for each licensed video gaming location for deposit of aggregate revenues generated from the play of video gaming terminals and allow for electronic fund transfers for tax payments;

j) Enter into written use agreements with licensed video gaming locations that comply with the Act and this Part;

k) Obtain and install, at no cost to the State and as required by the Board, all hardware, software and related accessories necessary to connect video gaming terminals to a central communications system;

l) Offer or provide nothing of value to any licensed video gaming location or any agent or representative of any licensed video gaming location as an incentive or inducement to locate, keep or maintain video gaming terminals at the licensed video gaming location;

m) Not own, manage or control a licensed establishment, licensed truck stop establishment, licensed fraternal establishment or licensed veterans establishment;

n) Conduct advertising and promotional activities in accordance with this Part and in a manner that does not reflect adversely on or that would discredit or tend to discredit the Illinois gaming industry or the State of Illinois;

o) Respond to service calls within a reasonable time from the time of notification by the video gaming location;

p) Immediately remove all video gaming terminals from the restricted area of play:

1) upon order of the Board or an agent of the Board, or

2) that have been out of service or otherwise inoperable for more than 72 hours;

q) Provide the Board with a current list of video gaming terminals acquired for use in Illinois; ~~and~~

r) Not install, remove or relocate any video gaming terminal without prior notification and approval of the Administrator or his designee; and~~.~~

s) Provide prompt notice of an assignment of a use agreement to the Board, the affected location, and the central communications system vendor.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1800.270 Duties of Licensed Video Gaming Locations

In addition to all other duties and obligations required by the Act and this Part, each licensed video gaming location has an ongoing duty to comply with the following:

a) Provide a secure premise for the placement, operation and play of video gaming terminals;

b) Permit no one to tamper with or interfere with the approved operation of any video gaming terminal;

c) Ensure that all connections with the central communications system and associated video gaming equipment are at all times maintained and prevent any person from tampering or interfering with the approved, continuing operation of the central communications system;

d) Accept nothing of value from any video terminal operator or any agent or representative of any video terminal operator as an incentive or inducement to locate, keep or maintain video gaming terminals at the licensed video gaming location;

e) Conduct advertising and promotional activities in accordance with this Part and in a manner that does not reflect adversely on or that would discredit or tend to discredit the Illinois gaming industry or the State of Illinois;

f) Immediately remove all video gaming terminals from the restricted area of play:

1) upon order of the Board or an agent of the Board;~~,~~ or

2) that have been out of service or otherwise inoperable for more than 72 hours;

g) Enter written use agreements with licensed video terminal operators that comply with this Part;

h) Ensure that video gaming terminals are placed and remain in a designated, approved location;

i) Prevent access to or play of video gaming terminals by persons who are under the age of 21 years or who are visibly intoxicated;

j) Commit no violations of the laws of this State concerning the sale, dispensing or consumption on premises of alcoholic beverages that results in suspension or revocation of any liquor license held by or associated with a licensed video gaming location;

k) Maintain at all times an approved method of payout for valid receipt tickets and pay all valid receipt tickets;

l) Extend no form of deferred payment for video gaming terminal play in which an individual receives something of value now and agrees to repay the lender in the future for the purpose of wagering at a video gaming terminal;

m) Promptly report all malfunctions of video gaming terminals and all out-of-service terminals to the video terminal operator and promptly notify the Board of a terminal operator's failure to provide service and repair of terminals and associated equipment within 24 hours after notice to the terminal operator;

n) Install, post and display signs as required by the Board;

o) Promptly notify the Board of any unauthorized or illegal video gaming terminals or any video gaming device that is in violation of Section 35 of the Video Gaming Act;

p) Exercise control over the licensed video gaming location;

q) Promptly notify the Board of any action taken on or related to any liquor license held; and

~~r) Maintain insurance coverage on all gaming devices in an amount set by the Board; and~~

r~~s~~) Allow maintenance and/or service of video gaming terminals and associated video gaming equipment only by licensed technicians and licensed terminal handlers possessing valid identification issued by the Board.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART I: SECURITY INTERESTS

Section 1800.930 Prior Registration

a) Video~~Financing for video~~ gaming terminals may only be ~~provided by, and~~ secured as collateral by~~from,~~ a person who has registered with the Board on forms provided by the Board.

b) Prior registration of the secured party seeking to enforce a security interest is required. The Board will not approve the enforcement of any security interest in gaming property collateral unless all persons have been either registered or licensed, as applicable.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Specialized Health Care Delivery Systems

2) Code Citation: 89 Ill. Adm. Code 146

3) Section Number: 146.225 — Proposed Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subject and Issues Involved: The purpose of the proposed amendment is to maintain supportive living facility (SLF) rates at the level in effect on April 30, 2011. Further, the proposed amendment separates the rate setting process for SLFs from the nursing facility rate increase effective May 1, 2011, which is tied to the long term care assessment tax paid by nursing facilities. SLFs were never intended to benefit from the nursing home assessment-related increase that is self-funded.

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

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 does not affect units of local government.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue E., 3rd Floor
Springfield IL 62763-0002

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

217/782-1233

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

The proposed amendment may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded supportive living facilities

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: January 2012

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears in this issue of the *Illinois Register* on page 6751:

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Health Facilities Planning Procedural Rules

2) Code Citation: 77 Ill. Adm. Code 1130

3)

Section Numbers:	Proposed Action:
1130.110	Amend
1130.120	Amend
1130.130	Amend
1130.140	Amend
1130.150	Amend
1130.210	Amend
1130.215	New
1130.220	Amend
1130.230	Amend
1130.240	Amend
1130.250	New
1130.310	Amend
1130.410	Amend
1130.500	Amend
1130.510	Repeal
1130.520	Amend
1130.531	Repeal
1130.540	Repeal
1130.541	Repeal
1130.544	Repeal
1130.550	Amend
1130.560	Amend
1130.570	Amend
1130.580	New
1130.590	New
1130.610	Amend
1130.620	Amend
1130.630	Amend
1130.635	Amend
1130.640	Amend
1130.650	Amend
1130.655	Amend
1130.660	Amend
1130.670	Amend

1130.680	Amend
1130.710	Amend
1130.720	Amend
1130.730	Amend
1130.740	Amend
1130.750	Amend
1130.760	Amend
1130.770	Amend
1130.775	New
1130.780	Amend
1130.790	Amend
1130.810	Amend
1130.910	Amend
1130.920	Amend
1130.930	Amend
1130.940	Amend
1130.950	Amend
1130.960	Repeal
1130.970	Repeal
1130.990	Amend
1130.995	Amend
1130.1010	Amend
1130.1020	Amend
1130.1030	Amend
1130.1040	Amend
1130.1060	Amend
1130.1080	Amend
1130.1090	Amend
1130.1110	Amend
1130.1120	Amend
1130.1130	Amend
1130.1140	Amend
1130.1150	Amend
1130.1160	Amend
1130.1170	Amend
1130.1180	Amend
1130.1200	Amend

4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960/12]

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

5) A Complete Description of the Subjects and Issues Involved: The subject amendments to Part 1130 are proposed to: reflect the most recent changes to the Health Facilities Planning Act [20 ILCS 3960]; amend language for clarification and in some cases, expansion of operational requirements of the Certificate of Need (CON) process; and repeal Sections that have been deemed outdated or unnecessary.

Amendments reflecting changes to the Act:

- Section 1130.130 - "Purpose" – Update, per changes to the Act (77 Ill. Adm. Code 1130);
- Section 1130.140 - New definitions for: "Administrator"; "Audit"; "Co-applicant"; "Censure"; "Date"; "Emergency Projects"; "Exemption"; "Ex parte Communication"; "HFSRB"; "Intent to Deny"; "Interdependent Components"; "Moral Turpitude"; "Non-substantive Projects"; "Permit Acceptance Agreement"; "Relinquishment of a Permit"; "Substantially Complete"; and "Substantive Projects";
- Section 1130.140 - Deleted definitions, per changes to the Act: "Executive Secretary"; "HFPB" or "the State Board"; and "Impending";
- Section 1130.215 - List of licensed health care facilities that are subject to the Act;
- Section 1130.230(a) – Amended re: application fees for applications including both regulated and unregulated components;
- Section 1130.240(f)(1) - Changes on "Reporting and Notification" requirements;
- Section 1130.310 - Interdependent components of construction or modification – no longer to be grouped together as one project;
- Section 1130.410 - LTC change of ownership projects - no longer subject to CON permit requirements;
- Section 1130.500 and 1130.620 - Letters of Intent for both exemptions and CON applications are no longer required;
- Section 1130.560 and 1130.655 - HFSRB Chairman consideration and action for any unopposed application that meets all of the review criteria;
- Section 1130.570(f) - HFSRB may approve the transfer of an existing permit without regard to whether the permit to be transferred has been obligated, except for permits establishing a new facility or new category of service;
- Section 1130.620 - Requirements for written communication between staff and the applicant; and requirements for a Safety Net Impact Statement;
- Section 1130.620(f)(2) - Application fees for continuing care retirement communities and other health care models containing regulated and unregulated components;
- Section 1130.630(e) – New subsection added concerning the release to the public of any HFSRB written review or findings;

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- Section 1130.635 – New subsection added to "Public Response to Staff Review and Findings";
- Section 1130.770 - "Project Completion, Final Realized Costs and Cost Overruns" – projects may deviate from the projected cost components stated in the application for permit;
- Section 1130.790 - LTC and MR/DD facilities- exempt from CON requirements for "Discontinuation" of a facility;
- Section 1130.940 - "Procedures for Public Hearing on Applications for Permit";
- Section 1130.960 and 1130.970 – Sections re: Notice and procedures for public hearing on applications for Certificate of Recognition (or Revocation of the Recognition) were repealed.

Amendments for Clarification/Expansion of Requirements:

- TITLE PAGE - Title changed from "Procedural" to "Operational" rules;
- Section 1130.140 -Amended definitions;
- Section 1130.230 (h) -New subsection added incorporating all processing fees in one location for easier reference;
- Section 1130.240 - "Reporting and Notification" Section amended to incorporate annual capital expenditure reports with annual healthcare facility questionnaires; further define the type of temporary suspension of service that requires notification to HFSRB and related reasons for suspension; and new subsection outlining the information and timing requirements for "Emergency Preparedness Response Reports";
- Section 1130.250 - New Section added concerning HFSRB meetings. Includes "General Guidelines"; "Public Participation at HFSRB Meetings"; "Validity of Comments"; and "Presentation of New Information";
- Sections 1130.580, 1130.590, 1130.775 and 1130.780 - New Sections concerning the conditions for relinquishment and revocation of both exemptions and CON permits;
- Section 1130.620 - Updated specification of requirements for completion of applications, and for submitting CON application information;
- Section 1130.660 - New subsection (c) added introducing a "permit acceptance agreement" to be sent to the permit holder; and subsection (d) amended - new language re: possible penalties, fines or other sanctions for non-compliance with permit requirements.
- Section 1130.710 - New subsection (e) added - provides a description of conditions causing a permit to become invalid;
- Section 1130.730 - Clarification of the process for "Extension of the Obligation Period".
- Section 1130.750 – "Alteration of Post-Permit Projects" re-written and reorganized for clarification;

- Section 1130.760 - New subsections (c) through (f) - added description of penalties associated with failure to timely submit annual progress reports; and specifications for paper size and the manner in which annual reports are to be sent to the HFSRB office;
- Section 1130.770 - Amended subsections providing specifications for paper size, and the timing and manner in which project completion, written comments, new information, and requests for alteration are to be sent to the HFSRB office; and outline of penalties for failure to file or late filing of final costs reports;
- Section 1130.995 – Amended subsections providing updated specifications for public comment.

Eliminated or Repealed Language:

- Section 1130.140 – Definitions deleted including: "Executive Secretary"; "HFPB" or "the State Board"; "Impending"; and "Supplemental Permit";
- Section 1130.410 – Subsections (a) -Major Med. Equipment, (c)- Discontinuation and (f) - Neonatal ICU were deleted;
- Section 1130.510 – Section re: Exemptions Involving Major Medical Equipment was repealed;
- Section 1130.531 – Section re: "Requirements for Exemptions for the Establishment or Expansion of Neonatal ICU Services and Beds" was repealed;
- Section 1130.540 – Section re: "Requirements for Exemptions Involving Discontinuation" was repealed;
- Section 1130.544 – Section re: "Requirements for Exemption for the Addition of Dialysis Stations" was repealed;
- Section 1130.720 – Subsection (d) re: the requirement for notarized verification of detailed project costs by a date certain was deleted.

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

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

11) Statement of Statewide Policy Objectives: 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:

Public Hearing
to be conducted on
Monday, May 14, 2012
9:00 am – 12 pm
at
Michael A. Bilandic Building
160 N. LaSalle Street, Room N-502
Chicago, IL 60603

Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Claire Burman
Rules/Legislative Coordinator
122 S. Michigan Avenue, 7th Floor
Chicago, Illinois 60603

312/814-8814
e-mail: Claire.Burman@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The amendments to 77 Ill. Adm. Code 1130 apply to: private and public (including State-operated) hospitals; ambulatory surgical treatment centers; long-term care facilities; end stage renal disease facilities; birth centers; freestanding emergency centers; facilities used for outpatient surgical procedures that are leased, owned, or operated by or on behalf of an out-of-state facility; institutions, places, buildings, or rooms used for provisions of a health care category of service as defined by HFSRB, including, but not limited to, cardiac catheterization, and open heart surgery; and institutions, places, buildings, or rooms used for provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the

capital expenditure minimum.

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 the most recent Regulatory Agenda because: the need for the rulemaking was not apparent when the Regulatory Agenda was prepared.

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

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW~~PLANNING~~ BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1130
HEALTH FACILITIES AND SERVICES REVIEW OPERATIONAL~~PLANNING PROCEDURAL~~ RULES

SUBPART A: AUTHORITY

Section
1130.110 Statutory Authority/Applicability
1130.120 Introduction
1130.130 Purpose
1130.140 Definitions
1130.150 Referenced and Incorporated Materials

SUBPART B: GENERAL REQUIREMENTS

Section
1130.210 Persons and Facilities Subject to the Act
1130.215 Health Care Facilities Subject to the Act
1130.220 Necessary Parties to the Application for Permit or Exemption
1130.230 Fees
1130.240 Reporting and Notification Requirements
1130.250 HFSRB Meetings

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

Section
1130.310 Projects or Transactions Subject to the Act

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS

Section
1130.410 Projects or Transactions Exempt from Permit Requirements

SUBPART E: OPERATIONAL~~PROCEDURAL~~ REQUIREMENTS FOR EXEMPTIONS

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Section
1130.500 General Requirements for Exemptions
1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment (Repealed)
1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility
1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds (Repealed)
1130.539 Requirements for Exemptions Involving the Establishment of Positron Emission Tomography (P.E.T.) Service (Repealed)
1130.540 Requirements for Exemptions Involving Discontinuation (Repealed)
1130.541 Requirements for Exemptions for Combined Facility Licensure (Repealed)
1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs (Repealed)
1130.543 Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility (Repealed)
1130.544 Requirements for Exemption for the Addition of Dialysis Stations (Repealed)
1130.550 Agency Processing of an Application for Exemption
1130.560 State Board Action
1130.570 Validity of an Exemption and Reporting Requirements
1130.580 Relinquishment of an Exemption
1130.590 Revocation of an Exemption

SUBPART F: OPERATIONAL~~PROCEDURAL~~ REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section
1130.610 Duration of the Review Period and Time Frames
1130.620 Technical Assistance, ~~Letter of Intent,~~ Classification, Completeness Review, ~~and~~ Review Procedures and Application Processing Fee
1130.630 HFSRB Staff~~Agency~~ Actions During the Review Period
1130.635 Additional Information Provided During the Review Period
1130.640 Extension of the Review Period
1130.650 Modification of an Application
1130.655 HFSRB~~HFPB~~ Consideration and Action
1130.660 Approval of an Application

1130.670 Intent to Deny an Application
1130.680 Denial of an Application

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section
1130.710 Validity of Permits
1130.720 Obligation
1130.730 Extension of the Obligation Period
1130.740 Permit Renewal ~~of a Permit~~
1130.750 Alteration of Post-Permit Projects~~a Project for which a Permit Has Been Issued~~
1130.760 Annual Progress Reports
1130.770 Project Completion, Final Realized Costs and Cost Overruns
1130.775 Relinquishment of a Permit
1130.780 Revocation of a Permit
1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and HFSRB~~HFPB's~~ Rules

SUBPART H: DECLARATORY RULINGS

Section
1130.810 Declaratory Rulings

SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

Section
1130.910 Applicability
1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit
1130.930 Notice of Public Hearing on Applications for Permit
1130.940 Procedures for Public Hearing on Applications for Permit
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AUTHORITY: Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671,

effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998; amended at 23 Ill. Reg. 2911, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective April 7, 2000; amended at 25 Ill. Reg. 10786, effective August 24, 2001; amended at 27 Ill. Reg. 2976, effective February 21, 2003; amended at 30 Ill. Reg. 14852, effective September 1, 2006; amended at 31 Ill. Reg. 15270, effective November 1, 2007; amended at 32 Ill. Reg. 12355, effective July 18, 2008; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: AUTHORITY

Section 1130.110 Statutory Authority/Applicability

a) This Part is promulgated by authority granted to the Illinois Health Facilities and Services Review~~Planning~~ Board (HFSRB~~State Board~~) under the Illinois Health Facilities Planning Act (the Act) [20 ILCS 3960].

b) After effective date of these amendments ~~September 1, 2006~~, all applications in the review process and all projects for which permits or exemptions have been issued but have not been completed shall be subject to the provisions of this Part.

c) The HFSRB rules in effect on the date of the alleged violation of the Act and/or HFSRB's code shall be applicable concerning all considerations and issues of compliance with HFSRB requirements.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.120 Introduction

Part 1130 establishes the procedures and requirements for processing and review of applications for permit, applications for exemptions, and other matters that are subject to the Act and to determinations by the Illinois Health Facilities and Services Review~~Planning~~ Board (HFSRB~~HFPB~~). This Part pertains to, but is not limited to: persons and transactions subject to the Act; the requirements for submission of applications for permit or exemption; the HFSRB~~IDPH and HFPB~~ review process, public hearing procedures for applications and proposed rules; requirements for maintaining valid permits; declaratory rulings; and administrative hearings.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 1130.130 Purpose

a) *The purpose of the* Health Facilities Planning *Act is to establish a procedure designed to reverse the trends of increasing costs of health care resulting from unnecessary construction of health care facilities.* This program is established *to*:

1) *improve the financial ability of the public to obtain necessary health services*;~~, and~~

2) ~~to~~ *establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public*;

3) *maintain and improve the provision of essential health care services and increase the accessibility of those services to the medically underserved and indigent;*

4) *assure that the reduction and closure of health care services or facilities is performed in an orderly and timely manner, and that these actions are deemed to be in the best interests of the public; and*

5) *assess the financial burden to patients caused by unnecessary health care construction and modification.* [20 ILCS 3960/2].

b) Decisions regarding proposed new health services and facilities shall be made for reasons having to do with the community health needs in the various parts of the State. The burden of proof on all issues pertaining to an application shall be on the applicant.

c~~b~~) The health facilities and services review~~planning~~ program shall be administered with the goal of maximizing the efficiency of capital investment and the objectives of:

1) Promoting development of more effective methods of delivering health care;

2) Improving distribution of health care facilities and services and ensuring access to needed health care services for the general public, the medically

indigent and similar underserved populations;

3) Controlling the increase of health care costs;

4) Promoting planning for health care services at the facility, regional and State levels;

5) Maximizing the use of existing health care facilities and services that represent the least costly and most appropriate levels of care; and

6) Minimizing the unnecessary duplication of health care facilities and services.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.140 Definitions

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Administrative Law Judge" means the person appointed to preside at administrative hearings under Subpart J of this Part and pursuant to the Act.

"Administrator" means the chief executive officer of HFSRB, responsible to the HFSRB Chairman and, through the Chairman, responsible to HFSRB for the execution of its policies and procedures.

"Adverse Action" means a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns or~~and/or~~ operates or owns and operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" and Type "AA" violations. As defined in Section 1-129 of the Nursing Home Care Act [210 ILCS 45], *"Type 'A' violation" means a violation of* the Nursing Home Care *Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that risk of death or serious mental or physical harm to a resident will result therefrom or has resulted in actual physical or mental harm to a resident.* As defined in Section 1-128.5 of the Nursing Home Care Act, *a "Type AA violation" means a violation of* the *Act or of the rules promulgated thereunder which creates a condition or occurrence*

relating to the operation and maintenance of a facility that proximately caused a resident's death. [210 ILCS 45/1-129]

"Affirmation" means a statement, declaration, proclamation, pronouncement or notice made by an applicant regarding the information requirements for an application for exemption, with the understanding that there are still consequences to any matters that are non-compliant with the terms of the exemption issued.

"Agency" or "IDPH" means the Illinois Department of Public Health.

"Alteration" means any revision or change to a project as detailed in the application that occurs after HFSRB~~HFPB~~ issuance of the permit. A completed project cannot be altered. The site of the proposed project or the persons who are the permit holder cannot be altered.

"Applicant" means a person~~one or more persons~~, as defined in the Act, who applies~~apply~~ for a permit or exemption. See Section 1130.220 to determine what parties are necessary for an application.

"Audit" means a formal examination, correction and official endorsement of financial reports, undertaken annually by an independent certified public accountant.

"Authorized Representative" means a person who has authority to act on behalf of the legal entity or person that is the applicant or permit holder. Authorized representatives are: in the case of a corporation, any of its officers or members of its board of directors; in the case of a limited liability company, any of its managers or members (or the sole manager or member when two or more managers or members do not exist); in the case of a partnership, any of its general partners (or the sole general partner when two or more general partners do not exist); in the case of estates and trusts, any of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and in the case of a sole proprietor, the individual who is the proprietor.

"Capital Expenditure" *means an expenditure made by or on behalf of a health care facility (as such a facility is defined in the Act), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part*

and which exceeds the capital expenditure minimum. For purposes of this definition, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditure minimum. Unless otherwise interdependent or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review. [20 ILCS 3960/3]

"Capital Expenditure Minimum" means the dollar amount or value which would require a permit for capital projects and major medical equipment. Capital expenditure minimums are adjusted annually~~annually adjusted~~ to reflect the increase in construction costs due to inflation per Section 1130.310. Current capital expenditure minimums are posted on the HFSRB website (www.hfsrb.illinois.gov).

"Censure" means a formal and public reprimand issued by HFSRB.

"CMMS" means the federal Centers for Medicare and Medicaid Services.

"Chairman" means the presiding officer of HFSRB~~HFPB~~.

"Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. *A permit or exemption shall be obtained prior to the construction or modification of a health care facility that: changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board, whichever is less, over a 2-year period.* [20 ILCS 3960/5] (See Section 1130.240(f) for more detail.)

"Change of Ownership" means a change in the person who has operational control of an existing health care facility or *a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control.* ~~a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control.~~ [20 ILCS 3960/3] Examples of change of ownership include:

a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; or

the issuance of a license by IDPH to a person different from the current licensee; or

for facilities not subject to licensing, the issuance of a provider number to a different person by certification agencies that administer Titles XVIII and XIX of the Social Security Act; or

a change in the membership or sponsorship of a not-for-profit corporation; or

a change of 50% or more of the voting members of a not-for-profit corporation's board of directors, during any consecutive 12 month period, that controls a health care facility's operations, license, certification (when the facility is not subject to licensing) or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed or certified (when the facility is not subject to licensing) to operate, or who owns the physical plant and capital assets of a governmental health care facility; or

any other transaction that results in a person obtaining control of a health care facility's operations or physical plant and capital assets, including

leases.

"Charity Care" *means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third party payer*. [20 ILCS 3960/3]

"Clinical Service Area" means a department or service that is directly~~a department and/or service that is directly~~ *related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility* [20 ILCS 3960/3]. A clinical service area's physical space shall include those components required under the facility's licensure or Medicare or~~and/or~~ Medicaid Certification, and~~and/or~~ as outlined by documentation from the facility as to the physical space required for appropriate clinical practice.

"Co-applicant" means a person, as defined in the Act, who, together with other persons, applies for a permit or exemption. (See Section 1130.220 to determine what parties are necessary for an application.)

"Combined Service Area Project" means a project that consists of both clinical service areas and non-clinical service areas.

"Completion" or "Project Completion" means that the project has been brought to a conclusion as evidenced by one or more of the following events~~ concerning~~:

For projects with no cost that are limited to total discontinuation of a facility; or

For~~ of~~ a category of service, when the date the last patient is discharged or the date the permit for discontinuation is issued, whichever comes later; or

For projects with no cost that are limited to a substantial change in beds in licensed long-term care facilities, the date IDPH issues a revised license; or

For projects with no cost that are limited to a substantial change in beds in licensed hospitals or in State-operated facilities, the date the first patient is treated; or

For projects limited to the establishment of a category of service, the date

the first patient is treated; or

For projects limited to the establishment of a health care facility, the date the health care facility is licensed or, if licensure is not required, the date the facility receives Medicare/Medicaid certification; or

For projects limited to the acquisition of major medical equipment, the date the equipment is utilized to treat the first patient; or

For projects limited to the addition of end-stage renal dialysis stations and for projects, with a cost, that are limited to the addition of beds, the date the first patient is treated; or

For all other projects including modernization of existing facilities, project completion occurs when all components of the project are fulfilled as stated in the application for permit or exemption; or

For projects with permits~~if the permit was~~ issued with conditions, the date HFSRB staff~~project completion occurs when HFPB~~ deems the conditions have been met.

"Completion Date" or "Project Completion Date" means the date established by the applicant~~HFPB~~ for the completion of the project in the approval of the permit or subsequent renewal, as evidenced by one or more of the events cited in the definition for "Completion".

"Construction" or "Modification" *means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditures made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act or a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under the Act.* [20 ILCS 3960/3]

"Contested Case" is defined in Section 1-30 of the IAPA [5 ILCS 100/1-30].

"Control" means that a person possesses any of the following discretionary and non-ministerial rights or powers:

In the case of an entity, the ability to direct the management and policies of the entity, whether through the voting of securities, corporate membership, contract, or otherwise. Examples of such control include, without limitation:

holding 50% or more of the outstanding voting securities of an issue;

in the case of an entity that has no outstanding voting securities, having the right to 50% or more of the profits or, in the event of dissolution, the right to 50% or more of the assets of the entity;

having the power to appoint or remove 50% or more of the governing board members of an entity;

having the power to require or approve the use of funds or assets of the entity; or

having the power to approve, amend or modify the entity's bylaws or other governance documents.

In the case of capital assets or real property, the power to direct or cause the direction of the personal property, real property or capital assets that are components of the project (i.e., fixed equipment, mobile equipment, buildings and portions of buildings). Examples of such control include, without limitation:

ownership of 50% or more in the property or asset;

serving as lessee or sublessee.

"Conversion" means a change in the control of an existing health care facility's physical plant, assets, or operations by such methods as, but not limited to, a

change in ownership, acquisition, merger, consolidation, lease, stock transfer, or change in sponsorship. Types of conversion include:

change of ownership;

consolidation by combining two or more existing health care facilities into a new health care facility, terminating the existence of the existing or original facilities (A + B = C). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensing or the loss of certification for facilities not subject to licensing;

merger by the absorption of one or more existing health care facilities into another existing health care facility. The result of the absorption is that only one facility survives (A + B = B). Merger results in the modification (e.g., expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

"Date" means, for purposes of 77 Ill. Adm. Code 1130, a time period starting at 12:00:01 a.m. of a specified day and ending at 12:00:01 a.m. the following day.

"Director" means *the Director of the Department of Public Health*~~the Director of the Department of Public Health~~. [20 ILCS 3960/3]

"Discontinuation" means to cease operation of an entire health care facility or category of service on a voluntary or involuntary basis. A permit ~~or exemption~~ is required prior to discontinuation. A facility or category of service that has ceased operation or has interrupted service on a temporary basis due to unanticipated or unforeseen circumstances (such as the lack of appropriate staff, or a natural or unnatural disaster) may be determined to not have discontinued, provided that the facility has exercised appropriate efforts to maintain operation and has provided documentation of the circumstances and anticipated date of restoration to HFSRB~~HFPB~~ within 30 days after the temporary interruption of the service. Discontinuation also includes a determination by HFSRB~~HFPB~~ that:

a category of service approved after January 1, 1992 is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100 (Narrative and Planning Policies), for that category of service, by the

end of the second year of operation after project completion and on average for any two-year period thereafter (based upon data reported by the facility to HFSRB staff~~IDPH~~ pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service; or

an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to HFSRB staff~~IDPH~~ pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.

HFSRB~~BOARD~~ NOTE: HFSRB~~HFPB~~ may determine that discontinuation has not occurred when a facility has complied with the requirements of this definition. Failure to obtain a permit prior to discontinuation may result in the imposition of sanctions or penalties as provided by the Act.

"Due Diligence" means to take such actions toward the completion of a project for which a permit has been issued with that diligence and foresight that persons of ordinary prudence and care commonly exercise under like circumstances. An accidental or unavoidable cause that cannot be avoided by the exercise of due diligence is a cause that reasonable prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

"Emergency Projects" means projects that are *emergent in nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined in the rules and regulations of the State Board.* [20 ILCS 3960/12(9)]

"Entity" means any corporation, company, partnership, joint venture, association, trust, foundation, fund or other legally recognized organization, public body or municipality.

"Establish" or "Establishment" means the construction of a new health care facility, the licensing of unlicensed buildings or structures as a health care facility, the replacement of an existing health care facility on another site, or *the initiation of a category of service as defined by the Board.* [20 ILCS 3960/3]~~the development, licensing, or certification (if licensing is not applicable) of a category of service.~~

"Estimated Project Cost" or "Project Costs" means the sum of all costs, including the fair market value of any equipment or other real property (whether acquired by lease, donation, or gift) necessary to complete a project, including:

preplanning costs;

site survey and soil investigation fees;

site preparation costs;

off-site work;

construction contracts and contingencies (including demolition);

capital equipment included in construction contracts;

architectural and engineering fees;

consultants and other professional fees that are related to the project;

capital equipment not in construction contracts;

bond issuance expenses;

net interest expense during construction; and

all other costs that are to be capitalized.

~~"Executive Secretary" means the chief executive officer of HFPB, responsible to the chairman and, through the Chairman, responsible to HFPB for the execution of its policies and procedures.~~

"Exemption" means the classification of projects that are exempt from the Certificate of Need permit review process, but are reviewed under *the procedures and requirements* of HFSRB *regarding issuance of exemptions*. (See Subpart E.) *An exemption shall be approved when information required by the Board by rule is submitted.* [20 ILCS 3960/6(b)]

"Existing Health Care Facility" means any health care facility subject to the Act that:

has a license issued by IDPH and has provided services within the past 12 months, unless the failure to provide such service is the result of pending license revocation procedures, and has not surrendered or abandoned its license or had its license revoked or voided or otherwise deemed invalid by IDPH; or

is certified under Titles XVIII or XIX of the Social Security Act (42 USC 1395); or

is a facility operated by the State of Illinois.

HFSRB~~BOARD~~ NOTE: Projects approved by HFSRB~~HFPB~~ for establishment of a health care facility that have not been deemed complete in accordance with the provisions of this Part shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the Inventory of Health Care Facilities and shall be counted against any applicable need estimate.

"Ex Parte Communication" *means a communication between a person who is not a State Board member or employee that reflects on the substance of a formally filed State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of a pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. Technical Assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Once an application is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the*

public record, using a prescribed, standardized format, and shall be included in the application file. [20 ILCS 3960/4.2]

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would have been required for purchase, construction, or acquisition. Fair market value is documented as follows:

for equipment that is to be leased, statements from the manufacturers as to the purchase price of the equipment;

for equipment or other real property that will be a gift or donated, a statement from the donor attesting to the dollar value reported to the Internal Revenue Service pursuant to IRS Document 170;

for existing property (other than equipment) that is to be leased or otherwise acquired, copies of an appraisal performed by a certified appraiser or copies of financial statements detailing actual construction costs if the property is less than three years old; or

for property (other than equipment) that is being or will be constructed and then leased, a statement from the lessor as to the anticipated costs of construction.

"Final Decision" or "Final Administrative Decision" or "Final Determination" means:

the decision by HFSRB~~HFPB~~ to approve or deny an application for permit. Action taken by HFSRB~~HFPB~~ to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or

the decision by HFSRB~~HFPB~~ on all matters other than the issuance of a permit.

HFSRB~~BOARD~~ NOTE: The decision is final at the close of business of the HFSRB~~HFPB~~ meeting at which the action is taken.

"Final Realized Costs" means all costs that are normally capitalized under

generally accepted accounting principles that have been incurred to complete a project for which a permit or exemption was issued. These costs include all expenditures and the dollar or fair market value of any component of the project, whether acquired through lease, donation or gift.

~~"HFPB" or "the State Board" means the Illinois Health Facilities Planning Board.~~

"Hearing Officer" means the person with authority to conduct public hearings and to take all necessary steps to assure the proper completion of public hearings and to assure compliance with requirements of the Act. Responsibilities include: determining the order and time allotment for public testimony~~testimonies~~; maintaining order; setting and announcing new hearing dates, times and places, as necessary; determining the conclusion of the hearing and assuring that all documents, exhibits and other written materials presented or requested at the hearing are in the hearing officer's custody; and preparing a report ~~to IDPH~~ for submittal to HFSRB~~HFPB~~.

"HFSRB " or "State Board" or "Board" means the Illinois Health Facilities and Services Review Board.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

~~"Impending" means, with respect to an application for permit or exemption, that a letter of intent to file an application has been received in accordance with Sections 1130.500 and 1130.620 of this Part.~~

"Intent to Deny" means the negative decision of HFSRB, following its initial consideration of an application for permit that failed to receive the number of affirmative votes required by the Act. (See Section 1130.670.)

"Interdependent Components" means components of construction or modification that are architecturally or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken. Interdependent projects include those with *components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument.* [20 ILCS 3960/3]

"Major Construction Project" means:

Projects for the construction of new buildings;

Additions to existing facilities; ~~and~~

Modernization projects whose cost is in excess of $1,000,000 or 10% of the facility's operating revenue, whichever is less; and~~.~~

Such projects as the State Board shall define and prescribe pursuant to the Act. [20 ILCS 3960/5]

"Major Medical Equipment" *means medical equipment* that*~~that~~ is used for the provision of medical and other health services and* that*~~that~~ costs in excess of the capital expenditure minimum, except* that this*~~the~~ term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 USCA 1395x) to meet the requirements of paragraphs (10) and (11) of section 1861(S) of the Social Security~~social security~~ Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included.* [20 ILCS 3906/3]

"Medicaid Certified" or "Medicare Certified" or "Medicaid Certification" or "Medicare Certification" means approval for a facility to receive reimbursement under Title XVIII (Medicare) and/or XIX (Medicaid) of the Social Security Act (42 USC 1395).

"Modification of an Application" or "Modification" means any change to an application during the review period (i.e., prior to a final HFSRB~~HFPB~~ action). These~~Such~~ changes include, but are not limited to: changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when the operating entity is not the applicant, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, proposed project completion date, the configuration of space within the building, or any change in the person who is the applicant, including the addition or deletion of one or more persons as co-applicants.

HFSRB~~BOARD~~ NOTE: A change of site to a site outside the planning area originally identified in the application is not considered a modification and invalidates the application.

"Moral Turpitude" means conduct that has an inherent quality of baseness, vileness or depravity with respect to another person or society in general, contrary to the accepted and customary rule of right and duty. Examples include rape, forgery, robbery, arson, counterfeiting and wrongful solicitation.

"Newspaper of General Circulation" means newspapers other than those intended to serve a particular, defined population, such as the publications of professional and trade associations.

"Newspaper of Limited Circulation" is defined in Section 8.5 of the Act.

"Non-clinical Service Area" *means an area for the benefit of the patients, visitors, staff or employees of a health care facility and not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers.* [20 ILCS 3960/3]

"Non-substantive Projects" means certain projects that have been defined in 77 Ill. Adm. Code 1110.40, with a review period of 60 days.

"Notification of HFSRB~~State Board~~ Action" means the transmittal of HFSRB~~State Board~~ decisions to the applicant or permit or exemption holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

"Obligation" means the commitment of at least 33% of total funds assigned to

cover total project cost, that occurs by:

The actual expenditure of 33% or more of the total project cost; or~~and/or~~

The commitment to expend 33% or more of the total project cost by signed contracts or other legal means.

"Operational" means that a permit holder is providing the services approved by HFSRB~~HFPB~~ and, for a new health care facility or a new category of service, licensure or Medicare and/or Medicaid certification has been obtained and residents/patients are utilizing the facility or equipment or are receiving service.

"Out-of-state Facility" *means a person that is both licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility or its parent, or Illinois physicians licensed to practice medicine in all its branches, shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act.* [20 ILCS 3960/3]

"Permit" means authorization to execute and complete a project related to a health care facility, as reviewed and approved by HFSRB~~HFPB~~ and as specified in the Act.

"Permit Acceptance Agreement" means a written HFSRB communication to the permit holder, specifying and consolidating all post-permit requirements necessary to maintain the permit.

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof. [20 ILCS 3960/3]

"Project Obligation Date" means the date on which the permit holder expended or committed to expend by contract or other legal means at least 33% ~~or more~~ of the

total project cost.

"Proposal" or "Project" means any proposed construction or modification of a health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means any person that~~any person that~~:

is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility;~~is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility;~~ or

owns, directly or indirectly, at least 50% of the health care facility~~owns, directly or indirectly, at least 50% of the health care facility~~; or [20 ILCS 3960/3]

is otherwise controlled or managed by one or more health care facilities or controls or manages the health care facility; or

otherwise controls or manages the health care facility; or

is otherwise, directly or indirectly, under common management or control with one or more health care facilities.

"Relinquishment of a Permit" means a voluntary and knowing abandonment of a permit or exemption, forsaking all rights associated with that permit or exemption. Once relinquishment is granted by HFSRB, a relinquished permit or exemption is considered null and void.

"Review Period" means the time from the date an application for permit or exemption is received by HFSRB at its principal office (Springfield office) deemed complete until HFSRB~~HFPB~~ renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.

"Square Feet" or "SF" or "Square Footage" means a unit of measure of physical service areas or buildings considered by HFSRB~~HFPB~~. Departmental Gross Square Feet (DGSF) means the designation of physical areas for departments and~~and/or~~ services. It consists of the entire~~entirety of~~ space dedicated to the use of that department or service, including walls, shafts and circulation. Building Gross Square Feet (BGSF) means the designation of physical area of an entire building. It includes all exterior walls and space within those walls.

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" means:

the addition or discontinuation of a category of service as defined in HFSRB~~HFPB~~ rules;

discontinuation as defined in this Part;

a change of a material representation made by the applicant in an application for permit or exemption subsequent to receipt of a permit that is relied upon by HFSRB~~HFPB~~ in making its decision. Material representations are those that provide a factual basis for issuance of a permit or exemption and include:

withdrawal or non-participation in the Medicare and/or Medicaid programs;

charge information;

requirements of variances pursuant to 77 Ill. Adm. Code 1110;

other representations made to HFSRB~~HFPB~~ as stipulated or agreed upon in the public record and specified in the application or the permit or exemption approval letter;

the addition of a ~~surgical~~ specialty not previously approved by HFSRB~~HFPB~~ for an ambulatory surgical treatment center (ASTC)~~ that has not been classified as a multi-specialty ASTC by HFPB in accordance with the provisions of 77 Ill. Adm. Code 1110.1540~~;

an increase of more than three dialysis stations or more than 10% of the

facility's total number of dialysis stations, whichever is less, over a two-year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is issued for additional stations or for the establishment of an additional facility/service, the facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit; or

the acquisition, construction, or leasing of space, buildings, or structures for the purpose of providing outpatient surgical services on a site or location that is not within the licensed premises of the health care facility. Outpatient surgical services are those surgical procedures that are routinely performed in such settings as a hospital or ambulatory surgical treatment center, or in any room or area that is designed, equipped, and used for surgery, such as, but not limited to, a surgical suite or special procedures room. Outpatient surgical services do not include those procedures performed as part of a physician's private practice in examination or non-surgical treatment rooms.

"Substantially Complete" means that the application for permit has been determined ready for review, with the understanding that additional information may be needed for clarification during the course of the review period.

"Substantive Projects" means types of projects that are defined in the Act and classified as substantive. *Substantive projects shall include no more than the following:*

Projects to construct a new or replacement facility located on a new site; or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.

Projects proposing a new service or discontinuation of a service, which shall be reviewed by the Board within 60 days.

Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed

capacity, as defined by the State Board, whichever is less, over a 3-year period. [20 ILCS 3960/12]

~~"Supplemental Permit" means an approved application for permit that augments or enhances an existing permit. The initial permit must be obligated, but not yet completed. Applications for permits intended to be supplemental permits shall include the basic details of the existing permit, including its status, and shall explain the inter-relationship between the two projects. The application for a supplemental permit is a distinct application for permit that is to be reviewed and considered based upon its conformance with this Part. A permit holder may need to request an alteration to an existing permit if an alteration is needed to accommodate the supplemental project. The completion date of the permit being supplemented will be extended as needed, based upon approval of the supplemental application. Failure for a supplemental permit application to be approved will not affect the validity of the underlying existing permit.~~

"Technical Assistance" means help provided by an employee of HFSRB~~HFPB or IDPH~~ to a person, a health care facility or the HFSRB~~HFPB~~, and is not considered ex parte communication as defined in Section 4.2 of the Act. Technical Assistance may be provided to any person regarding pre-application conferences, the filing of an~~a letter of intent, impending or pending~~ application, or other request to HFSRB~~HFPB~~ provided that the communication is *not intended to influence any decision on the application.* ~~*Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided.* [20 ILCS 3960/4.2]~~ Technical Assistance may be provided for the benefit of HFSRB~~HFPB~~ to clarify issues relevant to an application or other business of HFSRB~~HFPB~~. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. *Once an application or exemption is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file*, within 10 business days after the assistance is provided. [20 ILCS 3960/4.2] ~~All communications and responses pertaining to an application to HFPB must be documented in writing by the employee within 10 business days after occurrence and made a part of the application or project record.~~

"Temporary Suspension of Facility or Category of Service" means a facility that has ceased operation or that has ceased to provide a category of service (see 77 Ill.

Adm. Code 1100.220 for definition) for a period not to exceed six months, due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster). The facility administrator shall ~~may~~ file notice to HFSRB~~HFPB~~ of a temporary suspension of service, in compliance with the requirements described in~~. See~~ Section 1130.240(d).

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.150 Referenced and Incorporated Materials

a) The following rules, standards and statutes are referenced in this Part:

1) Federal Statutes:

Public Health and Welfare (42 USC).

2) State of Illinois Statutes:

A) Illinois Health Facilities Planning Act [20 ILCS 3960];

B) Hospital Licensing Act [210 ILCS 85];

C) Ambulatory Surgical Treatment Center Act [210 ILCS 5];

D) Nursing Home Care Act [210 ILCS 45];

E) Illinois Administrative Procedure Act [5 ILCS 100];

F) Alternative Health Care Delivery Act [210 ILCS 3];

G) End Stage Renal Disease Facility Act [210 ILCS 62];

H) Administrative Review Law [735 ILCS 5/Art. III];

I) Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420];

J) Code of Civil Procedure [735 ILCS 5];~~.~~

K) Assisted Living and Shared Housing Act [210 ILCS 9];

L) Older Adult Services Act [320 ILCS 42];

M) Open Meetings Act [5 ILCS 120].

3) State of Illinois Rules:

A) Narrative and Planning Policies (77 Ill. Adm. Code 1100) (See Section 1100.220);

B) Financial and Economic Feasibility Review (77 Ill. Adm. Code 1120);

C) Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110);

D) Illinois Health and Hazardous Substances Registry (77 Ill. Adm. Code 840).

4) Other referenced materials:

A) Illinois Executive Order #2006-5~~Executive Order 1979-4~~;

B) Rules of the Illinois Supreme Court.

b) Incorporations by Reference
The following materials are incorporated by reference in this Part. All incorporations~~Incorporations~~ are as of the date specified and no later editions or amendments are included.

American Institute of Architects
1735 New York Avenue, N.W.
Washington D.C. 20006

AIA Document G702, Application and Certificate for Payment (1992)

(Source: Amended at 36 Ill. Reg. _____, effective _____)

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: GENERAL REQUIREMENTS

Section 1130.210 Persons and Facilities Subject to the Act

Any person who proposes to establish, construct, or modify a health care facility, and any person who proposes to acquire major medical equipment, is subject to the Act. In addition, health care facilities are subject to certain provisions of the Act, such as, but not limited to, submission of an annual report of capital expenditures and providing information, reports, and data necessary to carry out the purposes of the Act. The Act applies to private and public (including State-operated) hospitals, ambulatory surgical treatment centers, long-term care facilities, end stage renal disease facilities, birth centers, freestanding emergency centers, and facilities used for outpatient surgical procedures that are leased, owned, or operated by or on behalf of an out-of-state facility.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.215 Health Care Facilities Subject to the Act

Health care facilities and organizations that are subject to the Act and HFSRB rules include:

a) *An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;*

b) *An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;*

c) *Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;*

d) *Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency of this State;*

e) *Kidney disease treatment centers, including a free-standing hemodialysis unit required to be licensed under the End Stage Renal Disease Facility Act;*

f) *An institution, place, building, or room used for performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility;*

g) *An institution, place, building, or room used for provision of a health care category of service as defined by the Board, including, but not limited to, cardiac catheterization and open heart surgery; and*

h) *An institution, place, building, or room used for provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum.* [20 ILCS 3960/2]

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1130.220 Necessary Parties to the Application for Permit or Exemption

A permit or exemption shall be obtained prior to the acquisition of major medical equipment or to the construction or modification of a health care facility [20 ILCS 3960/5]. The following persons shall~~must~~ be the applicants for permit or exemption, as applicable:

a) For construction or modification projects (including projects to establish or change the ownership of health care facilities and including projects to acquire major medical equipment by or on behalf of health care facilities) of one or more existing or proposed health care facilities:

1) the person who will hold and who currently (as applicable) holds the license (or Medicare and/or Medicaid certification if licensing is not applicable) for each facility;

2) the person who has final control of the person who will hold or who currently holds (as applicable) the license (or Medicare and/or Medicaid certification if applicable) for each facility;

3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and

4) any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital

assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, buildings~~building~~ or portions of buildings, structures such as parking garages, etc.

b) For projects to acquire major medical equipment that is not located in a health care facility and that is not being acquired by or on behalf of a health care facility, the applicant must be:

1) the person who is acquiring the equipment; and

2) the person who will be responsible for operation of the proposed equipment; and

3) the person who has final control of the person who is acquiring the equipment or the person who will be responsible for operation of the equipment; and

4) any other person who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, buildings or portions of buildings, structures such as parking garages, etc.

HFSRB~~BOARD~~ NOTE: A person or entity that participates in the management of a health care facility or category of service is not an applicant unless that person or entity possesses the rights or powers specified in the definition of "control" contained in Section 1130.140.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.230 Fees

a) HFSRB staff~~IDPH~~ shall *charge and collect an amount determined by* HFSRB *and* its *staff~~HFPB~~ to be reasonable ~~application~~ fees for ~~the~~ processing of the applications by* HFSRB.~~*HFPB, IDPH and appropriate recognized areawide health planning organizations.*~~ HFSRB~~*HFPB*~~ *shall set amounts by rule* (see subsection (h)). Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act. *All fees and fines collected under the Act shall be deposited into the Illinois Health Facilities*

Planning Fund to be used for the expenses of administering the *Act.* [20 ILCS 3960/12.2]

b) A fee shall be assessed on all matters requiring an application processing fee (as detailed in other Sections of this Part), except for the following:

1) projects classified as emergency; or

2) projects that are not subject to a fee in accordance with the provisions of Subpart E.

c) Fee payment shall be by check or money order made payable to the Illinois Department of Public Health.

d) Any matter requiring an application processing fee shall be declared null and void if payment of the total fee has not been received by HFSRB staff~~IDPH~~ within 30 days after notice of the amount due has been received by an applicant or person requesting action from HFSRB~~HFPB~~.

e) No action shall be taken by HFSRB~~HFPB~~ on any matter requiring an application processing fee for which the total required fee has not been received.

f) Fee payments are not refundable and may be recovered in full or in part only by petitioning the Illinois Court of Claims for recovery.

g) Appeal of~~on~~ any required fee amount is to be made to HFSRB~~HFPB~~, pursuant to Section 1130.810.

h) Types of Fees

1) Exemption Application Processing Fee
The exemption application processing fee shall be $2,500.

2) CON Permit Application Processing Fee

A) All applicants, except those with projects that are not subject to a fee, are required to submit an application processing fee. An initial fee deposit of $2,500 shall accompany each application for permit

submitted to HFSRB. When an application is deemed complete, the full amount of the fee shall be determined.

B) HFSRB staff *shall charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act.* [20 ILCS 3960/12.2]

C) Following the determination of estimated total project costs, the CON application processing fees are calculated as follows. For each project having a total estimated project cost of:

i) less than $1,250,000, the application fee shall be $2,500;

ii) above $1,250,000, the application fee shall be 0.22% of the assigned costs.

D) The maximum application fee shall not exceed $100,000.

E) Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of notice.

3) Modification of an Application for Permit

A) If a modification of an application for permit results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project cost. This Section is applicable with respect to any additional fees required for a modified application.

B) If a modification results in the need for an additional notification of opportunity for public hearing, then an additional fee of $2,000 will be assessed.

4) Request for Extension of Obligation

A) A request for extension shall be assessed a $500 application processing fee and is subject to the requirements of this Section.

B) A request for extension that is received less than 45 days prior to the permit obligation date shall be subject to an additional $500 late application processing fee.

C) If payment has not been received within 30 days after receipt of written notice for payment, the request for extension shall be considered withdrawn.

5) Permit Renewal
A permit renewal request shall be assessed a $500 application processing fee and is subject to the requirements of this Section. Permit renewal requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional $500 late application processing fee. If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for renewal shall be considered withdrawn. Any renewal request received after the completion date is subject to the fines provided in the Act.

6) Post-Permit Alterations

A) A permit renewal request shall be assessed an application processing fee of $1,000 or .02% of the dollar amount in excess of the approved permit amount, whichever is greater, and is subject to the requirements of this Section.

B) Permit renewal requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional $500 late application processing fee.

C) If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for renewal shall be considered withdrawn. Any renewal request received after the completion date is subject to the fines provided in the Act.

8) Relinquishment of a Permit or Exemption

A) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act and in Section 1130.790.

B) A request for relinquishment shall be assessed an application processing fee of $1,000.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.240 Reporting and Notification Requirements

HFSRB~~*HFPB*~~ *shall require health care facilities to provide periodic reports, data, and information as needed to carry out the purposes and provisions of the Act* [20 ILCS 3960/13]. Information required to be submitted to HFSRB~~HFPB~~ includes, but is not limited to, reports on capital expenditures, facility and service utilization data, facility bed capacity information, ~~staffing levels,~~ notices of hospital reductions in services, and any temporary suspension of service.

a) Annual Report of Capital Expenditures
Each~~HFPB shall require each~~ health care facility shall~~to~~ submit an annual report of capital expenditures as part of the annual health care facility questionnaires issued by HFSRB. ~~in accordance with the provisions of the Act.~~ (See Section 5.3 of the Act.)

b) Health Planning Information
HFSRB~~HFPB, in conjunction with IDPH,~~ shall require all health care facilities operating in the State to provide information for the purpose of fulfilling the purposes, provisions and~~planning~~ responsibilities specified in the Act. (See Section 13 of the Act.) These~~Such~~ reports may be on an annual or other basis.

c) Notice of Hospital Reduction of 50% or More in Health Care Services
Each hospital is required to notify *the State Board, the* Illinois *Department of Public Health*~~*Each hospital is required to notify HFPB, IDPH*~~*, and the State Senator and 2 State Representatives representing the legislative district in which the hospital is located*, of a reduction in services of 50% or more, within 30 days after that reduction ~~*of a reduction in services of 50% or more, within 30 days after that reduction*~~ [20 ILCS 3960/12.4]. Reporting shall include the identification of

the service, reasons for reduction and anticipated duration (permanent or temporary). Reduction of 50% or more is determined by the following:

1) If the reduction is in a bed category of service, reduction is determined by the number of physically available beds as compared to the authorized number of beds stated in the Inventory of Health Care Facilities as updated, or the number of staffed beds reported in the Annual Hospital Questionnaire;

2) If the reduction is in a non-bed category of service (i.e., cardiac surgery, cardiac catheterization, organ transplantation, etc.), reduction is determined when the physical number of procedure rooms, stations or equipment necessary to provide that service is reduced by 50% or more, or the number of clinical staff and/or hours of operation is reduced by 50% or more.

A) If reduction does not reduce the number of procedures by 50% or more, ~~then~~ the notification is ~~only~~ required only to HFSRB~~HFPB~~, certifying that the reduction will not reduce the number of procedures performed by 50% or more.

B) If the reduction is temporary for the purpose of maintenance or equipment repair, ~~then~~ notification is required to HFSRB~~HFPB~~ only, with a timetable to restore the service.

d) Temporary Suspension of Facility or Category of Service
A facility that has ceased operation or that has ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster) shall~~may~~ file notice to HFSRB~~HFPB~~ of a temporary suspension of service that is anticipated to exceed 30 days. The notice shall be filed within 30 days after the suspension of the service, and shall~~must~~ include a detailed explanation of the reasons for the suspension, as well as the efforts being made to correct the circumstance and a timetable to reopen the service. Reports documenting the progress of corrections must be filed every 30 days thereafter until services are reopened.

e) Failure to Provide Required or Requested Information
Health care facilities and persons that fail to timely or completely comply with the notice and information requirements of HFSRB, including post-permit

requirements, shall be considered in violation of the Act. This shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act and HFSRB rules.~~HFPB are subject to the sanctions and penalties provided by the Act.~~ (See 20 ILCS 3960/13 and 14.1.)

f) Changes in a Health Care Facility's Bed Capacity

1) "Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. *A permit or exemption shall be obtained prior to the construction or modification of a health care facility which changes the bed capacity of a health care facility by:*

A) *increasing the total number of beds; or*

B) *distributing beds among various categories of service; or*

C) *relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board, whichever is less, over a 2-year period.* [20 ILCS 3960/5]

2) Projects proposing the establishment or discontinuation of a bed category of service are classified as substantive projects, with a 60-day review period. (See Section 1110.40(c).)

3) A health care facility that reduces bed capacity, or adds bed capacity without a permit, as specified by the Act, shall~~must~~ notify HFSRB~~HFPB~~ and IDPH of that change. Such a change is limited to once every two years beginning~~and that two year period begins~~ on the date when the additional beds become operational. If the facility has already changed its bed capacity through a permit process, then the facility may not add any more beds in those services affected by the permit for two years from the date that those beds established by permit become operational without obtaining an additional permit from HFSRB~~HFPB~~.

4) Emergency Preparedness Response Report

A) A health care facility that temporarily increases bed capacity to accommodate extraordinary needs in the service population due to pandemic events and other disasters shall submit written notification of the increase to HFSRB within 30 days after the bed increase decision. The notification shall include:

i) the number of beds increased;

ii) a detailed description of conditions necessitating the bed capacity increase;

iii) the impact on normal admission activity;

iv) the anticipated length of time the increase is needed, indicating the prospective date when beds will be taken out of circulation; and

v) the signature of a senior representative of the health care facility, verifying the information in the report.

B) The facility shall submit written notification to HFSRB, indicating the date that the temporary bed capacity has been taken out of circulation. This notification shall be received by HFSRB within 30 days after the date that the facility's normal bed capacity was resumed.

g) Change~~Changes~~ in Name or Change in~~and/or~~ Legal Status
A change in a facility's legal name or a facility's legal status (i.e., a corporate reorganization) that does not constitute a change of ownership, as defined in Section 1130.140, is to be reported to HFSRB~~HFPB~~ within 90 days after occurrence.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.250 HFSRB Meetings

a) General Guidelines

1) This Section pertains to formal HFSRB meetings and does not apply to other HFSRB-sponsored meetings, including public hearings or rules development meetings.

2) HFSRB meetings can be held anywhere throughout Illinois, as determined by the HFSRB Chair or a majority of HFSRB members.

3) Special HFSRB meetings that are not previously scheduled and are publically known can be held only if the HFSRB Chair or a majority of HFSRB members determines that a special HFSRB meeting should be scheduled.

4) All HFSRB meetings shall comply with the Open Meetings Act and be conducted using Roberts Rules of Order.

5) Only permit or exemption applicants and their staff, attorneys or consultants can testify at an HFSRB meeting during the time that their application is being considered by the Board. Other individuals attempting to be heard at an HFSRB meeting outside the public participation period will be declared out of order, unless the HFSRB Chair or a majority of Board members determines that it is in the best interest of HFSRB to allow a non-applicant or designated party to speak.

6) All HFSRB meetings will be conducted as efficiently as possible. Extraneous or irrelevant discussions occurring during an HFSRB meeting will be avoided. The HFSRB Chair or a majority of Board members can designate time limits on any or all of HFSRB meeting agenda items.

b) Public Participation at HFSRB Meetings – Formal Guidelines

1) The Illinois Open Meetings Act requires that *any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body*. [5 ILCS 120/2.06(g)] HFSRB will adhere to the following policy for public participation at HFSRB meetings:

A) Persons who have previously participated in any public hearings or submitted written comments related to projects listed on the HFSRB meeting agenda shall not repeat previously submitted

comments, since each HFSRB member has received and reviewed those materials prior to the meeting.

B) HFSRB staff will compare a speaker's public hearing testimony and previous written comments to ensure that the public participation testimony is not repetitive. Speakers will be reminded not to provide repetitive comments.

C) Persons providing either written or oral testimony shall not present testimony of any kind on behalf of any other person immediately before, during or after an HFSRB meeting.

D) Each speaker will be allotted two minutes to provide comments, enabling HFSRB to accomplish other agenda items. The Chairman will signal the speaker when the comments must be concluded.

E) Inflammatory or derogatory comments are prohibited.

F) No more than three persons representing the same organization are allowed to provide testimony regarding the same project.

G) Public comment for each speaker is limited to testimony for one project or issue.

H) All public comments shall be focused and relevant to the specific projects on the current agenda.

I) The public is strongly urged to participate in the long-standing opportunities for oral and written comment provided by the public hearings conducted for CON projects under review, as well as draft rulemaking. Scheduled public hearings are posted on the HFSRB website (www.hfsrb.illinois.gov).

J) Speakers who do not comply with these guidelines while addressing HFSRB will not be allowed to provide testimony at the Board's open meeting.

K) Anyone wishing to provide public participation comments at an HFSRB meeting shall pre-register. Pre-registration shall begin 30

minutes prior to the commencement of the scheduled HFSRB meeting. This is the only time period available for pre-registration.

L) The guidelines for public participation shall be updated as needed. The latest version of these guidelines is posted on the HFSRB website.

c) Validity of Comments

1) Written comments filed with HFSRB or oral statements made under oath to HFSRB under any HFSRB matter that are subsequently found to be false or inaccurate will serve as a basis for an HFSRB investigation of the matter.

2) HFSRB may require the person who made the false or inaccurate comments or statements to appear before the Board. HFSRB may censure that person. Further, HFSRB may determine that person to be ineligible to provide written comments or oral statements concerning any future Board considerations.

d) Presentation of New Information

1) HFSRB will not accept any new information presented by applicants or any of their representatives concerning an application during the HFSRB meeting at which the application is being considered by the Board.

2) Submission of new information is acceptable under the following conditions:

A) An application is deferred by the applicant or HFSRB (see Section 1130.650).

B) An application receives an Intent to Deny following HFSRB consideration and action (see Section 1130.670).

3) Any new information that is pertinent to an application and allowable shall be submitted in writing to HFSRB staff within the allowable time frames provided for additional information (see Sections 1130.650 and 1130.670).

4) All allowable new information shall be submitted to HFSRB in writing, on 8½ by 11" paper.

5) All new information shall be submitted within the allowable time frames established in the rules, and shall be sent only via certified USPS mail, UPS (with signature required), or FedEx (with signature required).

6) New information submitted by email or fax will not be accepted.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

Section 1130.310 Projects or Transactions Subject to the Act

a) Projects or Transactions that Require a Permit
A permit shall be obtained prior to the establishment, construction or modification of a health care facility and prior to the acquisition of major medical equipment unless an exemption from the requirement to obtain~~of obtaining~~ a permit has been issued in accordance with the provisions of Subpart D and Subpart E. A project or transaction that is not exempt is subject to review and requires a permit if the project or transaction:

1) requires a total capital expenditure in excess of the capital expenditure minimum. In determining the total capital expenditure, all costs (including the fair market value of assets acquired by lease or other means) that under generally accepted accounting principles are not properly chargeable as expenses of operation and maintenance, must be included even if any of such costs are not capitalized for reimbursement or other purposes. All capital expenditure minimums shall be annually adjusted upon the date established by the Act to reflect the increase in construction costs due to inflation. The basis for such adjustment for major medical equipment shall be the latest annual inflation rate as reflected in the Means Cost Data (RSMeans Company, Inc., 100 Construction Plaza, P.O. Box 800, Kingston MA 02364-0800)~~Producer's Price Index as calculated in the DRI/McGraw-Hill Health Care Cost Review section on Special Machinery and Equipment (DRI/McGraw-Hill, 1200 G Street, N.W., Suite 1000, Washington, D.C. 20005)~~. The basis for the adjustment to capital expenditures other than major medical equipment

shall be the latest annual inflation rate as reflected in the medical construction component of the Means Cost Data~~ (R.S. Means Company Inc., 100 Construction Plaza, P.O. Box 800, Kingston MA 02364-0800)~~. The revised minimums shall be published on HFSRB's~~HFPB's~~ internet site;

2) substantially changes the scope or changes the functional operation of the facility as defined in Section 1130.140;

3) results in the establishment of a health care facility as defined in Section 1130.140;

4) changes the bed capacity of a health care facility as specified in the Act and Section 1130.240(f);

5) involves a change of ownership, unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E;

6) results in the discontinuation of an entire health care facility or category of service (see Section 1130.140); or

7) involves the acquisition of major medical equipment~~, unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E~~.

b) Components of a Project or Transaction
In determining the elements of a transaction or a project subject to the Act, the following factors apply:

1) Components of construction or modification that are interdependent must be grouped together. Interdependence occurs when components of construction or modification are architecturally and/or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken.

2) *Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project.*

[20 ILCS 3960/3] ~~Components of construction or modification that are to be undertaken by means of a single construction contract or are to be financed through the issuance of a single debt instrument, such as, but not limited to, a mortgage, bonds, or lease, must be grouped together.~~

3) Projects involving acquisition of equipment that are linked with construction for the provision of a service cannot be segmented. A health service linkage exists when all components must be present for a service to be operational, or when financing is obtained at one time for a series of related components.

4) Components under an application for permit shall~~must~~ be for a single health care facility unless the components are interdependent among multiple facilities.

c) Prohibition on Splitting or Separating Components of a Project or Transaction

1) No health care facility or other person proposing a project or transaction that is subject to the Act shall split what should properly be considered a single capital expenditure into discrete components undertaken during a fiscal year ~~period~~ to evade the capital expenditure review threshold.

2) No health care facility or other person proposing a project or transaction that is subject to the Act shall separate portions of a single project into components, including, but not limited to, site, facility, and equipment, to evade the capital expenditure review threshold or other requirements of the Act or HFSRB~~HFPB~~ rules.

d) Examples of Projects or Transactions Subject to the Act
Examples of projects that constitute construction or modification of a health care facility subject to the Act include:

1) Projects located within a licensed or certified health care facility;

2) Projects that result in a health care facility:

A) Billing for services provided by the proposed project,

B) Capitalizing any portion of the proposed project,

C) Receiving reimbursement for services provided by the proposed project, or

D) Receiving recognition as the provider of the proposed service by third party payors;

3) Projects that are staffed or operated by the health care facility;

4) Projects that are otherwise of, by, through or on behalf of a health care facility;

5) Projects that provide a category of service as defined in 77 Ill. Adm. Code 1100 that are offered or made available on a regular basis to inpatients or outpatients of a health care facility.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS

Section 1130.410 Projects or Transactions Exempt from Permit Requirement

The following proposed projects and transactions are not subject to the requirement to obtain~~requirements of obtaining~~ a permit, provided that an application for exemption is submitted that meets the requirements of this Subpart and Subpart E and an exemption is issued by HFSRB~~HFPB~~:

a) ~~the acquisition of major medical equipment that will not be owned by, operated on behalf of, or located in a health care facility or be used to provide services to an inpatient of a health care facility. b)~~the change of ownership of an existing health care facility. *This is not applicable to a healthcare facility that is licensed under the Nursing Home Care Act (with the exceptions of facilities operated by a county or Illinois Veterans Home)* [20 ILCS 3960/3].

~~c)~~ ~~the discontinuation of an existing health care facility or of a category of service when that discontinuation is the result of:~~

~~1)~~ ~~revocation of or denial of license renewal by a State or local regulatory~~

~~agency;~~

~~2) for facilities not subject to licensure, the loss of Medicare and/or Medicaid certification;~~

~~3) discontinuation action taken by HFPB;~~

~~4) the voluntary surrender of a suspended license.~~

b)~~d)~~ the combination of two or more existing health care facilities into a single licensed health care facility, when:

1) the existing facilities are located on the same site or on sites adjacent to one another;

2) the licensed person for the existing facilities is the same;

3) the combination is for the sole purpose of operating the existing facilities under a single license; and

4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.

c)~~e)~~ a proposed project for the addition of dialysis stations to existing facilities located in planning areas where the Inventory indicates a need for additional stations, provided that the number of stations to be added does not exceed the planning area's need for additional stations, as calculated in the Inventory, and also provided that the number of stations~~,~~ to be added does not exceed the lesser of 10 stations or 50% of the facility's certified station capacity.

~~f) a proposed project limited to the establishment or expansion of a neonatal intensive care service or beds as specified in Subpart E.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART E: OPERATIONAL~~PROCEDURAL~~ REQUIREMENTS FOR EXEMPTIONS

Section 1130.500 General Requirements for Exemptions

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

Only those projects specified in Section 1130.410 are eligible for exemption from permit requirements. Persons that have initiated or completed such projects without obtaining an exemption are in violation of the provisions of the Act and are subject to the penalties and sanctions of the Act.

~~a) Letter of Intent~~

~~1) Prior to submission of an application for exemption, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 30 days prior to receipt of an application for exemption.~~

~~2) A letter of intent shall be valid for a period of one year from the date of receipt by HFPB.~~

~~3) A letter of intent must contain the following information:~~

~~A) the name of the applicant;~~

~~B) the name and location of the facility;~~

~~C) the type of exemption that is being sought (e.g., change of ownership, the addition of dialysis stations);~~

~~D) a brief description of the project or transaction, including number of beds or stations involved, categories of service involved, the estimated maximum project cost, and the date the project or transaction is to be initiated;~~

a)~~b)~~ Application for Exemption
Any persons proposing a project for an exemption to permit requirements shall~~must~~ submit to HFSRB~~HFPB (no sooner than 30 days following receipt of a letter of intent)~~ an application for exemption containing the information required by this Subpart, submit an application fee (if a fee is required), and receive approval from HFSRB~~HFPB~~.

b)~~c)~~ General Information Requirements
The application for exemption shall include the following information and any additional information specified in this Subpart:

1) the name and address of the applicant and co-applicant (see Section 1130.220);

2) the name and address of the health care facility ~~or, if the proposed project is for the acquisition of major medical equipment, the address of the premises where the equipment will be installed or used~~;

3) a description of the project, e.g., change of ownership, increase in dialysis stations;

4) documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;

5) a description of the applicant's organization structure, including a listing of controlling or subsidiary persons;

6) the estimated project cost, including the fair market value of any component and the sources and uses of funds;

7) ~~the anticipated project obligation date and~~ the anticipated project completion date;

8) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFSRB~~HFPB~~; and

9) the application processing fee.

c) Application Processing Fee
The application processing fee shall be $2,500 (see Section 1130.230).

d) Completion Requirements
A project that has received an exemption shall be completed in accordance with all applicable requirements no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

HFSRB~~BOARD~~ NOTE: Projects are eligible for exemptions to a full permit process providing that they can meet all of the requirements delineated in this Subpart. If a person or project cannot meet the requirements of exemption, then an application for permit may be filed.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment (Repealed)

~~a)~~ ~~Application for Exemption~~
~~The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information:~~

~~1)~~ ~~Identification of the equipment to be acquired, including model number, manufacturer and equipment specifications;~~

~~2)~~ ~~A description of the premises, which includes a gross square footage space allocation for the equipment and for any other functions contained in the space, such as, but not limited to, diagnostic or treatment areas, administrative space, doctors offices, waiting rooms, etc., and whether any common space is shared or utilized by persons other than the applicant;~~

~~3)~~ ~~Copies of any existing or proposed lease or purchase agreements or a proof of ownership regarding the premises where the equipment will be installed;~~

~~4)~~ ~~Verification that the equipment will not be used to provide services to inpatients of any health care facility;~~

~~5)~~ ~~Verification that use of the proposed equipment will not result in the inpatient admission of patients to a health care facility following outpatient treatment except in emergency conditions;~~

~~6)~~ ~~Verification that there is or will be a quality assurance plan for the proposed equipment addressing the following:~~

~~A)~~ ~~how regular objective evaluation of all audits and medical care will~~

~~be performed;~~

~~B) how patient interviews and complaint evaluation will be performed;~~

~~C) infection control measures;~~

~~D) incident reporting;~~

~~E) allied health professional credentialing;~~

~~F) evaluation of external surveys affecting quality of care;~~

~~G) safety committee concerns;~~

~~H) problem resolution; and~~

~~I) confidentiality concerns;~~

~~7) Verification that failure to complete the project in accordance with the applicable provisions of Section 1130.570 no later than 12 months from the date of exemption approval (or by a later date established by HFPB upon a finding that the project has proceeded with due diligence) will invalidate the exemption.~~

~~b) Completion Requirements~~
~~A project that has received an exemption for acquisition of major medical equipment must be complete in accordance with the applicable provisions of Section 1130.570 no later then 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.~~

~~c) Application Processing Fee~~
~~The application processing fee shall be .1% of the total estimated project cost (see Section 1130.230).~~

~~BOARD NOTE: A permit is required for the acquisition of major medical equipment that will be owned by, located in, or utilized to serve inpatients of a health care facility. Equipment acquired by exemption cannot be used to treat patients who are directly admitted into an inpatient unit of a health care facility except in the case of a medical~~

~~emergency that threatens the life of the patient. A physician licensed to practice medicine in all of its branches must verify that such inpatient admission was caused by a medical emergency.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility

a) Submission of Application for Exemption
Prior to any person acquiring or entering into a contract to acquire an existing health care facility, the person shall~~must~~ submit an application for exemption to HFSRB~~HFPB~~, submit the required application processing fee (see Section 1130.230) and receive approval from HFSRB~~HFPB~~.

b) Application for Exemption
The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information:

1) affirmation~~verification~~ that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities will not substantially change for at least 12 months following the project's completion date;

2) complete transaction documents~~documents, such as letters of intent, options to purchase, or lease or sale agreements,~~ that have been signed by both the applicant and the existing owner that contain a provision that execution is subject to HFSRB~~HFPB~~ issuance of an exemption and that contain the conditions and terms of the change of ownership;

3) proof that the applicant is fit, willing, and able and *has the qualifications, background and character to adequately provide a proper standard of health service for the community* [20 ILCS 3960/6] by certifying that no adverse action has been taken against the applicant by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application;

4) proof that the applicant has sufficient funds to finance the acquisition and to operate the facility for a period of 36 months by providing evidence of a bond rating of "A" or better (that must be less than two years old) from Fitch's, Moody's, or Standard and Poor's rating agencies; A3 or better from Moody's (the rating shall be affirmed within the latest 18-month period prior to submittal of the application); or evidence of compliance with HFSRB~~HFPB~~ financial viability review criteria applicable to the type of facility to be acquired as specified in 77 Ill. Adm. Code 1120;

5) affirmation~~verification~~ that the applicant intends to maintain ownership and control of the facility for a minimum of three years;

6) affirmation~~verification~~ that any projects for which permits have been issued have been completed or will be completed or altered in accordance with the provisions of this Section;

7) if~~If~~ the ownership change is for a hospital, affirmation that the facility will not adopt a more restrictive charity care policy than the policy that was in effect one year prior to the transaction. The hospital must provide affirmation~~certification~~ that the compliant charity care policy will remain in effect for a two-year period, following the change of ownership transaction; and

8) affirmation~~verification~~ that failure to complete the project in accordance with the applicable provisions of Section 1130.500(d)~~Section 1130.570~~ no later than 24~~12~~ months from the date of exemption approval (or by a later date established by HFSRB~~HFPB~~ upon a finding that the project has proceeded with due diligence) and failure to comply with the material change requirements of this Section will invalidate the exemption.

c) Opportunity for Public Hearing

Upon a finding by HFSRB staff that an application for a change of ownership is complete, HFSRB staff shall publish a legal notice on three consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on three consecutive

days. The legal notice shall also be posted on HFSRB's web site and sent to the State Representative and State Senator of the district in which the health care facility is located.~~*Upon a finding by the Department of Public Health that an application for a change of ownership is complete, the Department shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on HFPB's web site and sent to the State Representative and State Senator of the district in which the health care facility is located.* [20 ILCS 3960]~~ This legal notice shall~~must~~ provide the following:

1) the name and address of the facility for which the exemption is sought;

2) the name and address of the applicant entity requesting the exemption;

3) the nature of the transaction (e.g., the purchase, lease, or transfer of stock of the licensed entity);

4) when the entity that will be assuming ownership of the facility is a wholly owned subsidiary of another corporation, the name and address of the parent firm; and

5) affirmation~~a certification~~ that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities maintained by HFSRB~~IDPH~~ will not substantially change (per the definition in Section 1130.140) for at least 12 months following the exemption's completion date.

d) Public Hearing Requirements
If a public hearing is requested in accordance with the requirements of the Act, the applicant shall be notified by HFSRB staff~~IDPH~~ of the hearing and the applicant shall provide a summary of the proposed change of ownership for distribution at the public hearing [20 ILCS 3960/8.5]. The summary shall contain at least the following:

1) a statement as to the anticipated benefits of the proposed changes in ownership to the community;

2) the anticipated or potential cost savings, if any, that will result for the community and the facility as a result of the change in ownership;

3) a description of the facility's quality improvement program mechanism that will be utilized to assure quality control;

4) a description of the applicant's organizational structure, including a listing of controlling or subsidiary persons;

5) a description of the selection process that the acquiring entity will use to select~~utilize in selecting~~ the facility's governing body~~board of directors~~;

6) a statement that the applicant has prepared a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.240 and that the response is available for public review on the premises of the health care facility; and

7) a description or summary of any proposed changes to the scope of services or levels of care currently provided at the facility that are anticipated to occur within 24 months after acquisition.

e) Application Processing Fee
The application processing fee is $2,500.

f) Completion of Projects with Outstanding Permits
A permit or exemption cannot be transferred.

1) For purposes of change of ownership exemptions, outstanding permits will not be considered transferred if the following conditions are met:

A) the existing permit is not for the establishment or discontinuation of a new facility or category of service;

B) the existing permit is not a substantial change in scope as defined in Section 1130.140~~1130~~;

C) for permits establshing a new facility or a new categor of service, the existing permit has been obligated and is being carried out with due diligence; (see 20 ILCS 3960/6(b);~~.~~

D) the existing permit is being carried out with due diligence.

2) If the requirements of this subsection (f) are not met, any outstanding permit will be considered a transfer of the permit and results in the permit being null and void.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds (Repealed)

~~a) Application for Exemption~~
~~The application for exemption is subject to approval under Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information:~~

~~1) a description of the project that identifies the location of the neonatal intensive care unit and the number of neonatal intensive care beds proposed;~~

~~2) a copy of a signed letter of support for the proposed project from the Regionalized Perinatal Advisory Committee (77 Ill. Adm. Code 640);~~

~~3) a verification that a final cost report will be submitted to the Agency no later than 60 days following the anticipated project completion date;~~

~~4) a verification that failure to complete the project by the anticipated project completion date or no later than 12 months from the date of exemption approval, whichever is later (or by a later date established by HFPB upon a finding that the project has proceeded with due diligence), will invalidate the exemption.~~

~~b) Application Processing Fee~~

~~The application processing fee shall be the greater of $1,000 or .1% of the total estimated project cost with a maximum application processing fee of $20,000 for projects with $20,000,000 or more estimated project cost.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1130.540 Requirements for Exemptions Involving Discontinuation (Repealed)

~~Discontinuation of a facility or category of service as specified in Section 1130.410 is exempt from the requirement of obtaining a permit. No letter of intent, exemption application, or fee is required for discontinuation. HFPB shall take action to confirm the discontinuation and determine the date of discontinuation and adjust the Inventory of Health Care Facilities and Services and Need Determinations accordingly.~~

~~BOARD NOTE: A permit is required for all discontinuation that is not exempt pursuant to the provisions of Section 1130.410. Discontinuation that has occurred without a permit is in violation of the Act and will be subject to the imposition of sanctions.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1130.541 Requirements for Exemptions for Combined Facility Licensure (Repealed)

~~A person proposing to combine two or more existing health care facilities into a single licensed health care facility must submit an application for exemption to HFPB, submit the required application processing fee and receive approval from HFPB.~~

~~a) Application for Exemption~~
~~The application for exemption shall consist of a written notice, notarized and attested to by an authorized representative of the applicant, that contains the following:~~

~~1) the name and address of the applicant proposing the combination;~~

~~2) documentation that the requirements of Section 1130.410 pertaining to the transaction will be met;~~

~~3) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facilities are located. The notice shall~~

~~provide the name and address of the applicant and the facilities to be combined, a description of the transaction addressing the applicable requirements of Section 1130.410, and the name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction;~~

~~4) certification that the transaction has not yet been entered into or executed.~~

~~b) Completion Requirements~~
~~A project that has received an exemption for combining facility licenses must be complete in accordance with the applicable provisions of Section 1130.570 no later then 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1130.544 Requirements for Exemption for the Addition of Dialysis Stations (Repealed)

~~a) Application for Exemption~~
~~The application for exemption shall be subject to approval pursuant to Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information:~~

~~1) the number of dialysis stations to be added~~

~~2) documentation that, for the most recent 12 month period, the existing facility has operated at or in excess of the minimum utilization rate specified at 77 Ill. Adm. Code 1100.630;~~

~~3) a certification that a final cost report will be submitted to IIDPH no later than 60 days following the project completion date;~~

~~4) confirmatory evidence that the project has not yet been entered into or executed; and~~

~~5) confirmation that failure to comply with the material change and completion requirements of this Section will invalidate the exemption.~~

~~b)~~ ~~Legal Notice Requirements~~
~~Any person requesting an exemption for a proposed addition of dialysis stations must publish a legal notice in a newspaper of general circulation in the community in which the facility is located that provides the following:~~

~~1)~~ ~~the name and address of the facility for which the exemption is sought;~~

~~2)~~ ~~the number of dialysis stations to be added and the proposed project costs;~~

~~3)~~ ~~a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.~~

~~c)~~ ~~Application Processing Fee~~
~~The application processing fee shall be the greater of $1,000 or .01% of the total estimated project cost (see Section 1130.230) assessed in accordance with the fee assessment provisions for Applications for Exemption of Major Medical Equipment (see Section 1130.510).~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1130.550 Agency Processing of an Application for Exemption

a) Application for Exemption Form
Applicants for an exemption are required to submit a completed exemption application form, which is available from the HFSRB website (www.hfsrb.illinois.gov). Once completed, the form shall be submitted to the HFSRB principal office, located at 525 W. Jefferson Street, 2nd Floor, Springfield IL 62761.~~Requests for exemptions must be made on an application for exemption form that may be obtained from IDPH and are to be submitted to HFPB. No application for exemption shall be received by HFPB before a required letter of intent pertaining to the project has been received and has been on file for at least the minimum number of days specified in this Subpart.~~

b) Completeness
HFSRB staff~~IDPH~~ shall review an application for exemption to determine whether all required information and the required application processing fee have been submitted. Applications that do not contain the required information, documentation, or fee shall be deemed incomplete. If HFSRB staff deem~~IDPH deems~~ the application incomplete, they~~it~~ shall notify the applicant of the reasons

within 30 days after receipt. The required information or fee must be received by HFSRB~~IDPH~~ within 30 days after receipt of notification. Failure to submit the requested additional information shall result in the application for exemption being voided with the loss of all fees paid.

HFSRB~~BOARD~~ NOTE: Persons who have initiated or completed projects eligible for exemption without obtaining an exemption are in violation of the Act and are subject to the penalties and sanctions of the Act.

c) Submission to Chairman of~~or~~ HFSRB~~HFPB~~
Following HFSRB staff review, applications (including related documentation) that comply with all HFSRB requirements and are unopposed shall be forwarded to the Chairman for review and action. ~~IDPH shall forward all complete applications for review and action to the Chairman or HFPB, as applicable.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.560 HFSRB~~State Board~~ Action

a) Action by Chairman
The Chairman, acting on behalf of HFSRB~~HFPB~~, shall review all applications for exemption and approve, deny, or refer the application~~applications~~ or material change to HFSRB~~HFPB~~ for review and action. *The Chairman may approve any unopposed application that meets all of the review criteria or refer it to the full Board* for review and action [20 ILCS 3960/12] An exemption application for a change of ownership of a health care facility between related persons shall be acted upon the Chairman no later than 60 days after being declared complete by HFSRB staff~~IDPH~~ or 60 days after receipt of all public hearing comments and transcripts, whichever is later.

b) Action by HFSRB~~HFPB~~
HFSRB~~HFPB~~ shall evaluate each application for exemption referred by the Chairman and either issue an exemption or advise the applicant or exemption holder in writing that the application is denied and is not in conformance with exemption requirements. The number of affirmative votes for approval of an application for exemption is specified in the Act. HFSRB~~HFPB~~ shall approve an application for exemption that it determines to be in compliance with the requirements. Exemptions will not be issued for projects that have failed to meet the applicable requirements of this Subpart.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.570 Validity of an Exemption and Reporting Requirements

a) A project that has received an exemption shall~~must~~ be completed on or before the completion date approved by HFSRB or mandated by the Act and Code.~~within the time frames specified in the applicable Sections of this Subpart.~~ An exemption shall be valid through completion provided the requirements of this Section are met.

b) For purposes of this Section, "completion" occurs on the following date~~ that~~:

1) ~~for major medical equipment, the equipment is in operation; 2)~~for change of ownership of a health care facility, the date that a new license has been issued (or, if licensing is not applicable, Medicare and/or Medicaid certification has been obtained), or a stock transfer has been accomplished, or a majority change in voting membership or sponsorship of a not-for-profit corporation has been accomplished, or the transfer of assets has occurred, or the merger or consolidation has been accomplished, whichever is applicable;

2)~~3)~~ for all other projects, the date that construction has been completed and patients or residents are receiving service.

c) The exemption holder shall provide written notice and related documentation to HFSRB~~HFPB~~ of the following:

1) Each exemption holder shall~~must~~ notify HFSRB~~HFPB~~ of project completion no later than 30 days following the project completion date; and

2) Where required under other Sections of this Part, a final cost report and all other required documentation shall be submitted to HFSRB~~HFPB~~ no later than 90~~60~~ days following the project completion date, as identified by the exemption holder.

d) An exemption for a change of ownership of a health care facility shall be invalid if the health care facility ceases to be an existing health care facility.

e) Other events causing an exemption to become invalid include:

1) Change of permit (see Section 1130.710(c));

2) Failure to submit the Expenditure Commitment or Obligation Report, which should be included with the annual progress reports;

3) Failure to submit annual progress reports to HFSRB;

4) Failure to submit Final Cost Reports to HFSRB;

5) Implementation of a prohibited alteration (see Section 1130.750(c)); and

6) Relinquishment of an exemption without Board approval.

f)~~e)~~ *The State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been obligated, except for permits establishing a new facility or a new category of service.* [20 ILCS 3960/6(b)]~~An exemption is not transferable or assignable and cannot be bought or sold on its own or as part of any other transaction. However, an exemption for a project that has been initiated and is in compliance with the provisions of this Section will not be considered transferred in the case of an existing health care facility change of ownership that has met the exemption requirements of this Part.~~

g)~~f)~~ Failure to comply with the requirements of this Section within the specified time frames~~timeframes~~ shall subject the exemption holder to the sanctions and penalties provided by the Act (see 20 ILCS 3960/14.1) and Section 1130.790.

HFSRB~~BOARD~~ NOTE: See Section 1130.520 regarding changes of ownership for facilities with outstanding permits.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.580 Relinquishment of an Exemption

The holder of an HFSRB exemption may request to withdraw or abandon that exemption. The relinquishment request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the exemption is considered null and void.

Requests for relinquishment shall be considered only for exemptions that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the exemption.

a) Relinquishment Procedure
The permit holder shall notify HFSRB in writing, prior to the execution of the withdrawal of a project. The notice shall include:

1) A description of the exemption and related costs;

2) A detailed explanation of the reasons for relinquishment; and

3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.

b) HFSRB staff shall review the request for relinquishment and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve the request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.

c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.

d) Decisions on requests for relinquishment shall be transmitted in writing to the exemption holder.

e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.

f) A request for relinquishment shall be assessed an application processing fee of $1,000.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1130.590 Revocation of an Exemption

a) HFSRB shall revoke an exemption upon a determination that an exemption holder has failed to comply with the requirements of the Act and HFSRB rules.

This HFSRB determination to revoke an exemption may be based upon, but not limited by, any of the following reasons:

1) The project for which the exemption was granted has been altered without the required notice and approval of HFSRB;

2) The exemption holder has failed to complete the project on or before the completion date;

3) The exemption holder or applicant materially changed information or details submitted in the exemption application or in any written materials submitted to HFSRB;

4) The permit holder or applicant submitted false information in the CON application or in any written materials submitted to HFSRB;

5) The permit holder or applicant misrepresented information presented at an HFSRB meeting, at an HFSRB public hearing, or in response to HFSRB or HFSRB staff inquiries;

6) The exemption holder or applicant has been convicted of any of the following crimes during the previous five years. The convictions shall be verified by a certified copy of the court of conviction.

   A) A felony;

   B) Two or more misdemeanors involving moral turpitude;

7) The exemption holder, applicant, or health care facility representative has refused to allow an inspection or survey of the health care facility by HFSRB representatives (i.e., IDPH surveyors);

8) The facility has insufficient financial or other resources to operate the facility in accordance with the exemption application or with any other information submitted to HFSRB;

9) The facility's license has been revoked by IDPH.

b) If HFSRB intends to revoke an exemption, the exemption holder shall be provided with written notification of the intent to revoke and notice of allegations. The exemption holder shall be afforded an opportunity for a hearing before an administrative law judge. HFSRB may also impose other sanctions or penalties mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790, including fines, in addition to the revocation determination.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART F: OPERATIONAL~~PROCEDURAL~~ REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section 1130.610 Duration of the Review Period and Time Frames

a) Emergency Applications
Initial application for emergency projects (as defined in 77 Ill. Adm. Code 1110.40) may be made verbally~~orally~~ or in writing or by electronic means to the Administrator~~Executive Secretary~~. The Administrator~~Executive Secretary~~, upon receiving the concurrence of the Chairman (or in the absence of the Chairman, the Vice-Chairman) that the situation is emergent in nature in accordance with the provisions of 77 Ill. Adm. Code 1110.40, is authorized to give verbal~~oral~~ approval. Any such communications shall be followed by a written application and written approval. *This procedure is exempt from the public hearing requirements of the Act* [20 ILCS 3960/12]~~ and any and all letter of intent requirements~~. The written application shall~~must~~ identify the applicant and shall~~must~~ summarize the nature of the problem the emergency project will correct and the anticipated cost of the project.

b) Substantive and Non-substantive Applications
The review period for HFSRB staff~~IDPH~~ shall be a minimum of 30 days following the application's completeness date and shall not exceed 60 days for non-substantive projects and 120 days for substantive projects, with the exception of projects proposing to establish or discontinue a category of service, *which shall be reviewed by the Board within 60 days* [20 ILCS 3960/12]. The~~unless the~~ review period can be~~is~~ extended pursuant to the provisions of this Subpart. All applications other than emergency applications shall be acted upon by HFSRB~~HFPB~~ at the next regularly scheduled meeting that is at least 10 business days following the completion of the HFSRB staff~~IDPH~~ review.

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.620 Technical Assistance, ~~Letter of Intent,~~ Classification, Completeness Review, ~~and~~ Review Procedures and Application Processing Fee

a) Technical Assistance

1) The application shall~~must~~ be completed in accordance with the requirements of this Part that are applicable to the individual project. An applicant may request technical assistance or a pre-application conference from HFSRB staff~~IDPH~~ regarding completion of the application and the applicability of the requirements of HFSRB~~HFPB~~ rules.

2) Technical assistance may be provided to any person regarding pre-application conferences, the filing of an~~a letter of intent, impending or pending~~ application, or other request to HFSRB~~HFPB~~, provided that the communication is *not intended to influence any decision on the application. Once an application is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed format, and shall be included in the public record. ~~Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided.~~* [20 ILCS 3960/4.2]

3) *Nothing in* the Act *shall prohibit staff members from providing technical assistance to applicants. Nothing* in the *Act shall prohibit staff from verifying or clarifying an applicant's information as* they prepare *the Board's staff report.* [20 ILCS 3960/4.2(a)]

4)~~3)~~ Technical assistance may be provided for the benefit of HFSRB~~HFPB~~ to clarify issues relevant to an application or other business of HFSRB~~HFPB~~. The assistance may be in the form of written correspondences, conversations, site visits, meetings, or~~and/or~~ consultations with independent experts. HFSRB staff shall prepare a written record of any technical assistance provided after an application is deemed complete, for inclusion in the application file.~~All such communications and responses pertaining to an application to HFPB must be documented in writing by the employee within 10 business days after occurrence and made a part of the application or project record.~~

~~b) Letter of Intent~~

~~1) Prior to submission of an application for permit, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 60 days prior to receipt of an application for permit.~~

~~2) A letter of intent shall be valid for a period of one year from the date of receipt by HFPB.~~

~~3) A letter of intent must contain the following information:~~

~~A) the name of the applicant;~~

~~B) the site of the proposed project and the name of the existing or proposed health care facility that is being established, constructed, or modified;~~

~~C) a brief description of the project or transaction, including number of beds or stations involved, categories of service involved, the estimated maximum project cost, the approximate gross square footage being added or modernized, and the date the application is to be submitted; and~~

~~D) if the project involves discontinuation of a facility or of a category of service, the reason for the discontinuation and the proposed discontinuation date.~~

b)~~c)~~ Classification of an Application
An application for permit shall be classified as substantive, non-substantive or emergency, as discussed~~classified~~ in 77 Ill. Adm. Code 1110.40.

c)~~d)~~ Completeness Review

1) Within 10 business days after receipt of~~Upon receipt of~~ an application for permit, HFSRB staff~~IDPH~~ shall determine whether the application is substantially complete and ready to be reviewed for compliance with applicable review criteria and standards~~or incomplete~~. The completeness review shall be conducted with the understanding that additional

information may be necessary during the staff review period for criteria compliance, to further clarify or explain statements or data in the application. An application for any project shall be deemed complete ~~within 10 business days after receipt~~ if all of the following have been met:

A) all review criteria applicable to the individual project have been addressed, including the Safety Net Impact Statement (for applicants other than long term care providers);

B) the required fee (as outlined in subsection (d~~e~~) of this Section) has been submitted;

C) the number of copies, forms, and format as specified in the application have been submitted;

D) all annual progress reports on previously approved projects for the facility and/or applicants have been submitted;

E) all required information concerning completion of previously approved projects for the facility and/or applicants has been submitted;

F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;

G) all persons who are applicants have been identified and the applicants that hold the license and that will operate the facility have provided documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;

H) all HFSRB~~HFPB~~ requests and questionnaires for information or data for all Illinois facilities owned or operated by any applicant, such as but not limited to the Annual Hospital or Long-term Care Questionnaire (77 Ill. Adm. Code 1100.60 and 1100.70) or Cancer Registry (77 Ill. Adm. Code 840.110(d) and 840.115(i)) have been received and are complete;

I) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFSRB~~HFPB~~;

J) documentation of compliance with the Flood Plain Rule under Illinois Executive Order #2006-05~~of Executive Order 1979-4~~;

K) documentation of compliance with the requirements of the Illinois State Agency Historic Resources Preservation Act; and

L) identification of a site.

2) An application shall be incomplete if any of the elements described in subsection (c~~d~~)(1) are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to the proposed project shall be a basis for deeming the application incomplete.

3) If an application fails to adequately address the requirements of all applicable criteria, the application shall not be scheduled for consideration by HFSRB until such time that the required information is submitted and accepted.

4)~~3)~~ Applications received after 8:30 a.m. shall be deemed as being received the following business day.

5)~~4)~~ HFSRB~~IDPH~~ shall notify the applicant in writing, within the completeness review period, of its decision and, in the case of an incomplete application, the reasons.

6)~~5)~~ If the application is deemed complete, the date of completion shall initiate the review period. If the application is deemed incomplete, the applicant shall be allowed 45 days from the date of receipt of the notification to provide all necessary information to complete the application. Upon receipt of all additional information requested, HFSRB staff~~IDPH~~ shall again review the application for completeness and shall notify the applicant of its decision. If HFSRB staff find~~IDPH finds~~ that the

application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

HFSRB~~BOARD~~ NOTE: It is the responsibility of the applicant to assure that HFSRB receives~~IDPH is in receipt of~~ the additional information within the prescribed time frame~~timeframe~~.

d)~~e)~~ Review Procedures

1) All applications will be reviewed and evaluated for conformance with the applicable review criteria in effect at the time the application is deemed complete.

2) Each application will be reviewed and considered on an individual basis unless HFSRB~~HFPB~~ has established review criteria or procedures that pertain or relate to comparative review or "batching" of applications.

3) Applications for permit shall be subject to the need figures set forth in the most recent update to the Inventory of Health Care Facilities and Services and Need Determinations, as adjusted by HFSRB~~HFPB~~ decisions in effect prior to the date HFSRB~~HFPB~~ takes action on the application. HFSRB~~HFPB~~ action includes the approval, issuance of an intent to deny, or denial of an application.

4) All applications except emergency applications are subject to the public hearing requirements of the Act. All evidence submitted at~~pursuant to~~ a public hearing shall be taken into account in the determination of compliance or noncompliance of an application with applicable review criteria.

e)~~f)~~ Application Processing Fee

1) All applicants, except those with projects that are not subject to a fee (see Section 1130.230), are required to submit an application processing fee. An initial fee deposit of $2,500 shall~~must~~ accompany each application for permit submitted to HFSRB~~HFPB~~. When an~~Upon the~~ application is~~being~~ deemed complete, the full amount of the fee shall be determined.

2) HFSRB staff shall *charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. The State Board shall set the amounts by rule. Application fees for continuing care retirement communities, and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under* the *Act*. [20 ILCS 3960/12.2]~~Fees shall be assessed based upon the total estimated project costs. To determine CON application processing fees, the total estimated project cost shall be pro-rated by project costs assigned to the clinical services areas and to non-clinical service areas.~~

~~A) For projects that are composed of only clinical service areas, the fees shall be calculated on 100% of the total project cost.~~

~~B) For projects that are composed of only non-clinical service areas, the fees shall be calculated on 50% of the total project cost.~~

~~C) For combined service area projects, the fees shall be calculated on 100% of the clinical service area costs plus 50% of the non-clinical service area costs.~~

3) Following the determination of estimated total project costs~~ assigned to clinical service area and non-clinical service area components of the project, as described in subsection (f)(2)~~, the CON application processing fees are calculated as follows: For each project having a total estimated project cost of:

A) less than $1,250,000, ~~then~~ the application fee shall be $2,500;

B) above $1,250,000, the application fee shall be 0.22% of the assigned costs.

4) The maximum application fee shall not exceed $100,000.

5) Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of notice.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.630 HFSRB Staff~~Agency~~ Actions During the Review Period

During the course of the review period, HFSRB staff~~the Agency~~ shall:

a) ~~Transmit a complete copy of the application (or such part thereof as may be necessary) to offices of IDPH or to any other State agencies that have requested an opportunity to comment on the application; b)~~Notify the applicant of completeness and the start of the review period and forward to the applicant the tentatively scheduled date for HFSRB~~HFPB~~ action;

b)~~c)~~ Offer an opportunity for a public hearing, provide a period for written comments concerning the proposed project, and when requested, conduct a public hearing;

c)~~d)~~ Evaluate the application for compliance with the review criteria applicable to the specific project;

d)~~e)~~ Transmit to HFSRB~~HFPB~~ and to the applicant HFSRB's~~IDPH's~~ report and findings, the public hearing report, a summary of all written public comment received 20 days prior to the scheduled HFSRB~~HFPB~~ meeting, and written comments that are received within the prescribed time periods established in this Part;~~.~~

e) Release to the public *any written review or findings of the Board staff or any other reviewing organization under Section 8* of the Act *concerning the application for permit at least 14 calendar days before the meeting of the State Board at which the review or findings are considered.* [20 ILCS 3960/6(c-5)]

~~BOARD NOTE: Any communication, written or oral, received from a member of the public, news media, interested persons, legislators, or other persons regarding any matter other than the status of an application that is not authorized by the public comment process specified in this Part is ex parte and is prohibited.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.635 Additional Information Provided During the Review Period

a) Additional~~Requested~~ Information

1) During the review period, HFSRB~~As needed to clarify the application, IDPH~~ may request information or data ~~during the review period~~ from the applicant or from other persons ~~in order~~ to clarify the application and conduct the HFSRB staff~~its~~ review. ~~Requested information or data furnished to IDPH shall be made part of and included in the project record.~~

~~b) Supplemental Information~~

2) The applicant may also submit information~~Supplemental information~~ or data ~~may be provided by the applicant only~~ if the information is:

A) due to a modification of the project; or~~,~~

B) ~~is~~ in response to an Intent to Deny.~~, or is in response to a request from HFPB.~~

3) All additional information shall be submitted to HFSRB's staff in writing, on 8½ by 11" paper.

4) All additional information shall be submitted within the required time frame established in the rules and shall be sent only via certified USPS mail, UPS (with signature required), or FedEx (with signature required).

5) Additional information submitted by fax or email will not be accepted.

6) All additional~~Supplemental~~ information shall be made part of and included in the project record.

b)~~c)~~ Public Comment Information
Public comment information from persons other than the applicant that has been submitted in accordance with the public comment and public hearing provisions of this Part shall not be considered requested or additional~~supplemental~~ information. The information shall be made part of and included in the project record.

c) Public Response to Staff Review and Findings
The applicant and members of the public may submit, to the State Board, written responses regarding the facts set forth in the review or findings of the Board staff

or reviewing organization. Members of the public shall submit any written response to the staff review and findings *at least 10 days before the meeting of the State Board. The staff may revise any findings to address corrections of factual errors cited in the public response. At the meeting, the State Board may, in its discretion, permit the submission of other additional written materials.* [20 ILCS 3960/6 (c-5)]

d) Ex Parte Information
HFSRB will comply with the requirements of the Act pertaining to ex parte communications.
~~Information submitted by the applicant or by any other person that is not requested information, that is not supplemental information, or that is not public comment or public hearing information is ex parte and will not be considered in the review of the project.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.640 Extension of the Review Period

a) Extension by HFSRB~~IDPH~~ of the Review of Information
As required to complete its review, HFSRB staff~~IDPH~~ may extend the review period for up to 120~~60~~ days for the analysis of additional~~requested or supplemental~~ information. HFSRB~~HFPB~~ will consider the application at the next regularly scheduled meeting that is at least 10 days following the completion of the HFSRB~~IDPH~~ review of the additional~~requested or supplemental~~ information.

b) Extension Due to Deferral by Applicant
The applicant may defer consideration of a project by HFSRB~~HFPB~~. A deferral extends from the HFSRB~~HFPB~~ meeting at which the project has been scheduled to the next scheduled HFSRB~~HFPB~~ meeting, subject to a review period of up to 60 days for analysis of additional~~requested and/or supplemental~~ information. A request for deferral may be provided in writing prior to the scheduled HFSRB~~HFPB~~ meeting or verbally at the HFSRB~~HFPB~~ meeting. An applicant may not defer:

1) initial consideration of the application by HFSRB~~HFPB~~ to a meeting that is scheduled more than 6 months from the date the application was deemed complete; or

2) HFSRB~~HFPB~~ consideration of an application that has received an Intent to Deny beyond a meeting date that is more than 12~~6~~ months from the date of HFSRB's~~HFPB's~~ decision of Intent of Deny.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.650 Modification of an Application

a) Modifications to an application are allowed during the review period, prior to final HFSRB~~HFPB~~ decision. Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of the Act~~77 Ill. Adm. Code 1140~~. If requested, a hearing would occur within the time allocated for HFSRB staff~~IDPH~~ review. Type A modifications consist of any of the following:

1) A change~~An increase~~ in the number of beds proposed in the project.

2) A change in the site of the project to a new location within the planning area. A change in site to a location outside the planning area originally identified in the application is not considered a modification and voids the application.

3) A change~~An increase~~ in the cost of the project exceeding 10% of the original estimated project cost.

4) A change~~An increase~~ in the total gross square footage (GSF) of the project exceeding 10% of the original GSF.

5) An increase~~A change~~ in the categories of service to be provided.

6) A change in the person who is the applicant, including the addition of one or more co-applicants to the application.

7) Any modification to a project, including modifications specified in subsections (a)(1) through (a)(6), that, by itself, would require a certificate of need (CON) permit or exemption.

b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of

HFSRB~~HFPB~~, are Type B modifications and are not subject to public hearing.

c) An applicant can modify a project only twice during the review period; provided, however, an applicant may modify a project at any time if the modification is in conformance with and limited to the comments, recommendations or objections of HFSRB~~HFPB~~.

d) If ~~an applicant modifies an application that is not~~ a modification is not~~made~~ in conformance with and limited to the comments, recommendations or objections of HFSRB~~HFPB~~, HFSRB staff~~IDPH~~ shall:

1) have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria;~~,~~

2) hold a public hearing if requested;~~,~~ and

3) submit its findings to HFSRB~~HFPB~~ at the next regularly scheduled meeting that is at least 10 days following the completion of the HFSRB staff~~IDPH~~ review.

e) If a modification results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project cost. Section 1130.230 is applicable with respect to any additional fees required for a modified application.

f) If a modification results in the need of an additional notification of opportunity for public hearing, then an additional fee of $2,000 will be assessed.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.655 HFSRB~~HFPB~~ Consideration and Action

a) Chairman Consideration and Action

1) Applications for permit that meet all of HFSRB's review criteria and are unopposed shall be:

A) reviewed for approval by the Chairman, acting on behalf of HFSRB [20 ILCS 3960/5]; or

B) referred by the Chairman to the full Board for review and action.

2) The review and subsequent action by either the Chairman or the full Board shall take place prior to the next regularly scheduled HFSRB meeting that is at least 10 business days following the completion of the staff review of the applications.

b) HFSRB Consideration and Action
HFSRB~~HFPB~~ shall review each application for permit to determine compliance with all applicable review criteria. HFSRB~~HFPB~~ shall consider the application material, additional~~requested or supplemental~~ information, public comment and public hearing testimony, HFSRB staff~~HDPH~~ findings, and other information coming before it and take the following action:

1)~~a)~~ approve the application and issue a permit;

2)~~b)~~ issue an Intent to Deny (an initial denial of a project);

3)~~c)~~ issue an initial denial of a project and afford the applicant an opportunity for an administrative hearing;

4)~~d)~~ issue a final denial of a project subsequent to an administrative hearing or waiver of a~~such~~ hearing; or

5~~e~~) defer action on an application to a subsequent meeting. HFSRB~~HFPB~~ deferral of an application shall extend the review period, if it were to otherwise expire, until the date of the subsequent HFPB meeting.

c) HFSRB Written Decisions
HFSRB shall *issue written decisions, upon request of the applicant or an adversely affected party, to the Board within 30 days after the meeting in which the final decision has been made.* [20 ILCS 3960/12]

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.660 Approval of an Application

a) The number of affirmative votes required for approval of an application and

issuance of a permit by HFSRB~~HFPB~~ is specified in the Act. HFSRB~~HFPB~~ shall consider the application and any additional~~supplemental~~ information or modification submitted by the applicant, HFSRB staff~~IDPH~~ reports, the public hearing testimony and written comments, if any, and other information coming before it in making its determination whether to approve the project. Applications~~The applications~~ are reviewed to determine compliance with review criteria contained~~enumerated~~ in 77 Ill. Adm. Code 1110 and 1120. The failure of a project to meet one or more of the applicable review criteria~~, as set forth in 77 Ill. Adm. Code 1110 and 1120,~~ shall not prohibit the issuance of a permit. A permit is effective on the date of HFSRB~~HFPB~~ authorization.

b) HFSRB~~HFPB~~ may propose conditions to be placed upon any application for permit. Projects that are approved with conditions or stipulations shall contain the following:

1) Specified conditions that are expressly agreed to by the applicant;

2) Establishment of time frames for compliance with conditions;

3) Establishment of reporting requirements; and

4) Assurance that any change to the application for permit does not constitute a Type A modification as delineated in Section 1130.650(a) that would require a public hearing.

c) Following issuance of a permit, HFSRB shall send a permit acceptance agreement to the permit holder, specifying and consolidating all post-permit requirements necessary to maintain compliance with the permit.

d)~~e)~~ Failure to comply with any conditions within the prescribed time frames shall provide a basis to invalidate the permit, or issue conditions, fines or other penalties or sanctions mandated in the Act and HFSRB rules.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.670 Intent to Deny an Application

a) Issuance of Intent to Deny
Failure of an application for permit to receive the number of affirmative votes

required by the Act upon initial consideration by HFSRB~~HFPB~~ shall constitute an Intent to Deny the application. Subsequent to the issuance of an Intent to Deny, the applicant *will be given an opportunity to appear before* HFSRB~~*HFPB*~~ *and present such information as may be relevant to the approval of a permit* [20 ILCS 3960/10]. The date of the Intent to Deny is the date of the HFSRB~~HFPB~~ meeting when the action occurred.

b) Applicant's Response
The applicant shall notify HFSRB~~HFPB~~ in writing within 14 calendar days after issuance of an Intent to Deny and indicate whether~~if~~ the applicant intends to appear before HFSRB~~HFPB~~ and/or submit additional~~supplemental~~ information. It is the responsibility of the applicant to assure that HFSRB is in receipt of the response within 14 days after issuance of an Intent to Deny.

~~BOARD NOTE: It is the responsibility of the applicant to assure that HFPB is in receipt of the response within 14 days after issuance of an Intent to Deny.~~

c) Action Following Notice of Intent to Deny

1) If the applicant waives the right to appear before HFSRB~~HFPB~~ or if a written response is not received within 14 days after issuance of an Intent to Deny, then the application shall be considered withdrawn.

2) If the applicant indicates that no additional~~supplemental~~ information will be submitted, HFSRB~~HFPB~~ shall take action on the application at its next meeting.

3) If the applicant indicates that additional~~supplemental~~ information will~~shall~~ be submitted, the applicant shall be afforded a period of 60~~30~~ days from the date of issuance of the Intent to Deny to submit the material. Upon receipt of additional~~supplemental~~ information, HFSRB staff~~IDPH~~ shall commence a review and submit its findings to HFSRB~~HFPB~~ in accordance with the provisions of this Subpart. HFSRB staff~~IDPH~~ shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report.

~~4) Written comments submitted to IDPH from persons other than the applicant regarding a proposed project that has received an Intent to Deny are ex parte and prohibited and shall not be considered. This provision~~

~~does not apply to public hearing testimony or comments that are received pursuant to a provision in Subpart I (Public Hearing and Comment Procedures) or to comments or testimony that has been submitted in response to requests by HFPB for information to assist in consideration of the application subsequent to the Intent to Deny.~~

d) Deferrals by Applicant
A project that has received an Intent to Deny and has been scheduled for HFSRB~~HFPB~~ consideration can be deferred by the applicant. A notice of deferral may be provided in writing prior to the scheduled HFSRB~~HFPB~~ meeting or be provided verbally at the HFSRB~~HFPB~~ meeting. An applicant may not defer HFSRB~~HFPB~~ consideration beyond an HFSRB~~HFPB~~ meeting date that is more than 12~~six~~ months from the date of issuance of the Intent to Deny.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.680 Denial of an Application

a) If, subsequent to an issuance of an Intent to Deny, an application for permit fails to receive the required number of affirmative votes for approval specified in the Act, the HFSRB~~HFPB~~ vote shall constitute a denial of the application for permit.

b) If HFSRB~~HFPB~~ denies an application for permit, the decision and notice of opportunity for administrative hearing shall be transmitted to the applicant by certified mail.

c) At the conclusion of such administrative hearing, or upon default of the applicant, HFSRB~~HFPB~~ shall make its final administrative decision, specifying its findings of fact and conclusions of law. The Administrator~~Executive Secretary~~ shall transmit the decision to the applicant by certified mail.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section 1130.710 Validity of Permits

A permit is effective on the date of HFSRB~~HFPB~~ authorization.

a) A permit shall be valid until ~~such time as~~ the project has been completed, provided that:

1) obligation of the project occurs within the time frames specified in the Act unless the obligation period is extended by HFSRB~~HFPB~~ (as defined in Section 1130.730); and

2) the project commences and proceeds to completion with due diligence. The obligation period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The obligation period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit.

b) Projects shall~~must~~ proceed with due diligence and shall~~must~~ be completed (see Section1130.140) no later than the completion date approved by HFSRB~~HFPB~~. All permits for projects that are not completed in the time frames specified shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart, unless renewed by HFSRB~~HFPB~~ pursuant to Section 1130.740.

c) A permit is valid only for the defined construction or modification, equipment, site, amount, time period and persons named in the application for the permit and shall not be transferable or assignable. A change in the person who is the permit holder; a change in the membership or sponsorship of a not-for-profit corporation that is the permit holder; or the transfer, assignment, or other disposition of 10% or more of the stock or voting rights of a for-profit corporation that is the permit holder, invalidates the permit.

d) A permit shall not be bought, sold, or transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment.

e) Other events causing a permit to become invalid include:

1) Change of permit (see Section 1130.710(c));

2) Failure to submit the Expenditure Commitment or Obligation Report, which should be included with the annual progress reports;

3) Failure to submit annual progress reports to HFSRB;

4) Failure to submit Final Cost Reports to HFSRB;

5) Implementation of a prohibited alteration (see Section 1130.750(c));

6) Relinquishment of a permit without Board approval; and

7) Failure to comply with the requirements of Section 1130.660(d).

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.720 Obligation

a) Projects for construction, establishment or modification must be obligated no later than:

1) 18 months for major construction projects; or

2) 12 months for all projects that do not include major construction; or

3) The HFSRB~~HFPB~~ completion date of the permit, if it occurs before the ~~above-mentioned~~ deadlines in subsections (a)(1) and (a)(2).

b) Projects that have no cost shall be considered obligated upon HFSRB~~HFPB~~ issuance of a permit.

c) Permits for projects that have a cost and that have not been obligated as stated in this Section shall be considered expired and the project abandoned. Failure to obligate as stated shall subject the permit holder to fines pursuant to Section 1130.790(d)(1).

~~d) The permit holder of a project that has a cost shall submit a notarized verification by an authorized representative that the project has been obligated on a stated date certain; that the financial resources to fund the project are available or otherwise committed; and that the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in compliance with that which HFPB has approved. This submittal must be made within 30 days after obligation. Failure by the permit holder to report obligation in accordance with these provisions shall~~

~~subject the permit holder to the sanctions and penalties provided by the Act and this Subpart.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.730 Extension of the Obligation Period

a) HFSRB~~HFPB~~ may grant the permit holder a single extension of time to obligate the project. An extension shall be for a period of up to one year and shall commence on the previously defined obligation date.

b) The permit holder shall submit a written request for extension, along with an application processing fee, and shall provide the following documentation, as applicable:

1) for major construction projects, evidence that final working drawings have been submitted to IDPH for review or, if IDPH review is not required, evidence that final working drawings have been completed;

2) for projects that are solely for the acquisition of major medical equipment, evidence that suppliers have been solicited and cost estimates received;

3) for projects that are solely for the provision of new services, verification by the permit holder's authorized representative that necessary staff has been recruited or that an application for reimbursement, recognition, or Medicare or~~and/or~~ Medicaid certification has been sought from third party payors or certification agencies;

4) confirmatory evidence that financial resources are available to complete the project (as defined in Section 1130.140 – "Completion").

c) A request for extension must be in writing and received by HFSRB~~HFPB~~ at least 45 days prior to the defined obligation date or the permit expiration date if, based on the 12-month or 18-month requirement for obligation, the permit expiration date comes before the defined obligation date. A request for extension shall be assessed a $500 application processing fee and is subject to the requirements of Section 1130.230. A request for extension that is ~~not~~ received less than~~at least~~ 45 days prior to the permit obligation~~expiration~~ date shall be subject to an additional $500 late application processing fee. If payment has not been received within 30

days after receipt of written notice for payment, the request for extension shall be considered withdrawn.

d) HFSRB staff~~IDPH~~ shall review the request for extension and prepare a report of its findings. If the findings are that the request is in conformance with all HFSRB~~HFPB~~ criteria, HFSRB staff~~IDPH's~~ findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB~~HFPB~~, shall approve or deny the request, or refer the request to HFSRB~~HFPB~~ for action. If HFSRB staff find~~IDPH finds~~ that all criteria are not positive or if the Chairman refers this to the full Board~~HFPB~~ for action, then the matter shall be sent by HFSRB staff~~IDPH~~ to HFSRB members. HFSRB~~HFPB and HFPB~~ shall evaluate the information submitted in making its determination whether to grant the extension. Projects that continue to comply with the provisions of 77 Ill. Adm. Code 1110 and 1120 and that have shown good cause by submitting the required information for an extension request specified in subsection (b) of this Section, and for which the causes for delays are beyond the permit holder's control, shall be approved for extension. Denial by HFSRB~~HFPB~~ of an extension request shall constitute the final HFSRB~~HFPB~~ decision and is not subject to administrative appeal.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.740 Permit Renewal ~~of a Permit~~

A permit holder may request a completion date that is later than~~a change in~~ an approved project completion date by submitting to HFSRB a request~~by an application~~ for permit renewal~~of a permit~~.

a) Permit renewal~~Renewal of a permit~~ by HFSRB~~HFPB~~ must be requested~~obtained~~ prior to the required project completion date.

b) ~~Failure to complete a project or to renew a permit within the prescribed timeframes shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart. c)~~A permit renewal shall commence on the expiration date of the original permit~~or renewed completion period~~.

c)~~d)~~ The request for permit renewal shall be in writing and shall be received by HFSRB~~HFPB~~ at least 45 days prior to the expiration date of the permit~~completion period~~, and shall include the following information:

1) the requested completion date;

2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date;

3) a statement as to the reasons why the project has not been completed; and

4) confirmatory evidence by the permit holder's authorized representative that the project's costs and scope are in compliance with what HFSRB~~HFPB~~ approved and that sufficient financial resources are available to complete the project.

d~~e~~) HFSRB staff~~IDPH~~ shall review the request and prepare a report of its findings. If the findings are that the request is in conformance with all HFSRB~~HFPB~~ criteria, and if this is the first request for this project, then the request, HFSRB staff~~IDPH's~~ findings, and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB~~HFPB~~, shall approve or deny the request or refer the request to the full Board~~HFPB~~ for action. If HFSRB staff find~~IDPH finds~~ that all criteria are not positive~~ or~~, if this is not the first request for this project or, if the Chairman refers this to the full Board~~HFPB~~ for action, then HFSRB~~HFPB~~ will evaluate the information submitted to determine if the project has proceeded with due diligence (as defined in Section 1130.140). The number of affirmative votes required to approve a renewal request is specified in the Act. If a request for renewal of permit is denied, HFSRB may issue a Notice of Intent to Revoke a Permit if the project is not completed by the HFSRB-approved completion date. The~~Denial of a permit renewal request shall constitute HFPB's Notice of Intent to Revoke a permit and the~~ permit holder shall be afforded an opportunity for an administrative hearing pursuant to Subpart J.

HFSRB~~BOARD~~ NOTE: Permit revocation procedures are explained in Section 1130.780.

e~~f~~) A permit renewal request shall be assessed a $500 application processing fee and is subject to the requirements of Section 1130.230. Permit renewal requests that are not received at least 45 days prior to the expiration date of the permit~~completion period~~ shall be subject to an additional $500 late application processing fee. If payment has not been received within 30 days after receipt of

written notice from HFSRB~~for payment~~, the request for renewal shall be considered withdrawn. Any renewal request received after the completion date is subject to the fines provided in the Act (see 20 ILCS 3960/14.1).

~~g) Permit holders who have not submitted permit renewal requests at least 45 days prior to the expiration date of the completion period may also be subject to the Act's sanctions or penalties should a project not be completed and the permit completion period expires prior to HFPB approval of a renewal request. Sanctions and penalties include the denial of permit and other sanctions as stated in Section 1130.790.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.750 Alteration of Post-Permit Projects~~a Project for which a Permit Has Been Issued~~

a) Applicability
The cummulative effect of alterations to a project shall not exceed the following:

1) Any change after issuance of a permit may constitute an alteration.

2) All alterations shall be reported to HFSRB before any alteration is executed.

3) The alteration requirements are applicable only to projects with open permits (approved projects that are not yet completed).

4) Alteration provisions are valid only for the projects defined and approved in the permit.

5) A project with a permit can be altered any time between the date of permit issuance and the project completion date.

6) All alterations requiring HFSRB action shall be reviewed and approved on a cumulative basis. More than one alteration can be reviewed and approved during the life of a project; however, the limits on alterations shall be applied cumulatively for a single permit.

~~A permit is valid only for the defined construction or modification, equipment, site, amount and~~

~~persons named in the application. Any change to a project subsequent to HFPB's issuance of a permit constitutes an alteration to the project. Projects for which a permit has been issued can be altered during the time period between the permit issuance and the date of project completion. However, all proposed alterations that require HFPB review and action must be submitted to HFPB for review prior to the execution of the alteration. Some alterations must be reviewed and approved by HFPB. Other alternations are not allowable and, if undertaken, will invalidate the permit. All alterations will be reviewed and approved on a cumulative basis. A permit holder may apply for more than one alteration during the life of a project. However, the limits on alterations shall apply cumulatively to all alterations for a single permit. The cumulative effect of alterations to a project shall not exceed the requirements stated below:~~

b)~~a)~~ Allowable Alterations Requiring HFSRB Approval~~alterations that require HFPB action are:~~
The cummulative effect of alterations to a project shall not exceed the following:

1) a change in the approved number of beds or stations, provided that the change would not independently require a permit or exemption from HFSRB~~HFPB~~;

2) abandonment of an approved category of service established under the permit;

3) any increase in the square footage of the project up to 5% of the approved gross square footage;

4) any decrease in square footage greater than 5% of the project;

5) any increase in the cost of the project not to exceed 7~~5~~% of the total project cost. This alteration may exceed the capital expenditure minimum in place when the permit was issued, provided that it does not exceed 7~~5~~% of the total project cost;

6) any increase in the amount of funds to be borrowed for those permit holders that have not documented a bond rating of "A-"~~"A"~~ or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application).~~;~~

~~7) any increase in the project costs components (i.e., line item amounts) if the~~

~~increase is not in compliance with the 77 Ill. Adm. Code 1120 review criteria; or~~

~~8)~~ ~~any change that substantially changes the scope or changes the functional operation of the project, as defined in Section 1130.140.~~

c)~~b)~~ Prohibited Alterations ~~Not Allowed~~
Notwithstanding the provisions of subsection (b~~a~~)~~ of this Section~~, the following alterations are not allowed and, if incurred, invalidate the permit:

1) an increase in the total project costs that exceeds 7~~5~~% of the permit amount;

2) an increase in the project's gross square footage that exceeds 5% of the project's approved gross square footage , unless that increase is required or mandated by local, State or federal building or life safety requirements that were not in effect at the time of permit issuance;

3) any other change in the project's scope or funding that would independently require a CON permit or exemption.

~~c)~~ ~~Allowable Alterations Requiring Notice Only to HFPB~~
~~For any allowable change to the project that does not require an action of HFPB, notification must occur within 30 days after the alteration.~~

~~d)~~ ~~Allowable Alterations~~

~~1)~~ ~~All alterations must be reported. Some require Board action (those listed that require Board approval, and those that are clearly listed as "Not Allowed"). There is no specific list of allowable alterations cited, since the number of possible allowable alterations is infinite.~~

~~2)~~ ~~Allowable alterations consist of those alterations:~~

~~A)~~ ~~that must be reported and approved by the Board;~~

~~B)~~ ~~that are not included in the listing of "Not Allowed Alterations"; and~~

~~C)~~ ~~that need only to be reported.~~

d)~~e)~~ Alteration Procedures

1) Written Notification

A) The permit holder shall notify HFSRB~~HFPB~~ in writing of any alteration to a project. The notice shall include a description of the alteration and related costs (if any) and shall address all applicable review criteria related to the alteration if the alteration requires HFSRB~~HFPB~~ approval. HFSRB staff~~IDPH~~ shall review the alteration request for compliance with the review criteria and submit its findings to HFSRB~~HFPB~~. If additional information is needed by HFSRB staff~~IDPH~~ to perform a review of the request, the permit holder shall be notified.

B) All alteration requests shall be submitted to the State Board in writing on 8½ by 11" paper.

C) All alteration requests shall be submitted within the allowable time frames established in the rules, and shall be sent only via certified USPS mail, UPS (with signature required), or FedEx (with signature required).

D) Alteration requests submitted by email or fax will not be accepted.

2) Compliance with 77 Ill. Adm. Code 1110 and 1120
A request for alteration reviewed by HFSRB~~HFPB~~ is subject to the provisions of 77 Ill. Adm. Code 1110 and~~or~~ 1120 that are applicable to the individual project. The components and any other proposed alterations to a project that would, when taken as a separate component, require a permit under the Act shall not be subject to review under this Section but shall require a new application for a ~~supplemental~~ permit.

3)~~f)~~ HFSRB Staff Review
HFSRB staff~~IDPH~~ shall review the alteration request for compliance with the review criteria,~~for alteration~~ and prepare a report of its findings for HFSRB review. If additional information is needed to review the request, the permit holder will be notified.

4) Board Review and Action

A) The alteration request, HFSRB staff findings, and all related documentation shall be sent to the Chairman if:

i) staff review determines that the alteration request is in conformance with all HFSRB criteria; and

ii) this is the first alteration request for the project.

~~If the findings are that the request is in conformance with all HFPB criteria and, if this is the first request for this project, then the request, IDPH's findings, and all related documentation shall be sent to the Chairman.~~

B) The Chairman, acting on behalf of HFSRB~~HFPB~~, shall approve or deny the request or refer the request to the full Board~~HFPB~~ for consideration and action. Other conditions under which the alteration request shall be referred to the full Board for consideration and action are as follows:

i) the request is not in conformance with all HFSRB criteria;~~If IDPH finds that all criteria are not positive~~ or~~,~~

ii) the request~~if this~~ is not the first one for an alteration concerning the~~request for a particular~~ project in question.~~, or, if the Chairman refers a request to HFPB for action, then the matter shall be sent by IDPH to HFPB for consideration and action.~~

C) The number of affirmative votes required for approval of an alteration request is specified in the Act. The approval or denial of a request for alteration constitutes HFSRB's~~HFPB's~~ final administrative decision. ~~Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable.~~

5)~~g)~~ Inventory and Permit Amount Adjustments

Upon approval of a request for alteration, HFSRB~~HFPB~~ will revise the permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.

6)~~h)~~ Notification of Decision to Applicant
Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by HFSRB staff~~the Executive Secretary~~.

7)~~i)~~ Applicable Penalties
Any alteration undertaken without prior HFSRB notice or notice and~~HFPB~~ approval (when required) shall be considered a violation of the Act and/or rules and shall subject the permit or exemption holder to fines, permit revocation, ~~be subject to~~ and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790. ~~Section 1130.790.~~

8)~~j)~~ Alteration Processing Fee
A request for alteration shall be assessed an application processing fee of $1,000 or .02% of the dollar amount in excess of the approved permit amount, whichever is greater, and is subject to the requirements of Section 1130.230.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.760 Annual Progress Reports

a) Each permit holder shall submit annual progress reports to HFSRB staff~~IDPH~~ every 12 months from the permit issuance date until ~~such time as~~ the project is completed. The annual progress reports are due on~~between 30 days prior to and 30 days after~~ the anniversary date of HFSRB~~HFPB~~ approval of the permit. The~~Such~~ reports shall include:

1) current status of the project, including the percentage of the project finished, components finished and components yet to be finished, and any changes in the scope of the project and size;

2) cost incurred to date and an itemized listing of the total current estimated project costs and a comparison of those costs to the approved permit

amounts;

3) the method of financing the project and sources of funds; and

4) ~~for major construction projects, the most recent Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects, or equivalent; and5)~~the anticipated date of completion.

b) Failure to provide the required annual progress reports will result in future applications being considered incomplete by HFSRB staff~~IDPH~~ until the required reports are received.

c) Failure to timely process the required annual progress reports shall be considered a violation of the Act and shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.

d) All information submitted to HFSRB regarding annual progress reports shall be submitted on 8½ by 11" paper.

e) All information regarding annual progress reports shall be submitted within the allowable time frames established in the rules, and shall be sent only via certified USPS mail, UPS (with signature required), or FedEx (with signature required).

f) Annual reports submitted by email or fax will not be accepted.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns

~~Each permit holder shall notify HFPB within 30 days following the project completion date and provide the following supporting documentation within 90 days following the completion date:~~

a) Written Notification

1) Each permit holder shall notify HFSRB upon its project completion.

2) All information concerning project completion shall be submitted on 8½ by 11" paper.

3) All information regarding progress completion shall be submitted within the allowable time frames established in the rules, and shall be sent only via certified USPS mail, UPS (with signature required), or FedEx (with signature required).

4) No project completion reports will be accepted by email or fax.

5) The notification shall be submitted no later than 90 days following the project completion date. The permit holder shall provide the supporting documentation in subsections (b), (c) and (d) within 90 days following the notification.

b)~~a)~~ For projects with no cost, the permit holder shall~~must~~ submit a written notice to HFSRB~~HFPB~~ of the project's conclusion (e.g., initiation of a new service, discontinuation, certification of additional dialysis stations).

c)~~b)~~ For a project with a cost below the capital expenditure minimum, the permit holder shall~~must~~ submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:

1) a detailed itemization of all project costs and sources of funds;

2) an itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX of the Social Security Act;

3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project that will be submitted for reimbursement under Title XVIII or XIX;

4) certification attesting to compliance with the requirements of this Section shall~~must~~ be in the form of a notarized statement signed by an authorized representative of the permit holder; and

5) for major construction projects, the final Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects or equivalent.

d)~~c)~~ For a project with a cost above the capital expenditure minimum in place at the time of permit approval, the permit holder shall~~must~~ submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:

1) itemization of all project costs;

2) ~~an~~ itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX;

3) ~~a~~ certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project that will be submitted for reimbursement under Title XVIII or XIX;

4) certification of compliance with all terms of the permit to date, including project cost, square footage, services, etc.; certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized representative the permit holder; ~~and~~

5) the final Application and Certification for Payment for the construction contract, as per the American Institute of Architects form G702 or equivalent; and

6) for permits with a project cost equal to or greater than three times the capital expenditure minimum in place at the time of permit approval, an audited financial report of all project costs and sources of funds.

e)~~d)~~ Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete by HFSRB staff~~IDPH~~ until the required report is filed. In addition, the permit holder will be subject to fines, penalties and sanctions as mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.

f)~~e)~~ Failure to timely file the project's final realized cost report, notice of project completion, all necessary supporting documentation following the project completion, or any project cost overrun information shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790. ~~All permits for projects that are not completed in required timeframes shall constitute a basis to revoke the permit, unless renewed by HFPB (reference Section 1130.710 and 1130.740).~~

g)~~f)~~ Any amount of the final realized cost that exceeds the approval permit amount shall be considered a cost overrun without a permit unless the amount is subsequently approved by HFSRB~~HFPB~~. *Projects may deviate from the costs, fees, and expenses provided in their project cost information for the project's cost components, provided that the final total project cost does not exceed the approved permit amount* [20 ILCS 3960/5].

h)~~g)~~ Any project with a cost overrun shall not be complete until ~~such time as~~ HFSRB~~HFPB~~ determines that the project has complied with all project completion requirements, as determined by HFSRB~~is complete~~.

i)~~h)~~ Any project that is compliant with the conditions of its permit shall not be complete until HFSRB~~such time as HFPB~~ determines that the project completion requirements have been met~~is complete~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.775 Relinquishment of a Permit

The holder of an HFSRB permit may request to withdraw or abandon that permit. The request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the permit is considered null and void. Requests for relinquishment shall be considered only for permits that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the permit.

a) Relinquishment Procedure
The permit holder shall notify HFSRB in writing, prior to the abandonment or withdrawal of a project. The notice shall include:

1) A description of the permit and related costs;

2) A detailed explanation of the reasons for abandonment; and

3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.

b) HFSRB staff shall review the request for withdrawal and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chaiman, acting on behalf of HFSRB, shall approve the request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.

c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.

d) Decisions on requests for relinquishment shall be transmitted in writing to the permit holder.

e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.

f) A request for relinquishment shall be assessed an application processing fee of $1,000.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 1130.780 Revocation of a Permit

a) HFSRB shall revoke a~~A~~ permit ~~shall be revoked by HFPB~~ upon a determination~~finding~~ that a permit holder has failed to comply with the requirements of the Act and HFSRB rules~~this Part~~. This HFSRB determination to revoke a permit may be based upon, but not limited by, ~~for~~ any of the following ~~reasons~~:

1) the project for which the permit was granted has been altered without the required notice and/or approval of HFSRB~~HFPB~~;

2) the permit holder has failed to complete the project on or before the

completion date~~with due diligence~~;

3) The permit holder or applicant materially changed information or details submitted~~representations~~ in the CON application or in any written materials submitted to HFRSB;~~that served as a basis for HFPB approval of the project and issuance of a permit have been materially changed or information was submitted by the permit holder that is false or fraudulent and served as the basis and was material to the issuance of the permit or completion of the project.~~

4) The permit holder or applicant submitted false information in the CON application or in any written materials submitted to HFSRB;

5) The permit holder or applicant misrepresented information presented at a Board meeting, at an HFSRB public hearing, or in response to HFSRB or HFSRB staff inquiries;

6) The permit holder or applicant has been convicted of any of the following crimes during the previous five years. The convictions shall be verified by a certified copy of the court of conviction.

A) A felony;

B) Two or more misdemeanors involving moral turpitude;

7) The permit holder, applicant, or health care facility representative has refused to allow an inspection or survey of the health care facility by Board representatives (i.e., IDPH surveyors);

8) The facility has insufficient financial or other resources to operate the facility in accordance with the CON application or with any other information submitted to the Board;

9) The facility's license has been revoked by IDPH.

b) If HFSRB intends to revoke a permit, the permit holder shall be provided with written notification of the intent to revoke and notice of allegations. The permit holder shall be afforded an opportunity for a hearing before an administrative law judge. HFSRB may also impose other sanctions or penalties mandated in the Act

(see 20 ILCS 3960/14.1) and Section 1130.790, including fines, in addition to the revocation determination. ~~If at any time HFPB has information that a reason for revocation of a permit exists, the permit holder shall be provided written notification of the allegations and will be afforded 30 days following receipt of the notification to prepare and submit a written response to the allegations.~~

~~BOARD NOTE: It is the responsibility of the permit holder to assure that HFPB is in receipt of the written response within the 30 day prescribed time frame.~~

~~c)~~ ~~The permit holder shall be provided written notification of the date, time, and place when the allegations will be reviewed by HFPB and afforded an opportunity to appear before HFPB. If, after reviewing the allegations and the permit holder's response, if any, HFPB finds that a basis for revocation exists pursuant to subsection (a), it shall issue and transmit to the permit holder a Notice of an Intent to Revoke a permit.~~

~~d)~~ ~~The permit holder may request an administrative hearing by filing a written request with the Chairman within 30 days after receipt of the Notice of Intent to Revoke a permit.~~

~~e)~~ ~~If at the end of the 30-day period the permit holder has not responded or requested an administrative hearing, HFPB shall, at its next regularly scheduled meeting, act on the matter of the revocation of the permit. If an administrative hearing has been held, HFPB shall act on the matter of the revocation of the permit following the submission of the hearing officer's report.~~

~~f)~~ ~~If HFPB revokes a permit, the Executive Secretary shall transmit the decision to the permit holder by certified mail or shall serve it personally on the permit holder. All inventories shall be amended to indicate the elimination of the proposed project.~~

~~g)~~ ~~The decision by HFPB on the revocation of a permit constitutes its final administrative decision and shall be subject to the provisions of the Administrative Review Law.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and HFSRB~~HFPB~~ Rules

a) *Any person establishing, constructing, or modifying a health care facility or portion thereof without obtaining a required permit, or in violation of the terms of the required permit, shall not be eligible to apply for any necessary operating licenses or be eligible for payment by any State agency for services rendered in that facility or portion thereof until the required permit is obtained.* [20 ILCS 3960/13.1]~~(Section 13.1 of the Act)~~

b) *Any person acquiring major medical equipment or establishing, constructing or modifying a health care facility without a permit issued under the Act or in violation of the terms of such a permit is guilty of a business offense and may be fined up to* $25,000. [20 ILCS 3960/14]~~(Section 14 of the Act)~~

c) HFSRB~~HFPB~~ *may deny an application for permit or may revoke or take other action as permitted by the Act with regard to a permit as* HFSRB~~HFPB~~ *deems necessary, including the imposition of fines.* [20 ILCS 3960/14.1(a)]~~(Section 14.1(a) of the Act)~~

d) HFSRB~~HFPB~~ *may impose fines as specified below for the enumerated violations:*

1) *A permit holder who fails to comply with the requirements for maintaining a valid permit shall be fined an amount not to exceed 1% of the approved permit amount, plus an additional 1% of the approved permit amount for each 30-day period, or fraction thereof, that the violation continues.* [20 ILCS 3960/14.1(b)(1)] ~~(Section 14.1(b)(1) of the Act)~~

2) *A permit holder who alters the scope and size of an approved project or whose project costs exceed the allowable permit amount without first obtaining* HFSRB~~HFPB~~ *approval shall be fined an amount not to exceed the sum of:*

A) *The lesser of $25,000 or 2% of the approved permit amount; and*

B) *In those cases where the approved permit amount is exceeded by more than $1,000,000, an additional $20,000 for each $1,000,000, or fraction thereof, in excess of the approved permit amount.* [20 ILCS 3960/14.1(b)(2)]~~(Section 14.1(b)(2) of the Act)~~

3) *A person who acquires major medical equipment, or who establishes a*

category of service without first obtaining a permit or exemption, as the case might be, shall be fined an amount not to exceed $10,000 for each such acquisition or category of service established plus an additional $10,000 for each 30-day period, or fraction thereof, that the violation continues. [20 ILCS 3960/14.1(b)(3)]~~(Section 14.1(b)(3) of the Act)~~

4) *A person who constructs, modifies or establishes a health care facility without first obtaining a permit shall be fined an amount not to exceed $25,000 plus an additional $25,000 for each 30-day period, or fraction thereof, that the violation continues.* [20 ILCS 3960/14.1(b)(4)]~~(Section 14.1(b)(4) of the Act)~~

5) *A person who discontinues a health care facility or category of service without first obtaining a permit shall be fined an amount not to exceed $10,000 plus an additional $10,000 for each 30-day period, or fraction thereof, that the violation continues. Facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act, with exception of facilities operated by a county or Illinois Veterans Homes, are exempt from this permit requirement. However, facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act must comply with Section 3-423 of the Nursing Home Care Act or Section 3-423 of the MR/DD Community Care Act and must provide the Board with 30-days' written notice of its intent to close* [20 ILCS 3960/14.1(b)(5)]. ~~(Section 14.1(b)(5) of the Act)~~

6) *A person subject to* the~~*this*~~ *Act who fails to provide information requested by* HFSRB or its staff~~HFPB or IDPH~~ *within 30 days after a formal written request shall be fined an amount not to exceed $1,000, plus an additional $1,000 for each 30-day period, or fraction thereof, that the information is not received by* HFSRB or its staff~~HFPB or IDPH~~. [20 ILCS 3960/14.1(b)(6)]~~(Section 14.1(b)(6) of the Act)~~

e) If an individual or entity has failed to comply with the Act or HFSRB~~HFPB's~~ rules and has been notified by HFSRB~~HFPB~~ about an allegation of noncompliance, this shall provide a basis for HFSRB~~HFPB~~ to defer consideration of any and all applications, rulings, or advisory opinions filed before HFSRB~~HFPB~~ until the noncompliant matter is resolved.

f) Failure to pay any fine imposed under this Section within 30 days after its

imposition, or by a specified date if the default of payment extends past 30 days, shall subject the person to other sanctions permitted by the Act as HFSRB~~HFPB~~ deems appropriate.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART H: DECLARATORY RULINGS

Section 1130.810 Declaratory Rulings

HFSRB~~HFPB~~ shall render determinations on various matters relating to permits and the applicability of the statute and regulations. Requests for determination shall be made in writing. Pursuant to Section 5-150 of the Illinois Administrative Procedure Act, these~~such~~ determinations are declaratory rulings and are not subject to appeal. The following matters shall be subject to declaratory rulings by HFSRB, including~~HFPB include~~, but are not limited~~,~~ to:

a) whether a proposed project requires a permit or exemption;

b) corrections to the facility inventories utilized by HFSRB~~HFPB~~;

c) recognition that a particular service was in existence prior to permit requirements;

d) amount of fees required;

e) project classification as substantive or non-substantive; and

f) applicability of rules.

HFSRB~~BOARD~~ NOTE: Declaratory ruling requests pertaining to an application for permit or exemption during the review period may be submitted only by the applicant and by HFSRB staff~~IDPH~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

Section 1130.910 Applicability

~~a) Public Hearing on Applications for Permit and Certificates of Recognition~~

~~The Act requires that IDPH affords an opportunity for public hearing when an application for permit is declared complete (see 20 ILCS 3960/8) and with respect to the approval of or revocation of a certificate of recognition of an areawide health planning organization (see 20 ILCS 3960/9).~~

a)~~b)~~ Public Hearing on Certificates of Exemption for Change of Ownership
The Act requires that HFSRB staff~~IDPH~~ afford an opportunity for public hearing when an application for a change of ownership exemption is declared complete (see 20 ILCS 3960/8.5).

b~~c~~) Public Hearing on Proposed Rules
In addition to the requirements of the IAPA~~APA~~, HFSRB~~the State Board~~ shall adopt procedures concerning public notice and hearing on proposed rules (see 20 ILCS 3960/12).

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit

a) Notice of Review and Opportunity for Public Hearing and Comment
After an application for permit has been received and has been deemed complete or after certain types of modification have been made to a complete application (pursuant to the provisions of this Part), HFSRB~~IDPH~~ shall afford an opportunity for public hearing and written comments on the project by preparing and publishing a Notice of Review and Opportunity for Public Hearing and Comment (Notice). This Notice shall consist of at least the following elements:

1) Identification of the proposed project, including the project cost and a brief description of the project and the tentative date that the application is scheduled for HFSRB~~HFPB~~ review;

2) Identification, including the mailing address and telephone number, of the agency that is responsible for the public hearing;

3) Information regarding where a copy of the application may be viewed by the public and how copies of the application may be obtained;

4) A statement that any person has the right to request a public hearing and to submit written comments on the proposed project;

5) The date (which shall be at least 15 days from the date of publication of the Notice) by which a written request for a public hearing shall~~must~~ be received by HFSRB~~IDPH~~; and

6) All public comment regarding an application shall~~must~~ be received by HFSRB staff~~IDPH~~ no later than 20 days prior to tentatively scheduled consideration of the application by HFSRB~~HFPB~~. If that date of consideration is extended, then the public comment period will also be extended. If subsequent to HFSRB~~HFPB~~ consideration of an application, a final decision is not made (application is deferred or is issued an Intent to Deny, or is denied), then the public comment period shall be extended to the 20 days prior to the next consideration.

HFSRB~~BOARD~~ NOTE: The provisions of this subsection (a) do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing concerning an application for permit.

b) The Notice of Review and Opportunity for Public Hearing and Comment shall be forwarded promptly to the applicant by certified mail and shall be published in a newspaper of general circulation in the area or community where the project is to occur.

c) Notice to all other persons, including health care facilities and members of the general public, shall be deemed to have been given by publication of the notice in a newspaper in the area or community where the project is to occur.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.930 Notice of Public Hearing on Applications for Permit

a) Content and Distribution of Notice of Public Hearing on Application for Permit
If HFSRB staff receive~~IDPH receives~~ a request for a public hearing on a proposed project in response to the Notice of Review and Opportunity for Public Hearing or Comment within the time frame established in the notice, HFSRB staff~~IDPH~~ shall schedule a public hearing on the proposed project and prepare and publish a

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Notice of Public Hearing. The ~~content of the~~ Notice of Public Hearing shall consist of at least the following:

1) Identification of the subject to be heard;

2) Identification of the law under which the subject~~it~~ is being heard;

3) Identification of the agency conducting the hearing;

4) Announcement of the time, date and location of the hearing;

5) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the project; and

6) Announcement that allegations or assertions should be relevant to the need for the proposed project and be supported with two copies of documentation or materials that are preferably printed or typed on 8½ by 11" paper ~~size 8 1/2" by 11"~~.

~~b)~~ ~~*Notice of such hearing shall be made promptly by certified mail to the applicant, and within 10 days prior to the hearing, by publication in a newspaper of general circulation in the area or community to be affected* [20 ILCS 3960/8].~~

b)~~c)~~ Notice to all other persons, including members of the general public, who are to be served by the proposed project shall be deemed to have been given by publication of the Notice of Public Hearing in a newspaper in the area or community where the project is to occur.

HFSRB~~BOARD~~ NOTE: If the applicant or other person requests a public hearing on a proposed project after an application for permit has been submitted but prior to the application being deemed complete or after a modification that requires an opportunity for a public hearing (pursuant to the provisions of this Part) is received, HFSRB staff~~IDPH~~ shall not provide a Notice of Review and Opportunity for Public Hearing or Comment but shall, at the time the application is deemed complete or the modification is received, schedule a public hearing and prepare and publish a Notice of Public Hearing.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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Section 1130.940 Procedures for Public Hearing on Applications for Permit

Procedures for public hearing shall include at least the following:

~~a)~~ ~~The hearing shall *be conducted in the area or community where the proposed establishment, construction, or modification of a health care facility is to occur* [20 ILCS 3960/8];~~

a)~~b)~~ A place of reasonable size and accessibility shall be provided;

b)~~c)~~ A hearing officer or officers with shall conduct the hearing and take all necessary steps to assure the hearing's proper completion;

~~d)~~ ~~*All interested persons attending such hearing shall be given reasonable opportunity to present their views or arguments in writing or orally.* [20 ILCS 3960/8] Any person shall have the right to be represented by counsel;~~

c)~~e)~~ The hearing officer shall have the authority to require the swearing in of persons presenting testimony and to determine the order in which testimony is taken and the time to be allocated for each person to testify;

d)~~f)~~ The hearing officer shall maintain order and may set and announce new hearing dates, times and places. The hearing officer's verbal announcement shall, for this purpose, constitute public notice;

e)~~g)~~ The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcript need not be made, however, unless required by law and paid for by the requesting party;

f)~~h)~~ The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his or her custody; and

g)~~i)~~ The hearing officer shall, within a reasonable time, submit a public hearing report that shall include all exhibits and documents to HFSRB staff~~IDPH~~ for submission to HFSRB~~HFPB~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

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Section 1130.950 Written Comments on Applications for Permit

a) Provision for and Types of Written Comments

1) Written comments regarding an application and any supplemental information pertaining to an application shall~~must~~ be submitted in accordance with the Notice of Review requirements of this Subpart, in accordance with public hearing requirements established at the direction of the hearing officer, or in accordance with requirements for additional testimony established as a request from and at the direction of HFSRB~~HFPB~~.

2) Persons who have previously participated in any public hearings or submitted written comments related to a project shall not repeat previously submitted comments.

b) Submission of Comments

1) Written comments are to be submitted to HFSRB or its Administrator~~HFPB or the Executive Secretary~~ at:

Illinois Health Facilities and Services Review~~Planning~~ Board
~~Illinois Department of Public Health~~
525 West Jefferson St., 2nd Floor
Springfield IL 62761

2) Those written comments that have been addressed and submitted as described in this subsection will be included as part of the public record, provided that such comments have been received within the prescribed time frame and in accord with the requirements of this Subpart. Persons submitting comments are responsible for assuring that the Board's staff ~~at IDPH~~ receive the comments within the prescribed time frame. No person shall knowingly provide ex parte comment to any HFSRB~~HFPB~~ member or staff in contravention of Section 1130.630(d).

c) Format of Comments

1) Written comments shall~~must~~ contain a signature and the name and address of the person submitting the comments. Written comments shall~~, other than those submitted electronically, must~~ be on 8½ by 11"paper ~~and not exceed a width of 8½" and a length of 11"~~.

2) All written comments shall be submitted within the allowable time frames established in the rules, and shall be sent only via certified USPS mail, UPS (with signature required), or FedEx (with signature required).

3) Written comments submitted by email or fax will not be accepted.

d) Forwarding of Comments to HFSRB~~HFPB~~ and to Applicant
All written comments that are received within the specified time frame will be forwarded by HFSRB staff~~IDPH~~ to HFSRB members~~HFPB~~ and to the applicant in advance of the HFSRB~~HFPB~~ meeting date.

e) Ex Parte Comments
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFSRB~~HFPB~~ or to the applicant.

f) Validity of Comments

1) Written comments filed with HFSRB or oral statements made under oath to HFSRB under any Board matter that are subsequently found to be false or inaccurate will serve as a basis for an HFSRB investigation of the matter.

2) HFSRB may require the person who made the false or inaccurate comments or statements to appear before the Board. HFSRB may censure that person. Further, HFSRB may determine that person to be ineligible to provide written comments or oral statements concerning any future Board considerations.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.960 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)

~~a) Scheduling of Public Hearing~~

~~Upon receipt of an application for a certificate of recognition (or in the case of proposed revocation of a certificate of recognition) of an areawide health planning organization for health facilities planning made to HFPB, *IDPH shall conduct a public hearing within a reasonable period after receipt of the application, not to exceed 90 days.* (See 20 ILCS 3960/9.)~~

~~b)~~ ~~Content and Distribution of Notice of Public Hearing on Application for Certificate of Recognition (or Revocation of Recognition)~~
~~In addition to scheduling the public hearing, IDPH shall also prepare a Notice of Public Hearing and provide for distribution of the notice in accordance with the requirements of the Notice of Public Hearing for Applications for Permit as specified in this Subpart. (See 20 ILCS 3960/9.)~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1130.970 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)

~~The procedures for public hearing concerning an application for certificate of recognition or for the revocation of recognition shall be in accordance with the requirements of the Procedures for Public Hearing for Applications for Permit as specified in this Subpart.~~

(Source: Rpealed at 36 Ill. Reg. _____, effective _____)

Section 1130.990 Procedures for Public Hearing and Comment on Proposed Rules

All proposed rulemaking is subject to the provisions of the ~~Illinois Administrative Procedure Act (~~IAPA~~)~~. HFSRB~~HFPB~~ shall conduct public hearings on all proposed rules and provide notice of public hearings as part of the IAPA first notice requirements. Written comments should be submitted in accordance with the first notice requirements published in the Illinois Register.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.995 Procedures for Public Comment on All Other Matters

Public comment is permitted for all other matters subject to HFSRB~~HFPB~~ proceedings that are not specified above (e.g., requests for alterations, renewals, extensions, declaratory rulings). Public comment shall identify the subject matter and be in conformance with the following:

a) Persons who have previously participated in any public hearings or submitted written comments related to a project shall not repeat previously submitted comments.

b)~~a)~~ All public comment shall~~must~~ be received by HFSRB staff~~IDPH~~ no later than 20 days prior to tentatively scheduled consideration of the matter by HFSRB~~HFPB~~. If that date of consideration is extended, then the public comment period will also be extended.

c)~~b)~~ Comments shall be in writing. Written comments are to be submitted to HFSRB staff~~IDPH~~. Only those written comments that have been addressed or submitted to HFSRB or its Administrator~~HFPB or Executive Secretary~~ and received at HFSRB~~HFPB~~ headquarters shall be included as part of the public record, provided that such comments have been received within the prescribed time frame and are in accord with the requirements of this Subpart. Persons submitting comments are responsible for assuring that HFSRB staff receive~~IDPH receives~~ the comments within the prescribed time frame. In addition, persons providing comments to HFSRB~~HFPB~~ are responsible to assure that any submission is not in violation of the ex parte provisions of the Act.

d)~~c)~~ Written comments shall~~must~~ contain a signature and the name and address of the person submitting the comments. Written comments shall~~, other than those submitted electronically, must~~ be on 8½ by 11" paper~~ and not exceed a width of 8½" and a length of 11"~~.

e) All written comments shall be submitted within the allowable time frames established in the rules, and shall be sent only via certified USPS mail, UPS (with signature required), or FedEx (with signature required).

f) Written comments that are submitted by fax or email will not be accepted.

g)~~e)~~ Ex Parte Comments
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFSRB~~HFPB~~ or to the applicant and shall not be considered in making a determination.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

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Section 1130.1010 The Right to an Administrative Hearing and Applicable Rules

a) This Subpart of practice and procedures for administrative hearings is promulgated pursuant to Section 5-10(a)(i) and Article 10 of the IAPA and Sections 10 and 11 of the Illinois Health Facilities Planning Act.

b) A person whose application for permit, a renewal of a permit, or a certificate of recognition is denied or whose permit or certificate of recognition is revoked by HFSRB shall be afforded an opportunity for a hearing before a hearing officer.~~A *person whose application for permit, a renewal thereof, or a certificate of recognition is denied or whose permit or certificate of recognition is revoked by the Illinois Health Facilities Planning Board shall be afforded an opportunity for a hearing before a hearing officer.* [20 ILCS 3960/10]~~ These~~Such~~ hearings shall be governed by this Part.

c) Administrative hearings in contested cases as defined by the IAPA shall be governed by this Part.

d) In case of a conflict between the provisions of this Part and the IAPA, the provisions of the IAPA shall apply. Provisions of the IAPA that relate to contested cases shall apply to all hearings.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1020 Initiation of a Contested Case (Pleadings)

a) In contested cases, in which~~where~~ HFSRB is required to~~HFPB shall~~ serve on the respondent a Notice of Opportunity for an Administrative Hearing, that notice shall contain:

1) *a statement of the nature of the* action;

2) *a statement of the legal authority and jurisdiction under which the* action *is being* initiated;

3) *a reference to the particular Sections of the statutes and/or rules involved;*

4) allegations of noncompliance;

5) a statement of the procedure for requesting an administrative hearing ~~(Section 10-25 of the IAPA)~~, including a date by which the request must be received by HFSRB~~HFPB~~, which must be set at least 10 days after the notice is mailed or personally served;

6) *except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or reference number.* [5 ILCS 100/10-25]~~(Section 10-25 of the IAPA)~~

b) A person who receives a Notice of an Opportunity for an Administrative Hearing shall~~must~~ submit a written request for a hearing to HFSRB~~HFPB~~. The request shall~~is to~~ be sent to HFSRB~~HFPB~~ at the address stated in the notice and shall~~must~~ be received by the date set forth in the notice. Failure to comply with this Section shall constitute a waiver of the person's right to an administrative hearing.

c) Upon receipt of a timely request for hearing, HFSRB~~HFPB~~ shall issue a Notice of Hearing or Prehearing Conference. *The notice of hearing or prehearing conference shall contain:*

1) *a statement of the nature of the hearing;*

2) *a statement of the time and place* that *the hearing or* prehearing conference will be held;

3) *a statement of the legal authority and jurisdiction under which the hearing is to be held;* and

4) *the names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law.* [5 ILCS 100/10-25] ~~(Section 10-25 of the IAPA)~~

d) Amendments to the pleadings may be allowed upon proper motion at any time during the pendency of the proceedings on such terms as shall be just and reasonable.

e) All written documents provided for under this Section shall be liberally construed with a view toward doing substantial justice between the parties.

f) Venue shall be the location designated in the Notice of Administrative Hearing. Venue may be moved to another location upon stipulation by all parties or upon a showing to and a finding by the administrative law judge that exceptional circumstances, including but not limited to age, infirmity or inability to travel, exist that make it desirable, in the interest of justice, to allow a change of venue.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1030 Waiver of Hearing

An applicant's right to an administrative hearing on an application denied by HFSRB~~HFPB~~ pursuant to Section 10 of the Act shall be waived by the submission of a modified application for permit for the project that was the subject of the application that was denied. Any pending administrative hearing on an application for permit shall be dismissed by the administrative law judge upon the showing that a modified application was submitted by the applicant and the matter was referred to HFSRB~~HFPB~~. The waiver of a right to an administrative hearing on a denied application does not waive the right to an administrative hearing on the denial of the modified application.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1040 Parties to Hearings

a) The parties to proceedings before HFSRB~~HFPB~~ are complainants, applicants, respondents, and intervenors.

b) HFSRB~~HFPB~~ shall be deemed a complainant in any proceedings initiated by its own action.

c) An applicant is the person required by the Act to obtain a permit from HFSRB~~HFPB~~ who files an application with HFSRB~~HFPB~~.

d) A respondent is a party other than an applicant against whom a complaint or petition is filed.

e) Intervenors are "adversely affected persons" and are granted the right to be parties to proceedings before HFSRB~~HFPB~~. These~~Such~~ persons are defined as:

1) the areawide health planning organization for the health service area in which the proposed project is to be located;

2) areawide health planning organizations serving contiguous health service areas or located within the same Standard Metropolitan Statistical Area (SMSA);

3) any person residing within the geographic area served or to be served by the applicant;

4) any person who regularly uses health care facilities within that geographic area;

5) health care facilities and HMOs located in the health service area in which the project is proposed to be located that provide services similar to the services of the applicant;

6) health care facilities and HMOs that, prior to receipt by HFSRB staff~~IDPH~~ of the application being reviewed, have formally indicated an intention to provide similar services in the future;

7) third party payers who reimburse health care facilities for services in the health service area in which the proposed project is to be located;

8) any agency that establishes rates for health care facilities or HMOs located in the health service area in which the project is proposed to be located; and

9) IDPH.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1060 Prehearing Conferences

a) A prehearing conference may be scheduled by the administrative law judge or HFSRB~~HFPB~~ at their discretion or as a result of a request pursuant to subsection

(b) of this Section. This conference shall be held prior to the date of hearing and shall be for the purpose of considering:

1) the simplification of the issues;

2) amendments to the pleadings;

3) the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;

4) the limitation of the number of expert witness; and

5) any other matters that may aid in the disposition of the hearing.

b) In any proceedings under this Section in which HFSRB~~HFPB~~ has not scheduled a prehearing conference, any party to the proceedings may request the scheduling of a prehearing conference. The request shall~~must~~ be made in writing and received by the administrative law judge at least five days prior to the scheduled date of hearing. The requesting party shall serve all other parties to the proceedings with a copy of the request.

c) Upon the receipt of a request for a prehearing conference in accordance with subsection (b) of this Section, the administrative law judge shall schedule the prehearing conference and notify all parties of the date, time and place of the conference.

d) After a prehearing conference, the administrative law judge shall make a report that recites any action taken by the administrative law judge and any agreements made by the parties as to any of the matters considered.

e) Any party may request additional prehearing conferences. The administrative law judge, in his or her discretion, may deny or grant the request.

f) A certified stenographic reporter (court reporter) may not be present at a prehearing conference unless one of the parties to the proceeding or the administrative law judge requests a court reporter to be present. The request shall~~must~~ be received by HFSRB~~HFPB~~ at least two working days in advance of the scheduled prehearing conference. The party, other than the administrative law

judge or HFSRB~~HFPB~~, requesting the presence of the court report shall be billed directly for the attendance fee of the reporter.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1080 Disqualification of Administrative Law Judge

Prior to commencement of a hearing, a party may file a written motion to disqualify the administrative law judge supported by an affidavit setting forth the facts upon which the motion is made. The administrative law judge who is the subject of a motion to disqualify shall review the motion and affidavit and shall issue his or her report to HFSRB~~HFPB~~. The report shall include a proposed ruling on the motion and the reasons for the ruling. If HFSRB~~HFPB~~ determines that bias or a conflict of interest exists, it shall grant the motion and the Director of IDPH shall appoint a new administrative law judge within 30 days after HFSRB's~~HFPB's~~ determination. *An adverse ruling, in and of itself, shall not constitute bias or conflict of interest* [5 ILCS 100/10-30]~~(Section 10-30 of the IAPA)~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1090 Form of Papers

a) All papers filed in any proceeding, except exhibits, shall be typewritten or printed. If typewritten, the impression shall be on one side of the paper; long quotations shall be single spaced and indented. Mimeographed~~Mimiographed~~, multigraphed, hectographed and~~,~~ photocopied~~photostated~~ papers, and the like, will be accepted as typewritten.

b) All papers, except exhibits, shall be cut or folded so as not to exceed a width of 8½" and a length of 14" and shall have inside margins not less than one inch wide. Whenever practical, all exhibits of a documentary character shall conform to these requirements.

c) All pleadings, written motions, or notices filed in the administrative proceeding shall be signed in ink by the party filing the paper or by an officer or agent or an attorney representing the officer or agent.

d) Pleadings, written motions, notices, and applications shall contain the address of the party filing the paper or, if represented by an attorney, the name and business address of such attorney.

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(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1110 Conduct of Hearings

a) All hearings conducted in any proceedings shall be open to the public.

b) Hearings shall commence and proceed with due diligence.

c) Hearings will be conducted by an administrative law judge, appointed by the Director of IDPH.

d) The administrative law judge shall conduct hearings; administer oaths; issue subpoenas; regulate the course of hearings; hold informal conferences for the settlement, simplification, or definition of issues; dispose of procedural requests, motions, and similar matters; continue the hearing from time to time when necessary; examine witnesses; and rule upon the admissibility of evidence and amendments to pleadings.

e) In a hearing to consider the denial of a permit or certificate of recognition, the applicant shall have the burden of establishing that the proposed project or application for certificate of recognition, as the case may be, for which application for permit or recognition is made is consistent with the standards, criteria, or plans adopted by HFSRB~~HFPB~~ upon which the finding and decision of HFSRB were~~HFPB was~~ made; only ~~such~~ testimony and evidence as are~~is~~ relevant shall be offered or accepted.

f) All parties to an administrative hearing shall have the right to give testimony, produce evidence, cross-examine adverse witnesses and present arguments relevant to the question of consistency and conformity of the proposed project with the adopted standards, criteria or plans upon which the finding and decision of HFSRB were~~HFPB was~~ made.

g) The administrative law judge shall direct all parties to enter their appearances on the record.

h) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Unless

precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

i) At any stage of the hearing, or after all parties have completed the presentation of their evidence, HFSRB~~HFPB~~ or its administrative law judge may call upon any party or the technical staff of HFSRB~~IDPH~~ or other departments of State government or State Universities for further material or relevant evidence upon any issue. All parties at interest shall be afforded the right to present further evidence or material, or contradict the evidence or material presented, as per the provisions of the IAPA.

j) The rules of evidence and privilege as applied in civil cases in the Circuit Court of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Immaterial, irrelevant, unduly repetitious material shall be excluded. All admissible evidence shall be considered in accordance with its relative probative value in formulating the final decision of HFSRB~~HFPB~~ and also in formulating the findings of fact and conclusions of law (if any) that support the decision. A copy of the whole or any part of an admissible book, record, paper, or memorandum of HFSRB staff~~IDPH~~ that is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy of such copy. When any material or relevant matter offered in evidence by any party is contained~~embraced~~ in a book, paper, or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter~~ so offered~~. If, in the judgment of the administrative law judge, the~~such~~ immaterial or irrelevant matter would unnecessarily encumber the record, the~~such~~ book, paper, or document will not be received in evidence as a whole, but the material or relevant portions~~ thereof~~, if otherwise admissible, may be read into the record or entered as an exhibit. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

k) Official notice may be taken of matters of which Circuit Courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within HFSRB's~~HFPB's~~ specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest

the material so noticed. HFSRB'sHFPB's experience, technical competence and specialized knowledge may be used in the evaluation of evidence.

l) HFSRB's legal counsel and/or the AdministratorThe Executive Secretary and/or HFPB's legal counsel will arrange for a certified stenographic reporter (court reporter) to make a stenographic record of the hearings in all administrative hearings under this Part. Any persons may make arrangements to obtain a copy of the stenographic record from the reporter.

m) Suggested corrections to the transcript of record may be offered within 10 days after the transcript is filed in the proceedings, unless the Director of IDPH or the administrative law judge permits suggested corrections to be offered thereafter. Suggested corrections shall be served upon or brought to the attention of such party whose appearance is of record or his/her attorney, the official reporter, and the administrative law judge. If suggested corrections are not objected to, the administrative law judge will direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the administrative law judge, who shall then determine the manner in which the record shall be changed, if at all.

n) Written opening arguments and written closing arguments shall not be permitted unless all parties so stipulate.

o) Absent a showing of good cause, no document shall be offered into evidence that was not disclosed in accordance with the requirements in Section 1130.1120, and no witness shall testify whose name was not provided pursuant to Section 1130.1120. For purposes of this subsection, a showing of good cause shall mean that a party, through no fault of its own, did not have knowledge of a document to be offered into evidence or the name of a witness within the time frame necessary for compliance with Section 1130.1120.

p) If a party, or any person at the insistence of or in collusion with a party, violates any ruling of the administrative law judge, the administrative law judge, on motion, may enter such orders as are just, including, among others, the following:

1) that further proceedings be stayed until the order or rule is complied with;

2) that the offending party be barred from filing any other pleadings relating to any issue to which the refusal or failure relates;

3) that he or she be barred from maintaining any particular claim or defense relating to that issue;

4) that a witness be barred from testifying concerning that issue;

5) that, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that his or her pleading be dismissed without prejudice; or

6) that any portion of his or her pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to the issue.

q) At any time, the administrative law judge may order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or otherwise engaging in conduct that disrupts the hearing.

r) At the request of any party, the administrative law judge may exclude all witnesses from the hearing room, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1120 Discovery

a) Prior to hearing or at the prehearing conference, HFSRB~~HFPB~~ shall provide all parties with a copy of HFSRB's~~HFPB's~~ reports relating to the Allegations of Noncompliance.

b) At least 21 days prior to the commencement of the hearing, each party shall provide all other parties with a copy of any document that it intends to offer into evidence. This subsection shall not require any party to again provide copies of those documents already provided by HFSRB~~HFPB~~ under subsection (a).

c) At least 21 days prior to the commencement of the hearing, each party shall provide all other parties with a list containing the name and address of any witness who may be called to testify.

d) All parties shall be entitled to any exculpatory evidence in HFSRB's~~the HFPB's~~ possession that tends to support the other party's position or that might impeach the credibility of HFSRB's~~HFPB's~~ witness.

e) Upon a written request by HFSRB~~HFPB~~, at any time after a notice or hearing request is filed, or at any stage of the hearing, the other parties shall be required to produce within seven days documents, books, records, or other evidence that relates directly to conduct of the business entity or other subject of the administrative hearing.

f) All parties shall be under a continuing obligation to promptly update requested discovery until the hearing is concluded without the necessity for further or additional requests.

g) There shall be no depositions for discovery purposes or interrogatories allowed in any proceedings brought pursuant to this Part, except as agreed to by the parties.

h) For good cause shown, including but not limited to age, infirmity, or inability to travel, evidentiary depositions shall be allowed, by the agreement of the parties or order of the administrative law judge.

i) Requests to Admit Facts and Genuineness of Documents shall be allowed in accordance with Supreme Court Rule 216.

j) Nothing contained in this Section shall preclude the parties from agreeing to the voluntary exchange of more information than is required.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1130 Motions

a) Motions, unless made during a hearing or pre-hearing, shall be made in writing and shall set forth the relief or order sought and the legal authority for the action requested. Except as otherwise provided in this Part or by a specific statute, motions may seek any relief or order recognized in the Illinois Code of Civil Procedure and Rules of the Illinois Supreme Court, and shall include a reference to the applicable Section of such Code or Rules. Motions based on a matter that does not appear of record shall be supported by affidavit.

b) Written motions shall be titled as to the party making the motion and the nature of the relief sought. The title shall be in capital letters and shall be placed either below the caption or to the right of the caption beneath the docket number. No motion shall be identically titled with any other motion. Examples of properly titled motions: Respondent's Motion to Dismiss, Respondent's Second Motion to Dismiss.

c) Motions to the pleadings if not raised at the earliest opportunity shall be deemed waived. Motions to the pleadings shall not be granted if the pleadings are in conformity with Section 1130.1020.

d) The administrative law judge shall not have the authority to dismiss, postpone, vacate, or overturn an order or notice issued by HFSRB~~HFPB~~, but may make a recommendation to HFSRB~~HFPB~~ any time that circumstances merit such a recommendation.

e) Motions for a continuance shall be granted only for good cause shown. Motions for a continuance shall be in writing and filed at least 5 working days prior to the hearing. Motions for a continuance shall be made immediately when the party learns that a continuance is needed and statements as to when the party learned that a continuance was needed, steps that were taken to avoid the continuance, and the current reasons the continuance is needed shall be contained in the motion. After one continuance has been granted to a party additional continuances may be granted to that party only if:

1) a hearing on the issue of whether or not to grant the continuance has been held and the administrative law judge finds that the moving party has presented sufficient evidence showing entitlement to another continuance;

2) there is an emergency; or

3) all parties so stipulate.

f) Whenever possible, as much of the hearing as possible shall be completed and only those matters that must be continued shall be continued.

g) If there is an unforeseen emergency, motions for a continuance may be made by telephone rather than in writing. Motions by telephone shall be made through a

conference call involving the administrative law judge and all parties and shall be confirmed within three business days by the filing of a written motion.

h) Responses shall be in writing unless made at a prehearing conference or a hearing.

i) Demands for a Bill of Particulars shall not be allowed.

j) All motions under this Section shall be filed with the administrative law judge.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1140 Subpoenas

a) Subpoenas requiring the attendance and the giving of testimony by witnesses and subpoenas duces tecum requiring the production of books, papers, records or memoranda may be issued by HFSRB~~HFPB~~ or the administrative law judge upon its own motion or upon the written request of any party to the proceeding. HFSRB~~HFPB~~ or the administrative law judge may require the party requesting the issuance of subpoenas to demonstrate the relevancy of the request to the issues in the hearing. For good cause shown, HFSRB~~HFPB~~ or the administrative law judge may deny or modify the request for subpoenas.

b) Subpoenas issued by HFSRB~~HFPB~~ or the administrative law judge upon the request of a party to the proceeding shall be delivered to the requesting party who shall be responsible for serving the subpoenas. Subpoenas shall be served personally or by certified mail.

c) The witness fee for attendance and travel shall be the same as the fee of the witness before the Circuit Courts of this State. When a witness is subpoenaed by HFSRB~~HFPB~~ or hearing officer upon its own motion or upon the request of HFSRB staff~~IDPH~~, the witness fee shall be paid in the same manner as other expenses of the agency.

d) Subpoenas shall be enforced in the same manner as subpoenas issued by the Circuit Courts of this State.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1150 Administrative Law Judge's Report and Final Decision

a) At the conclusion of a hearing, the administrative law judge shall make a written report of the hearing, with ~~his~~ findings of fact and conclusions of law and his or her recommendations, if any, to HFSRB~~HFPB~~ through the HFSRB Administrator. The~~Executive Secretary which~~ report shall be accompanied by a transcript of the record, all exhibits admitted into evidence, copies of all pleadings and documents or evidence made a part of the record and any other material that is deemed to be a part of the record.

b) The administrative law judge shall render a report as promptly as possible. Except in unusual cases and for cause shown, the report should be made within 30 working days following the date the hearing is closed.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1160 Proposal for Decision

a) When a majority of the members of HFSRB~~HFPB~~ who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than HFSRB~~HFPB~~, shall not be made final until a written proposal for decision is served upon the parties by certified mail and the provision of this Section complied with.

b) The proposal for decision shall be written by the administrative law judge. The Proposal for Decision shall:

1) indicate the proposed order;

2) contain a statement of the reasons for the proposed decision;

3) contain a statement of each issue of fact or law necessary to the proposed decision; and

4) indicate the time in which the adversely affected parties have to file written exceptions and a brief.

c) A party adversely affected by a proposal for decision shall within 10 days after~~of~~ receipt of the proposed finding submit in writing a notice of an intent to file

exceptions and a written brief. Failure to file such notice within this time limit shall constitute a waiver of the right to file exceptions and a brief.

d) There shall be no right to oral arguments before HFSRB~~HFPB~~ on proposed decisions.

e) Written exceptions and brief are to be submitted within 30 days after receipt of the proposed decision. HFSRB~~HFPB~~ may in its discretion, upon the showing of good cause by a party, grant additional time for the submission of the exception and brief if the request for the additional time~~such~~ is made prior to the time for submission of the written exceptions and brief.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1170 Final Decision

a) On the basis of the hearing or upon default of the party to the hearing, HFSRB~~HFPB~~ shall make its final decision in each case, supported by concise written findings of fact and appropriate conclusions of law. The decision and supporting findings of fact and conclusions of law shall be made a part of the official record of each hearing.

b) A copy of HFSRB's~~HFPB's~~ decision shall be sent by Certified Mail or personally served upon all the parties.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1180 Records of Proceedings

a) A full and complete record shall be kept of all proceedings. The record shall consist of the following:

1) all pleadings (including all notices and responses to pleadings), motions, and rulings;

2) a transcript of the hearing, if any, and all evidence received;

3) a statement of matters officially noticed;

4) offers of proof, objections and rulings on those matters;

5) proposed findings and exceptions;

6) any decision, opinion or report by the administrative law judge;

7) all staff memoranda or data submitted to the administrative law judge or members of the agency in connection with their consideration of the case; and

8) any communication determined to be ex parte, but such communications shall not form the basis for any finding of fact. (See 20 ILCS 3960/4.2.)

b) HFSRB~~HFPB~~ shall be the official custodian of all papers and documents filed in proceedings before HFSRB~~HFPB~~.

c) The records of administrative proceedings, including the transcript, are public records and shall be open to reasonable public inspection at the offices of HFSRB~~HFPB~~. The administrative law judge reports shall be available for public inspection after it has been delivered to HFSRB~~HFPB~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1130.1200 ~~Number of~~ Copies of Pleadings to be Filed

Under this Part, the parties shall file answers, amendments, motions, and affidavits in support of Motions, together with proof of service on all parties to the proceedings or their attorneys.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

HEALTH INFORMATION EXCHANGE AUTHORITY

NOTICE OF PROPOSED RULE

1) Heading of the Part: Provision for Protection of Public Aid Applicants and Recipients

2) Code Citation: 77 Ill. Adm. Code 4000

3) Section Number: 4000.100 Proposed Action: New

4) Statutory Authority: Implementing Section 11-10 of the Illinois Public Aid Code [305 ILCS 5/11-10] and authorized by Section 20 of the Illinois Health Information Exchange and Technology Act [20 ILCS 3860/20.2, 20.3].

5) A Complete Description of the Subjects and Issues Involved: Under the Intergovernmental Agreement between the Office of Health Information Technology (OHIT) and the Department of Healthcare and Family Services (HFS), providing OHIT with receipt of HFS data in connection with the implementation of the Illinois Health Information Exchange (ILHIE), the OHIT Authority is obligated under the Illinois Public Aid Code 305 ILCS 11-9 through 11-12 to adopt regulations to protect against prohibited disclosures of public aid applicant and recipient information.

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 proposed rule contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Illinois Health Information Exchange Authority will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Comments should be addressed to:

HEALTH INFORMATION EXCHANGE AUTHORITY

NOTICE OF PROPOSED RULE

Mark Chudzinski
General Counsel
Illinois Health Information Exchange Authority
JRTC 100 W. Randolph, Suite 2-201
Chicago, Illinois 60601

312/814-1600

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 2 most recent agendas because the rule was not anticipated at the time of the Regulatory Agendas were published.

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

HEALTH INFORMATION EXCHANGE AUTHORITY

NOTICE OF PROPOSED RULE

TITLE 77: PUBLIC HEALTH
CHAPTER LXVI: HEALTH INFORMATION EXCHANGE AUTHORITY

PART 4000
PROVISION FOR PROTECTION OF PUBLIC AID APPLICANTS AND RECIPIENTS

Section
4000.100 Provision for Protection of Public Aid Applicants and Recipients

AUTHORITY: Implementing Section 11-10 of the Illinois Public Aid Code [305 ILCS 5/11-10] and authorized by Section 20 of the Illinois Health Information Exchange and Technology Act [20 ILCS 3860/20.2 and 20.3].

SOURCE: Adopted at 36 Ill. Reg. _____, effective _____.

Section 4000.100 Provision for Protection of Public Aid Applicants and Recipients

Under the Intergovernmental Agreement between the Office of Health Information Technology (OHIT) and the Department of Health and Family Services (HFS), providing OHIT with receipt of HFS data in connection with the implementation of the Illinois Health Information Exchange (ILHIE), the Illinois Health Information Exchange Authority (Authority) is obligated under the Illinois Public Aid Code [305 ILCS 5/11-9 through 11-12] to adopt regulations to protect against prohibited disclosures of public aid applicant and recipient information.

a) The release of information regarding public aid applicants and recipients shall be governed by Sections 11-9, 11-10 and 11-12 of the Illinois Public Aid Code. For the protection of applicants and recipients, the following classes of individuals and entities are prohibited from disclosing any information about a recipient or public aid record, except for purposes directly related to the administration of the assistance programs:

1) OHIT's employees;

2) OHIT's corporate affiliates and their employees; and

3) OHIT's subcontractors and their employees.

b) The following shall be considered as included in the administration of the programs:

1) The establishment of an individual's initial or continuing eligibility for public assistance;

2) The establishment or the extent of an individual's need for financial assistance, medical assistance or other services; and

3) The establishment of procedures assuring the health and safety of the applicant or recipient consistent with and in furtherance of the duties and powers of the Authority pursuant to 20 ILCS 3860/30 (Participation in health information systems maintained by State agencies).

c) Use of information for commercial, personal or political purposes is specifically prohibited.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Aid to the Aged, Blind or Disabled

2) Code Citation: 89 Ill. Adm. Code 113

3)

Section Numbers:	Proposed Action:
113.253	Amendment
113.260	Amendment

4) Statutory Authority: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13]

5) A Complete Description of the Subjects and Issues involved: A grant adjustment is an allowance for the Aged, Blind or Disabled cases that ensures that the amount of the Supplemental Security Income (SSI) increase from July 1977 and later will be available to clients. To comply with federal regulations at 20 CFR 416.2096, this rulemaking increases the grant adjustment and sheltered care/personal or nursing care rate amounts by the amount of the increase in Social Security and SSI benefits. In order to maintain the benefit levels, these changes increase the AABD Grant Adjustment Allowance and Sheltered Care/Personal or Nursing Care rates by $24, the amount of the January 2012 SSA/SSI benefit increase.

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 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 this rulemaking within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

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: Businesses that provide sheltered care services.

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 regulatory agendas because: it was not anticipated by the Department with the two most recent regulatory agendas were published.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 113
AID TO THE AGED, BLIND OR DISABLED

SUBPART A: GENERAL PROVISIONS

Section
113.1 Description of the Assistance Program
113.5 Incorporation By Reference

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section
113.9 Client Cooperation
113.10 Citizenship
113.20 Residence
113.30 Age
113.40 Blind
113.50 Disabled
113.60 Living Arrangement
113.70 Institutional Status
113.80 Social Security Number

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section
113.100 Unearned Income
113.101 Budgeting Unearned Income
113.102 Budgeting Unearned Income of Applicants Receiving Income on Date of Application And/Or Date of Decision
113.103 Initial Receipt of Unearned Income
113.104 Termination of Unearned Income
113.105 Unearned Income In-Kind
113.106 Earmarked Income
113.107 Lump Sum Payments and Income Tax Refunds
113.108 Protected Income (Repealed)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

113.109 Earned Income (Repealed)
113.110 Budgeting Earned Income (Repealed)
113.111 Protected Income
113.112 Earned Income
113.113 Exempt Unearned Income
113.114 Budgeting Earned Income of Applicants Receiving Income On Date of Application And/Or Date of Decision
113.115 Initial Employment
113.116 Budgeting Earned Income For Contractual Employees
113.117 Budgeting Earned Income For Non-contractual School Employees
113.118 Termination of Employment
113.120 Exempt Earned Income
113.125 Recognized Employment Expenses
113.130 Income From Work/Study/Training Programs
113.131 Earned Income From Self-Employment
113.132 Earned Income From Roomer and Boarder
113.133 Earned Income From Rental Property
113.134 Earned Income In-Kind
113.139 Payments from the Illinois Department of Children and Family Services
113.140 Assets
113.141 Exempt Assets
113.142 Asset Disregard
113.143 Deferral of Consideration of Assets
113.154 Property Transfers For Applications Filed Prior To October 1, 1989 (Repealed)
113.155 Property Transfers For Applications Filed On Or After October 1, 1989 (Repealed)
113.156 Court Ordered Child Support Payments of Parent/Step-Parent
113.157 Responsibility of Sponsors of Non-citizens Entering the Country Prior to 8/22/96
113.158 Responsibility of Sponsors of Non-citizens Entering the Country On or After 08/22/96
113.160 Assignment of Medical Support Rights

SUBPART D: PAYMENT AMOUNTS

Section
113.245 Payment Levels for AABD
113.246 Personal Allowance
113.247 Personal Allowance Amounts
113.248 Shelter

113.249 Utilities and Heating Fuel
113.250 Laundry
113.251 Telephone
113.252 Transportation, Lunches, Special Fees
113.253 Allowances for Increase in SSI Benefits
113.254 Nursing Care or Personal Care in Home Not Subject to Licensing
113.255 Sheltered Care/Personal or Nursing Care in a Licensed Group Care Facility
113.256 Shopping Allowance
113.257 Special Allowances for Blind and Partially Sighted (Blind Only)
113.258 Home Delivered Meals
113.259 AABD Fuel and Utility Allowances By Area
113.260 Sheltered Care, Personal Care or Nursing Care Rates
113.261 Cases in Licensed Intermediate Care Facilities, Licensed Skilled Nursing Facilities, DMHDD Facilities and All Other Licensed Medical Facilities
113.262 Meeting the Needs of an Ineligible Dependent with Client's Income
113.263 Service Animals
113.264 Refugees Ineligible for SSI

SUBPART E: OTHER PROVISIONS

Section
113.300 Persons Who May Be Included In the Assistance Unit
113.301 Grandfathered Cases
113.302 Interim Assistance (Repealed)
113.303 Special Needs Authorizations
113.304 Retrospective Budgeting
113.305 Budgeting Schedule
113.306 Purchase and Repair of Household Furniture (Repealed)
113.307 Property Repairs and Maintenance
113.308 Excess Shelter Allowance
113.309 Limitation on Amount of AABD Assistance to Recipients from Other States (Repealed)
113.320 Redetermination of Eligibility
113.330 Attorney's Fees for VA Appellants (Repealed)

SUBPART F: INTERIM ASSISTANCE

Section
113.400 Description of the Interim Assistance Program

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

113.405	Pending SSI Application (Repealed)
113.410	More Likely Than Not Eligible for SSI (Repealed)
113.415	Non-Financial Factors of Eligibility (Repealed)
113.420	Financial Factors of Eligibility (Repealed)
113.425	Payment Levels for Chicago Interim Assistance Cases (Repealed)
113.430	Payment Levels for all Interim Assistance Cases Outside Chicago (Repealed)
113.435	Medical Eligibility (Repealed)
113.440	Attorney's Fees for SSI Applicants (Repealed)
113.445	Advocacy Program for Persons Receiving Interim Assistance (Repealed)
113.450	Limitation on Amount of Interim Assistance to Recipients from Other States (Repealed)
113.500	Attorney's Fees for SSI Appellants (Renumbered)

AUTHORITY: Implementing Article III and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. III and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; emergency expired January 28, 1979; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective

October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 10, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 9367, effective August 1, l983; amended at 7 Ill. Reg. 17351, effective December 21, 1983; amended at 8 Ill. Reg. 537, effective December 30, 1983; amended at 8 Ill. Reg. 5225, effective April 9, l984; amended at 8 Ill. Reg. 6746, effective April 27, 1984; amended at 8 Ill. Reg. 11414, effective June 27, l984; amended at 8 Ill. Reg. 13273, effective July 16, l984; amended (by Sections being codified with no substantive change) at 8 Ill. Reg. 17895; amended at 8 Ill. Reg. 18896, effective September 26, 1984; amended at 9 Ill. Reg. 5335, effective April 5, 1985; amended at 9 Ill. Reg. 8166, effective May 17, 1985; amended at 9 Ill. Reg. 8657, effective May 25, 1985; amended at 9 Ill. Reg. 11302, effective July 5, 1985; amended at 9 Ill. Reg. 11636, effective July 8, 1985; amended at 9 Ill. Reg. 11991, effective July 12, 1985; amended at 9 Ill. Reg. 12806, effective August 9, 1985; amended at 9 Ill. Reg. 15896, effective October 4, 1985; amended at 9 Ill. Reg. 16291, effective October 10, 1985; emergency amendment at 10 Ill. Reg. 364, effective January 1, 1986; amended at 10 Ill. Reg. 1183, effective January 10, 1986; amended at 10 Ill. Reg. 6956, effective April 16, 1986; amended at 10 Ill. Reg. 8794, effective May 12, 1986; amended at 10 Ill. Reg. 10628, effective June 3, 1986; amended at 10 Ill. Reg. 11920, effective July 3, 1986; amended at 10 Ill. Reg. 15110, effective September 5, 1986; amended at 10 Ill. Reg. 15631, effective September 19, 1986; amended at 11 Ill. Reg. 3150, effective February 6, 1987; amended at 11 Ill. Reg. 8712, effective April 20, 1987; amended at 11 Ill. Reg. 9919, effective May 15, 1987; emergency amendment at 11 Ill. Reg. 12441, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20880, effective December 14, 1987; amended at 12 Ill. Reg. 867,

effective January 1, 1988; amended at 12 Ill. Reg. 2137, effective January 11, 1988; amended at 12 Ill. Reg. 3497, effective January 22, 1988; amended at 12 Ill. Reg. 5642, effective March 15, 1988; amended at 12 Ill. Reg. 6151, effective March 22, 1988; amended at 12 Ill. Reg. 7687, effective April 22, 1988; amended at 12 Ill. Reg. 8662, effective May 13, 1988; amended at 12 Ill. Reg. 9023, effective May 20, 1988; amended at 12 Ill. Reg. 9669, effective May 24, 1988; emergency amendment at 12 Ill. Reg. 11828, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 14162, effective August 30, 1988; amended at 12 Ill. Reg. 17849, effective October 25, 1988; amended at 13 Ill. Reg. 63, effective January 1, 1989; emergency amendment at 13 Ill. Reg. 3402, effective March 3, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 6007, effective April 14, 1989; amended at 13 Ill. Reg. 12553, effective July 12, 1989; amended at 13 Ill. Reg. 13609, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 14467, effective September 1, 1989, for a maximum of 150 days; emergency amendment at 13 Ill. Reg. 16154, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 720, effective January 1, 1990; amended at 14 Ill. Reg. 6321, effective April 16, 1990; amended at 14 Ill. Reg. 13187, effective August 6, 1990; amended at 14 Ill. Reg. 14806, effective September 3, 1990; amended at 14 Ill. Reg. 16957, effective September 30, 1990; amended at 15 Ill. Reg. 277, effective January 1, 1991; emergency amendment at 15 Ill. Reg. 1111, effective January 10, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5291, effective April 1, 1991; amended at 15 Ill. Reg. 5698, effective April 10, 1991; amended at 15 Ill. Reg. 7104, effective April 30, 1991; amended at 15 Ill. Reg. 11142, effective July 22, 1991; amended at 15 Ill. Reg. 11948, effective August 12, 1991; amended at 15 Ill. Reg. 14073, effective September 11, 1991; emergency amendment at 15 Ill. Reg. 15119, effective October 7, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16709, effective November 1, 1991; amended at 16 Ill. Reg. 3468, effective February 20, 1992; amended at 16 Ill. Reg. 9986, effective June 15, 1992; amended at 16 Ill. Reg. 11565, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 13641, effective September 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14722, effective September 15, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17154, effective November 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 17764, effective November 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 827, effective January 15, 1993; amended at 17 Ill. Reg. 2263, effective February 15, 1993; amended at 17 Ill. Reg. 3202, effective February 26, 1993; amended at 17 Ill. Reg. 4322, effective March 22, 1993; amended at 17 Ill. Reg. 6804, effective April 21, 1993; amended at 17 Ill. Reg. 14612, effective August 26, 1993; amended at 18 Ill. Reg. 2018, effective January 21, 1994; amended at 18 Ill. Reg. 7759, effective May 5, 1994; amended at 18 Ill. Reg. 12818, effective August 5, 1994; amended at 19 Ill. Reg. 1052, effective January 26, 1995; amended at 19 Ill. Reg. 2875, effective February 24, 1995; amended at 19 Ill. Reg. 6639, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 8409, effective June 9, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15034, effective October 17, 1995; amended at 20 Ill. Reg. 858, effective December 29, 1995;

emergency amendment at 21 Ill. Reg. 673, effective January 1, 1997, for a maximum of a 150 days; amended at 21 Ill. Reg. 7404, effective May 31, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 22 Ill. Reg. 13642, effective July 15, 1998; emergency amendment at 22 Ill. Reg. 16348, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 18931, effective October 1, 1998; emergency amendment at 22 Ill. Reg. 21750, effective November 24, 1998, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 579, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1607, effective January 20, 1999; amended at 23 Ill. Reg. 5548, effective April 23, 1999; amended at 23 Ill. Reg. 6052, effective May 4, 1999; amended at 23 Ill. Reg. 6425, effective May 15, 1999; amended at 23 Ill. Reg. 6935, effective May 30, 1999; amended at 23 Ill. Reg. 7887, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8650, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10161, effective August 3, 1999; amended at 23 Ill. Reg. 13852, effective November 19, 1999; amended at 24 Ill. Reg. 2328, effective February 1, 2000; amended at 24 Ill. Reg. 11622, effective July 18, 2000; amended at 24 Ill. Reg. 13394, effective August 18, 2000; amended at 25 Ill. Reg. 5326, effective March 30, 2001; amended at 26 Ill. Reg. 179, effective January 1, 2002; amended at 26 Ill. Reg. 8532, effective May 31, 2002; amended at 26 Ill. Reg. 13521, effective September 3, 2002; amended at 27 Ill. Reg. 7252, effective April 7, 2003; amended at 28 Ill. Reg. 11139, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 11366, effective July 21, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12469, effective August 20, 2004, for a maximum of 150 days; emergency expired January 16, 2005; amended at 29 Ill. Reg. 648, effective December 16, 2004; amended at 29 Ill. Reg. 5703, effective April 11, 2005; amended at 29 Ill. Reg. 10176, effective July 5, 2005; amended at 30 Ill. Reg. 16065, effective September 21, 2006; amended at 31 Ill. Reg. 6981, effective April 30, 2007; amended at 31 Ill. Reg. 11306, effective July 19, 2007; amended at 32 Ill. Reg. 17187, effective October 16, 2008; peremptory amendment at 32 Ill. Reg. 18065, effective November 15, 2008; emergency amendment at 33 Ill. Reg. 4993, effective March 19, 2009, for a maximum of 150 days; emergency expired August 15, 2009; emergency amendment at 33 Ill. Reg. 7337, effective May 21, 2009, for a maximum of 150 days; emergency expired October 17, 2009; amended at 33 Ill. Reg. 12775, effective September 8, 2009; emergency amendment at 33 Ill. Reg. 12850, effective September 4, 2009, for a maximum of 150 days; emergency expired January 31, 2010; amended at 33 Ill. Reg. 13846, effective September 17, 2009; amended at 33 Ill. Reg. 15033, effective October 22, 2009; amended at 33 Ill. Reg. 16845, effective November 30, 2009; emergency amendment at 34 Ill. Reg. 6944, effective May 1, 2010, for a maximum of 150 days; emergency expired September 27, 2010; amended at 34 Ill. Reg. 7255, effective May 10, 2010; amended at 35 Ill. Reg. 1012, effective December 28, 2010; emergency amendment at 35 Ill. Reg. 6951, effective April 6, 2011, for a maximum of 150 days; emergency expired September 2, 2011; amended at 35 Ill. Reg. 17096, effective October 5, 2011; amended at 35 Ill. Reg. 18756, effective October 28, 2011; amended at 36 Ill. Reg. _____, effective _____.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: PAYMENT AMOUNTS

Section 113.253 Allowances for Increase in SSI Benefits

a) An allowance for $519.90~~495.90~~ is authorized for all AABD cases as a "grant adjustment". A grant adjustment is an allowance that ensures that the amount of the SSI increase from July 1977 and later will be available to clients.

b) EXCEPTIONS: For clients whose assistance payments include an allowance for Sheltered Care or Care Not Subject to Licensing a "grant adjustment" of $10 is authorized. Individuals residing in long term group care facilities do not receive any "grant adjustment".

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 113.260 Sheltered Care, Personal Care or Nursing Care Rates

Group A Counties	Needs Assessment	Group B Counties
1198~~1174~~	0-7	1213~~1189~~
1204~~1180~~	8	1220~~1196~~
1211~~1187~~	9	1227~~1203~~
1216~~1192~~	10	1235~~1211~~
1223~~1199~~	11	1242~~1218~~
1228~~1204~~	12	1249~~1225~~
1235~~1211~~	13	1257~~1233~~
1240~~1216~~	14	1263~~1239~~

1247~~1223~~	15	1271~~1247~~
1252~~1228~~	16	1279~~1255~~
1259~~1235~~	17	1285~~1261~~
1264~~1240~~	18	1293~~1269~~
1271~~1247~~	19	1300~~1276~~
1277~~1253~~	20	1307~~1283~~
1283~~1259~~	21	1315~~1291~~
1289~~1265~~	22	1322~~1298~~
1295~~1271~~	23	1329~~1305~~
1301~~1277~~	24	1336~~1312~~

a) Group A Counties are counties other than Cook, DuPage, Kane, Lake and Will.

b) Group B Counties are Cook, DuPage, Kane, Lake and Will.

c) Rate includes shelter factor and approved activity and social rehabilitation programs.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Preferred Provider Programs

2) Code Citation: 50 Ill. Adm. Code 2051

3)

Section Numbers:	Proposed Action:
2051.210	Amendment
2051.220	Amendment
2051.230	Amendment
2051.240	Amendment
2051.250	Amendment
2051.260	Amendment
2051.270	Amendment
2051.280	Amendment
2051.285	New Section
2051.290	Amendment
2051.295	New Section
2051.300	Amendment
2051.310	Amendment
2051.315	New Section
2051.320	Amendment
2051.330	Amendment
2051.340	Amendment
2051.350	Amendment
2051.360	Amendment
2051.370	Amendment
2051.APPENDIX A	Amendment
2051.APPENDIX B	Amendment
2051.APPENDIX C	Amendment
2051.APPENDIX D	New Section
2051.APPENDIX E	Amendment
2051.APPENDIX F	Amendment

4) Statutory Authority: Implementing 215 ILCS 5/Art. XX½ and 820 ILCS 305, and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/ 401]

5) A Complete Description of the Subjects and Issues Involved: Due to the passage of PA-97-18 and the addition of Preferred Provider Programs to the Illinois Workers' Compensation Act, this Part requires revision to specifically address those entities wanting to provide a Workers' Compensation Preferred Provider Program to injured

workers. Per Section 8.1a of the Workers' Compensation Act, registration and regulation of these entities falls under the jurisdiction of the Department of Insurance.

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? 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 will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Joe Clennon, Staff Attorney
Illinois Department of Insurance
320 West Washington St.
Springfield, IL 62767-0001

217/557-1396
217/524-9033 (facsimile)

or

Susan Anders, Rules Coordinator
Illinois Department of Insurance
320 West Washington St.
Springfield, IL 62767-0001

217/785-8220

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: All employers offering Workers Compensation Insurance

B) Reporting, bookkeeping or other procedures required for compliance: Submit application in Appendix D of the Part and comply with other provisions as specified in the Part.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2012

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCE

PART 2051
PREFERRED PROVIDER PROGRAMS

Section
2051.210 Purpose
2051.220 Definitions
2051.230 Administrators Not to Assume Underwriting Risk
2051.240 Registration, Renewals and Appeals
2051.250 Fees
2051.260 Administrator Requirements
2051.270 Organizational Requirements
2051.280 Health Care Preferred Provider Program Administrator Payor Agreements
2051.285 Workers' Compensation Preferred Provider Program Payor Agreements
2051.290 Health Care Preferred Provider Program Administrator Provider Agreements
2051.295 Workers' Compensation Preferred Provider Program Payor Agreements
2051.300 Requirements for Agreements with Other Administrators
2051.310 Health Care Preferred Provider Program Administrator Network Availability and Adequacy Requirements
2051.315 Workers' Compensation Network Availability and Adequacy Requirements
2051.320 Discounted Health Care Services Plan Requirements
2051.330 Insurer Requirements
2051.340 Fiduciary and Bond Requirements
2051.350 Maintenance of Records
2051.360 Advertising and Solicitation
2051.370 Examination
2051.APPENDIX A Health Care Preferred Provider Program Administrator Registration Form
2051.APPENDIX B Discounted Health Care Services Plan Only Registration
2051.APPENDIX C Insurer Filing Requirements
2051.APPENDIX D Workers' Compensation Preferred Provider Program Administrator Registration Form
2051.APPENDIX E~~D~~ Illinois or NAIC Biographical Affidavit
2051.APPENDIX F~~E~~ Preferred Provider Program Administrator Bond/Fiduciary Account Requirement

AUTHORITY: Implementing Article XX½ of the Illinois Insurance Code [215 ILCS 5/Art.

XX½] and the Workers' Compensation Act [820 ILCS 305], and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 20 Ill. Reg. 9960, effective July 15, 1996; expedited correction at 20 Ill. Reg. 13435, effective July 15, 1996; amended at 21 Ill. Reg. 16364, effective December 9, 1997; expedited correction at 22 Ill. Reg. 5126, effective December 9, 1997; old Part repealed at 34 Ill. Reg. 161 and new Part adopted at 34 Ill. Reg. 163, effective December 16, 2009; amended at 36 Ill. Reg. _____, effective _____.

Section 2051.210 Purpose

a) The purpose of this Part is to implement Article XX½ of the Illinois Insurance Code, which, in part, provides for the regulation of preferred provider programs, including those programs that provide insureds or beneficiaries access to discounted health care provider fees. This Part defines the authority of an administrator to operate preferred provider programs in this State, establishes criteria for the registration of administrators with the Director of Insurance and establishes appropriate fees for the registration and regulation of programs. This Part also establishes requirements for any person, partnership or corporation engaged in any conduct regulated by the Act, including, but not limited to, administrators, discounted health care services plan administrators, and insurers that, under Sections 370h and 370i of the Act, enters into a preferred provider arrangement or offers a preferred provider program. The entity must comply with this Part when offering incentives to insureds or beneficiaries to utilize the services of contracted providers. This Part does not apply to ~~self-insured employers,~~ employee benefit trust funds, other ERISA exempt organizations, self-funded State of Illinois health benefit plans, Medicare approved prescription drug plans or any State of Illinois discount drug program, except as otherwise set forth in this Part.

b) This Part also implements Section 8.1a of the Workers' Compensation Act [820 ILCS 305], which provides for the regulation of certain preferred provider programs for the provision of health care services to employees under the Workers' Compensation Act. This Part defines the authority of a workers' compensation preferred provider program administrator to operate the preferred provider programs in this State, establishes criteria for the registration of those administrators with the Director of Insurance and establishes appropriate fees for the registration and regulation of the programs. This Part also establishes requirements for any person, partnership or corporation engaged in any conduct

regulated by Section 8.1a, including, but not limited to, workers' compensation preferred provider program administrators, employers, including self-funded employers, and insurers that offer a preferred provider program. The entity must comply with this Part when requiring employees to make a choice of a health care services provider from within the preferred provider program under Section 8(a)(4) of the Workers' Compensation Act.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.220 Definitions

"Act" means the Health Care Reimbursement Reform Act of 1985 [215 ILCS 5/Art. XX½].

"Administrator", "Preferred Provider Program Administrator" or "PPP Administrator" means any person, partnership or corporation, other than a risk-bearing entity ~~an insurer, health service corporation, limited health service organization holding a certificate of authority under the Limited Health Service Organization Act [215 ILCS 130], health maintenance organization holding a certificate of authority under the Health Maintenance Organization Act [215 ILCS 125],~~ that arranges, contracts with, or administers contracts with a provider under which~~whereby~~ insureds or beneficiaries are provided an incentive to use the services of the provider. Administrator also includes any person, partnership or corporation, other than a risk-bearing entity~~an insurer, health service corporation, limited health service organization holding a certificate of authority under the Limited Health Service Organization Act [215 ILCS 130], health maintenance organization holding a certificate of authority under the Health Maintenance Organization Act [215 ILCS 125]~~, that enters into a contract with another administrator to enroll beneficiaries or insureds in a preferred provider program marketed as an independently identifiable program based on marketing materials or member benefit identification cards. For the purposes of this Part, an employer shall be considered an administrator.

"Administrator Trust Fund" or "ATF" means a special fiduciary account established and maintained by an administrator pursuant to Section 370*l* of the Act in which contributions and/or premiums are deposited.

"Advertisement" means any printed or published material, audiovisual material and descriptive literature of the administrator, discounted health care services plan

administrator, or private label marketer used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards and similar displays; and any descriptive literature or sales aids of all kinds disseminated by a representative of the administrator, discounted health care services plan administrator, or private label marketer for presentation to the public, including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and prepared sales presentations.

"Affiliate" ~~An affiliate of, or person "affiliated" with, a specific person~~ means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the persons specified.

"Beneficiary" means an individual, enrollee, insured, participant or any other person entitled to reimbursement for covered expenses of, or the discounting of provider fees for, health care services under a program in which the beneficiary has an incentive to utilize the services of a provider that has entered into an agreement or arrangement with an administrator pursuant to Section 370g(f) of the Act. Beneficiary, for the purposes of a workers' compensation preferred provider program (WC PPP), shall also include covered employees.

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Control", ~~(including the terms~~ "controlling", "controlled by" and "under common control with"~~)~~ means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, the holding of policyholders' proxies, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is solely the result of an official position with or corporate office held by the person. Control is presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds shareholders' proxies representing 10% or more of the voting securities of any other person, or holds or controls sufficient policyholders' proxies to elect the majority of the board of directors of the domestic company. This presumption may be rebutted by a showing made to the Director. ~~The Director may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support that determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.~~

"Covered Employee" means an employee or former employee whose employer has established or contracted for an approved WC PPP for the provision of health care services to injured employees in accordance with Section 8.1a of the Workers' Compensation Act.

"Department" means the Illinois Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance.

"Discounted Health Care Services" means health care services provided by health care services providers under a discounted health care services plan when there are no other incentives, such as copayment, coinsurance or any other reimbursement differential, for beneficiaries to utilize the provider.

"Discounted Health Care Services Plan" or "DHCSP" means a preferred provider program by which~~whereby~~ beneficiaries, in exchange for fees, dues, charges or other consideration, are provided an incentive, in the form of discounted health care services, to use the services of the provider.

"Discounted Health Care Services Plan Administrator" or "DHCSP Administrator" means an administrator~~any person, partnership or corporation, other than an insurer, health service corporation, limited health service organization holding a certificate of authority under the Limited Health Service Organization Act, or health maintenance organization holding a certificate of authority under the Health Maintenance Organization Act,~~ that arranges, contracts with, or administers contracts with a provider under which~~whereby~~ insureds or beneficiaries are provided an incentive to use health care services provided by health care services providers under a discounted health care services plan in which there are no other incentives, such as copayment, coinsurance or any other reimbursement differential, for beneficiaries to utilize the provider. DHCSP administrator~~Discounted Health Care Services Plan Administrator~~ also includes any person, partnership or corporation, other than a risk-bearing entity~~an insurer, health service corporation, limited health service organization holding a certificate of authority under the Limited Health Service Organization Act, or health maintenance organization holding a certificate of authority under the Health Maintenance Organization Act~~, that enters into a contract with another DHCSP administrator to enroll beneficiaries or insureds in a DHCSP~~preferred provider program~~ marketed as an independently identifiable program based on marketing materials or member benefit identification cards.

"Doing Business As" or "DBA" means the name under which discounted health care services are marketed.

"Economic Evaluation" means any evaluation, as described in Section 8.1a(b) of the Workers' Compensation Act, of a particular physician, provider, medical group or individual practice association based in whole or in part on the economic costs or utilization of services associated with medical care provided or authorized by the physician, provider, medical group or individual practice association. Negotiated rates with a provider are not a form of economic evaluation.

"Emergency Medical Condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;

Serious impairment to bodily functions; or

Serious dysfunction of any bodily organ or part. [215 ILCS 5/370g(h)] ~~(See Section 370g(h) of the Act.)~~

"Employer" means an employer contracting directly with providers, or with multiple WC PPP administrators for the purposes of implementing a preferred provider program under Section 8.1a of the Workers' Compensation Act.

"Exclusive Provider Organization" or "EPO" means any arrangement, other than a health maintenance organization, limited health service organization, voluntary health services plans, or a DHCSP~~discounted health care services plan~~, under which~~whereby~~ the beneficiary receives no coverage or benefits when utilizing non-preferred providers, except when such an arrangement is shown to be in the best interest of the beneficiaries and has been expressly approved by the Director in writing. WC PPPs are not a form of EPO.

"Financial Institution" means a federal or State chartered bank or savings and loan institution.

"Gatekeeper Option" means an option offered by or through a preferred provider program that requires the beneficiary to preselect a particular primary care physician, from a list of participating primary care physicians, who shall coordinate all of the non-emergency primary, specialty, hospital and other health care services, including referrals to other providers, as a condition for receipt of a higher level of benefits or reimbursement level, or both.

"Health Care Preferred Provider Program" or "HC PPP" means a preferred provider program for the provision of health care services provided for health insurance or discounted health care services coverage.

"Health Care Preferred Provider Program Administrator" or "HC PPP Administrator" means an administrator of an HC PPP. HC PPP administrator also includes any person, partnership or corporation, other than a risk-bearing entity, that enters into a contract with another HC PPP administrator to enroll beneficiaries or insureds in an HC PPP marketed as an independently identifiable program based on marketing materials or member benefit identification cards.

"Health Care Services" means health care services or products rendered or sold by a provider within the scope of the provider's license or legal authorization. The term includes, but is not limited to, hospital, medical, surgical, dental, vision and pharmaceutical services or products.

"Health Service Corporation" means a voluntary health service plan and/or a dental service plan licensed under the Voluntary Health Services Plans Act [215 ILCS 165] or the Dental Service Plan Act [215 ILCS 110].

"HMO Act" means the Health Maintenance Organization Act [215 ILCS 125].

"Non-preferred Provider" means any provider that does not have a contractual relationship, directly or indirectly, with the administrator or DHCSP~~discounted health care services plan~~ administrator for the provision of, or discounting of, health care services.

"Payor" means an entity responsible for bearing the risk of health care services. An administrator other than a self-insured employer implementing a WC PPP, is prohibited from being a payor and may not bear or assume any underwriting risk.

"Preferred Provider" means any provider who has entered, either directly or indirectly, into an agreement with an administrator, employer or risk-bearing entity ~~or insurer~~ relating to health care services that may be rendered to beneficiaries under a preferred provider program, including providing discounts for health care services.

"Preferred Provider Arrangements" means policies, agreements or arrangements with providers relating to the amounts to be charged to beneficiaries for health care services that include incentives for the beneficiary to use those services, including discounted health care services.

"Preferred Provider Program" or "PPP" means a system to make preferred provider arrangements available to beneficiaries.

"Primary Care Physician" means a provider who has contracted with an administrator to provide primary care services as defined by the contract and who is a physician licensed to practice medicine in all of its branches who spends a majority of clinical time engaged in general practice or in the practice of internal medicine, pediatrics, gynecology, obstetrics or family practice, or a chiropractic physician licensed to treat human ailments without the use of drugs or operative surgery. (See 77 Ill. Adm. Code 240.20.)

"Primary Treating Physician" means a provider who has contracted with a WC PPP administrator to provide health care services and who is a type of physician licensed to treat the injury experienced by the covered employee. This physician will be responsible for managing the care of the covered employee, including rendering and prescribing treatment.

"Private Label Marketer" means any entity, other than a DHCSP~~discounted health care services plan~~ administrator, that directly or indirectly contracts with an administrator respecting the marketing or use of a DHCSP~~discounted health care services plan~~ under a name other than that of the administrator.

"Provider" means an individual or entity duly licensed or legally authorized to provide health care services.

"Risk-Bearing Entity" means an insurer, health service corporation, limited health service organization holding a certificate of authority under the Limited Health

Service Organization Act [215 ILCS 130], or health maintenance organization holding a certificate of authority under the HMO Act.

"Specialty Preferred Provider Program Administrator" or "SPPP Administrator" means an administrator of a preferred provider program for the provision of workers' compensation benefits that contracts with preferred providers for health care services in one or a limited number of health care specialties. SPPP administrators are subject to the requirements of a WC PPP administrator, unless specifically exempted, and must contract with a WC PPP administrator to supplement WC PPPs approved by the Director of Insurance.

"Woman's Principal Health Care Provider" means a physician licensed to practice medicine in all of its branches specializing in obstetrics or gynecology or specializing in family practice~~, as provided by Section 356r of the Code~~. [215 ILCS 5/356r(c)(1)]

"Workers' Compensation Preferred Provider Program" or "WC PPP" means a preferred provider program for the provision of workers' compensation benefits that meets the requirements of Section 8.1a of the Workers' Compensation Act.

"Workers' Compensation Preferred Provider Program Administrator" or "WC PPP Administrator" means an administrator of a WC PPP.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.240 Registration, Renewals and Appeals

a) No person, partnership or corporation shall act as an administrator ~~or discounted health care services plan administrator~~ until that person, partnership or corporation has registered with the Director as required by this Section. In addition, all administrators ~~and discounted health care services plan administrators~~ shall annually renew their registration with the Director as required by this Section.

b) Upon the filing of an application to register as a preferred provider program administrator and the payment of the registration fee required by Section 2051.250, the Director shall register the applicant if the Director finds that the applicant:

1) Has provided a detailed plan of operation;

2) Is competent and trustworthy and intends to act in good faith in the capacity authorized by the license;

3) Has a good business reputation and has had experience, training or education so as to be qualified in the business for which the license is applied for; and

4) Has incorporated under the laws of this State or, if a foreign corporation or limited liability corporation, is authorized to transact business in this State.

c) A registered administrator ~~or discounted health care services plan administrator~~ may continue to operate if a completed renewal application and the fee required by Section 2051.250 have been filed prior to the renewal date, unless the renewal is denied by the Director.

d) If a completed renewal application and appropriate fee are not received prior to the renewal date, the registration will automatically expire. An administrator ~~or discounted health care services plan administrator~~ whose registration has expired may not operate in this State until the administrator ~~or discounted health care services plan administrator~~ reapplies and pays the initial registration fee established by Section 2051.250 and the Director registers the administrator ~~or discounted health care services plan administrator~~ as provided by Sections 2051.240 and 2051.250.

e) The Director may suspend, revoke or refuse to issue or renew an administrator's ~~or discounted health care services plan administrator's~~ registration or may levy a civil penalty, or take any combination of actions, if the applicant:

1) Provides unjust, unfair, inequitable, ambiguous, incorrect, misleading, incomplete, inconsistent, deceptive or materially untrue information, or if the program is administered in a way that is contrary to law or to the public policy of this State;

2) Has violated any insurance laws or any rule, subpoena or Order of the Director or of another state's insurance commissioner;

3) Is registered or attempts to register through misrepresentation or fraud;

4) Improperly withholds, misappropriates or converts any moneys or properties received in the course of doing business;

5) Intentionally misrepresents the terms of an actual or proposed DHCSP~~discounted health care services plan~~;

6) Has been convicted of a felony;

7) Has admitted or been found to have committed any unfair trade practice or fraud;

8) Uses fraudulent, coercive or dishonest practices, or demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere;

9) Has an administrator's ~~or discounted health care services plan administrator's~~ registration, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

10) Knowingly contracts with an administrator ~~or discounted health care services plan administrator~~ who is not registered.

f) If an application for registration or renewal is denied under this Section or if the registration is suspended or revoked, the applicant may appeal that action by requesting a hearing under the terms of Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] and 50 Ill. Adm. Code 2402. A petition for hearing must be postmarked no later than 30 days after the date of initial denial. A hearing shall be scheduled within 45 days after the petition is filed with the Director. An Order shall be issued by the Director within 60 days after the close of the hearing.

g) Each administrator ~~and discounted health care services plan administrator~~ must keep current the information required to be disclosed in its registration statements by reporting any change or alteration in existing materials that would have an effect on the operation of the administrator ~~or discounted health care services plan administrator~~, the availability and accessibility of health care, or any parties directly or indirectly contracted with the administrator to the Director within 30 days after the end of the month of each change or addition. All information filed

with the Director pursuant to this Part regarding the methods and/or amounts of reimbursement between providers and the administrator under a preferred provider program, or between administrators~~ and/or discounted health care services plan administrators~~, is deemed to be confidential.

h) For the purposes of a WC PPP, the Director of the Department of Insurance shall make each administrator's filing available to the public upon request. The Director may not publicly disclose any information submitted pursuant to Section 8.1a that is determined by the Director to be confidential, proprietary or trade secret information pursuant to State and federal law.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.250 Fees

On or after January 1, 2010, each new administrator ~~or discounted health care services plan administrator~~ doing business in this State shall pay to the Director an initial registration fee of $1000. Each administrator ~~or discounted health care services plan administrator~~ doing business in this State shall annually pay to the Director a renewal fee of $500 in order to maintain the registration.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.260 Administrator Requirements

Each applicant for registration shall file the following information and documents with the Director in the format provided in Appendix A. DHCSP~~ or, for~~ administrators who only administer DHCSPs~~discounted health care services plans,~~ shall instead file in the format provided in Appendix B. WC PPP administrators shall instead file in the format provided in Appendix D.~~:~~

a) Organizational requirements identified in Section 2051.270;

b) Sample copies of all payor and provider agreements identified in Sections 2051.280 and 2051.290, when applicable. If the terms and conditions in an agreement include significant, substantial or material change or additions, the filing of one complete sample of each type of agreement, together with a description of all variable terms and conditions, will satisfy this requirement;

c) Signed copies of all current administrative agreements with any entity with which the applicant contracts to provide services or to meet the requirements of the Act. Examples of these contracts may include, but are not necessarily limited to, agreements with other administrators~~ and/or discounted health care services plan administrators~~, utilization review organizations, third party administrators, third party prescription program administrators, risk-bearing entities, and employers or employer groups for the purposes of WC PPPs~~ insurers, health maintenance organizations and health service corporations~~. Agreements at a minimum shall contain the following provisions:

1) Network availability and adequacy requirements identified in Section 2051.310 or 2051.315;

2) If applicable, any DHCSP~~discounted health care services plan~~ beneficiary agreement requirements identified in Section 2051.320;

3) Copies of the preferred provider program disclosure statements required to be furnished to beneficiaries by Section 370m of the Act and illustrative advertising material to be used by the applicant;

4) A description of programs for utilization review, including procedures for timely investigation, resolution of questions concerning medical necessity and appropriateness of medical services and supplies and appeals from beneficiaries and providers as provided by Section 370s of the Act and Section 85 of the Managed Care Reform and Patient Rights Act [215 ILCS 134/85] or, for the purposes of WC PPP, Section 8.7 of the Workers' Compensation Act. Administrators who administer only DHCSPs~~discounted health care services plans~~ need not comply with this subsection~~requirement~~;

5) A description of any fiduciary account established by the administrator, including the location and identification number of the account, established and maintained pursuant to Section 370l of the Act and Section 2051.340 of this Part; and/or a bond in compliance with Section 370l of the Act and Section 2051.340 of this Part. If a bond is submitted, the administrator shall also furnish a certification of the total estimated annual reimbursements under the preferred provider program, supported by the methodology used to arrive at that figure;

6) Administrators may not participate in an exclusive provider organization in this State, except when such an arrangement is shown to be in the best interest of the beneficiaries and has been expressly approved by the Director in writing. This subsection (c)(6) does not apply to administrators offering only DHCSPs~~discounted health care services plans~~.

7) WC PPP administrators that utilize economic evaluation of their providers shall file a description of any policies and procedures related to the economic evaluation utilized by the program. The filing shall describe how these policies and procedures are used in utilization review, peer review, incentive and penalty programs, and in provider retention and termination decisions.

8) WC PPP administrators shall provide those policies and procedures instituted to insure the employer is providing proper notification to the covered employee in accordance with the form promulgated by the Workers' Compensation Commission.

d) A listing containing the name, address and FEIN of all entities that private label a DHCSP~~discounted health care services plan~~ of the administrator, including:

1) The name of the private label marketer;

2) Any DBA used by the private label marketer; and

3) All product names used by the private label marketer.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.270 Organizational Requirements

Upon application for registration, administrators ~~and discounted health care services plan administrators~~ must file the following information:

a) An organizational chart describing the relationship between the administrator ~~or discounted health care services plan administrator~~, its parent organization and any affiliates, including the state of domicile and the primary business of each entity;

b) Proof of registration with the Illinois Secretary of State and the company's FEIN;

c) Names, addresses, official positions and biographical affidavits as prescribed in Appendix E~~D~~ for the people responsible for the conduct of the affairs of the administrator~~ or discounted health care services plan administrator~~; and

d) Location of all administrative offices of the administrator located in this State and regular business hours during which offices are open.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.280 Health Care Preferred Provider Program Payor Agreements

Administrators shall file with the Department a sample copy of all payor agreements. WC PPPs are exempt from the requirements of this Section, but must instead comply with the requirements of Section 2051.285. These agreements ~~Any payor agreements between administrators or discounted health care services plan administrators and payors~~ shall contain at a minimum:

a) Terms requiring and specifying all incentives to be provided to the insured or beneficiary to utilize services of a provider that has entered into an agreement with the administrator;

b) Terms stating that, whenever an administrator or a preferred provider finds it medically necessary to refer a beneficiary to a non-preferred provider, the payor shall ensure that the beneficiary so referred shall incur no greater out of pocket liability than had the beneficiary received services from a preferred provider. This subsection does not apply to a beneficiary who willfully chooses to access a non-preferred provider for health care services available through the administrator's panel of participating providers. In these circumstances, the contractual requirements for non-preferred provider reimbursements will apply. This subsection does not apply to administrators offering only a DHCSP~~discounted health care services plan~~;

c) Terms requiring that both the payor's and administrator's name and toll-free telephone numbers be contained on all beneficiaries' identification cards;

d) Terms specifying that only the payor may assume any underwriting risk when that risk is part of the delivery of services.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.285 Workers' Compensation Preferred Provider Program Payor Agreements

Any payor agreements between WC PPP administrators and payors shall contain, at a minimum:

a) Terms requiring and specifying all incentives to be provided to the insured to utilize services of a provider that has entered into an agreement with the administrator;

b) Terms stating that, whenever an administrator or a preferred provider finds it medically necessary to refer a beneficiary to a non-preferred provider because the preferred provider program does not contain a provider who can provide the approved treatment, and if the beneficiary has complied with any reasonable pre-authorization requirements, the payor shall ensure that the beneficiary so referred shall incur no greater liability than had the beneficiary received services from a preferred provider, except as provided under Section 8.1a(c)(2) of the Workers' Compensation Act;

c) Terms stating that, whenever an administrator or a preferred provider finds it medically necessary to refer a beneficiary to a non-preferred provider because the preferred provider program does not contain a provider who can provide the approved treatment, and if the beneficiary has complied with any reasonable pre-authorization requirements, the WC PPP shall ensure that the covered employee will be provided the covered services at no greater cost to the payor than if the service had been provided by a preferred provider. In these instances, the administrator shall be responsible for the payment of any additional amounts otherwise due to the non-preferred provider; however, those amounts will be no greater than those established by the Workers' Compensation Fee Schedule (see 50 Ill. Adm. Code 7110.90 and the WCC website at https://iwcc.ingenix.com/iwcc.asp).

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 2051.290 Health Care Preferred Provider Program Administrator Provider Agreements

Administrators shall file a sample of copy of all provider agreements. WC PPPs are exempt from the requirements of this Section, but must instead comply with the requirements of Section

2051.295. The agreements~~All provider agreements between administrators and providers~~ shall contain, at a minimum:

a) A provision identifying the specific covered health care services for which the preferred provider will be responsible, including any discount services, copayments, benefit maximums, limitations and exclusions, as well as any discount amount or discounted fee schedule reflecting discounted rates;

b) A provision requiring the provider to comply with applicable administrative policies and procedures of the administrator including, but not limited to credentialing or recredentialing requirements; and, except for DHCSP ~~discounted health care services plan~~ administrators, utilization review requirements, and referral procedures;

c) Medical Records

1) A provision requiring that, when payments are due to the provider for services rendered to a beneficiary, the provider must maintain and make medical records available:

A) To the administrator and/or insurer for the purpose of determining, on a concurrent or retrospective basis, the medical necessity and appropriateness of care provided to beneficiaries;

B) To appropriate State and federal authorities and their agents involved in assessing the accessibility and availability of care or investigating member grievances or complaints; and

C) To show compliance with the applicable State and federal laws related to privacy and confidentiality of medical records.

2) This subsection (c) does not apply to administrators offering only a DHCSP~~discounted health care services plan~~;

d) A provision requiring providers to be licensed by the State, and to notify the administrator immediately whenever there is a change in licensure or certification status;

e) A provision requiring all physician providers to have admitting privileges in at least one hospital with which the administrator has a written provider contract. The administrator shall be notified immediately of any changes in privileges at any hospital or admitting facility. Reasonable exceptions may be made for physicians who, because of the type of clinical specialty, or location or type of practice, do not customarily have admitting privileges. This subsection ~~(e)~~ does not apply to administrators offering only DHCSPs~~discounted health care services plans~~;

f) A provision describing notification procedures for contract termination. Termination provisions shall require:

1) Not less than 30 days prior written notice by either party who wishes to terminate the contract without cause;

2) That the administrator may immediately terminate the provider contract for cause; and

3) If applicable, that a provider, acting as primary care physician under plans requiring a gatekeeper option, must provide the administrator with a list of all patients using that provider as a gatekeeper within 5 working days after the date that the provider either gives or receives notice of termination;

g) A provision explaining the provider responsibilities for continuation of covered services in the event of contract termination, to the extent that an extension of benefits is required by law or regulation, or that continuation is voluntarily provided by the administrator. This subsection (g) does not apply to administrators offering only a DHCSP~~discounted health care services plan~~;

h) A provision stating that the rights and responsibilities under the contract cannot be sold, leased, assigned, assumed or otherwise delegated by either party without the prior written consent of the other party. The~~Similarly, the~~ provider's written consent must be obtained for any assignment or assumption of the provider contract whenever an administrator or insurer is bought by another administrator or insurer. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with the terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules;

i) A provision stating that the preferred provider has and will maintain adequate professional liability and malpractice coverage, through insurance, self-funding, or other means satisfactory to the administrator. The administrator must be notified within no less than 10 days after the provider's receipt of notice of any reduction or cancellation of the required coverage;

j) A provision stating that the provider will provide health care services without discrimination against any beneficiary on the basis of participation in the preferred provider program, source of payment, age, sex, ethnicity, religion, sexual preference, health status or disability;

k) A provision regarding the preferred provider's obligation, if any, to collect applicable copayments, coinsurance and/or deductibles from beneficiaries as provided by the beneficiary's health care services contract, and to provide notice to beneficiaries of their personal financial obligations for non-covered services. This provision shall include any amount of applicable discounts or, alternatively, a fee schedule that reflects any discounted rates. For DHCSPs~~discounted health care services plans~~ only, a provision that providers may not charge beneficiaries more than any applicable discounted rates in accordance with payment terms and provisions contained in a DHCSP ~~discounted health care services plan~~ agreement signed by a beneficiary;

l) A provision regarding any obligation to provide covered health services on a 24 hour per day, 7 day per week basis;

m) A provision clearly describing the administrator's and payor's payment obligations to the provider. For DHCSPs~~discounted health care services plans~~, neither administrators nor payors may pay providers for health care services provided to beneficiaries. For DHCSPs~~discounted health care services plans~~, neither administrators nor payors may accept money from a beneficiary for payment to a provider for specific health care services furnished or to be furnished to the beneficiary;

n) A provision identifying the administrative services, if any, the administrator will perform and the types of information (e.g., financial, enrollment, utilization) that will be submitted to the provider, as well as other information that is accessible to the provider;

o) A provision obligating the administrator to provide a method for providers to access each payor to obtain benefit information and adequate notice of change in benefits and copayments, and a provision obligating the administrator to provide all of the administrator's operational policies. This subsection ~~(o)~~ does not apply to administrators offering only a DHCSP~~discounted health care services plan~~;

p) A provision identifying applicable internal appeal or arbitration procedures for settling contractual disputes or disagreements between the administrator and preferred provider.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.295 Workers' Compensation Preferred Provider Program Payor Agreements

All provider agreements between providers and insurers, employers or WC PPP administrators with regard to a WC PPP shall contain, at a minimum:

a) A provision stating, within the preamble, that the agreement conforms to the requirements of Section 8.1a of the Illinois Workers' Compensation Act;

b) A provision identifying the specific covered health care services for which the preferred provider will be responsible, including any discount services, limitations and exclusions, as well as any discount amount or discounted fee schedule reflecting discounted rates;

c) A provision requiring the provider to comply with applicable administrative policies and procedures of the administrator, including, but not limited to, credentialing or recredentialing requirements, utilization review requirements, and referral procedures;

d) A provision requiring that, when payments are due to the provider for services rendered to a beneficiary, the provider must maintain and make the beneficiary's medical records available:

1) To the administrator and/or payor for the purpose of determining, on a concurrent or retrospective basis, the compensability, medical necessity and appropriateness of care provided to beneficiaries;

2) To appropriate State and federal authorities and their agents involved in assessing the accessibility and availability of care or investigating member grievances or complaints; and

3) To show compliance with the applicable State and federal laws related to privacy and confidentiality of medical records;

e) A provision requiring providers to be licensed by the State and to notify the administrator immediately whenever there is a change in licensure or certification status;

f) A provision requiring all physician providers to have admitting privileges in at least one hospital with which the administrator has a written provider contract. The administrator shall be notified immediately of any changes in privileges at any hospital or admitting facility. Reasonable exceptions may be made for physicians who, because of the type of clinical specialty or location or type of practice, do not customarily have admitting privileges;

g) A provision describing notification procedures for contract termination. Termination provisions shall require:

1) Not less than 30 days prior written notice by either party who wishes to terminate the contract without cause;

2) that the administrator may immediately terminate the provider contract for cause; and

3) if applicable, that a provider, acting as primary treating physician under plans requiring a gatekeeper option, must provide the administrator with a list of all patients using that provider as a gatekeeper within 5 working days after the date the provider either gives or receives notice of termination;

h) A provision explaining the provider's responsibilities for continuation of covered services in the event of contract termination, to the extent that an extension of benefits is required by law or regulation or that continuation is voluntarily provided by the administrator;

i) A provision stating that the rights and responsibilities under the contract cannot be sold, leased, assigned, assumed or otherwise delegated by either party without the prior written consent of the other party. Similarly, the provider's written consent must be obtained for any assignment or assumption of the provider contract whenever an administrator or insurer is bought by another administrator or insurer. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with the terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules;

j) A provision stating that the preferred provider has and will maintain adequate professional liability and malpractice coverage, through insurance, self-funding or other means satisfactory to the administrator. The administrator must be notified within no less than 10 days after the preferred provider's receipt of notice of any reduction or cancellation of the required coverage;

k) A provision stating that the provider will provide health care services without discrimination against any beneficiary on the basis of participation in the preferred provider program, source of payment, age, sex, ethnicity, religion, sexual preference, health status or disability;

l) A provision regarding the preferred provider's obligation to provide notice to beneficiaries of their personal financial obligations for non-covered services;

m) A provision that providers may charge covered employees for those services determined to be not compensable under the Workers' Compensation Act;

n) A provision regarding any obligation to provide covered health services on a 24 hour per day, 7 day per week basis;

o) A provision clearly describing the administrator's and payor's payment obligations to the provider, including but not limited to the payment of statutory interest on late payments as required in Section 8.2(d)(3) of the Workers' Compensation Act;

p) A provision identifying the administrative services, if any, the administrator will perform and the types of information (e.g., financial, enrollment, utilization) that will be submitted to the provider, as well as other information that is accessible to the provider;

q) A provision obligating the administrator to provide a method for providers to access each payor to obtain benefit information and a provision obligating the administrator to provide all of the administrator's operational policies;

r) A provision identifying applicable internal appeal or arbitration procedures for settling contractual disputes or disagreements between the administrator and preferred provider.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 2051.300 Requirements for Agreements with Other Administrators

a) Before entering into a contract with another administrator ~~or discounted health care services plan administrator~~ to administer programs, policies or subscriber contracts in this State as provided by Section 370i(b)(2) of the Act, an administrator ~~or discounted health care services plan administrator~~ shall perform due diligence to ensure the other entity is properly registered under this Part or otherwise appropriately licensed under the Code.

b) Any provider contract or preferred provider program that is sold, leased, assigned, assumed or otherwise delegated must have the terms of that transaction affecting the provision of health care services by providers, including any additional discount, repricing or other consideration, clearly described in the contract. The administrator~~, discounted health care services plan administrator~~ or payor accessing the provider network shall be contractually obligated to comply with all applicable terms, limitations and conditions of the provider network contract, including all appendices, policies and fee schedules. An administrator shall provide to the provider upon request a written or electronic list of all current payors~~, administrators and discounted health care services plan administrators~~ to which the provider contract or program has been sold, leased, assigned, assumed or otherwise delegated.

c) An administrator shall approve in writing, prior to use, all advertisements, marketing materials, brochures and, if applicable, identification cards used by any other administrator ~~or discounted health care services plan administrator~~ to market, promote, sell or enroll members in its preferred provider program.

d) No preferred provider program may be sold, leased, assigned, assumed or otherwise delegated to another administrator without the prior written consent of

the providers contracting under the program. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.310 Health Care Preferred Provider Program Administrator Network Availability and Adequacy Requirements

a) Administrators and insurers must file a description of the services to be offered through the preferred provider program. WC PPPs are exempt from the requirements of this Section, but must instead comply with the requirements of Section 2051.315. The description shall include:

1) The method of marketing the program;

2) A geographic map of the area proposed to be served by the program by county and zip code, including marked locations for preferred providers;

3) The names, addresses and specialties of the providers who have entered into preferred provider agreements under the program;

4) The number of beneficiaries anticipated to be covered by the providers listed in subsection (a)(3);

5) An Internet website and toll-free telephone number for beneficiaries and prospective beneficiaries to access regarding up-to-date lists of preferred providers, additional information about the DHCSP~~discounted health care services plan~~, as well as any other information necessary to conform to this Part. A plan shall identify specific providers in a beneficiary's area, confirm specific provider participation or provide a listing of preferred providers by mail. Preferred provider lists requested by phone must be sent within 3 working days. The up-to-date provider list applies to all providers that have entered arrangements to provide services under the program either directly, or indirectly through another administrator. Administrators' and insurers' Internet website addresses shall be

prominently displayed on all advertisements, marketing materials, brochures, benefit cards and identification cards; and

6) A description of how health care services to be rendered under the preferred provider program are reasonably accessible and available to beneficiaries. Standards shall address:

A) The type of health care services to be provided by the administrator;

B) The ratio of providers to beneficiaries, by specialty and including primary care physicians when applicable under the contract, necessary to meet the health care needs and service demands of the currently enrolled population;

C) The greatest distance or time that the beneficiary may be required to travel to access:

i) Preferred provider hospital services when applicable under the contract;

ii) Primary care physician and woman's principal health care provider ~~physician~~ services when applicable under the contract;

iii) Any applicable health care service providers;

D) Written policies and procedures for determining when the program is closed to new providers desiring to enter into preferred provider arrangements;

E) Written policies and procedures for adding providers to meet patient needs based on increases in the number of beneficiaries, changes in the patient to provider ratio, changes in medical and health care capabilities, and increased demand for services;

F) The provision of 24 hour, 7 day per week access to network affiliated primary care and woman's principal health care providers. This subsection (a)(6)(F) does not apply to

administrators offering only a DHCSP~~discounted health care services plan~~;

G) The procedures for making referrals within and outside the network. This subsection (a)(6)(G) does not apply to administrators offering only a DHCSP~~discounted health care services plan~~;

H) A provision ensuring that whenever a beneficiary has made a good faith effort to utilize preferred~~network~~ providers for a covered service and it is determined the administrator does not have the appropriate preferred providers due to insufficient number, type or distance, the administrator shall ensure, directly or indirectly, by terms contained in the payor contract, that the beneficiary will be provided the covered service at no greater cost to the beneficiary than if the service had been provided by a preferred provider. This subsection (a)(6)(H) does not apply to a beneficiary who willfully chooses to access a non-preferred provider for health care services available through the administrator's panel of participating providers. In these circumstances, the contractual requirements for non-preferred provider reimbursements will apply. This subsection (a)(6)(H) does not apply to administrators offering only a DHCSP~~discounted health care services plan~~;

I) The procedures for paying benefits when particular physician specialties are not represented within the provider network, or the services of such providers are not available at the time care is sought. In any case in which a beneficiary has made a good faith effort to utilize network providers, by satisfying contractual obligation specified in the benefit contract or certificate, for a covered service and the administrator does not have the appropriate preferred specialty providers (including but not limited to radiologists, anesthesiologists, pathologists and emergency room physicians) under contract due to the inability of the administrator to contract with the specialists, or due to the insufficient number or type of, or travel distance to, specialists, the administrator shall ensure that the beneficiary will be provided the covered service at no greater cost to the beneficiary than if the service had been provided by a preferred provider. This subsection (a)(6)(I) does

not apply to a beneficiary who willfully chooses to access a non-preferred provider for health care services available through the administrator's panel of participating providers. In these circumstances, the contractual requirements for non-preferred provider reimbursements will apply. This subsection (a)(6)(I) does not apply to administrators offering only a DHCSP~~discounted health care services plan~~;

J) A provision that the beneficiary shall receive emergency care coverage such that payment for this coverage is not dependent upon whether the services are performed by a preferred or non-preferred provider and the coverage shall be at the same benefit level as if the service or treatment had been rendered by a preferred ~~plan~~ provider. For purposes of this subsection (a)(6)(J), "the same benefit level" means that the beneficiary will be provided the covered service at no greater cost to the beneficiary than if the service had been provided by a preferred provider. This subsection (a)(6)(J) does not apply to administrators offering only a DHCSP~~discounted health care services plan~~;

K) A limitation that, if the plan provides that the beneficiary will incur a penalty for failing to pre-certify inpatient hospital treatment, the penalty may not exceed $1,000 per occurrence;

L) Efforts to address the needs of beneficiaries with limited English proficiency and literacy and/or~~, with~~ diverse cultural and ethnic backgrounds, and to comply with the Americans With Disabilities Act of 1990~~ with physical and mental disabilities~~;

M) A sample beneficiary identification card in conformity with the Uniform Health Care Service Benefits Information Card Act [215 ILCS 139], and the Uniform Prescription Drug Information Card Act [215 ILCS 138] when pharmaceutical services are provided as part of the program's health care services;

N) When a gatekeeper option is included as part of the program, a requirement that the administrator make a good faith effort to provide written notice of termination of the gatekeeper to all beneficiaries who are patients seen on a regular basis by the

gatekeeper whose contract is terminating. In a gatekeeper option, when a contract termination involves a primary care physician, all beneficiaries who are patients of that primary care physician shall also be notified. This subsection (a)(6)(N) does not apply to administrators offering only a DHCSP~~discounted health care services plan~~.

b) If an administrator is leasing, buying or otherwise using another administrator's or insurer's program, and the required information has previously been filed by the other administrator or insurer, then only the administrative agreement and verification that the providers have consented to the agreement pursuant to Section 2051.300(d) need to be filed. A clause within the provider contract allowing assignment will be deemed consent in the absence of material modification of the provider's obligations under the contract.

c) Enrollees are not responsible for any costs associated with medical record transmission or duplication in order to have a claim adjudicated. This subsection (c) does not apply to administrators offering only a discounted health care services plan.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.315 Workers' Compensation Network Availability and Adequacy Requirements

a) WC PPP administrators and insurers must file a description of the services to be offered through a WC PPP. The description shall include:

1) The method of marketing the program;

2) A geographic map of the area proposed to be served by the program by county and zip code, including marked locations for preferred providers;

3) The names, addresses and specialties of the providers who have entered into preferred provider agreements under the program;

4) The number of beneficiaries estimated to be covered by the providers listed in subsection (a)(3);

5) An Internet website and toll-free telephone number for insureds, beneficiaries and prospective beneficiaries to access up-to-date lists of preferred providers, as well as any other information necessary to conform to this Part. A plan shall identify specific providers in a beneficiary's area, confirm specific provider participation or provide a listing of specific preferred providers in the delivery mode requested by the beneficiary. Preferred provider lists requested by phone must be sent within 3 working days. The up-to-date provider list applies to all providers that have entered arrangements to provide services directly under the program or indirectly through another administrator. WC PPP administrators' and insurers' Internet website addresses shall be prominently displayed on all advertisements, marketing materials, brochures and benefit cards;

6) A description of how health care services to be rendered under the preferred provider program are reasonably accessible and available to beneficiaries. Standards shall address:

A) The type of health care services to be provided by the administrator;

B) The ratio of providers to beneficiaries, by specialty and including primary treating physicians, when applicable under the contract, necessary to meet the health care needs and service demands of the estimated covered employees;

C) Written policies and procedures for determining when the program is closed to new providers desiring to enter into preferred provider arrangements;

D) Written policies and procedures for adding providers to meet patient needs based on increases in the number of beneficiaries, changes in the patient to provider ratio, changes in medical and health care capabilities, and increased demand for services;

E) If applicable, procedures for making referrals within and outside the network;

F) Efforts to address the needs of beneficiaries with limited English proficiency and literacy and/or diverse cultural and ethnic backgrounds, and to comply with the Americans With Disabilities Act of 1990;

~~e~~ 7) If a WC PPP administrator is leasing, buying or otherwise using another administrator's or insurer's program and the required information has previously been filed by the other administrator or insurer, only the administrative agreement and verification that the providers have consented to the agreement pursuant to Section 2051.300(d). A clause within the provider contract allowing assignment will be deemed consent in the absence of material modification of the provider's obligations under the contract; and

8) A statement that covered employees are not responsible for any costs associated with medical record transmission or duplication in order to have a claim adjudicated.

b) Additional Requirements

1) WC PPP administrators and insurers must, in addition to those requirements established in subsection (a):

A) File a description of how health care services to be rendered under the preferred provider program are reasonably accessible and available to beneficiaries;

B) File a provision ensuring that, whenever a covered employee has made a good faith effort to utilize network providers for a covered service and it is determined the administrator does not have the appropriate preferred providers due to insufficient number, type or distance, the administrator shall ensure, directly or indirectly, by terms contained in the payor contract, that the covered employee will be provided the covered services at no greater cost to the payor than if the service had been provided by a preferred provider. In these instances, the administrator shall be responsible for the payment of any additional amounts otherwise due to the non-preferred provider; however, the amounts will be no greater than those established by the Workers' Compensation Fee

Schedule. This subsection (b)(1)(B) does not apply to a covered employee who willfully chooses to access a non-preferred provider for health care services available through the administrator's panel of participating providers. In these circumstances, the requirements of Section 8.2 of the Workers' Compensation Act for non-preferred provider reimbursements will apply. This subsection (b)(1)(B) does not apply to SPPP administrators;

C) File policies and procedures ensuring, directly or indirectly, that, whenever a covered employee has made a good faith effort to utilize network providers for a covered service and it is determined the administrator does not have the appropriate preferred providers due to insufficient number, type or distance, the administrator shall ensure, directly or indirectly, by terms contained in the payor contract, that the covered employee will be provided the covered services as if they been provided by a preferred provider, without any loss of provider choice under Section 8 or 8.1a(c) of the Workers' Compensation Act. This subsection (b)(1)(C) does not apply to a covered employee who willfully chooses to access a non-preferred provider for health care services available through the administrator's panel of preferred providers. In these circumstances, the requirements of Section 8.2 of the Workers' Compensation Act for non-preferred provider reimbursements will apply. This subsection (b)(1)(C) does not apply to SPPP administrators;

D) Provide geographical maps indicating primary treating physician and hospital health care services for emergency health care services, within 30 minutes or 15 miles of each covered employee's residence;

E) Provide geographical maps indicating providers of occupational health services and specialists within 60 minutes or 30 miles of a covered employee's residence;

F) If the WC PPP administrator believes that, given the facts and circumstances with regard to a portion of its service area (specifically rural areas, including those in which health facilities are located at least 30 miles apart), the accessibility standards set

forth in subsections (b)(1)(D) and/or (E) are unreasonably restrictive, the administrator shall include proposed alternative standards in writing in its application or in a notice of program modification. The alternative standards shall provide that all services shall be available and accessible at reasonable times to all covered employees;

G) Coverage Outside the PPP

i) Provide written policy for arranging or approving non-emergency medical care for:

- A covered employee authorized by the employer to temporarily work or travel for work outside the preferred provider program geographic service area when the need for medical care arises;

- A former employee whose employer has ongoing workers' compensation obligations and who permanently resides outside the preferred provider program geographic service area; and

- A covered employee who decides to temporarily reside outside the preferred provider program geographic service area during recovery.

ii) In the written policy, provide covered employees described in subsection (b)(1)(G)(i) with the choice of at least three providers outside the PPP geographic service area who either have been referred by the covered employee's primary treating physician within the PPP or have been selected by the WC PPP administrator. The referred providers shall be located within the access standards described in subsections (b)(1)(D) and (E);

H) For non-emergency services:

i) Ensure that an appointment for initial treatment is available within 3 business days after the WC PPP administrator's receipt of a request for treatment within the PPP.

ii) For treatment of common injuries experienced by covered employees, based on the type of occupation or industry in which the covered employee is engaged, ensure that an appointment is available within 20 business days after the WC PPP administrator's receipt of a referral to a specialist within the PPP.

2) For purposes of subsection (b)(1)(G), nothing precludes a WC PPP administrator from having a written policy that allows a covered employee outside the preferred provider program geographic service area to choose his or her own provider for non-emergency medical care. This Section does not apply to SPPP administrators.

(Source: Added at 36 Ill. Reg. _____, effective _____)

Section 2051.320 Discounted Health Care Services Plan Requirements

a) A DHCSP ~~discounted health care services plan~~ administrator shall have a written agreement between the administrator and its beneficiaries that specifies the benefits a beneficiary is to receive under the DHCSP ~~discounted health care services plan~~ and that complies with this Section. For insurers offering a DHCSP~~discounted health care services plan~~ as part of a policy of insurance, the certificate or policy may act as the written agreement.

b) All agreements between DHCSP~~discounted health care services plan~~ administrators and beneficiaries shall contain at a minimum:

1) A provision establishing the right of the beneficiary to cancel the plan, in writing, at any time. If a beneficiary cancels within 30 days after the date of receipt of the identification card and other membership materials, the beneficiary will be reimbursed all money paid except any fee authorized by subsection (f);

2) A provision establishing that beneficiaries will have free access to DHCSP ~~discounted health care services plan~~ providers without restrictions such as waiting periods, notification periods, etc. (except for hospital discounts);

3) A provision allowing a beneficiary to modify the method of payment upon request, unless a specific method of payment is stipulated within the agreement. DHCSP~~Discounted health care services plan~~ administrators must discontinue using any automatic account withdrawals, including, but not limited to, electronic fund transfers and automatic credit card and/or debit card charges, upon receiving a beneficiary's written request to terminate or alter the method of payment;

4) The procedures for filing complaints with the plan and the availability and contact information for the Illinois Department of Insurance. These procedures must contain, at a minimum, a statement that the DHCSP ~~discounted health care services plan~~ shall provide specific contact information for the Department upon request.

c) If a DHCSP~~discounted health care services plan~~ cancels a membership for any reason other than nonpayment of charges by the beneficiary, the DHCSP ~~discounted health care services plan~~ shall make a pro rata reimbursement of all periodic charges to the member.

d) DHCSP~~Discounted health care services plan~~ administrators must provide the following disclosures in writing to any prospective beneficiary of a DHCSP~~discounted health care services plan~~ before purchase, as well as in all beneficiary agreements. If the initial contact with the prospective beneficiary is by telephone, the disclosures shall be made orally and included in the written agreement required by subsection (a). The disclosures shall also be provided on the first page of any advertisements, marketing materials or brochures relating to a DHCSP~~discounted health care services plan~~ or, if that is not possible, on the first page listing plan information. The following disclosures must be prominently displayed:

1) That it is not insurance;

2) That the plan provides discounts at certain providers for health care services and that the range of discounts will vary depending on the type of provider and service received;

3) That the plan does not make payments directly to the providers of discounted health care services;

4) That the plan beneficiary is obligated to pay for all discounted health care services, but will receive a discount from those providers that have contracted with the DHCSP ~~discounted health care services plan~~ administrator;

5) The DHCSP~~discounted health care services plan~~ administrator's toll-free telephone number and Internet website where beneficiaries and prospective beneficiaries may obtain additional information about the DHCSP~~discounted health care services plan~~ and lists of providers participating in the DHCSP~~discounted health care services plan~~.

e) Whenever a DHCSP ~~discounted health care services plan~~ is sold in conjunction with any other product that can be purchased separately, including a policy of insurance, the administrator or DHCSP~~discounted health care services plan~~ administrator must provide in writing to the beneficiary the charges for the DHCSP~~discounted health care services plan~~ product.

f) Any initial one-time processing, administrative or other such non-regular or periodic charge may not exceed $30.

g) A DHCSP ~~discounted health care services plan~~ administrator shall annually file with the Director a listing of all private label marketers with whom it has a direct or indirect contractual relationship respecting the marketing or use of the administrator's DHCSP~~discounted health care services plan~~ under a name other than that of the administrator. A DHCSP~~discounted health care services plan~~ administrator shall inform the Department of any additional private label marketers with whom it contracts and of any cancellation or non-renewal of a contract within 30 days after the execution, cancellation or non-renewal of those contracts. A listing of private label marketers must contain:

1) The name, address and FEIN of the private label marketer;

2) Any DBA used by the private label marketer; and

3) All product names used by the private label marketer.

h) A DHCSP~~discounted health care services plan~~ administrator shall ensure that any private label marketer whom it identifies under subsection (g) or with whom it has an obligation to identify under subsection (g):

1) Prominently discloses within all description of benefits and member materials the name of the administrator and DHCSP~~discounted health care services plan~~ administrator whose DHCSP~~discounted health care services plan~~ is being provided;

2) Prominently discloses within all marketing materials the name of any DHCSP~~discounted health care services plan~~ administrator whose DHCSP~~discounted health care services plan~~ is being provided;

3) Prominently discloses the private label marketer's product name and the name or name and logo of available networks on the member's identification card; and

4) Complies with the applicable DHCSP ~~discounted health care services plan~~ administrator provisions of this Part.

i) A private label marketer that is not identified as such pursuant to subsection (g) must register as a DHCSP ~~discounted health care services plan~~ administrator under this Part.

j) A DHCSP~~discounted health care services plan~~ shall identify specific providers in a beneficiary's area, confirm specific provider participation or provide a listing of participating providers by mail. Participating provider lists requested by phone must be sent within 3 working days. Any provider listing must include all participating providers with whom the administrator has contracted either directly or indirectly through another DHCSP~~discounted health care services plan~~ administrator.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.330 Insurer Requirements

a) As required by Section 143(1) of the Code and consistent with the requirements of 50 Ill. Adm. Code 916, insurers must file the following compliance documents

in the format prescribed in Appendix C each time a policy incorporating a preferred provider arrangement is filed, or when the insurer markets, leases, sells or otherwise issues DHCSPs~~discounted health care services plans~~ to beneficiaries, either directly or indirectly, independent of insurance coverage:

1) Sample copies of all payor agreements as required by Section 2051.280, when applicable, and provider agreements as required by Section 2051.290. If the terms and conditions in the agreements include significant, substantial or material changes or additions, the filing of one complete sample of each type of agreement, together with a description of all variable terms and conditions, will satisfy this requirement;

2) Valid and current signed administrator agreements pursuant to Section 2051.300;

3) Network availability and adequacy requirements pursuant to Section 2051.310; and

4) DHCSPs'~~Discounted health care services plans~~ requirements pursuant to Section 2051.320, if applicable.

b) When incorporated in a policy filing, the filing requirements of subsection (a) may be waived if the preferred provider arrangement information had previously been filed and is identified in the subsequent filing.

c) Any material changes or additions to the preferred provider program filed in accordance with subsection (a) must be reported to the Director within 30 days after the end of the month of each change or addition. The change or addition shall be filed informationally in accordance with Section 143(1) of the Code and consistent with the requirements of 50 Ill. Adm. Code 916. A material change or addition includes any modification of the information required by this Part that has significant effect on the operation of the administrator or DHCSP~~discounted health care services plan~~ administrator or on the availability and accessibility of health care.

d) All advertising and solicitation by an insurer regarding a DHCSP ~~discounted health care services plan~~ must comply with the requirements established by Section 2051.360.

e) Insurers may not market EPO plans in this State, except when such an arrangement is shown to be in the best interest of the beneficiaries and has been expressly approved by the Director in writing.

f) Insurers offering a DHCSP~~discounted health care services plan~~ as part of a policy of insurance must set off the DHCSP~~discounted health care services plan~~ provisions from the insurance coverage and disclose information as required by Section 2051.320(d)(3) through (5~~6~~).

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.340 Fiduciary and Bond Requirements

a) This Section outlines requirements for administrators who must establish either a bond or a fiduciary account pursuant to Section 370*l* of the Act. Administrators who administer only DHCSPs~~discounted health care services plans~~ need not comply with these requirements because, by definition, they do not handle money for purposes of payment for provider services. Employers and insurers contracting directly with providers or with multiple administrators to implement a WC PPP need not comply with these requirements, as they are exempted by Section 8.1a of the Worker's Compensation Act.

b) Administrators who establish and maintain a fiduciary account pursuant to Section 370*l* of the Act are subject to the following requirements:

1) Monies collected for reimbursement under preferred provider programs that the administrator holds more than 15 days shall be deposited in a special fiduciary account in a financial institution located in this State. The account shall be designated as an Administrator Trust Fund or ATF. All checks drawn on the ATF shall indicate on their face that they are drawn on the ATF of the administrator.

2) An administrator that operates more than one preferred provider program may establish separate fiduciary accounts for each program, or may maintain a consolidated fiduciary account for multiple programs. If a consolidated ATF account is maintained, the administrator's records shall clearly indicate fund deposits and disbursements for each program.

3) No disbursement shall be made from the ATF account other than payment for provider services under the preferred provider program operated by the administrator and administrative fees due the administrator pursuant to a written agreement.

4) For each preferred provider program for which an ATF is maintained, the balance in the ATF shall at all times be the amount of funds deposited plus accrued interest, if any, less authorized disbursements.

5) If the ATF is interest bearing or income producing, the full nature of the account must first be disclosed to the principal, whether insurer or other payor of services under the preferred provider program, on whose behalf the funds are or will be held. At this time the administrator must procure the written consent and authorization from the principal for the investment of money and retention of interest or earnings.

6) An administrator may place ATF funds in interest-bearing or income-producing investments and retain the interest or income, providing the administrator obtains the prior written authorization of the principals on whose behalf the funds are to be held. In addition to savings and checking accounts, an administrator may invest in the following:

A) Direct obligations of the United States of America or U.S. Government agency securities with maturities of not more than one year;

B) Certificates of deposit, with a maturity of not more than one year, issued by the Federal Deposit Insurance Corporation (FDIC) or Federal Savings and Loan Insurance Corporation (FSLIC), so long as any deposit does not exceed the maximum level of insurance protection provided to certificates of deposits held by the institutions;

C) Repurchase agreements with financial institutions or government securities dealers recognized as primary dealers by the Federal Reserve System, provided:

i) The value of the repurchase agreement is collateralized with assets that are allowable investments for ATF funds;

ii) The collateral has a market value at the time the repurchase agreement is entered into at least equal to the value of the repurchase agreement;

iii) The repurchase agreement does not exceed 30 days;

D) Commercial paper, provided the commercial paper is rated at least P-l by Moody's Investors Service, Inc. or at least A-1 by Standard & Poor's Corporation;

E) Money market funds, provided the money market fund invests exclusively in assets that are allowable investments pursuant to subsections (b)(6)(A) through (D) of this Section for ATF funds;

F) Each investment transaction must be made in the name of the administrator's ATF. The administrator must maintain evidence of any such investments. Each investment transaction must flow through the administrator's ATF.

7) Recordkeeping

A) Administrators shall maintain detailed books and records that reflect all transactions involving the receipt and disbursement of funds from the ATF.

B) The detailed preparation, journalizing and posting of the books and records must be maintained on a timely basis and all journal entries for receipts and disbursements shall be supported by evidential matter, which must be referenced in the journal entry so that it may be traced for verification. Administrators shall prepare and maintain monthly financial institution account reconciliations of any ATF established by the administrator. The minimum detail required shall be as follows:

i) The sources, amounts and dates of monies received and deposited by the administrator.

ii) The date and person to whom a disbursement is made. If the amount disbursed does not agree with the amount billed or authorized, the administrator shall prepare a written record as to the reason.

iii) A description of the disbursement in such detail to identify the source document substantiating the purpose of the disbursement.

c) An administrator who posts or causes to be posted a bond of indemnity pursuant to Section 370*l* of the Act shall do so subject to the following requirements:

1) An administrator who operates more than one preferred provider program subject to the Act may maintain a bond of indemnity for any such programs.

2) The bond shall be held by the Director in favor of the beneficiaries and payors of services under the preferred provider program operated by the administrator. The bond shall be executed by a surety company and payable to any party injured under the terms of the bond.

3) The bond shall be in continuous form and shall be in an amount of not less than 10% of the total estimated annual reimbursements under the preferred provider program covered by the bond. The amount of the bond shall be determined in accordance with the methodology submitted by the administrator pursuant to Section 2051.260(c)(5).

4) The bond shall remain in force and effect until the surety is released from liability by the Director or until the bond is cancelled by the surety. The surety may cancel the bond and be released from further liability under the bond upon 30 days advance written notice to the Director. The cancellation shall not affect any liability incurred or accrued under the bond before the termination of the 30-day period. Upon receipt of any notice of cancellation, the Director shall immediately notify the administrator.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.350 Maintenance of Records

a) All administrators ~~and discounted health care services plan administrators~~ shall maintain detailed books and records of all of their transactions as an administrator of preferred provider programs. The records required to be maintained by this Section shall include, but are not limited to:

1) Books and records of ATF transactions required by Section 2051.340;

2) Books and records regarding all funds received or disbursed by the administrator ~~or discounted health care services plan administrator~~;

3) All contracts or agreements with providers, insurers or other payors of the services under a PPP~~preferred provider program~~; and

4) All documents relating to the administrator's PPP~~or discounted health care services plan administrator's preferred provider program~~, including but not limited to beneficiary disclosure documents required by Section 370m of the Act, beneficiary complaints and documents relating to the administrator's utilization review program.

b) Records shall be maintained for at least 3 years after termination of the PPP~~preferred provider program~~ to which they relate.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.360 Advertising and Solicitation

a) No administrator ~~or discounted health care services plan administrator~~ or its representative shall cause, or knowingly permit the use of, advertising, solicitation, or any form of evidence of coverage that encourages misrepresentation, or is untrue, misleading or deceptive, unjust, unfair, inequitable, ambiguous, inconsistent, or contrary to law or to the public policy of this State;

b) No administrator ~~or discounted health care services plan administrator~~ may represent or describe itself in its name, contracts or literature as a "health maintenance organization" or "HMO", nor may it hold itself out or represent itself as being an insurance company, limited health service organization or a health service corporation, unless such is the case;

c) No DHCSP~~discounted health care services plan~~ administrator may use the following terms in its advertisements, marketing material, brochures or DHCSP~~discounted health care services plan~~ cards: "health plan", "coverage", "copay", "copayments", "deductible", "preexisting conditions", "guaranteed issue", "premium", or other terms in a manner that could reasonably mislead an individual into believing that the product being offered is health insurance;

d) No DHCSP~~discounted health care services plan~~ administrator may use language in its advertisements, marketing material, brochures or DHCSP~~discounted health care services plan~~ cards with respect to being "licensed" or "registered" by the ~~Illinois~~ Department ~~of Insurance~~ in a manner that could mislead an individual into believing that the DHCSP~~discounted health care services plan~~ is health insurance;

e) Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed;

f) If the Director finds that any advertisement of a preferred provider program ~~plan~~ has materially failed to comply with this Part, the Director may, pursuant to the authority in Section 149 of the Code, by Order, require the administrator ~~and discounted health care services plan administrator~~ to publish in the same or similar medium an approved correction or retraction of any untrue, misleading or deceptive statement contained in the advertising. The Director may prohibit the administrator ~~plan~~ from publishing or distributing, or allowing to be published or distributed on its behalf, the advertisement or any new materially revised advertisement without first having filed a copy of the advertisement with the Director 30 days prior to its publication or distribution, or within any shorter period specified in the Order.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2051.370 Examination

a) The Director or his or her designee may examine any applicant for registration or any registrant when he or she obtains information that gives him or her reason to believe that the applicant or registrant may be in violation of this Part, or any

applicable provision of the Code, when he or she receives a complaint or when the applicant has a history of violations of the Code.

b) Any administrator ~~or discounted health care services plan administrator~~ being examined shall provide to the Director or his or her designee convenient and free access, at all reasonable hours at their offices, to all books, records, documents and other papers relating to the administrator's business affairs. ~~The Director or his or her designee shall not have access to beneficiary medical records protected under Article VIII, Part 21, of the Code of Civil Procedure titled "Medical Studies" [735 ILCS 5/8-2101 through 2105].~~

c) The Director or his or her designee may administer oaths and thereafter examine any individual about the business of the administrator ~~or discounted health care services plan administrator~~.

d) The expenses of examination under this Section shall be assessed against the administrator ~~or discounted health care services plan administrator~~ being examined in accordance with Section 408(3) of the Code.

e) The examiner designated by the Director shall make a written report if he or she alleges a violation of this Part, any applicable provisions of the Code or any other applicable Part of Title 50 of the Illinois Administrative Code. The report shall be verified by the examiner. The report must be made to the Director within 45 days after the conclusion of the examination. If no report is to be made, the administrator shall be so notified.

f) If a report is made, the Director shall either deliver a duplicate of the report to the administrator being examined or send the duplicate by certified or registered mail to the administrator's address specified in the records of the Department. The Director shall afford the administrator an opportunity to request a hearing to object to the report. The administrator may request a hearing within 30 days after receipt of the duplicate examination report by giving the Director written notice of the request, together with written objections to the report. Any hearing shall be conducted in accordance with Sections 402 and 403 of the Code and 50 Ill. Adm. Code 2402. The right to hearing is waived if the delivery of the report is refused, the report is otherwise undeliverable to the address on file with the Department or the administrator does not timely request a hearing. After the hearing, or upon expiration of the time period during which an administrator may request a hearing, if the examination reveals that the administrator is operating in violation

of any applicable provisions of the Code, any applicable Part of Title 50 of the Illinois Administrative Code or prior Order, the Director, in the written Order, may require the administrator to take action to correct the violation in accordance with the report or examination hearing. If the Director issues an Order, it shall be issued within 90 days after the report is filed, or, if there is a hearing, within 90 days after the conclusion of the hearing. The Order is subject to review under the Administrative Review Law [735 ILCS 5/Art.III].

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 2051.APPENDIX A Health Care Preferred Provider Program Administrator Registration Form

Name of Firm			Tax # (FEIN)
Business Address (Number, Street, City, State & Zip)			
Phone	Fax	Email Address	
Person Responsible for submitting application:			Phone

FEE REQUIREMENT	REFERENCE	COMMENTS	
Fee Required With Application	50 Ill. Adm. Code 2051.250	Initial registration fee of $1,000 must be submitted with application for Preferred Program Provider Administrator.	

ADMINISTRATOR REQUIREMENTS	REFERENCE 50 Ill. Adm. Code 2051.260	COMMENTS	REFERENCE Please type or print where the~~such~~ information is located.
Signed Contracts	50 Ill. Adm. Code 2051.260(c)	Signed copies of all current administrative agreements with any entity with which the applicant contracts to provide services for or meet the requirements of this Act. Examples of these contracts may include, but are not necessarily limited to, agreements with other administrators~~ and/or discounted health care services plan administrators~~, utilization review	

		organizations, third party administrators, third party prescription program administrators, insurers, health maintenance organizations and health service corporations.	
Listing of Private Label Entities	50 Ill. Adm. Code 2051.260(d)	A listing containing the name, address and FEIN of all entities that private label a DHCSP~~discounted health care services plan~~ of the administrator.	

ORGANIZATIONAL REQUIREMENTS	**REFERENCE** 50 Ill. Adm. Code 2051.270	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located
Organization Chart	50 Ill. Adm. Code 2051.270(a)	An organizational chart describing the relationship among~~between~~ the administrator~~ or discounted health care services plan administrator~~, its parent organization and any affiliates, including the state of domicile and the primary business of each entity.	
Corporation Information	50 Ill. Adm. Code 2051.270(b)	Proof of registration with the Illinois Secretary of State and the company's FEIN.	
Biographical Affidavits	50 Ill. Adm. Code 2051.270(c) Appendix E~~D~~	A list of the names, addresses, official positions and biographical affidavits of the persons responsible for the conduct of the affairs of the administrator~~ or~~	

		~~discounted health care services plan administrator~~ (as presented in Appendix E~~D~~ or the NAIC Biographical Affidavit Form).	
Office Location and Hours	50 Ill. Adm. Code 2051.270(d)	Location of the administrative offices of the administrator located in this State and regular business hours during which offices are open. If administrative offices are not in this State, then the name and address of the Agent for Service of Process filed with the Illinois Secretary of State.	

HEALTH CARE PREFERRED PROVIDER PROGRAM PAYOR AGREEMENTS Each applicant for registration shall file sample copies of all payor agreements, when ~~where~~ applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.280	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.
Incentives	50 Ill. Adm. Code 2051.280(a)	Terms requiring and specifying all incentives to be provided to the beneficiary to utilize services of a provider that has entered into an agreement with the administrator.	
Out-of-Network	50 Ill. Adm. Code	Terms stating that, whenever	

Referrals	2051.280(b)	an administrator or a preferred provider finds it medically necessary to refer a beneficiary to a non-preferred provider, the payor shall ensure that the beneficiary so referred shall incur no greater out of pocket liability than had the beneficiary received services from a preferred provider. Subsection (b) does not apply to a beneficiary who willfully chooses to access a non-preferred provider for health care services available through the administrator's panel of participating providers. In these circumstances, the contractual requirements for non-preferred provider reimbursements will apply.	
Identification Card References	50 Ill. Adm. Code 2051.280(c)	Terms requiring that both the payor's and administrator's name and toll-free telephone numbers be contained on the beneficiaries' identification card.	
Prohibition on Administrator Assuming Risk	50 Ill. Adm. Code 2051.280(d)	Terms specifying that only the payor may assume any underwriting risk when that risk is part of the delivery of services.	

HEALTH CARE PREFERRED PROVIDER PROGRAM AGREEMENTS	**REFERENCE** 50 Ill. Adm. Code 2051.290	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is

Each applicant for registration shall file sample copies of all provider agreements, when applicable. Agreements at a minimum shall contain the following provisions.			located.
Covered Services/Beneficiary Payment Responsibility	50 Ill. Adm. Code 2051.290(a)	A provision identifying the specific covered health care services for which the preferred provider will be responsible including any discount services, copayments, benefit maximums, limitations and exclusions, as well as any discount amount or discounted fee schedule reflecting discounted rates, shall be enumerated.	
Provider Administrative Responsibilities	50 Ill. Adm. Code 2051.290(b)	A provision requiring the provider to comply with applicable administrative policies and procedures of the administrator including, but not limited to credentialing, recredentialing, utilization review requirements and referral procedures where applicable.	
Availability of Medical Records	50 Ill. Adm. Code 2051.290(c)	A provision requiring that when payments are due to the provider for services rendered to a beneficiary, the provider must maintain and make medical records available to the administrator and/or insurer for the purpose of	

		determining, on a concurrent or retrospective basis, the medical necessity and appropriateness of care provided to beneficiaries. Such medical records must also be made available to appropriate State and federal authorities and their agents involved in assessing the accessibility and availability of care or investigating member grievances or complaints and to comply with the applicable State and federal laws related to privacy and confidentiality of medical records.	
Provider Licensure Requirements	50 Ill. Adm. Code 2051.290(d)	A provision requiring providers to be licensed by the State, and to notify the administrator immediately whenever there is a change in licensure or certification status.	
Hospital Admitting Privileges	50 Ill. Adm. Code 2051.290(e)	A provision requiring all physician providers to have admitting privileges in at least one hospital with which the administrator has a written provider contract. The administrator shall be notified immediately of any changes in privileges at any hospital or admitting facility. Reasonable exceptions may be made for physicians who, because of the type of clinical specialty, or location or type	

		of practice, do not customarily have admitting privileges. This does not apply to administrators offering only DHCSPs~~discounted health care services plans~~.	
Provider Contract Termination	50 Ill. Adm. Code 2051.290(f)	Termination provisions shall require: (1) Not less than 30 days prior written notice by either party who wishes to terminate the contract without cause; (2) That the administrator may terminate the provider contract for cause immediately; and (3) That the provider acting as primary care physician under plans requiring a gatekeeper option must provide the administrator with a list of all patients using that provider as a gatekeeper within 5 working days after the date that the provider either gives or receives notice of termination.	
Continuation of Services	50 Ill. Adm. Code 2051.290(g)	A provision explaining the provider responsibilities for continuation of covered services in the event of contract termination, to the extent that an extension of benefits is required by law or regulation, or that such continuation is voluntarily provided by the administrator. This does not apply to administrators	

		offering only a DHCSP~~discounted health care services plan~~.	
Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.290(h)	A provision stating that the rights and responsibilities under the contract cannot be sold, leased, assigned, assumed or otherwise delegated by either party without the prior written consent of the other party. The~~Similarly, the~~ provider's written consent must be obtained for any assignment or assumption of the provider contract whenever an administrator or insurer is bought by another administrator or insurer. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with the terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules.	
Liability and Malpractice Coverage	50 Ill. Adm. Code 2051.290(i)	A provision stating that the preferred provider has and will maintain adequate professional liability and malpractice coverage, through insurance, self-funding, or other means satisfactory to the administrator. The	

		administrator must be notified within no less than ten days after~~of~~ the provider's receipt of notice of any reduction or cancellation of such coverage.	
Non-Discrimination	50 Ill. Adm. Code 2051.290(j)	A provision stating that the provider will provide health care services without discrimination against any beneficiary on the basis of participation in the preferred provider program, source of payment, age, sex, ethnicity, religion, sexual preference, health status or disability.	
Requirement for Provider Collection of Out-of-Pocket Amounts from Beneficiary	50 Ill. Adm. Code 2051.290(k)	A provision regarding the preferred provider's obligation, if any, to collect applicable copayments, coinsurance and/or deductibles from beneficiaries as provided by the beneficiary's health care services contract, and to provide notice to beneficiaries of their personal financial obligations for non-covered services. This provision shall include any amount of applicable discounts or, alternatively, a fee schedule that reflects any discounted rates. For DHCSPs~~discounted health care services plans~~ only, a provision that providers may not charge beneficiaries more than any applicable	

		discounted rates in accordance with payment terms and provisions contained in a DHCSP~~discounted health care services plan~~ agreement signed by a beneficiary.	
24/7 Accessibility	50 Ill. Adm. Code 2051.290(*l*)	A provision regarding any obligation to provide covered health services on a 24 hour per day, 7 day per week basis.	
Payment Obligations	50 Ill. Adm. Code 2051.290(m)	A provision clearly describing the administrator's and payor's payment obligations to the provider. For DHCSPs~~discounted health care services plans~~, neither administrators nor payors may pay providers for health care services provided to beneficiaries. For DHCSPs~~discounted health care services plans~~, neither administrators nor payors may accept money from a beneficiary for payment to a provider for specific health care services furnished or to be furnished to the beneficiary.	
Administrative Services	50 Ill. Adm. Code 2051.290(n)	A provision identifying the administrative services, if any, the administrator will perform and the types of information (financial, enrollment and utilization) that will be submitted to the provider as well as other information that is accessible	

		to the provider.	
Arbitration Procedures	50 Ill. Adm. Code 2051.290(p)	A provision identifying applicable internal appeal or arbitration procedures for settling contractual disputes or disagreements between the administrator and preferred provider.	

ADMINISTRATOR AGREEMENTS Each applicant for registration shall file sample copies of all administrative agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.300	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.
Due Diligence	50 Ill. Adm. Code 2051.300(a)	Before entering into a contract with another administrator ~~or discounted health care services plan~~ to administer programs, policies or subscriber contracts in this State as provided by 215 ILCS 5/370i(b)(2), an administrator ~~or discounted health care services plan administrator~~ shall perform due diligence to ensure the other entity is properly registered under this Part or otherwise appropriately licensed under the Insurance Code.	
Terms for the Delegation of Rights Under the	50 Ill. Adm. Code 2051.300(b)	Any provider contract or preferred provider program	

Contract		that is sold, leased, assigned, assumed or otherwise delegated must have the terms of that transaction affecting the provision of health care services by providers, including any additional discount, repricing, or other consideration, clearly described in the contract. The administrator~~, discounted health care services plan administrator~~ or payor accessing the provider network shall be contractually obligated to comply with all applicable terms, limitations and conditions of the provider network contract, including all appendices, policies and fee schedules. An administrator shall provide to the provider upon request a written or electronic list of all current payors and administrators ~~and discounted health care services plan administrators~~ to which the provider contract or program has been sold, leased, assigned, assumed or otherwise delegated.	
Administrator Marketing Responsibility	50 Ill. Adm. Code 2051.300(c)	An administrator shall approve in writing prior to use all advertisements, marketing materials,	

		brochures and identification cards used by any other administrator ~~or discounted health care services plan administrator~~ to market, promote, sell or enroll members in its preferred provider program.	
Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.300(d)	No preferred provider program may be sold, leased, assigned, assumed or otherwise delegated to another administrator without the prior written consent of the providers contracting under the program. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with the terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules.	

HEALTH CARE PREFERRED PROVIDER PROGRAM NETWORK AVAILABILITY AND ACCESS Each applicant for registration shall file the following information and documents with the	**REFERENCE** I50 ll. Adm. Code 2051.310	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.

Director			
Method of Marketing	50 Ill. Adm. Code 2051.310(a)(1)	Provide the Department with information relating to the method of marketing the program.	
Geographic Map with Providers Marked	50 Ill. Adm. Code 2051.310(a)(2)	A geographic map of the area proposed to be served by the program by county and zip code, including marked locations of preferred providers.	
List of Providers Names, Addresses and Specialties	50 Ill. Adm. Code 2051.310(a)(3)		
Number of Anticipated Beneficiaries	50 Ill. Adm. Code 2051.310(a)(4)	Members enrolled in the State of Illinois.	
Website and Telephone Number Requirements	50 Ill. Adm. Code 2051.310(a)(5)	An Internet website and toll-free telephone number for beneficiaries and prospective beneficiaries to access regarding up-to-date lists of preferred providers, additional information about the DHCSP~~discounted health care services plan~~, as well as any other information necessary to conform to this Part. A plan shall identify specific providers in a beneficiary's area, confirm specific provider participation or provide a listing of preferred providers by mail. Preferred provider lists requested by phone must be sent within 3 working days. The up-to-date provider list applies to all providers that have entered	

		arrangements to provide services under the program either directly, or indirectly through another administrator. Administrators' and insurers' Internet website addresses shall be prominently displayed on all advertisements, marketing materials, brochures, benefit cards and identification cards.	
Description of Accessibility and Availability of Network	50 Ill. Adm. Code 2051.310(a)(6)		
Type of Services to be Provided	50 Ill. Adm. Code 2051.310(a)(6)(A)	The type of health care services to be provided by the administrator network.	
Ratio of Providers to Beneficiaries	50 Ill. Adm. Code 2051.310(a)(6)(B)	The ratio of providers to beneficiaries by specialty, including primary care physicians, where applicable under the contract, necessary to meet the health care needs and service demands of the currently enrolled population.	
Greatest Travel Distance	50 Ill. Adm. Code 2051.310(a)(6)(C)	The greatest distance or time that the beneficiary must travel to access: (i) Preferred provider hospital services where applicable under the contract; (ii) Primary care physician and woman's principal health care provider~~physician~~ services where applicable under the contract; (iii) Any applicable health care service providers.	
Policies for Closing a Network to New	50 Ill. Adm. Code 2051.310(a)(6)(D)		

Providers			
Policies for Adding New Providers	50 Ill. Adm. Code 2051.310(a)(6)(E)		
24/7 Network Access	50 Ill. Adm. Code 2051.310(a)(6)(F)	The provision of 24 hour, seven day per week access to network affiliated primary care and woman's principal health care providers. Not applicable to administrators offering only a DHCSP~~discounted health care services plan~~.	
Referral Procedures	50 Ill. Adm. Code 2051.310(a)(6)(G)	The procedures for making referrals within and outside the network. Not applicable to administrators offering only a DHCSP~~discounted health care services plan~~.	
Inadequate Networks	50 Ill. Adm. Code 2051.310(a)(6)(H)	In any case in which~~whereby~~ a beneficiary has made a good faith effort to utilize preferred~~network~~ providers for a covered service and it is determined the administrator does not have the appropriate preferred providers due to insufficient number, type or distance, the administrator shall ensure, directly or indirectly, by terms contained in the payor contract, that the beneficiary will be provided the covered service at no greater cost to the beneficiary than if the service had been provided by a preferred provider. Subsection (a)(6)(H) does not apply to a beneficiary who willfully	

		chooses to access a non-preferred provider for health care services available through the administrator's panel of participating providers. In these circumstances, the contractual requirements for non-preferred provider reimbursements will apply. Not applicable to administrators offering only a DHCSP~~discounted health care services plan~~.	
Special Communication Needs	50 Ill. Adm. Code 2051.310(a)(6)(L)	Efforts to address the needs of beneficiaries with limited English proficiency and illiteracy, with diverse cultural and ethnic backgrounds, and with physical and mental disabilities.	
Identification Card	50 Ill. Adm. Code 2051.310(a)(6)(M)	A sample beneficiary identification card in conformity with the Uniform Health Care Service Benefits Information Card Act [215 ILCS 139], and the Uniform Prescription Drug Information Card Act [215 ILCS 138] when pharmaceutical services are provided as part of the program's health care services.	
Gatekeeper	50 Ill. Adm. Code 2051.310(a)(6)(N)	When a gatekeeper option is included as part of the program, beneficiaries shall make a good faith effort to	

		provide written notice of termination of a provider to all beneficiaries who are patients seen on a regular basis by a provider whose contract is terminating. When a contract termination involves a primary care physician, in a gatekeeper option, all beneficiaries who are patients of that primary care physician shall also be notified. This does not apply to administrators that only provide DHCSPs~~discounted health care services plans~~.	
Medical Record Costs	50 Ill. Adm. Code 2051.310(c)	Enrollees are not responsible for any reasonable costs associated with medical record transmission or duplication in order to have a claim adjudicated.	

DISCOUNTED HEALTH CARE SERVICES PLAN AGREEMENTS Each applicant for registration shall file sample copies of all DHCSP~~discounted health care services plan~~ agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.320	**COMMENTS** Only those administrators that also provide DHCSP~~discounted health care services plan~~ benefits must comply with the requirements of Section 2051.320.	**REFERENCE** Please type or print where the~~such~~ information is located.
Written Agreement Required	50 Ill. Adm. Code 2051.320(a)	A DHCSP~~discounted health care services plan~~	

		administrator shall have a written agreement between the administrator and its beneficiaries that specifies the benefits a beneficiary is to receive under the DHCSP~~discounted health care services plan~~.	
Cancellation Rights	50 Ill. Adm. Code 2051.320(b)(1)	A provision establishing the right for the beneficiary to cancel at any time. If a beneficiary cancels within 30 days after the date of receipt of the identification card and other membership materials, the beneficiary will be reimbursed all money paid except any fee authorized by Section 2051.320(f).	
No Restrictions on Access to Providers	50 Ill. Adm. Code 2051.320(b)(2)	A provision establishing that beneficiaries will have free access to DHCSP~~discounted health care services plan~~ providers without restrictions to waiting periods, notification periods, etc. (except for hospital discounts).	
Method of Payment	50 Ill. Adm. Code 2051.320(b)(3)	A provision allowing a beneficiary to modify the method of payment upon request, unless a specific method of payment is stipulated within the agreement.	
Electronic Fund Transfer Limitation	50 Ill. Adm. Code 2051.320(b)(3)	DHCSP~~Discounted health care services plan~~ administrators may not continue using electronic	

		fund transfers after receiving a beneficiary's written request to terminate electronic fund transfers as a method of payment.	
DOI Complaint Filing	50 Ill. Adm. Code 2051.320(b)(4)	The procedures for filing complaints with the plan and the availability and contact information for the Illinois Department of Insurance. These procedures must contain, at a minimum, a statement that the DHCSP~~discounted health care services plan~~ shall provide specific contact information for the Department upon request.	
Required Disclosures	50 Ill. Adm. Code 2051.320(d)	DHCSP~~Discounted health care plan~~ administrators must provide the following disclosures in writing to any prospective beneficiary of a DHCSP~~discounted health care services plan~~ before purchase as well as in all beneficiary agreements. If the initial contact with the prospective beneficiary is by telephone, the disclosure shall be made orally and included in the written agreement required by Section 2051.320(a). The disclosures shall also be provided on the first page of any advertisements, marketing materials or brochures relating to a	

		DHCSP~~discounted health care services plan~~ or if that is not possible, on the first page listing plan information.	
Not an Insurance Policy	50 Ill. Adm. Code 2051.320(d)(1)		
Providers and Services	50 Ill. Adm. Code 2051.320(d)(2)		
The Plan Does Not Make Payments to Providers	50 Ill. Adm. Code 2051.320(d)(3)		
Beneficiary Must Pay for All Discounted Services	50 Ill. Adm. Code 2051.320(d)(4)	The plan beneficiary is obligated to pay for all discounted health care services, but will receive a discount from those providers that have contracted with the DHCSP~~discounted health care services plan~~ administrator.	
Toll-Free Number and Website Access	50 Ill. Adm. Code 2051.320(d)(5)	The administrator's toll-free telephone number and Internet website page where beneficiaries and prospective beneficiaries may obtain additional information about the DHCSP~~discounted health care services plan~~ and lists of providers participating in the DHCSP~~discounted health care services plan~~.	
Itemized Discounted Health Care Services Plan Costs	50 Ill. Adm. Code 2051.320(e)	Whenever a DHCSP~~discounted health care services plan~~ is sold in conjunction with any other product that can be purchased separately, including a policy of insurance, the administrator or DHCSP~~discounted health~~	

		~~care services plan~~ administrator must provide in writing to the beneficiary the charges for the DHCSP~~discounted health care services plan~~ product.	
Limitation on Fees	50 Ill. Adm. Code 2051.320(f)	Any initial one-time processing, administrative or other such non-regular fee may not exceed $30.	
Listing of Private Label Marketers	50 Ill. Adm. Code 2051.320(g)	A DHCSP~~discounted health care service plan~~ administrator shall annually file with the Director a listing of all private label marketers with whom it has a direct or indirect contractual relationship respecting the marketing or use of the administrator's DHCSP~~discounted health care services plan~~ under a name other than that of the administrator. A DHCSP~~discounted health care services plan~~ administrator shall inform the Department of any additional private label marketers with whom it contracts and of any cancellation or non-renewal of a contract within 30 days after the execution, cancellation or non-renewal of the contracts. A listing of private label marketers must contain: (1) the name, address and FEIN of the private label marketer; (2) any DBA used	

		by the private label marketer; and (3) all product names used by the private label marketer.	
Administrator Responsibilities for Private Label Marketers	50 Ill. Adm. Code 2051.320(h)	A DHCSP~~discounted health care services plan~~ administrator shall ensure that any private label marketer who it identifies under subsection (g) or with whom it has an obligation to identify under subsection (g): (1) prominently discloses within all descriptions of benefits and member materials the name of any administrator and DHCSP~~discounted health care services plan~~ administrator whose DHCSP~~discounted health care services plan~~ is being provided; (2) prominently discloses within all marketing materials the name of any DHCSP~~discounted health care services plan~~ administrator whose DHCSP~~discounted health care services plan~~ is being provided; (3) prominently discloses the private label marketer's product name and the name or name and logo of available networks on the member's identification card; and (4) complies with the applicable DHCSP~~discounted health care services plan~~ administrator provisions of	

		this Part.	
Private Label Marketers Not Identified	50 Ill. Adm. Code 2051.320(i)	A private label marketer that is not identified as such pursuant to subsection (g) must register as a DHCSP~~discounted health care services plan~~ administrator under this Part.	
Participating Provider Listing	50 Ill. Adm. Code 2051.320(j)	A DHCSP~~discounted health care services plan~~ shall identify specific providers in a beneficiary's area, confirm specific provider participation or provide a listing of participating providers by mail. Participating provider lists requested by phone must be sent within 3 working days. Any provider listing must include all participating providers with whom the administrator has contracted either directly or indirectly through another DHCSP~~discounted health care services plan~~ administrator.	

FIDUCIARY AND BONDING REQUIREMENTS	**REFERENCE** 50 Ill. Adm. Code 2051.340	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.
Holder of Bond	50 Ill. Adm. Code 2051.340(c)(2) and Appendix F	If a bond of indemnity is posted, it shall be held by the Director of Insurance in favor of the beneficiaries and payors of services under	

		the preferred provider program operated by the administrator.	

Declaration:

The undersigned declares that the statements made in this application are true, correct and complete to the best of his/her knowledge and belief.

Signature _____ Date _____

Print Name and Title _____ Phone _____

Please sign and date this form and return it to the Department with your registration fee of $1,000 for new registrations and any accompanying documents. The check or money order should be payable to the Director of Insurance.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 2051.APPENDIX B Discounted Health Care Services Plan Only Registration

Name of Firm			Tax # (FEIN)
Business Address (Number, Street, City, State & Zip)			
Phone	Fax	Email Address	
Person Responsible for submitting application:			Phone

FEE REQUIREMENT	REFERENCE	COMMENTS	
Fee Required With Application	50 Ill. Adm. Code 2051.250	Initial registration fee of $1,000 must be submitted with application for Preferred Program Provider Administrator.	

ADMINISTRATOR REQUIREMENTS	REFERENCE 50 Ill. Adm. Code 2051.260	COMMENTS	REFERENCE Please type or print where the~~such~~ information is located.
Signed Contracts	50 Ill. Adm. Code 2051.260(c)	Signed copies of all current administrative agreements with any entity with which the applicant contracts to provide services for or meet the requirements of this Act. Examples of these contracts may include, but are not necessarily limited to, agreements with other administrators ~~and/or discounted health care services plan administrators~~, utilization review organizations, third party	

		administrators, third party prescription program administrators, insurers, health maintenance organizations and health service corporations.	

ORGANIZATIONAL REQUIREMENTS	**REFERENCE** 50 Ill. Adm. Code 2051.270	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.
Organization Chart	50 Ill. Adm. Code 2051.270(a)	An organizational chart describing the relationship among~~between~~ the administrator~~ or discounted health care services plan administrator~~, its parent organization and any affiliates, including the state of domicile and the primary business of each entity.	
Corporation Information	50 Ill. Adm. Code 2051.270(b)	Proof of registration with the Illinois Secretary of State and the company's FEIN.	
Biographical Affidavits	50 Ill. Adm. Code 2051.270(c) Appendix E~~D~~	A list of the names, addresses, official positions and biographical affidavits of the persons responsible for the conduct of the affairs of the administrator~~ or discounted health care services plan administrator~~ (as presented in Appendix E~~D~~ or the NAIC Biographical Affidavit Form).	
Office Location and	50 Ill. Adm. Code	Location of the	

Hours	2051.270(d)	administrative offices of the administrator located in this State and regular business hours during which offices are open. If administrative offices are not in this State, then the name and address of the Agent for Service of Process filed with the Illinois Secretary of State.	

HEALTH CARE PROVIDER PREFERRED PROGRAM PROVIDER AGREEMENTS Each applicant for registration shall file sample copies of all provider agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.290	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.
Covered Services/Beneficiary Payment Responsibility	50 Ill. Adm. Code 2051.290(a)	A provision identifying the specific covered health care services for which the preferred provider will be responsible including any discount services, copayments, benefit maximums, limitations and exclusions, as well as any discount amount or discounted fee schedule reflecting discounted rates, shall be enumerated.	

Provider Administrative Responsibilities	50 Ill. Adm. Code 2051.290(b)	A provision requiring the provider to comply with applicable administrative policies and procedures of the administrator including, but not limited to credentialing and recredentialing requirements.	
Provider Licensure Requirements	50 Ill. Adm. Code 2051.290(d)	A provision requiring providers to be licensed by the State, and to notify the administrator immediately whenever there is a change in licensure or certification status.	
Provider Contract Termination	50 Ill. Adm. Code 2051.290(f)	Termination provisions shall require: (1) Not less than 30 days prior written notice by either party who wishes to terminate the contract without cause; (2) That the administrator may terminate the provider contract for cause immediately; and (3) That the provider acting as primary care physician under plans requiring a gatekeeper option must provide the administrator with a list of all patients using that provider as a gatekeeper within 5 working days after the date that the provider either gives or receives notice of termination.	
Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.290(h)	A provision stating that the rights and responsibilities under the contract cannot be sold, leased, assigned,	

		assumed or otherwise delegated by either party without the prior written consent of the other party. The~~Similarly, the~~ provider's written consent must be obtained for any assignment or assumption of the provider contract whenever an administrator or insurer is bought by another administrator or insurer. A clause within the provider contract allowing assignment will be deemed consent so long as~~at~~ the assignment is in accordance with the terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules.	
Liability and Malpractice Coverage	50 Ill. Adm. Code 2051.290(i)	A provision stating that the preferred provider has and will maintain adequate professional liability and malpractice coverage, through insurance, self-funding, or other means satisfactory to the administrator. The administrator must be notified within no less than ten days after~~of~~ the preferred provider's receipt of notice of any reduction or cancellation of such coverage.	
Non-Discrimination	50 Ill. Adm. Code	A provision stating that the	

	2051.290(j)	provider will provide health care services without discrimination against any beneficiary on the basis of participation in the preferred provider program, source of payment, age, sex, ethnicity, religion, sexual preference, health status or disability.	
Requirement for Provider Collection of Out-of-Pocket Amounts from Beneficiary	50 Ill. Adm. Code 2051.290(k)	A provision regarding the preferred provider's obligation, if any, to collect applicable copayments, coinsurance and/or deductibles from beneficiaries as provided by the beneficiary's health care services contract and to provide notice to beneficiaries of their personal financial obligations for non-covered services. This provision shall include any amount of applicable discounts or, alternatively, a fee schedule that reflects any discounted rates. For DHCSPs~~discounted health care services plans~~ only, a provision that providers may not charge beneficiaries more than any applicable discounted rates in accordance with payment terms and provisions contained in a DHCSP~~discounted health care services plan~~ agreement signed by a beneficiary.	

24/7 Accessibility	50 Ill. Adm. Code 2051.290(*l*)	A provision regarding any obligation to provide covered health services on a 24 hour per day, 7 day per week basis.	
Payment Obligations	50 Ill. Adm. Code 2051.290(m)	A provision clearly describing the administrator's and payor's payment obligations to the provider. For DHCSPs~~discounted health care services plans~~, neither administrators nor payors may pay providers for health care services provided to beneficiaries. For DHCSPs~~discounted health care services plans~~, neither administrators nor payors may accept money from a beneficiary for payment to a provider for specific health care services furnished or to be furnished to the beneficiary.	
Administrative Services	50 Ill. Adm. Code 2051.290(n)	A provision identifying the administrative services, if any, the administrator will perform and the types of information (financial, enrollment and utilization) that will be submitted to the provider as well as other information that is accessible to the provider.	
Arbitration Procedures	50 Ill. Adm. Code 2051.290(p)	A provision identifying applicable internal appeal or arbitration procedures for settling contractual disputes or disagreements between the	

		administrator and preferred provider.	

ADMINISTRATOR AGREEMENTS Each applicant for registration shall file sample copies of all administrative agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.300	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.
Due Diligence	50 Ill. Adm. Code 2051.300(a)	Before entering into a contract with another administrator ~~or discounted health care services plan administrator~~ to administer programs, policies or subscriber contracts in this State as provided by 215 ILCS 5/370i(b)(2), an administrator ~~or discounted health care services plan administrator~~ shall perform due diligence to ensure the other entity is properly registered under this Part or otherwise appropriately licensed under the Insurance Code.	
Terms for the Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.300(b)	Any provider contract or preferred provider program that is sold, leased, assigned, assumed or otherwise delegated must have the terms of that transaction affecting the provision of	

		health care services by providers, including any additional discount, repricing or other consideration, clearly described in the contract. The administrator~~, discounted health care services plan administrator~~ or payor accessing the provider network shall be contractually obligated to comply with all applicable terms, limitations and conditions of the provider network contract, including all appendices, policies and fee schedules. An administrator shall provide to the provider upon request a written or electronic list of all current payors and~~,~~ administrators ~~and discounted health care services plan administrators~~ to which the provider contract or program has been sold, leased, assigned, assumed or otherwise delegated.	
Administrator Marketing Responsibility	50 Ill. Adm. Code 2051.300(c)	An administrator shall approve in writing prior to use all advertisements, marketing materials, brochures and identification cards used by any other administrator ~~or discounted health care services plan administrator~~ to market, promote, sell or enroll	

		members in its preferred provider program.	
Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.300(d)	No preferred provider program may be sold, leased, assigned, assumed or otherwise delegated to another administrator without the prior written consent of the providers contracting under the program. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with the terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules.	

HEALTH CARE PREFERRED PROVIDER PROGRAM NETWORK AVAILABILITY AND ACCESS Each applicant for registration shall file the following information and documents with the Director.	**REFERENCE** 50 Ill. Adm. Code 2051.310	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.
Method of Marketing	50 Ill. Adm. Code 2051.310(a)(1)	Provide the Department with information relating to the method of marketing the program.	

Geographic Map with Providers Marked	50 Ill Adm. Code 2051.310(a)(2)	A geographic map of the area proposed to be served by the program by county and zip code, including marked locations of preferred providers.	
List of Providers Names, Addresses and Specialties	50 Ill. Adm. Code 2051.310(a)(3)		
Number of Anticipated Beneficiaries	50 Ill.Adm. Code 2051.310(a)(4)	Members enrolled only in the State of Illinois.	
Website and Telephone Number Requirements	50 Ill. Adm. Code 2051.310(a)(5)	An Internet website and toll-free telephone number for beneficiaries and prospective beneficiaries to access regarding up-to-date lists of preferred providers, additional information about the DHCSP~~discounted health care services plan~~, as well as any other information necessary to conform to this Part. A plan shall identify specific providers in a beneficiary's area, confirm specific provider participation or provide a listing of preferred providers by mail. Preferred provider lists requested by phone must be sent within 3 working days. The up-to-date provider list applies to all providers that have entered arrangements to provide services under the program either directly, or indirectly through another administrator.	

		Administrators' ~~and insurers'~~ Internet website addresses shall be prominently displayed on all advertisements, marketing materials, brochures, benefit cards and identification cards.	
Description of Accessibility and Availability of Network	50 Ill. Adm. Code 2051.310(a)(6)		
Type of Services to be Provided	50 Ill. Adm. Code 2051.310(a)(6)(A)	The type of health care services to be provided by the administrator network.	
Ratio of Providers to Beneficiaries	50 Ill. Adm. Code 2051.310(a)(6)(B)	The ratio of providers to beneficiaries by specialty, including primary care physicians, where applicable under the contract, necessary to meet the health care needs and service demands of the currently enrolled population.	
Greatest Travel Distance	50 Ill. Adm. Code 2051.310(a)(6)(C)	The greatest distance or time that the beneficiary must travel to access: (i) Preferred provider hospital services, where applicable under the contract; (ii) Primary care physician and woman's principal health care provider~~physician~~ services, where applicable under the contract; (iii) Any applicable health care service providers.	
Policies for Closing a Network to New Providers	50 Ill. Adm. Code 2051.310(a)(6)(D)		
Policies for Adding New Providers	50 Ill. Adm. Code 2051.310(a)(6)(E)		

Special Communication Needs	50 Ill. Adm. Code 2051.310(a)(6)(L)	Efforts to address the needs of beneficiaries with limited English proficiency and illiteracy, with diverse cultural and ethnic backgrounds, and with physical and mental disabilities.	
Identification Card	50 Ill. Adm. Code 2051.310(a)(6)(M)	A sample beneficiary identification card in conformity with the Uniform Health Care Service Benefits Information Card Act [215 ILCS 139], and the Uniform Prescription Drug Information Card Act [215 ILCS 138] when pharmaceutical services are provided as part of the program's health care services.	

DISCOUNTED HEALTH CARE SERVICES PLAN AGREEMENTS Each applicant for registration shall file sample copies of all DHCSP~~discounted health care services plan~~ agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.320	**COMMENTS** Only those administrators that also provide DHCSP~~discounted health care services plan~~ benefits must comply with the requirements of Section 2051.320.	**REFERENCE** Please type or print where the~~such~~ information is located.
Written Agreement Required	50 Ill. Adm. Code 2051.320(a)	A DHCSP~~discounted health care services plan~~	

		administrator shall have a written agreement between the administrator and its beneficiaries that specifies the benefits a beneficiary is to receive under the DHCSP~~discounted health care services plan~~.	
Cancellation Rights	50 Ill. Adm. Code 2051.320(b)(1)	A provision establishing the right for the beneficiary to cancel at any time. If a beneficiary cancels within 30 days after the date of receipt of the identification card and other membership materials, the beneficiary will be reimbursed all money paid except any fee authorized by Section 2051.320(b)(1).	
No Restrictions on Access to Providers	50 Ill. Adm. Code 2051.320(b)(2)	A provision establishing that beneficiaries will have free access to DHCSP~~discounted health care services plan~~ providers without restrictions to waiting periods, notification periods, etc. (except for hospital discounts).	
Method of Payment	50 Ill. Adm. Code 2051.320(b)(3)	A provision allowing a beneficiary to modify the method of payment upon request, unless a specific method of payment is stipulated within the agreement.	
Electronic Fund Transfer Limitation	50 Ill. Adm. Code 2051.320(b)(3)	DHCSP~~Discounted health care services plan~~ administrators may not continue using electronic	

		fund transfers after receiving a beneficiary's written request to terminate electronic fund transfers as a method of payment.	
DOI Complaint Filing	50 Ill. Adm. Code 2051.320(b)(4)	The procedures for filing complaints with the plan and the availability and contact information for the Illinois Department of Insurance. The procedures must contain, at a minimum, a statement that the DHCSP~~discounted health care services plan~~ shall provide specific contact information for the Department upon request.	
Required Disclosures	50 Ill. Adm. Code 2051.320(d)	DHCSP~~Discounted health care services plan~~ administrators must provide the following disclosures in writing to any prospective beneficiary of a DHCSP~~discounted health care services plan~~ before purchase as well as in all beneficiary agreements. If the initial contact with the prospective beneficiary is by telephone, the disclosure shall be made orally and included in the written agreement required by Section 2051.320(a). The disclosures shall also be provided on the first page of any advertisements, marketing materials or brochures relating to a	

		DHCSP~~discounted health care services plan~~ or if that is not possible, on the first page listing plan information.	
Not an Insurance Policy	50 Ill. Adm. Code 2051.320(d)(1)		
Providers and Services	50 Ill. Adm. Code 2051.320(d)(2)		
The Plan Does Not Make Payments to Providers	50 Ill. Adm. Code 2051.320(d)(3)		
Beneficiary Must Pay for All Discounted Services	50 Ill. Adm. Code 2051.320(d)(4)	The plan beneficiary is obligated to pay for all discounted health care services, but will receive a discount from those providers that have contracted with the DHCSP~~discounted health care services plan~~ administrator.	
Toll-Free Number and Website Access	50 Ill. Adm. Code 2051.320(d)(5)	The DHCSP~~discounted health care services plan~~ administrator's toll-free telephone number and Internet website page where beneficiaries and prospective beneficiaries may obtain additional information about the DHCSP~~discounted health care services plan~~ and lists of providers participating in the DHCSP~~discounted health care services plan~~.	
Itemized Discounted Health Care Services Plan Costs	50 Ill. Adm. Code 2051.320(e)	Whenever a DHCSP~~discounted health care services plan~~ is sold in conjunction with any other product that can be	

		purchased separately including a policy of insurance, the administrator or DHCSP~~discounted health care services plan~~ administrator must provide in writing to the beneficiary the charges for the DHCSP ~~discounted health care services plan~~ product.	
Limitation on Fees	50 Ill. Adm. Code 2051.320(f)	Any initial one-time processing, administrative or other such non-regular fee may not exceed $30.	
Listing of Private Label Marketers	50 Ill. Adm. Code 2051.320(g)	A DHCSP~~discounted health care services plan~~ administrator shall annually file with the Director a listing of all private label marketers with whom it has a direct or indirect contractual relationship respecting the marketing or use of the administrator's~~administrator~~ DHCSP~~discounted health services~~ under a name other than that of the administrator. A DHCSP~~discounted health care services plan~~ administrator shall inform the Department of any additional private label marketers with whom it contracts and of any cancellation or non-renewal of a contract within 30 days after the execution, cancellation or non-renewal of the contracts. A listing of	

		private label marketers must contain: (1) the name, address and FEIN of the private label marketers; (2) any DBA used by the private label marketer; and (3) all product names used by the private label marketer.	
Administrator Responsibilities for Private Label Marketers	50 Ill. Adm. Code 2051.320(h)	A DHCSP~~discounted health care services plan~~ administrator shall ensure that any private label marketer who it identifies under subsection (g) or with whom it has an obligation to identify under subsection (g): (1) prominently discloses within all descriptions of benefits and member materials the name of any administrator and DHCSP~~discounted health care services plan~~ administrator whose DHCSP~~discounted health care services plan~~ is being provided; (2) prominently discloses within all marketing materials the name of any DHCSP~~discounted health care services plan~~ administrator whose DHCSP~~discounted health care services plan~~ is being provided; (3) prominently discloses the private label marketer's product name and the name or name and logo of available networks on the	

		member's identification card; and (4) complies with the applicable DHCSP ~~discounted health care services plan~~ administrator provisions of this Part.	
Private Label Marketers Not Identified	50 Ill. Adm. Code 2051.320(i)	A private label marketer that is not identified as such pursuant to subsection (g) must register as a DHCSP ~~discounted health care services plan~~ administrator under this Part.	
Participating Provider Listings	50 Ill. Adm. Code 2051.320(j)	A DHCSP~~discounted health care services plan~~ shall identify specific providers in a beneficiary's area, confirm specific provider participation or provide a listing of participating providers by mail. Participating provider lists requested by phone must be sent within 3 working days. Any provider listing must include all participating providers with whom the administrator has contracted either directly or indirectly through another DHCSP ~~discounted health care services plan~~ administrator.	

FIDUCIARY AND BONDING REQUIREMENTS	**REFERENCE** 50 Ill. Adm. Code 2051.340	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.

Holder of Bond	50 Ill. Adm. Code 2051.340(c)(2)	If a bond of indemnity is posted, it shall be held by the Director of Insurance in favor of the beneficiaries and payors of services under the preferred provider program operated by the administrator.	

Declaration:

The undersigned declares that the statements made in this application are true, correct and complete to the best of his/her knowledge and belief.

Signature _____ Date _____

Print Name and Title _____ Phone _____

Please sign and date this form and return it to the Department with your registration fee of $1,000 for new registrations and any accompanying documents. The check or money order should be payable to the Director of Insurance.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 2051.APPENDIX C Insurer Filing Requirements

Name of Firm			Tax # (FEIN)
Business Address (Number, Street, City, State & Zip)			
Phone	Fax	Email Address	
Person Responsible for submitting application:			Phone

HEALTH CARE PREFERRED PROVIDER PROGRAM PAYOR AGREEMENTS Each insurer shall file sample copies of all payor agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.280	**COMMENTS**	**REFERENCE** Please type or print where the ~~such~~ information is located.
Incentives	50 Ill. Adm. Code 2051.280(a)	Terms requiring and specifying all incentives to be provided to the beneficiary to utilize services of a preferred provider.	
Out-of-Network Referrals	50 Ill. Adm. Code 2051.280(b)	Terms stating that, whenever an administrator or a preferred provider finds it medically necessary to refer a beneficiary to a non-preferred provider, the payor shall ensure that the beneficiary so referred shall incur no greater out of pocket liability than had the	

		beneficiary received services from a preferred provider. Subsection (b) does not apply to a beneficiary who willfully chooses to access a non-preferred provider for health care services available through the administrator's panel of participating providers. In these circumstances, the contractual requirements for non-preferred provider reimbursements will apply. Not applicable to administrators offering only a DHCSP~~discounted health care services plan~~.	
Identification Card References	50 Ill. Adm. Code 2051.280(c)	Terms requiring that both the payor's and, if applicable, the administrator's name and toll-free telephone numbers be contained on the beneficiaries' identification card.	
Prohibition on Administrator Assuming Risk	50 Ill. Adm. Code 2051.280(d)	Terms specifying that only the payor may assume any underwriting risk when that risk is part of the delivery of services.	

HEALTH CARE PREFERRED PROVIDER PROGRAM **PROVIDER AGREEMENTS** Each insurer shall file sample copies of all	**REFERENCE** 50 Ill. Adm. Code 2051.290	**COMMENTS**	**REFERENCE** Please type or print where the ~~such~~ information is located.

provider agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.			
Covered Services/Beneficiary Payment Responsibility	50 Ill. Adm. Code 2051.290(a)	A provision identifying the specific covered health care services for which the preferred provider will be responsible including any discount services, copayments, benefit maximums, limitations and exclusions, as well as any discount amount or discounted fee schedule reflecting discounted rates, shall be enumerated.	
Provider Administrative Responsibilities	50 Ill. Adm. Code 2051.290(b)	A provision requiring the provider to comply with applicable administrative policies and procedures of the insurer including, but not limited to credentialing or recredentialing requirements, utilization review requirements, and referral procedures.	
Availability of Medical Records	50 Ill. Adm. Code 2051.290(c)	A provision requiring that when payments are due to the provider for services rendered to a beneficiary, the provider must maintain and make medical records available to the administrator and/or the insurer for the purpose of determining, on a concurrent or retrospective	

		basis, the medical necessity and appropriateness of care provided to beneficiaries. Such medical records must also be made available to appropriate State and federal authorities and their agents involved in assessing the accessibility and availability of care or investigating member grievances or complaints and to comply with the applicable State and federal laws related to privacy and confidentiality of medical records.	
Provider Licensure Requirements	50 Ill. Adm. Code 2051.290(d)	A provision requiring providers to be licensed by the State, and to notify the insurer immediately whenever there is a change in licensure or certification status.	
Hospital Admitting Privileges	50 Ill. Adm. Code 2051.290(e)	A provision requiring all physician providers to have admitting privileges in at least one hospital with which the insurer has a written provider contract. The insurer shall be notified immediately of any changes in privileges at any hospital or admitting facility. Reasonable exceptions may be made for physicians who, because of the type of clinical specialty, or location or type of practice, do not customarily have admitting	

		privileges.	
Provider Contract Termination	50 Ill. Adm. Code 2051.290(f)	Termination provisions shall require: (1) Not less than 30 days prior written notice by either party who wishes to terminate the contract without cause; (2) That the insurer may terminate the provider contract for cause immediately; and (3) That the provider acting as primary care physician under plans requiring a gatekeeper option must provide the administrator with a list of all patients using that provider as a gatekeeper within 5 working days after the date that the provider either gives or receives notice of termination.	
Continuation of Services	50 Ill. Adm. Code 2051.290(g)	A provision explaining the provider responsibilities for continuation of covered services in the event of contract termination, to the extent that an extension of benefits is required by law or regulation, or that such continuation is voluntarily provided by the insurer.	
Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.290(h)	A provision stating that the rights and responsibilities under the contract cannot be sold, leased, assigned, assumed or otherwise delegated by either party without the prior written consent of the other party.	

		The ~~Similarly, the~~ provider's written consent must be obtained for any assignment or assumption of the provider contract whenever an administrator or insurer is bought by another administrator or insurer. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with the terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules.	
Liability and Malpractice Coverage	50 Ill. Adm. Code 2051.290(i)	A provision stating that the preferred provider has and will maintain adequate professional liability and malpractice coverage, through insurance, self-funding, or other means satisfactory to the insurer. The insurer must be notified within no less than ten days of the preferred provider's receipt of notice of any reduction or cancellation of such coverage.	
Non-Discrimination	50 Ill. Adm. Code 2051.290(j)	A provision stating that the provider will provide health care services without discrimination against any beneficiary on the basis of participation in the preferred	

		provider program, source of payment, age, sex, ethnicity, religion, sexual preference, health status or disability.	
Requirement for Provider Collection of Out-of-Pocket Amounts from Beneficiary	50 Ill. Adm. Code 2051.290(k)	A provision regarding the preferred provider's obligation, if any, to collect applicable copayments, coinsurance and/or deductibles from beneficiaries as provided by the beneficiary's health care services contract, and to provide notice to beneficiaries of their personal financial obligations for non-covered services. This provision shall include any amount of applicable discounts or, alternatively, a fee schedule that reflects any discounted rates. For DHCSPs ~~discounted health care services plans~~ only, a provision that providers may not charge beneficiaries more than any applicable discounted rates in accordance with payment terms and provisions contained in a DHCSP~~discounted health care services plan~~ agreement signed by a beneficiary.	
24/7 Accessibility	50 Ill. Adm. Code 2051.290(*l*)	A provision regarding any obligation to provide covered health services on a 24 hour per day, 7 day per	

		week basis.	
Payment Obligations	50 Ill. Adm. Code 2051.290(m)	A provision clearly describing the insurer's payment obligations to the provider. For DHCSPs~~discounted health care services plans~~, payors may not pay providers for health care services provided to beneficiaries. Payors may not accept money from a beneficiary for payment to a provider for specific health care services furnished or to be furnished to the beneficiary.	
Administrative Services	50 Ill. Adm. Code 2051.290(n)	A provision identifying the administrative services, if any, the insurer will perform and the types of information (financial, enrollment and utilization) that will be submitted to the provider as well as other information that is accessible to the provider.	
Payor Access	50 Ill. Adm. Code 2051.290(o)	A provision obligating the insurer to provide a method for providers to obtain initial information and adequate notice of change in benefits and copayments, and a provision obligating the insurer to provide all of the insurer's operational policies.	
Arbitration Procedures	50 Ill. Adm. Code 2051.290(p)	A provision identifying applicable internal appeal or arbitration procedures for settling contractual disputes	

		or disagreements between the insurer and preferred provider.	

ADMINISTRATOR AGREEMENTS Each insurer shall file sample copies of all administrative agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.300	**COMMENTS**	**REFERENCE** Please type or print where the~~such~~ information is located.
Due Diligence	50 Ill. Adm. Code 2051.300(a)	Before entering into a contract with an administrator ~~or discounted health care services plan administrator~~ to administer programs, policies or subscriber contracts in this State as provided by 215 ILCS 5/370i(b)(2), an administrator ~~or discounted health care services plan administrator~~ shall perform due diligence to ensure the other entity is properly registered under this Part or otherwise appropriately licensed under the Insurance Code.	
Terms for the Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.300(b)	Any provider contract or preferred provider program that is sold, leased, assigned, assumed or otherwise delegated must have the terms of that transaction affecting the provision of health care services by providers,	

		including any additional discount, repricing, or other consideration, clearly described in the contract. The administrator~~, discounted health care services plan administrator~~ or payor accessing the~~such~~ provider network shall be contractually obligated to comply with all applicable terms, limitations and conditions of the provider network contract, including all appendices, policies and fee schedules. An administrator shall provide to the provider upon request a written or electronic list of all current payors, administrators ~~and discounted health care services plan administrators~~ to which the provider contract or program has been sold, leased, assigned, assumed or otherwise delegated.	
Administrator Marketing Responsibility	50 Ill. Adm. Code 2051.300(c)	An insurer shall approve in writing prior to use all advertisements, marketing materials, brochures and identification cards used by any administrator~~, discounted health care services plan administrator~~ or other insurer to market, promote, sell or enroll members in its preferred provider program.	
Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.300(d)	No preferred provider program may be sold, leased, assigned, assumed or	

		otherwise delegated to an administrator without the prior written consent of the providers contracting under the program. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with the terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules.	

HEALTH CARE PREFERRED PROVIDER PROGRAM NETWORK AVAILABILITY AND ACCESS Each insurer shall file the following information and documents with the Director.	**REFERENCE** 50 Ill. Adm. Code 2051.310	**COMMENTS**	**REFERENCE** Please type or print where the ~~such~~ information is located.
Method of Marketing	50 Ill. Adm. Code 2051.310(a)(1)	Provide the Department with information relating to the method of marketing the program.	
Geographic Map with Providers Marked	50 Ill. Adm. Code 2051.310(a)(2)	A geographic map of the area proposed to be served by the program by county and zip code, including marked locations of preferred providers.	
List of Providers	50 Ill. Adm. Code		

Names, Addresses and Specialties	2051.310(a)(3)		
Number of Anticipated Beneficiaries	50 Ill. Adm. Code 2051.310(a)(4)	Members enrolled in the State of Illinois.	
Website and Telephone Number Requirements	50 Ill. Adm. Code 2051.310(a)(5)	An Internet website and toll-free telephone number for beneficiaries and prospective beneficiaries to access regarding up-to-date lists of preferred providers, additional information about the DHCSP~~discounted health care services plan~~, as well as any other information necessary to conform to this Part. The insurer shall identify specific providers in the beneficiary's area, confirm specific provider participation or provide a listing of preferred providers by mail. Preferred provider lists requested by phone must be sent within 3 working days. The up-to-date provider list applies to all providers that have entered arrangements to provide services under the program, either directly or indirectly, through an administrator. Insurers' Internet website addresses shall be prominently displayed on all advertisements, marketing materials, brochures, benefit cards and identification cards.	
Description of	50 Ill. Adm. Code		

Accessibility and Availability of Network	2051.310(a)(6)		
Type of Services to be Provided	50 Ill. Adm. Code 2051.310(a)(6)(A)	The type of health care services to be provided by the insurer's network.	
Ratio of Providers to Beneficiaries	50 Ill. Adm. Code 2051.310(a)(6)(B)	The ratio of providers to beneficiaries by specialty, including primary care physicians, where applicable under the contract, necessary to meet the health care needs and service demands of the currently enrolled population.	
Greatest Travel Distance	50 Ill. Adm. Code 2051.310(a)(6)(C)	The greatest distance or time that the beneficiary must travel to access: (i) Preferred provider hospital services where applicable under the contract; (ii) Primary care physician and woman's principal health care provider ~~physician~~ services where applicable under the contract; (iii) Any applicable health care service providers.	
Policies for Closing a Network to New Providers	50 Ill. Adm. Code 2051.310(a)(6)(D)		
Policies for Adding New Providers	50 Ill.Adm. Code 2051.310(a)(6)(E)		
24/7 Network Access	50 Ill. Adm. Code 2051.310(a)(6)(F)	The provision of 24 hour, seven day per week access to network affiliated primary care and woman's principal health care providers.	
Referral Procedures	50 Ill. Adm. Code 2051.310(a)(6)(G)	The procedures for making referrals within and outside the network.	

Inadequate Networks	50 Ill. Adm. Code 2051.310(a)(6)(H)	In any case whereby a beneficiary has made a good faith effort to utilize preferred ~~network~~ providers for a covered service and it is determined the insurer does not have the appropriate preferred providers due to insufficient number, type or distance, the insurer shall ensure, directly or indirectly, by terms contained in the payor contract, that the beneficiary will be provided the covered service at no greater cost to the beneficiary than if the service had been provided by a preferred provider. Subsection (a)(6)(H) does not apply to a beneficiary who willfully chooses to access a non-preferred provider for health care services available through the administrator's panel of participating providers. In these circumstances, the contractual requirements for non-preferred provider reimbursements will apply. Not applicable to administrators offering only a DHCSP~~discounted health care services plan~~.	
Lack of Specialty Providers	50 Ill. Adm. Code 2051.310(a)(6)(I)	The procedures for paying benefits when particular physician specialties are not represented within the	

		provider network, or the services of such providers are not available at the time care is sought. In any case where a beneficiary has made a good faith effort to utilize network providers, by satisfying contractual obligation as specified in the benefit contract or certificate, for a covered service and the insurer does not have the appropriate preferred specialty providers (including but not limited to radiologists, anesthesiologists, pathologists and emergency room physicians) under contract due to the inability of the insurer to contract with such specialists, the insurer shall ensure that the beneficiary will be provided the covered service at no greater cost to the beneficiary than if the service had been provided by a preferred provider.	
Special Communication Needs	50 Ill. Adm. Code 2051.310(a)(6)(L)	Efforts to address the needs of beneficiaries with limited English proficiency and illiteracy, with diverse cultural and ethnic backgrounds, and with physical and mental disabilities.	
Identification Card	50 Ill. Adm. Code 2051.310(a)(6)(M)	A sample beneficiary identification card in	

		conformity with the Uniform Health Care Service Benefits Information Card Act [215 ILCS 139], and the Uniform Prescription Drug Information Card Act [215 ILCS 138] when pharmaceutical services are provided as part of the program's health care services.	
Gatekeeper	50 Ill. Adm. Code 2051.310(a)(6)(N)	When a gatekeeper option is included as part of the program, insurers shall make a good faith effort to provide written notice of termination of a provider to all beneficiaries who are patients seen on a regular basis by a provider whose contract is terminating. Where a contract termination involves a primary care physician, in a gatekeeper option, all beneficiaries who are patients of that primary care physician shall also be notified.	
Medical Record Costs	50 Ill. Adm. Code 2051.310(c)	Enrollees are not responsible for any reasonable costs associated with medical record transmission or duplication in order to have a claim adjudicated.	

DISCOUNTED HEALTH CARE SERVICES PLAN AGREEMENTS (IF	**REFERENCE** 50 Ill. Adm. Code 2051.320	**COMMENTS** Only insurers that also provide DHCSP ~~discounted health care services plan~~	**REFERENCE** Please type or print where the ~~such~~ information

APPLICABLE) Each insurer shall file sample copies of all DHCSP ~~discounted health care services plan~~ agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.		benefits must comply with the requirements of Section 2051.320.	is located.
Written Agreement Required	50 Ill. Adm. Code 2051.320(a)	An insurer shall have a written agreement with its beneficiaries that specifies the benefits a beneficiary is to receive under the DHCSP~~discounted health care services plan~~, if any.	
Cancellation Rights	50 Ill. Adm. Code 2051.320(b)(1)	A provision establishing the right for the beneficiary to cancel the discount benefits at any time. If a beneficiary cancels within 30 days after the date of receipt of the identification card and other membership materials, the beneficiary will be reimbursed all money paid except any fee authorized by Section 2051.320(f).	
No Restrictions on Access to Providers	50 Ill. Adm. Code 2051.320(b)(2)	A provision establishing that beneficiaries will have free access to DHCSP~~discounted health care services plan~~ providers without restrictions to waiting periods, notification periods, etc. (except for hospital discounts).	
Method of Payment	50 Ill. Adm. Code	A provision allowing a	

	2051.320(b)(3)	beneficiary to modify the method of payment upon request, unless a specific method of payment is stipulated within the agreement.	
Electronic Fund Transfer Limitation	50 Ill. Adm. Code 2051.320(b)(3)	Insurers offering a DHCSP~~discounted health care services plan~~ may not continue using electronic fund transfers after receiving a beneficiary's written request to terminate electronic fund transfers as a method of payment.	
DOI Complaint Filing	50 Ill. Adm. Code 2051.320(b)(4)	The procedures for filing complaints with the plan and the availability and contact information for the Illinois Department of Insurance. These procedures must contain, at minimum, a statement that the DHCSP ~~discounted health care services plan~~ shall provide specific contact information for the Department upon request.	
Required Disclosures	50 Ill. Adm. Code 2051.320(d)	Insurers must provide the following disclosures as part of a policy of insurance, these disclosures must be included in the policy and certificate of coverage and must be specifically identified with and applicable to the DHCSP ~~discounted health care services plan~~ portion of the policy.	

Not an Insurance Policy	50 Ill. Adm. Code 2051.320(d)(1)		
Limitation on Providers and Services	50 Ill. Adm. Code 2051.320(d)(2)		
The Plan Does Not Make Payments to Providers	50 Ill. Adm. Code 2051.320(d)(3)		
Beneficiary Must Pay for All Discounted Services	50 Ill. Adm. Code 2051.320(d)(4)	The plan beneficiary is obligated to pay for all discounted health care services, but will receive a discount from those providers that have contracted with the insurer to provide health care service discounts.	
Toll-Free Telephone Number and Website Access	50 Ill. Adm. Code 2051.320(d)(5)	The insurer's toll-free telephone number and Internet website page where beneficiaries and prospective beneficiaries may obtain additional information about the DHCSP ~~discounted health care services plan~~ and lists of providers participating in the DHCSP~~discounted health care services plan~~.	
Itemized Discounted Health Care Services Plan Costs	50 Ill. Adm. Code 2051.320(e)	Whenever a DHCSP~~discounted health care services plan~~ is sold in conjunction with any other product that can be purchased separately, including a policy of insurance, the insurer must provide in writing to the beneficiary the charges for the DHCSP ~~discounted health care services plan~~ product.	
Limitation on Fees	50 Ill. Adm. Code 2051.320(f)	Any initial one-time processing, administrative or	

		other such non-regular fee may not exceed $30.	
Listing of Private Label Marketers	50 Ill. Adm. Code 2051.320(g)	A DHCSP~~discounted health care services plan~~ administrator shall annually file with the Director a listing of all private label marketers with whom it has a direct or indirect contractual relationship respecting the marketing or use of the administrator's DHCSP ~~discounted health care services plan~~ under a name other than that of the administrator. A DHCSP ~~discounted health care services plan~~ administrator shall inform the Department of any additional private label marketers with whom it contracts and of any cancellation or non-renewal of a contract within 30 days after the execution, cancellation or non-renewal of the contracts. A listing of private label marketers must contain: (1) the name, address and FEIN of the private label marketers; (2) any DBA used by the private label marketer; and (3) all product names used by the private label marketer.	
Administrator Responsibilities for Private Label Marketers	50 Ill. Adm. Code 2051.320(h)	A DHCSP~~discounted health care services plan~~ administrator shall ensure that any private label	

		marketer who it identifies under subsection (g) or with whom it has an obligation to identify under subsection (g): (1) prominently discloses within all descriptions of benefits and member materials the name of any administrator~~ and discounted health care services plan administrator~~ whose DHCSP~~discounted health care services plan~~ is being provided; (2) prominently discloses within all marketing materials the name of any ~~discounted health care services plan~~ administrator whose DHCSP~~discounted health care services plan~~ is being provided; (3) prominently discloses the private label marketer's product name and the name or name and logo of available networks on the member's identification card; and (4) complies with the applicable DHCSP ~~discounted health care services plan~~ administrator provisions of this Part.	
Private Label Marketers Not Identified	50 Ill. Adm. Code 2051.320(i)	A private label marketer that is not identified as such pursuant to subsection (g) must register as a DHCSP ~~discounted health care services plan~~ administrator under this Part.	

Participating Provider Listings	50 Ill. Adm. Code 2051.320(j)	A DHCSP~~discounted health care services plan~~ shall identify specific providers in a beneficiary's area, confirm specific provider participation or provide a listing of participating providers by mail. Participating provider lists requested by phone must be sent within 3 working days. Any provider listing must include all participating providers with whom the administrator has contracted either directly or indirectly through another DHCSP ~~discounted health care services plan~~ administrator.	

INSURER REQUIREMENTS Each insurer shall file sample copies of all DHCSP ~~discounted health care services plan~~ agreements, when~~where~~ applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.330	**COMMENTS**	**REFERENCE** Identify the previous filing information in the~~this~~ space below.
Waiver of filing requirements	50 Ill. Adm. Code 2051.330(b)	When incorporated in a policy filing, the filing requirements for Section 2051.330(a) may be waived if the preferred provider arrangement information had previously been filed and is identified in the subsequent	

		filing.	

Declaration:

The undersigned declares that the statements made in this application are true, correct and complete to the best of his/her knowledge and belief.

Signature

Date

Print Name and Title

Phone

Please sign and date this form and return it to the Department with your registration fee of $1,000 for new registrations and any accompanying documents. The check or money order should be payable to the Director of Insurance.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 2051.APPENDIX D Workers' Compensation Preferred Provider Program Administrator Registration Form

Name of Firm			Tax # (FEIN)
Business Address (Number, Street, City, State & Zip)			
Phone	Fax	Email Address	
Person Responsible for submitting application:			Phone

FEE REQUIREMENT	REFERENCE	COMMENTS	
Fee Required With Application	50 Ill. Adm. Code 2051.250	Initial registration fee of $1,000 must be submitted with application for preferred program provider administrator.	

ADMINISTRATOR REQUIREMENTS	REFERENCE 50 Ill. Adm. Code 2051.260	COMMENTS	REFERENCE Please type or print where the information is located.
Signed Contracts	50 Ill. Adm. Code 2051.260(c)	Signed copies of all current administrative agreements with any entity with which the applicant contracts to provide services for or meet the requirements of the Act. Examples of these contracts may include, but are not necessarily limited to, agreements with other administrators, utilization review organizations, third party administrators, third party prescription program administrators, insurers,	

		health maintenance organizations and health service corporations.	
Economic Evaluation	50 Ill. Adm. Code 2051.260(c)(7)	WC PPP administrators that utilize economic evaluation of their providers shall file a description of any policies and procedures related to the economic evaluation utilized by the program.	
Employee Notification	50 Ill. Adm. Code 2051.260(c)(8)	WC PPP administrators shall provide those policies and procedures instituted to insure the employer is providing proper notification to the covered employee in accordance with the form promulgated by the Workers' Compensation Commission.	

ORGANIZATIONAL REQUIREMENTS	**REFERENCE** 50 Ill. Adm. Code 2051.270	**COMMENTS**	**REFERENCE** Please type or print where the information is located
Organization Chart	50 Ill. Adm. Code 2051.270(a)	An organizational chart describing the relationship among the administrator, its parent organization and any affiliates, including the state of domicile and the primary business of each entity.	
Corporation Information	50 Ill. Adm. Code 2051.270(b)	Proof of registration with the Illinois Secretary of State and the company's FEIN.	
Biographical Affidavits	50 Ill. Adm. Code 2051.270(c) Appendix E	A list of the names, addresses, official positions and biographical affidavits of the persons responsible	

		for the conduct of the affairs of the administrator (as presented in Appendix E or the NAIC Biographical Affidavit Form).	
Office Location and Hours	50 Ill. Adm. Code 2051.270(d)	Location of the administrative offices of the administrator located in this State and regular business hours during which offices are open. If administrative offices are not in this State, then the name and address of the agent for service of process filed with the Illinois Secretary of State.	

WORKERS' COMPENSATION PREFERRED PROVIDER PROGRAM PAYOR AGREEMENTS Each applicant for registration shall file sample copies of all payor agreements, when applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.285	**COMMENTS**	**REFERENCE** Please type or print where the information is located.
Incentives	50 Ill. Adm. Code 2051.285(a)	Terms requiring and specifying all incentives to be provided to the beneficiary to utilize services of a provider that has entered into an agreement with the administrator.	
Out-of-Network	50 Ill. Adm. Code	Terms stating that, whenever	

Referrals – Beneficiary	2051.285(b)	an administrator or a preferred provider finds it medically necessary to refer a beneficiary to a non-preferred provider, the payor shall ensure that the beneficiary so referred shall incur no greater liability than had the beneficiary received services from a preferred provider, except as provided pursuant to Section 8.1a(c)(2) of the Workers' Compensation Act.	
Out of Network Referrals – Payor	50 Ill. Adm. Code 2051.285(c)	Terms stating that, whenever an administrator or a preferred provider finds it medically necessary to refer a beneficiary to a non-preferred provider because the PPP does not contain a provider who can provide the approved treatment, and if the beneficiary has complied with any reasonable pre-authorization requirements, the WC PPP shall ensure that the covered employee will be provided the covered services at not greater cost to the payor than if the services had been provided by a preferred provider. In these instances, the administrator shall be responsible for the payment of any additional amounts otherwise due to the non-preferred provider.	
Prohibition on	50 Ill. Adm. Code	Terms specifying that only	

Administrator Assuming Risk	2051.285(d)	the payor may assume any underwriting risk when that risk is part of the delivery of services.	

WORKERS' COMPENSATION PREFERRED PROVIDER PROGRAM PROVIDER AGREEMENTS Each applicant for registration shall file sample copies of all provider agreements, when applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.295	**COMMENTS**	**REFERENCE** Please type or print where the information is located.
Compliance with Workers' Compensation Act	50 Ill. Adm. Code 2051.295(a)	A provision stating, within the preamble, that the agreement conforms to the requirements of Section 8.1a of the Workers' Compensation Act [820 ILCS 305/8.1a].	
Covered Services/Beneficiary Payment Responsibility	50 Ill. Adm. Code 2051.295(b)	A provision identifying the specific covered health care services for which the preferred provider will be responsible, including any discount services, copayments, benefit maximums, limitations and exclusions, as well as any discount amount or discounted fee schedule	

		reflecting discounted rates, shall be enumerated.	
Provider Administrative Responsibilities	50 Ill. Adm. Code 2051.295(c)	A provision requiring the provider to comply with applicable administrative policies and procedures of the Administrator, including, but not limited to, credentialing, recredentialing, utilization review requirements and referral procedures when applicable.	
Availability of Medical Records	50 Ill. Adm. Code 2051.295(d)	A provision requiring that, when payments are due to the provider for services rendered to a beneficiary, the provider must maintain and make medical records available to the administrator and/or insurer for the purpose of determining, on a concurrent or retrospective basis, the medical necessity and appropriateness of care provided to beneficiaries. The medical records must also be made available to appropriate State and federal authorities and their agents involved in assessing the accessibility and availability of care or investigating member grievances or complaints and to comply with the applicable State and federal laws related to privacy and confidentiality of medical records.	

Provider Licensure Requirements	50 Ill. Adm. Code 2051.295(e)	A provision requiring providers to be licensed by the state and to notify the administrator immediately whenever there is a change in licensure or certification status.	
Hospital Admitting Privileges	50 Ill. Adm. Code 2051.295(f)	A provision requiring all physician providers to have admitting privileges in at least one hospital with which the administrator has a written provider contract. The administrator shall be notified immediately of any changes in privileges at any hospital or admitting facility. Reasonable exceptions may be made for physicians who, because of the type of clinical specialty, or location or type of practice, do not customarily have admitting privileges.	
Provider Contract Termination	50 Ill. Adm. Code 2051.295(g)	Termination provisions shall require: (1) Not less than 30 days prior written notice by either party who wishes to terminate the contract without cause; (2) That the administrator may terminate the provider contract for cause immediately; and (3) That the provider acting as primary treating physician under plans requiring a gatekeeper option must provide the administrator with a list of all patients	

		using that provider as a gatekeeper within 5 working days after the date that the provider either gives or receives notice of termination.	
Continuation of Services	50 Ill. Adm. Code 2051.295(h)	A provision explaining the provider responsibilities for continuation of covered services in the event of contract termination, to the extent that an extension of benefits is required by law or regulation, or that the continuation is voluntarily provided by the administrator.	
Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.295(i)	A provision stating that the rights and responsibilities under the contract cannot be sold, leased, assigned, assumed or otherwise delegated by either party without the prior written consent of the other party. The provider's written consent must be obtained for any assignment or assumption of the provider contract whenever an administrator or insurer is bought by another administrator or insurer. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with the terms of the contract. The assignee	

		must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules.	
Liability and Malpractice Coverage	50 Ill. Adm. Code 2051.295(j)	A provision stating that the preferred provider has and will maintain adequate professional liability and malpractice coverage, through insurance, self-funding, or other means satisfactory to the administrator. The administrator must be notified within no less than ten days after the preferred provider's receipt of notice of any reduction or cancellation of the coverage.	
Non-Discrimination	50 Ill. Adm. Code 2051.295(k)	A provision stating that the provider will provide health care services without discrimination against any beneficiary on the basis of participation in the PPP, source of payment, age, sex, ethnicity, religion, sexual preference, health status or disability.	
Requirement for Provider Notification of Beneficiaries Personal Financial Obligations for Non-Covered Services	50 Ill. Adm. Code 2051.295(l)	A provision regarding the preferred provider's obligation to provide notice to beneficiaries of their personal financial obligations for non-covered services.	
Services Determined Not Compensable under Workers' Compensation	50 Ill. Adm. Code 2051.295(m)	A provision that providers may charge covered employees for those services	

Act		determined to be not compensable under the Workers' Compensation Act.	
24/7 Accessibility	50 Ill. Adm. Code 2051.295(n)	A provision regarding any obligation to provide covered health care services on a 24 hour per day, 7 day per week basis.	
Payment Obligations	50 Ill. Adm. Code 2051.295(o)	A provision clearly describing the administrator's and payor's payment obligations to the provider, including but not limited to the payment of statutory interest on late payments as required in Section 8.2(d)(3) of the Workers' Compensation Act.	
Administrative Services	50 Ill. Adm. Code 2051.295(p)	A provision identifying the administrative services, if any, the administrator will perform and the types of information (financial, enrollment and utilization) that will be submitted to the provider, as well as other information that is accessible to the provider.	
Administrator Responsibilities	50 Ill. Adm. Code 2051.295(q)	A provision obligating the administrator to provide a method for providers to access each payor to obtain benefit information and a provision obligating the administrator to provide all of the administrator's operational policies.	
Arbitration Procedures	50 Ill. Adm. Code 2051.295(r)	A provision identifying applicable internal appeal or	

		arbitration procedures for settling contractual disputes or disagreements between the administrator and preferred provider.	

ADMINISTRATOR AGREEMENTS Each applicant for registration shall file sample copies of all administrative agreements, when applicable. Agreements at a minimum shall contain the following provisions.	**REFERENCE** 50 Ill. Adm. Code 2051.300	**COMMENTS**	**REFERENCE** Please type or print where the information is located.
Due Diligence	50 Ill. Adm. Code 2051.300(a)	Before entering into a contract with another administrator to administer programs, policies or subscriber contracts in this State, as provided by 215 ILCS 5/370i(b)(2), an administrator shall perform due diligence to ensure the other entity is properly registered under this Part or otherwise appropriately licensed under the Insurance Code.	
Terms for the Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.300(b)	Any provider contract or PPP that is sold, leased, assigned, assumed or otherwise delegated must have the terms of that transaction affecting the provision of health care services by providers,	

		including any additional discount, repricing, or other consideration, clearly described in the contract. The administrator or payor accessing the provider network shall be contractually obligated to comply with all applicable terms, limitations and conditions of the provider network contract, including all appendices, policies and fee schedules. An administrator shall provide to the provider upon request a written or electronic list of all current payors and administrators to which the provider contract or program has been sold, leased, assigned, assumed or otherwise delegated.	
Administrator Marketing Responsibility	50 Ill. Adm. Code 2051.300(c)	An administrator shall approve in writing prior to use all advertisements, marketing materials, brochures and, if applicable, identification cards used by any other administrator to market, promote, sell or enroll members in its PPP.	
Delegation of Rights Under the Contract	50 Ill. Adm. Code 2051.300(d)	No preferred provider program may be sold, leased, assigned, assumed or otherwise delegated to another administrator without the prior written consent of the providers	

		contracting under the program. A clause within the provider contract allowing assignment will be deemed consent so long as the assignment is in accordance with the terms of the contract. The assignee must comply with all the terms and conditions of the contract being assigned, including all appendices, policies and fee schedules.	

WORKERS' COMPENSATION NETWORK AVAILABILITY AND ACCESS Each applicant for registration shall file the following information and documents with the Director.	**REFERENCE** 50 Ill. Adm. Code 2051.315	**COMMENTS**	**REFERENCE** Please type or print where the information is located.
Method of Marketing	50 Ill. Adm. Code 2051.315(a)(1)	Provide the Department with information relating to the method of marketing the program.	
Geographic Map with Providers Marked	50 Ill. Adm. Code 2051.315(a)(2)	A geographic map of the area proposed to be served by the program by county and zip code, including marked locations of preferred providers.	
List of Providers Names, Addresses and Specialties	50 Ill. Adm. Code 2051.315(a)(3)		
Number of Estimated	50 Ill. Adm. Code	Covered employees in the	

Beneficiaries	2051.315(a)(4)	State of Illinois.	
Website and Telephone Number Requirements	50 Ill. Adm. Code 2051.315(a)(5)	An Internet website and toll-free telephone number for beneficiaries and prospective beneficiaries to access regarding up-to-date lists of preferred providers, as well as any other information necessary to conform to this part. A plan shall identify specific providers in a beneficiary's area, confirm specific provider participation or provide a listing of preferred providers in the delivery mode requested by the beneficiary. Preferred provider lists requested by phone must be sent within 3 working days. The up-to-date provider list applies to all providers that have entered arrangements to provide services under the program either directly or indirectly through another administrator. Administrators', WC PPP administrators' and insurers' Internet website addresses shall be prominently displayed on all advertisements, marketing materials, brochures, benefit cards and, if applicable, identification cards.	

Description of Accessibility and Availability of Network	50 Ill. Adm. Code 2051.315(a)(6)		
Type of Services to be Provided	50 Ill. Adm. Code 2051.315(a)(6)(A)	The type of health care services to be provided by the administrator network.	
Ratio of Providers to Beneficiaries	50 Ill. Adm. Code 2051.315(a)(6)(B)	The ratio of providers to beneficiaries by specialty, including primary treating physicians, when applicable under the contract, necessary to meet the health care needs and service demands of the estimated covered employees.	
Policies for Closing a Network to New Providers	50 Ill. Adm. Code 2051.315(a)(6)(C)		
Policies for Adding New Providers	50 Ill. Adm. Code 2051.315(a)(6)(D)		
Referral Procedures	50 Ill. Adm. Code 2051.315(a)(6)(E)	The procedures for making referrals within and outside the network.	
Special Communication Needs	50 Ill. Adm. Code 2051.315(a)(6)(F)	Efforts to address the needs of beneficiaries with limited English proficiency and illiteracy, with diverse cultural and ethnic backgrounds and with physical and mental disabilities.	
Utilization of Another Administrator's or Insurer's PPP	50 Ill. Adm. Code 2051.315(a)(7)	If a WC PPP administrator is leasing, buying or otherwise using another administrator's or insurer's program, and the required information has previously been filed by the other	

		administrator or insurer, then only the administrative agreement and verification that the providers have consented to the agreement pursuant to Section 2051.300(d) need be filed. A clause within the provider contract allowing assignment will be deemed consent in the absence of material modification of the provider's obligations under the contract.	
Medical Record Costs	50 Ill. Adm. Code 2051.315(a)(8)	Covered employees are not responsible for any reasonable costs associated with medical record transmission or duplication in order to have a claim adjudicated.	
Description of Reasonably Accessible and Available	50 Ill. Adm. Code 2051.315(b)(1)(A)	A description of how health care services to be rendered under the preferred provider program are reasonably accessible and available to beneficiaries.	
Good Faith Effort – Payor	50 Ill. Adm. Code 2051.315(b)(1)(B)	A provision ensuring that, whenever a covered employee has made a good faith effort to utilize network providers for a covered service and it is determined the administrator does not have the appropriate preferred providers due to	

		insufficient number, type or distance, the administrator shall ensure, directly or indirectly, by terms contained in the payor contract, that the covered employee will be provided the covered services at no greater cost to the payor than if the service had been provided by the preferred provider. In these instances, the administrator shall be responsible for the payment of any additional amounts otherwise due to the non-preferred provider for health care services available through the administrator's panel of participating providers. In these circumstances, the requirement of Section 8.2 of the Workers' Compensation Act for non-preferred provider reimbursements will apply. Subsection (b)(1)(B) does not apply to SPPP administrators.	
Good Faith Effort – Beneficiary	50 Ill. Adm. Code 2051.315(b)(1)(C)	Policies and procedures ensuring, directly or indirectly, that, whenever a covered employee has made a good faith effort to utilize network providers for a covered service and it is determined the	

		administrator does not have the appropriate preferred providers due to insufficient number, type or distance, the administrator shall ensure, directly or indirectly, by terms contained in the payor contract, that the covered employee will be provided the covered services as if they had been provided by a preferred provider, without any loss of provider choice under Section 8 or 8.1a(c) of the Workers' Compensation Act. Subsection (b)(1)(C) does not apply to a covered employee who willfully chooses to access a non-preferred provider for health care services available through the administrator's plan of preferred providers. In these circumstances, the requirements of Section 8.2 of the Workers' Compensation Act for non-preferred provider reimbursements will apply. Subsection (b)(1)(C) does not apply to SPPP administrators.	
Geographic Maps – Primary Treating Physician and Hospital	50 Ill. Adm. Code 2051.315(b)(1)(D)	Geographic maps indicating primary treating physician and hospital	

Health Care Services for Emergency Health Care Services		health care services for emergency health care services within 30 minutes or 15 miles of each covered employee's residence.	
Geographic Maps	50 Ill. Adm. Code 2051.315(b)(1)(E)	Geographic maps indicating providers of occupational health services and specialists within 60 minutes or 30 miles of a covered employee's residence.	
Rural Areas Service Area Alternative Standard	50 Ill. Adm. Code 2051.315(b)(1)(F)	If the WC PPP administrator believes that, given the facts and circumstances with regard to a portion of its service area (specifically rural areas, including those in which health facilities are located at least 30 miles apart), the accessibility standards set forth in subsections (b)(1)(D) and (E) are unreasonably restrictive, the WC PPP administrator shall include proposed alternative standards in writing in its application or in a notice of program modification. The alternative standards shall provide that all services shall be available and accessible at a reasonable time to all covered employees.	
Coverage Outside the	50 Ill. Adm. Code	Written policy for	

WC PPP	2051.315(b)(1)(G)	arranging or approving non-emergency medical care for covered employees outside the WC PPP service area. This Section does not apply to SPPP administrators.	
Accessibility Standards for Coverage Outside the WC PPP	50 Ill. Adm. Code 2051.315(b)(1)(G)(ii)	Coverage for covered employees outside the WC PPP service area shall be located within the accessibility standards described in subsections (b)(1)(D) and (E).	
Appointment Standards – Initial	50 Ill. Adm. Code 2051.315(b)(1)(H)(i)	Ensure appointments for initial treatment is available within 3 business days after the WC PPP administrator's receipt of a request for treatment within the PPP.	
Appointment Standards – Specialists	50 Ill. Adm. Code 2051.315(b)(1)(H)(ii)	Ensure covered employees an appointment within 20 business days after the WC PPP administrator's receipt of a referral to a specialist within the PPP.	

FIDUCIARY AND BONDING REQUIREMENTS	**REFERENCE** 50 Ill. Adm. Code 2051.340	**COMMENTS**	**REFERENCE** Please type or print where the information is located.
Holder of Bond	50 Ill. Adm. Code 2051.340(c)(2) Appendix F	If a bond of indemnity is posted, it shall be held by the Director of Insurance in favor of the beneficiaries and payors of services under the PPP operated by the	

		administrator.	

Declaration:

The undersigned declares that the statements made in this application are true, correct and complete to the best of his/her knowledge and belief.

Signature _____ Date _____

Print Name and Title _____ Phone _____

Please sign and date this form and return it to the Department with your registration fee of $1,000 for new registrations and any accompanying documents. The check or money order should be payable to the Director of Insurance.

(Source: Added at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 2051.APPENDIX E~~D~~ Illinois or NAIC Biographical Affidavit

Full name and address of company (do not use group name)

_____

_____

In connection with the above-named company, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) If answer is "No" or "None", so state.

1.	Affiant's full name (initials not acceptable)	
2a.	Have you ever had your name changed? ____ If yes, give the reason for the change _____	
2b.	Give other names used at any time	
3.	Affiant's Social Security	4. Date and place of birth
5.	Affiant's business address	Business Telephone #
6.	List your residences for the last 10 years starting with your current address, giving: Date Address City and State _____ _____ _____ _____	
7.	Education: List dates, names, locations and degrees College: _____ Graduate Studies: _____ Others: _____	
8.	List memberships in Professional Societies and Associations	
9.	Present or proposed positions with the applicant company	

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

10. List complete employment record (up to and including present jobs, positions, directorates or officerships) for the past 20 years, giving:

Dates Employer and Address Title

_____

_____

Please circle one

11. May present employer be contacted? Yes No May former employers be contacted? Yes No

12a. Have you ever been in a position which required a fidelity bond? _____ If any claims were made on the bond, give details.

_____

12b. Have you ever been denied an individual or position schedule fidelity bond, or had a bond cancelled or revoked? _____If yes, give details.

_____

13. List any professional, occupational, and vocational licenses issued by any public or governmental licensing agency or regulatory authority which you presently hold or have held in the past (state date, license issued, issuer of license, date terminated, reasons for termination.)

14. During the last 10 years, have you ever been refused a professional, occupational or vocational license by any public or governmental licensing agency or regulatory authority, or has any such license held by you ever been suspended or revoked? _____ If yes, give details.

15. List any administrators, insurers or HMOs in which you control directly or indirectly or own legally or beneficially 10% or more of the outstanding stock (in voting power).

_____

If any of the stock is pledged or hypothecated in any way, give details.

_____

16. Will you or members of your immediate family subscribe to or own, beneficially or of record, shares of stock of the applicant administrator or its affiliates? _____ If any of the shares of stock are pledged or hypothecated in any way, give details.

_____

17. Have you ever been adjudged bankrupt? _____

18. Have you ever been convicted or had a sentence imposed or suspended or had pronouncement of a sentence suspended or been pardoned for conviction of or pleaded guilty or nolo contendere to any information or an indictment charging any felony or charging a misdemeanor involving embezzlement, theft, larceny, or mail fraud, or charging a violation of any corporate securities statute or any insurance law, or have you been the subject of any disciplinary proceedings of any federal or state regulatory agency? _____

If yes, give details _____

_____

19. Has any company been so charged, allegedly as a result of any action or conduct on your part? _____ If yes, give details.

_____

20. Have you ever been an officer, director, trustee, investment committee member, key employee, or controlling stockholder of any insurer, HMO or administrator which, while you occupied any such position or capacity with respect to it, became insolvent or was placed under supervision or in receivership, rehabilitation, liquidation or conservatorship? _____

21. Has the certificate of authority or license to do business of any insurance company or registration of any administrator of which you were an officer or director or key management person ever been suspended, revoked or denied while you occupied such position? _____

If yes, give details. _____

_____

Declaration

Dated and signed this _____ day of _____ at _____

I hereby certify under penalty of perjury that I am acting on my own behalf and that the foregoing statements are true and correct to the best of my knowledge and belief.

_____

State of _____
County of _____

Personally appeared before me the above named _____ personally known to me who being duly sworn deposes and says that he executed the above instrument and that the statements and answers contained therein are true and correct to the best of his knowledge and belief.

Subscribed and sworn to before me this _____ day of _____ 20 ___

_____
(Notary Public)

(SEAL)

My commission expires

Important Notice: Disclosure of this information is required under Illinois Department of Insurance Rules.

NAIC BIOGRAPHICAL AFFIDAVIT

Applicant Name: _____

NAIC No: _____

FEIN: _____

To the extent permitted by law, this affidavit will be kept confidential by the state insurance regulatory authority.

(Print or Type)

Full Name, Address and telephone number of the present or proposed entity under which this biographical statement is being required (Do Not Use Group Names).

_____

_____

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

_____

_____

In connection with the above-named entity, I herewith make representations and supply information about myself as hereinafter set forth. (Attach addendum or separate sheet if space hereon is insufficient to answer any question fully.) IF ANSWER IS "NO" OR "NONE", SO STATE.

1. a. Affiant's Full Name (Initials Not Acceptable). _____

   b. Maiden Name (if applicable). _____

2. a. Have you ever had your name changed? If yes, give the reason for the change and provide the full names.

   _____

   _____

   _____

   b. Other names used at any time (including aliases).

   _____

   _____

3. a. Are you a citizen of the United States? _____

   b. Are you a citizen of any other country, if so, what country? _____

4. Affiant's Occupation or Profession. _____

5. Affiant's business address. _____

   Business telephone. _____

6. Education and Training:

College/ University	City/ State	Dates Attended (MM/YY)	Degree Obtained

Graduate Studies:	College/ University	City/ State	Dates Attended (MM/YY)	Degree Obtained

Other Training: Name	City/ State	Dates Attended (MM/YY)	Degree/Certification Obtained

(Note: If affiant attended a foreign school, please provide full address and telephone number of the college/university. If applicable, provide the foreign student Identification Number in the space provided in the Biographical Affidavit Supplemental Information.)

7. List of memberships in professional societies and associations.

Name of Society/Association	Contact Name	Address of Society/Association	Telephone Number of Society/Association

8. Present or proposed position with the applicant entity.

9. List complete employment record for the past 20 years, whether compensated or otherwise (up to and including present jobs, positions, partnerships, owner of an entity, administrator, manager, operator, directorates or officerships). Please list the most recent first. Attach additional pages if the space provided is insufficient. It is only necessary to provide telephone numbers and supervisory information for the past 10 years.

Beginning/Ending
Dates (MM/YY) _____ -_____ Employer's Name _____

Address _____ City _____ State/Province_____

Country _____ Postal Code _____ Phone _____

Offices/Positions Held _____

Supervisor/Contact _____

Beginning/Ending
Dates (MM/YY) _____ - _____ Employer's Name _____
Address _____ City _____ State/Province _____
Country _____ Postal Code _____ Phone _____
Offices/Positions Held _____
Supervisor/Contact _____

Beginning/Ending
Dates (MM/YY) _____ - _____ Employer's Name _____
Address _____ City _____ State/Province _____
Country _____ Postal Code _____ Phone _____
Offices/Positions Held _____
Supervisor/Contact _____

Beginning/Ending
Dates (MM/YY) _____ - _____ Employer's Name _____
Address _____ City _____ State/Province _____
Country _____ Postal Code _____ Phone _____
Offices/Positions Held _____
Supervisor/Contact _____

10. a. Have you ever been in a position which required a fidelity bond? _____

If any claims were made on the bond, give details.

b. Have you ever been denied an individual or position schedule fidelity bond, or had a bond canceled or revoked? _____ If yes, give details.

11. List any professional, occupational and vocational licenses (including licenses to sell securities) issued by any public or governmental licensing agency or regulatory authority or licensing authority that you presently hold or have held in the past. For any non-insurance regulatory issuer, identify and provide the name, address and telephone number of the licensing authority or regulatory body having jurisdiction over the licenses issued. Attach additional pages if the space provided is insufficient.

Organization/Issuer of License _____

Address _____ City _____

State/Province _____ Country _____

Postal Code _____

License Type _____ License # _____ Date Issued (MM/YY)

Date Expired (MM/YY) _____ Reason for Termination _____

Non-insurance Regulatory Phone Number (if known) _____

Organization/Issuer of License _____

Address _____ City _____

State/Province _____ Country _____

Postal Code _____

License Type _____ License # _____ Date Issued (MM/YY)

Date Expired (MM/YY) _____ Reason for Termination _____

Non-insurance Regulatory Phone Number (if known) _____

12. In responding to the following, if the record has been sealed or expunged, and the affiant has personally verified that the record was sealed or expunged, an affiant may respond "no" to the question. Have you ever:

a. Been refused an occupational, professional, or vocational license or permit by any regulatory authority, or any public administrative, or governmental licensing agency? _____

b. Had any occupational, professional, or vocational license or permit you hold or have held, been subject to any judicial, administrative, regulatory, or disciplinary action? _____

c. Been placed on probation or had a fine levied against you or your occupational, professional, or vocational license or permit in any judicial, administrative, regulatory, or disciplinary action? _____

d. Been charged with, or indicted for, any criminal offenses other than civil traffic offenses? _____

e. Pled guilty, or nolo contendere, or been convicted of, any criminal offenses other than civil traffic offenses? _____

f. Had adjudication of guilt withheld, had a sentence imposed or suspended, had pronouncement of a sentence suspended, or been pardoned, fined, or placed on probation, for any criminal offenses other than civil traffic offenses?

_____

g. Been subject to a cease and desist letter or order, or enjoined, either temporarily or permanently, in any judicial, administrative, regulatory, or disciplinary action, from violating any federal, state law or law of another country regulating the business of insurance, securities or banking, or from carrying out any particular practice or practices in the course of the business of insurance, securities or banking? _____

h. Been, within the last 10 years, a party to any civil action involving dishonesty, breach of trust, or a financial dispute? _____

i. Had a finding made by the Comptroller of any state or the Federal Government that you have violated any provisions of small loan laws, banking or trust company laws, or credit union laws, or that you have violated any rule or regulation lawfully made by the Comptroller of any state or the Federal Government? _____

j. Had a lien; or foreclosure action filed against you or any entity while you were associated with that entity? _____

If the response to any question above is answered "Yes", please provide details including dates, locations, disposition, etc. Attach a copy of the complaint and filed adjudication or settlement as appropriate.

_____

_____

13. List any entity subject to regulation by an insurance regulatory authority that you control directly or indirectly. The term "control" (including the terms "controlling", "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or non-management services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10% or more of the voting securities of any other person.

_____

_____

_____

If any of the stock is pledged or hypothecated in any way, give details.

_____

14. Do [Will] you or members of your immediate family individually or cumulatively subscribe to or own, beneficially or of record, 10% or more of the outstanding shares of stock of any entity subject to regulation by an insurance regulatory authority, or its affiliates? An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. If the answer is "Yes", please identify the company or companies in which the cumulative stock holdings represent 10% or more of the outstanding voting securities.

_____

_____

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

If any of the shares of stock are pledged or hypothecated in any way, give details.

_____

15. Have you ever been adjudged a bankrupt? ____ If yes, provide details

_____

16. To your knowledge has any company or entity for which you were an officer or director, trustee, investment committee member, key management employee or controlling stockholder, had any of the following events occur while you served in such capacity? If yes, please indicate and give details. When responding to questions (b) and (c) affiant should also include any events within 12 months after his or her departure from the entity.

    a. Been refused a permit, license, or certificate of authority by any regulatory authority, or Governmental-licensing agency?

    b. Had its permit, license, or certificate of authority suspended, revoked, canceled, non-renewed, or subjected to any judicial, administrative, regulatory, or disciplinary action (including rehabilitation, liquidation, receivership, conservatorship, federal bankruptcy proceeding, state insolvency, supervision or any other similar proceeding)?

    c. Been placed on probation or had a fine levied against it or against its permit, license, or certificate of authority in any civil, criminal, administrative, regulatory, or disciplinary action?

    Note: If an affiant has any doubt about the accuracy of an answer, the question should be answered in the positive and an explanation provided.

Dated and signed this _____ day of _____, 20____ at _____

I hereby certify under penalty of perjury that I am acting on my own behalf, and that the foregoing statements are true and correct to the best of my knowledge and belief.

_____ _____
(Signature of Affiant) Date

State of _____ County of _____

The foregoing instrument was acknowledged before me this _____ day of _____ ,

20 ____ By _____,

☐ who is personally known to me, or

☐ who produced the following identification:

[SEAL] Notary Public

Printed Notary Name

My Commission Expires

(Source: Appendix E renumbered from Appendix D and amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 2051.APPENDIX F~~E~~ Preferred Provider Program Administrator Bond/Fiduciary Account Requirement

Preferred Provider Program Administrator Bond

Illinois Department of Insurance
320 W. Washington Street
Springfield, IL 62767-0001

Instructions:

Bond/Fiduciary Account Requirement: Registrations of Preferred Provider Program Administrators who will handle money for purposes of payment for providers'~~providers~~ services must be accompanied by:

1. A surety bond in an amount equal to not less than 10% of the total estimated annual reimbursements under the program. **If more than one program is administered, separate bonds may be posted ~~posed~~ for each program or one bond of indemnity may be posted for all. Administrators posting a bond or bonds must also submit certification of the total estimated annual reimbursements under the Preferred Provider Program (or programs if separate bonds are posted), supported by methodology used to arrive at such figures.**

   The surety bonds must contain:

   - The name of the principal as it appears on the registration form;
   - The principal's address as it appears on the registration from;
   - The surety company's name and company number;
   - The bond number;
   - Original signatures of the Illinois resident agent, principal, the surety company's officer or attorney-in-fact.

2. Or, **in lieu of bond**, the Preferred Provider Program Administrator may establish one or more fiduciary accounts, separate and apart from any and all other accounts, for the receipt and disbursement of funds for reimbursement of providers of services under the program.

   Location of Account:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Account Identification No. _____

(In the event that both bonds and fiduciary accounts are established, disclose information about both as requested above.)

Bonds	Methodology	Fiduciary Accounts	Loc/ID#

(Do not write in these spaces.)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Preferred Provider Program Administrator Bond

Illinois Department of Insurance
320 W. Washington Street
Springfield, IL 62767-0001

Co. Code No. _____

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS, THAT I/WE _____

of _____, a Preferred Provider Program Administrator, as principal and _____ a company duly authorized to transact surety business in the State of Illinois, as Surety, are held and firmly bound unto the People of the State of Illinois and Payable to any party injured under the terms and conditions of this bond, in the full and penal sum of _____ ($) dollars lawful money of the United States of America, for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that the above bounded Principal is now or is about to register in order to engage or continue in the business of a Preferred Provider Program Administrator, as provided by the Illinois Insurance Code, as amended.

NOW, THEREFORE, if the said Principal shall, while this bond is in force and effect make a full accounting and due payment to the person or company entitled thereto of funds coming into his possession as an incident to Preferred Provider Program Administrator transactions, and shall comply with all the provisions of Article XX½ of the Illinois Insurance Code, as amended; then this obligation shall be null and void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond shall be continuous in form and may be terminated by the Surety, upon its giving 30 days notice of its intention of termination, such notice to be filed with the Director, Department of Insurance, Springfield, Illinois.

IN WITNESS WHEREOF, the said principal has hereunto set his hand and seal, and the said surety has caused these presents to be signed by its duly authorized officers and its corporate

seal to be hereto affixed this _____ day of _____, 20 ____.

Countersigned by:

_____
(Signature of Appointed Illinois Producer)

At _____, Illinois

_____
(Bonding Company)

_____
(Signature of Company Officer)

_____
(Signature of Attorney-in-Fact)

_____
*(Signature of Principal)-Social Security #

*If a Corporation, signature and social security number of an officer

Important Notice Under the Illinois Compiled Statutes insurance laws, disclosure of this information is voluntary; however, failure to comply may result in this form not being processed. This form has been approved by the Forms Management Center.

(Source: Appendix F renumbered from Appendix E and amended at 36 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Future Teacher Corps (IFTC) Program

2) Code Citation: 23 Ill. Adm. Code 2764

3)

Section Numbers:	Proposed Action:
2764.10	Amendment
2764.20	Amendment
2764.30	Amendment
2764.40	Amendment

4) Statutory Authority: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)]

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to accommodate Public Act 96-0411, which requires the consolidation of the Illinois Future Teacher Corps Program and the Golden Apple Foundation for Excellence in Teaching's Golden Apple Scholars of Illinois Program into one program. The consolidated program shall be known as the Golden Apple Scholars of Illinois Program. The Act required a transition period that the consolidated program should be fully operational before July 1, 2012.

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 does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield, Illinois 60015

Telephone: 847/948-8500
Email: Lynn.Hynes@isac.illinois.gov
Fax: 847/831-8549

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: None

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2764
GOLDEN APPLE SCHOLARS OF ILLINOIS PROGRAM
~~ILLINOIS FUTURE TEACHER CORPS (IFTC) PROGRAM~~

Section
2764.10 Summary and Purpose
2764.20 Applicant Eligibility
2764.30 Program Procedures
2764.40 Institutional Procedures

AUTHORITY: Implementing Section 52 of the Higher Education Student Assistance Act [110 ILCS 947/52] and authorized by Sections 20(f) and 52(h) of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 52(h)].

SOURCE: Emergency rules adopted at 19 Ill. Reg. 976, effective February 1, 1995, for a maximum of 150 days; emergency expired on June 30, 1995; adopted at 19 Ill. Reg. 11367, effective August 1, 1995; amended at 20 Ill. Reg. 9141, effective July 1, 1996; old Part repealed at 21 Ill. Reg. 11027 and new Part adopted at 21 Ill. Reg. 11029, effective July 18, 1997; amended at 22 Ill. Reg. 11043, effective July 1, 1998; amended at 24 Ill. Reg. 9095, effective July 1, 2000; amended at 27 Ill. Reg. 10395, effective July 1, 2003; emergency amendment at 27 Ill. Reg. 14860, effective September 10, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1749, effective January 25, 2004; amended at 28 Ill. Reg. 9162, effective July 1, 2004; amended at 30 Ill. Reg. 11687, effective July 1, 2006; amended at 32 Ill. Reg. 10333, effective July 1, 2008; amended at 33 Ill. Reg. 9784, effective July 1, 2009; amended at 36 Ill. Reg. _____, effective _____.

Section 2764.10 Summary and Purpose

a) *The Golden Apple Scholars of Illinois~~The Illinois Future Teacher Corps (IFTC)~~ Program encourages academically talented Illinois students, especially minority students, to pursue teaching careers, especially in teacher shortage disciplines or at hard-to-staff schools* [110 ILCS 947/52] .

b) This Part establishes the rules that govern the Golden Apple Scholars of Illinois~~IFTC~~ Program, hereinafter the "Program". Additional rules and

definitions are contained in General Provisions (23 Ill. Adm. Code 2700).

c) The rights and obligations of students receiving scholarship assistance through the Illinois Future Teacher Corps (IFTC) Program, as previously described in this Part, shall continue to be governed by any administrative rules in effect at the time scholarship assistance was awarded to the recipient through the IFTC Program.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2764.20 Applicant Eligibility

a) All qualified applicants must be designated as a Golden Apple Scholar by the Golden Apple Foundation for Excellence in Teaching (the Foundation).

b)~~a)~~ A qualified applicant, at the time of designation as a Golden Apple Scholar by the Golden Apple Foundation for Excellence in Teaching, shall:~~*A qualified applicant:*~~

1) be a United States citizen or eligible noncitizen~~*shall be*: A) *a United States citizen or eligible noncitizen*~~;

2)~~B)~~ be a resident of Illinois~~*a resident of Illinois*~~;

3)~~C)~~ be a high school graduate or a person who has received a General Educational Development (GED) Certificate~~*a high school graduate or a person who has received a General Educational Development (GED) Certificate*~~;

4)~~D)~~ be enrolled at a four-year institution designated by the Foundation as a participating Illinois college or university; and~~*enrolled, or accepted for enrollment, at or above the junior level, on at least a half-time basis at an Illinois institution of higher learning; and*~~

5)~~E)~~ have entered into a program agreement and promissory note with the Foundation and ISAC, as described in this Part.~~*pursuing a postsecondary course of study leading to initial teacher certification or taking additional courses needed to gain Illinois State Board of Education (ISBE) approval to teach, including alternative teacher certification* [110 ILCS 947/52]; or~~

c)~~2)~~ In order to receive scholarship assistance under this Part, a qualified applicant shall:~~shall be a Golden Apple Scholar enrolled, or accepted for enrollment, at or above the junior level, on at least a half-time basis at an Illinois institution of higher learning.~~

1) be enrolled at the junior or senior level in a postsecondary course of study leading to initial teacher certification or taking additional courses needed to gain Illinois State Board of Education (ISBE) approval to teach, including alternative teacher certification [110 ILCS 947/52];

2) have earned a cumulative grade point average of 2.5 on a 4.0 scale; and

3) have participated in all required programs and adhered to the residential guidelines and standards of conduct as a designated Golden Apple Scholar of the Foundation.

d)~~b)~~ In any academic year in which the qualified applicant accepts or receives financial assistance through the Paul Douglas Teacher Scholarship Program (23 Ill. Adm. Code 2762), the Minority Teachers of Illinois Scholarship Program (23 Ill. Adm. Code 2763), the Special Education Teacher Tuition Waiver Program (23 Ill. Adm. Code 2765), or the Teach Illinois Scholarship (23 Ill. Adm. Code 2768), or from the Golden Apple Foundation, the qualified applicant shall not be eligible for scholarship assistance under this Part.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2764.30 Program Procedures

a) Qualified applicants shall have completed and filed an application for program participation with the Foundation prior to becoming eligible for scholarship assistance under this Section. Applications shall be made available to qualified applicants by and submitted to the Foundation before a qualified applicant may be designated as a Golden Apple Scholar by the Foundation.

b) The Foundation shall designate Golden Apple Scholars as defined in their established selection protocol.

c) Each year, the Foundation shall identify Golden Apple Scholars eligible to receive scholarship assistance from ISAC under this Part by submitting to ISAC any

necessary data related to the qualified applicant and, at such time, by certifying that:

1) Students selected to receive scholarship assistance under this Part meet the eligibility requirements described in Section 2764.20(a) or in the Higher Education Student Assistance Act [110 ILCS 947/52];

2) Students selected to receive scholarship assistance under this Part have entered into a Program Agreement and Promissory Note with the Foundation that satisfies the requirements listed in this Part; and

3) Thirty percent of students selected to receive scholarship assistance under this Part in a given fiscal year will be awarded to students residing in counties having a population of fewer than 500,000.

d) In order to receive scholarship assistance under this Part, a Golden Apple Scholar must have signed a Program Agreement and Promissory Note with the Foundation and ISAC that includes the following stipulations:

1) the recipient pledges to teach, on a full time basis, for a period of not less than five years and in accordance with any additional commitment to teach in a teacher shortage discipline, which shall include early childhood education;

2) the recipient shall begin teaching within one year following completion of the postsecondary education degree or certificate program for which the scholarship was awarded, and shall teach on a continuous basis for the required period of time;

3) the teaching requirement will be fulfilled at a nonprofit Illinois public, private or parochial preschool, or an Illinois public elementary or secondary school that qualifies for teacher loan cancellation under section 465(a)(2)(A) of the HEA (see 20 USC 1087ee);

4) if the teaching requirement is not fulfilled, the scholarship assistance provided under this Part converts to a loan and the recipient must repay the entire amount of the scholarships prorated according to the fraction of the teaching obligation not completed, plus interest at a rate equal to five percent and, if applicable, reasonable collection fees;

5) the recipient agrees to provide the Foundation or ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and

6) the recipient promises to use the proceeds of the scholarship for educational expenses.

e) All amounts collected on a scholarship that converts to a loan under this Part, less any portion of those funds that equals the amount in expenses that ISAC has incurred in collecting the debt, shall be remitted to the Comptroller for deposit in the General Revenue Fund.

f) A recipient of a scholarship awarded under this Part shall not be in violation of the agreement entered into pursuant to subsection (d) during the period in which the recipient:

1) serves, for not more than three years, as a member of the United States Armed Forces; or

2) is enrolled full-time in a graduate course of study related to the field of teaching at an institution of higher learning; or

3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a qualified physician; or

4) is actively seeking and unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (d)(3) for one continuous period not to exceed two years, and is able to provide evidence of that fact; or

5) is taking additional courses, on at least a half-time basis, needed to obtain certification as a teacher in Illinois; or

6) is fulfilling teaching requirements associated with other programs administered by ISAC if he or she cannot concurrently fulfill them in a period of time equal to the length of the teaching commitment; or

7) is participating in a program established by Executive Order 10924 of the

President of the United States or the National Community Service Act of 1990 (42 USC 12501 et seq., as amended).

g) If a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within 10 years after the scholarship converts to a loan. This 10-year period may be extended if the recipient:

1) serves, for not more than three years, as a member of the United States Armed Forces; or

2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician; or

3) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years; or

4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact; or

5) withdraws from a course of study leading to certification/approval in a teacher shortage discipline, but is enrolled at least half-time as an undergraduate for one continuous period of time not to exceed three years.

h) During the time a recipient qualifies for any of the extensions listed in subsection (g), he or she shall not be required to make payments and interest shall not accrue.

i) A recipient shall enter repayment status on the earliest of the following dates:

1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to certification as a teacher, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study;

2) the date the Foundation informs ISAC or ISAC otherwise learns that a recipient of scholarship assistance has not fulfilled the teaching obligation; or

3) the day after the latest date upon which the recipient must have begun

teaching after completing the postsecondary education for which the scholarship was awarded.

j) A recipient shall not be required to repay the amount of the scholarships received if he or she becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 653.42(k)(l)), or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.

~~a) Golden Apple Scholars shall be designated by the Golden Apple Foundation. All other applicants must complete and file the form the U.S. Department of Education (ED) designates as an application for federal student financial aid for the purpose of determining the Expected Family Contribution (EFC) that is used as a selection criterion for this award. (See section 483 of the Higher Education Act of 1965, as amended (20 USC 1070a).)~~

~~b) A completed ISAC application for the IFTC Program must be postmarked on or before March 1 immediately preceding the academic year for which the scholarship is being requested, in order to receive priority consideration for an award.~~

~~1) Applications are available at qualified institutions of higher learning, ISAC's Web site, and ISAC's Springfield, Deerfield and Chicago offices.~~

~~2) ISAC will make renewal applications available to all qualified students who were awarded assistance under this Part during the preceding academic year.~~

~~3) If the student section of an ISAC application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will be considered for processing as of the date when the application is complete and received at ISAC's Deerfield office.~~

~~c) Selection of Recipients~~

~~1) *In each year, a minimum of 200 awards shall be allocated to participants in the Golden Apple Scholars of Illinois program* [110 ILCS 947/52].~~

~~2) After satisfying the minimum number of awards to participants in the Golden Apple Scholars of Illinois program, ISAC shall give first preference in the selection process to the previous academic year's recipients of assistance under this Part who are not Golden Apple Scholars, provided he or she meets the following qualifications:~~

~~A) continues to maintain a cumulative grade point average (GPA) of no less than 2.5 on a 4.0 scale;~~

~~B) maintains his or her status as a qualified applicant, as outlined in Section 2764.20(a);~~

~~C) maintains satisfactory academic progress as determined by the institution; and~~

~~D) has submitted an application on a timely basis.~~

~~3) For all other qualified applicants who are not Golden Apple Scholars, priority, in combination with the following criteria, is given to those who filed timely applications and are enrolled in a teacher shortage discipline (including early childhood education), pledged on the Teaching Agreement/Promissory Note to teach in a hard-to-staff school, or enrolled in a teacher shortage discipline and pledged to teach in a hard-to-staff school. Point values are assigned to the criteria and awards are made according to the highest point totals.~~

~~A) Cumulative grade point averages: 0-40 points, reflecting the GPA from highest to the lowest. All grade point averages will be converted to a four-point scale;~~

~~B) Expected Family Contribution (EFC): 0-30 points, from the lowest to the highest;~~

~~C) Minority students: 15 points.~~

~~4) If all other criteria are equal, priority consideration will be given to the qualified applicant who submitted his or her completed application to ISAC on the earliest date.~~

~~d) A recipient may receive up to 4 semesters/6 quarters of scholarship assistance under this program.~~

~~e) Scholarship funds are applicable toward two semesters/three quarters of half-time and full-time study within an academic year.~~

~~f) The total number of scholarships awarded in a given fiscal year is contingent upon available funding.~~

~~g) To the extent necessary to administer this program within the limits of the State appropriation, the Commission may adjust the priority consideration factors and scholarship amounts established by this Section.~~

~~h) ISAC shall publish guidelines for the awarding of IFTC scholarships.~~

~~i) Notice of eligibility shall be sent to each qualified applicant who is selected to receive an IFTC scholarship. A notice will be sent to each qualified applicant who is not selected to receive an IFTC scholarship.~~

~~j) Scholarship Stipulations~~

~~1) For Golden Apple Scholars to receive scholarship assistance for any academic year, the qualified applicant must have signed the Golden Apple Scholars of Illinois Agreement and Statement of Eligibility and Compliance that are on file at the Golden Apple Foundation.~~

~~2) For all others, prior to receiving scholarship assistance for any academic year, the qualified applicant must sign an IFTC Teaching Agreement/Promissory Note that is submitted to ISAC. The IFTC Teaching Agreement/Promissory Note shall include the following stipulations:~~

~~A) the recipient pledges to teach, on a full-time basis, for a period of not less than five years and in accordance with any additional commitment to teach in a teacher shortage discipline (which shall include early childhood education) or at a hard-to-staff school, or both;~~

~~B) the recipient shall begin teaching within one year following~~

~~completion of the postsecondary education degree or certificate program for which the scholarship was awarded, and shall teach on a continuous basis for the required period of time;~~

~~C)~~ ~~the teaching requirement will be fulfilled at a nonprofit Illinois public, private or parochial preschool, or an Illinois public elementary or secondary school and if the award made under this Part was for teaching at a hard-to-staff school, the school must qualify for teacher loan cancellation under section 465(a)(2)(A) of the HEA (see 20 USC 1087ee);~~

~~D)~~ ~~if the teaching requirement is not fulfilled, the scholarship converts to a loan and the recipient must repay the entire amount of the scholarships prorated according to the fraction of the teaching obligation not completed, plus interest at a rate equal to five percent and, if applicable, reasonable collection fees;~~

~~E)~~ ~~the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and~~

~~F)~~ ~~the recipient promises to use the proceeds of the scholarship for educational expenses.~~

~~k)~~ ~~Except for Golden Apple Scholars, a recipient of a scholarship awarded under this Part shall not be in violation of the agreement entered into pursuant to subsection (j)(2) during the period in which the recipient:~~

~~1)~~ ~~serves, for not more than three years, as a member of the United States Armed Forces; or~~

~~2)~~ ~~is enrolled full-time in a graduate course of study related to the field of teaching at an institution of higher learning; or~~

~~3)~~ ~~is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a qualified physician; or~~

~~4)~~ ~~is actively seeking but unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (j)(2)(C) for one~~

~~continuous period not to exceed two years, and is able to provide evidence of that fact; or~~

~~5) is taking additional courses, on at least a half-time basis, needed to obtain certification as a teacher in Illinois; or~~

~~6) is fulfilling teaching requirements associated with other programs administered by ISAC if he or she cannot concurrently fulfill them in a period of time equal to the length of the teaching commitment.~~

~~l) Except for Golden Apple Scholars, if a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within ten years after the scholarship converts to a loan. This ten-year period may be extended if the recipient:~~

~~1) serves, for not more than three years, as a member of the United States Armed Forces; or~~

~~2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician; or~~

~~3) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years; or~~

~~4) is seeking and unable to find full-time employment for one continuous period not to exceed two years and is able to provide evidence of that fact; or~~

~~5) withdraws from a course of study leading to certification/approval in a teacher shortage discipline, but is enrolled at least half-time as an undergraduate for one continuous period of time not to exceed three years.~~

~~m) During the time a recipient qualifies for any of the extensions listed in subsection (l), he or she shall not be required to make payments and interest shall not accrue.~~

~~n) Except for Golden Apple Scholars, a recipient shall enter repayment status on the earliest of the following dates:~~

~~1) the first day of the first calendar month after the recipient has ceased to~~

~~pursue a course of study leading to certification as a teacher, but not until six months have elapsed after the cessation of at least half-time enrollment in such a course of study;~~

~~2) the date the recipient informs ISAC that he or she does not plan to fulfill the teaching obligation; or~~

~~3) the day after the latest date upon which the recipient must have begun teaching after completing the postsecondary education for which the scholarship was awarded.~~

~~o) Except for Golden Apple Scholars, a recipient shall not be required to repay the amount of the scholarships received if he or she becomes permanently totally disabled, as established by the sworn affidavit of a licensed physician (see, e.g., 34 CFR 653.42(k)(1)), or if his or her representative provides ISAC with a death certificate or other evidence that the recipient has died.~~

~~p) Renewal recipients may receive a subsequent award even if their discipline is no longer on the approved list of teacher shortage disciplines.~~

~~q) Golden Apple Scholars must comply with the stipulations as stated in the Golden Apple Scholars of Illinois Agreement and Statement of Eligibility and Compliance.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 2764.40 Institutional Procedures

a) The institution shall submit eligibility information for selected recipients~~qualified applicants~~ in sufficient time for ISAC to make award announcements.

b) The institution shall submit a certification of eligibility for selected recipients~~qualified applicants~~ with its request for payment, within the time frame requested by ISAC, which shall be no sooner than 30 days unless a more rapid response is necessary to expend appropriated funds prior to the end of the academic year.

c) ISAC shall disburse scholarship funds in two or three installments, depending on the number of terms financed by the scholarship, except that multiple

disbursements shall not be required in cases where the applicant's eligibility is not determined until the final term of the academic year for which the scholarship is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.

d) Funds shall be remitted by ISAC to institutions on behalf of the recipients.

e) Upon receipt of scholarship funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution may credit the scholarship funds to the recipient's account for expenses due and payable. The balance of the disbursement shall be released to the recipient.

f) Upon receipt of the scholarship funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the scholarship payment to ISAC.

g) Scholarship assistance provided under this Part shall be subject to the following conditions:~~Scholarship Amount~~

1) A recipient may receive up to 4 semesters or 6 quarters of scholarship assistance under this program.~~IFTC scholarships are applicable only toward tuition, fees and room and board charges or commuter allowances, if applicable.~~

2) Scholarship funds are applicable toward two semesters or three quarters of half-time and full-time study within an academic year.

3) The total number of scholarships awarded in a given fiscal year is contingent upon available funding.

4) Program scholarships are applicable only toward tuition, fees and room and board charges or commuter allowances, if applicable.

5) The annual scholarship amount shall be computed by the institution and be the lesser of:

A) tuition and fees plus room and board expenses charged by the institution;

B) tuition and fees plus the institution's standard cost of living allowance for students living off-campus;

C) an amount not to exceed $10,000 unless otherwise authorized by this Section~~$5000~~; or

D) an amount not to exceed $15,000~~$10,000~~, subject to appropriation, if the student is pursuing a course of study necessary to teach in a teacher shortage discipline in which he or she commits to teach, and~~or~~ the student has also made a commitment to teach at a hard-to-staff school.~~; or~~

~~E) an amount not to exceed $15,000, subject to appropriation, if the student is pursuing a course of study necessary to teach in a teacher shortage discipline in which he or she commits to teach, and has also made a commitment to teach at a hard-to-staff school.~~

6)~~3)~~ The total amount of ~~IFTC~~ scholarship assistance awarded under this Section to a recipient of scholarship assistance under this Part~~qualified applicant~~ in a given academic year, when added to the other financial aid available to the qualified applicant for that year, cannot exceed the cost of attendance.

7)~~4)~~ A recipient of scholarship assistance under this Part~~qualified applicant~~ may receive grant assistance under the Monetary Award Program only up to the amount by which the qualified applicant's cost of attendance exceeds the amount of the ~~IFTC~~ scholarship assistance awarded under this Section.

h) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests ~~except for summer term~~ must be received by ISAC no later than July 1.~~ Summer term payment requests must be received no later than July 31.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Program Review (Private Colleges and Universities)

2) Code Citation: 23 Ill. Adm. Code 1030

3)

Section Numbers:	Adopted Action:
1030.10	Amendment
1030.20	Amendment
1030.30	Amendment
1030.60	Amendment
1030.70	Amendment
1030.90	Amendment

4) Statutory Authority: Implementing and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05], Sections 14.5 and 14.10 of the Private College Act [110 ILCS 1005/14.5 and 14.10] and Sections 10.5 and 10.10 of the Academic Degree Act [110 ILCS 1010/10.5 and 10.10]

5) Effective Date of Amendments: April 11, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? The rulemaking does not include an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board of Higher Education's office and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: December 23, 2011; 35 Ill. Reg. 19824

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: There are three differences between proposal and final version: In Section 1030.10(b)(1)(B) and (c)(2)(C) and (D), clarified the terms "physically providing", "physical location", and "physically provide" for the institutions with a limited physical presence in Illinois. If the institution owns, operates or rents a physical facility in Illinois, the institution is not eligible for an exemption from approval. In Section 1030.30(a)(2)(F)(vi), strengthened the requirement to provide data

by clarifying there is no exception when the institution does not report data to the US Department of Education. Also, added the collection of data on student financial aid and dual credit offerings to the data requirements. In Section 1030.30(a)(4)(A)(v), clarified the exception for the minimum qualifications of faculty teaching in a graduate program by adding that staff will review requests and make recommendations to the Board.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rule guides the reviews of (a) applications to establish new colleges and universities in the state and (b) applications for new degree programs, including out-of-state public, out-of-state private, and in-state private institutions. Private colleges and universities that were established in some cases prior to 1945 or 1961 are exempt from submitting proposals unless they want to offer a previously authorized degree program in a region other than the region where their home campus is located.

The adopted amendments are based around 4 themes: (1) tightening requirements prior to approval through use of more specific definitions; (2) increasing transparency and accountability through new specific requirements related to consumer information disclosure and essential data elements; (3) tightening and publicizing the post-approval review process by using automatic triggers for review driven by data, complaints, and public disclosures such as adverse actions by accrediting bodies and federal and state authorities; and (4) administrative procedural changes.

These adopted amendments are consistent wherever practicable with the proposed amendments to the Approval of New Units of Instruction, Research and Public Service at Public Institutions rules (23 Ill. Adm. Code 1050).

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

Karen Helland, Adm. Rules Coordinator
llinois Board of Higher Education
431 East Adams Street, Second Floor
Springfield, IL 62701-1404

Telephone: 217/557-7358
Email: helland@ibhe.org
Fax: 217/782-8548

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

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

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1030
PROGRAM REVIEW (PRIVATE COLLEGES AND UNIVERSITIES)

Section

1030.10 Institutions Required to Receive Approval
1030.20 Definitions
1030.30 Institutional Approval
1030.40 Institutional Approval under the 1945 Act Only
1030.50 Institutional Authorization under the 1961 Act Only
1030.60 Degree Authorization under the 1961 Act
1030.70 Maintenance of Approval under the 1945 Act
1030.80 Maintenance of Authorization to Operate and/or Grant Degrees under the 1961 Act
1030.90 Academic Application Processing Fees

1030.ILLUSTRATION A Map of Regions

AUTHORITY: Implementing and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05], Sections 14.5 and 14.10 of the Private College Act [110 ILCS 1005/14.5 and 14.10] and Sections 10.5 and 10.10 of the Academic Degree Act [110 ILCS 1010/10.5 and 10.10].

SOURCE: Amended and effective August 9, 1977; emergency rules adopted at 3 Ill. Reg. 26, p. 297, effective June 13, 1979, for a maximum of 150 days; adopted at 3 Ill. Reg. 38, p. 222, effective September 22, 1979; amended at 4 Ill. Reg. 48, p. 200, effective November 19, 1980; codified at 8 Ill. Reg. 1454; amended at 33 Ill. Reg. 49, effective December 23, 2008; emergency amendment at 33 Ill. Reg. 6099, effective April 9, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12397, effective August 21, 2009; amended at 36 Ill. Reg. 6525, effective April 11, 2012.

Section 1030.10 Institutions Required to Receive Approval

a) Institutions Required to Receive Approval under the 1945 Act and this Part

1) Any private or public person, group of persons, partnership or corporation

that is or contemplates offering degrees or credit bearing instruction in Illinois above the high school level, either

A) in residence or correspondence;~~,~~ or

B) in the case of an institution offering online instruction, maintaining a physical facility in Illinois, providing instruction for students at a physical location, or physically providing ~~where the~~ core academic support services in Illinois, including but not limited to admission, evaluation, assessment, registration, financial aid, academic scheduling, and faculty hiring and support.~~, are located in Illinois must be approved pursuant to this Part~~.

2) After April 10, 2012~~December 15, 2008~~, ~~these~~ institutions described in subsection (a)(1) shall be limited to:

A)~~1)~~ Institutions that were not established and offering degrees in Illinois prior to July 17, 1945; or

B)~~2)~~ Institutions that result from a merger of other institutions, whether or not the merged institutions were in existence prior to July 17, 1945; or

C)~~3)~~ Institutions currently authorized or currently recognized by the Board that offer degrees or instruction~~ten percent or more of course work, as measured by academic credits, for a degree program~~ in a new geographic location, whether or not the institution was in existence prior to July 17, 1945; or

D)~~4)~~ Institutions that have terminated operation and subsequently wish to resume operations as degree granting institutions, whether or not the former institution was in existence prior to July 17, 1945.

b) Institutions Required to Receive Approval under the 1961 Act and this Part

1) Any private or public person, group of persons, partnership or corporation that is or contemplates offering degrees or credit bearing instruction in Illinois above the high school level, either

A) in residence or correspondence;~~,~~ or

B) in the case of an institution offering online instruction, maintaining a physical facility in Illinois, providing instruction for students at a physical location, or physically providing, out of an institutionally owned, operated or rented facility, ~~where the~~ core academic support services in Illinois, including but not limited to admission, evaluation, assessment, registration, financial aid, academic scheduling, and faculty hiring and support.~~, are located in Illinois, provided the institution is not~~

2) The institutions described in subsection (b)(1) shall not be an Illinois public tax supported higher education institution, a labor union training program or a business trade or other corporate in-service training program~~, must be approved pursuant to this Part~~.

3) After April 10, 2012~~December 15, 2008~~, ~~these~~ institutions described in subsection (b)(1) shall be limited to:

A)~~1)~~ Institutions that were not operating or authorized to operate in Illinois on August 14, 1961; or

B)~~2)~~ Institutions that result from a merger of other institutions, whether or not the merged institutions were authorized to operate on August 14, 1961; or

C)~~3)~~ Institutions currently authorized or currently recognized by the Board that offer degrees or instruction~~ten percent or more of course work, as measured by academic credits, for a degree program~~ in a new geographic location, whether or not the institution was authorized to operate on August 14, 1961; or

D)~~4)~~ Institutions that have terminated operation and subsequently wish to resume operation as degree-granting institutions, whether or not the former institution was authorized to operate on August 14, 1961.

c) Exemption from Approval Requirements

1) Institutions offering degree programs at the University Center of Lake County and the Quad-Cities Graduate Center shall not be required to apply for Board approval when offering degree programs authorized for their home campus. For these institutions, center approval is required and the center shall be treated as part of the institution's home campus, provided the center has notified the Board of its approval of the new degree program.

2) Institutions with Limited Physical Presence in Illinois
Any public or private person, group of persons, partnership or corporation that is located outside of the State of Illinois that is or contemplates offering instruction in Illinois above the high school level is not required under either the 1945 Act or the 1961 Act to obtain a Certificate~~certificate~~ of Approval~~approval~~ or operating or degree authorization if the institution has a limited physical presence in the State. No such institution shall be considered to have limited physical presence for any geographic location and program in Illinois unless it has received a written finding from the Board that it has such a limited physical presence. In determining whether an institution has a limited physical presence, the Board shall require the following:

A) Evidence of authorization to operate in at least one other state; and

B) Evidence of accreditation by a body recognized by the U.S. Department of Education and/or the Council for Higher Education Accreditation; and

C) Evidence that the institution does not offer degrees or credit bearing coursework from a physical location owned, operated or rented by the institution in Illinois, or does not provide instruction for students at a physical location owned, operated or rented by the institution in Illinois~~will offer ten percent or less of coursework, as measured by academic credits, for a degree program in the State of Illinois, or evidence that the institution is offering degrees through one hundred percent asynchronous versus synchronous on-line instruction from an out-of-state site or sites~~; and

D) Evidence that the institution does not maintain a physical facility in Illinois or does not physically provide out of an institutionally

owned, operated or rented facility ~~is not providing~~ core academic support services in Illinois, including but not limited to admissions, evaluation, assessment, registration, financial aid, academic scheduling, and faculty hiring and support in the State of Illinois.

3) Institutions exempted under the 1945 and/or 1961 Acts offering degree programs through mediated instruction~~one hundred percent asynchronous versus synchronous on-line instruction~~ do not require additional Board approval.

4) Approved institutions under the jurisdiction of the 1945 or 1961 Acts offering degree programs through mediated instruction~~one hundred percent asynchronous versus synchronous on-line instruction of a Board approved degree program~~ do not require additional Board approval.

5) Additional Board approval is not required for Board approved institutions offering programs:

A) On federal military bases exclusively to base personnel and their family members;

B) At clinical or practice sites that are utilized as a part of Board approved degree programs;

C) Offering dual credit courses to high school students in high schools; or

D) Offering courses inside public correctional facilities.

(Source: Amended at 36 Ill. Reg. 6525, effective April 11, 2012)

Section 1030.20 Definitions

Unless otherwise stated, all definitions apply to all terms used in this Part in conjunction with both the 1945 Act and the 1961 Act.

"The 1945 Act" means the Private College Act [110 ILCS 1005].

"The 1961 Act" means the Academic Degree Act [110 ILCS 1010].

"Ability to benefit" means a standard for admission by which a student who does not possess a high school diploma or GED has demonstrated that he or she can profit materially or personally from a certain course of study through passage of an ability to benefit test that has been approved by the U.S. Department of Education and administered in compliance with U.S. Department of Education guidelines related to ability to benefit test policies and procedures outlined in federal financial aid regulations. (See 34 CFR 668.145 and 668.152.)

~~"Asynchronous" means instruction in which the teacher and students do not meet at the same time. On-line instruction is more likely to be asynchronous, allowing students to access and participate in the course when they choose to do so.~~

"Authorization to Grant Degrees" means the letter from the Board giving an institution authorization to grant specific degrees under the 1961 Act.

"Authorization to Operate" means the letter from the Board authorizing an institution to operate under the 1961 Act.

"Board" means the Board of Higher Education. In those cases in which the term is used to refer to prior approval or lack of prior approval for either an institution or a degree program, the term "Board" shall mean either the Board of Higher Education or one of the two previous administrative agencies that administered higher education in Illinois (the Board of Education or the Superintendent of Public Instruction), as appropriate.

"Certificate of Approval" means the letter from the Board giving an institution approval to operate under the 1945 Act.

"Change request~~Request~~" means a written proposal to modify an approved degree program. A modification is a change to any of the following: degrees offered; degree title; reclassification of instructional programs code (CIP code); and the admission, retention, or graduation requirements of the approved program.

"Credit hour" means an amount of work represented in intended learning outcomes and verified by evidence of student achievement that is an institutionally established equivalency that reasonably approximates not less than:

One hour of classroom or direct faculty instruction and a minimum of two hours of out-of-class student work each week for approximately 15 weeks for one semester or trimester hour of credit, or 10 to 12 weeks for one quarter hour of credit, or the equivalent amount of work over a different period of time; or

Documented student learning outcomes and evidence of student achievement resulting from a program provided through an alternative delivery method that demonstrates equivalency to those offered through traditional classroom delivery; or

At least an equivalent amount of student work as required to achieve intended learning outcomes as verified by evidence of student achievement for other academic activities as established by the institution, including laboratory work, internships, practica, studio work and other academic work leading to the award of each credit hour.

"Degree" means any designation, appellation, series of letters or words, or other symbol that signifies or purports to signify that the recipient has satisfactorily completed an organized academic program of study beyond the secondary school level. For the purposes of this Part, an "organized academic program of study beyond the secondary school level" shall be defined as:

Any academic program, regardless of duration, that offers any designation, appellation, series of letters or words or other symbol known as or labeled as an associate degree, a bachelor's degree, a master's degree, a doctor's degree, a professional degree or a certificate of advanced study; or

Any academic program of more than 12 months in duration, except for a program that is devoted entirely to religion or theology, or a program offered by any institution operating under the authority of the Private Business and Vocational Schools Act [105 ILCS 425].

"Degree program" means the standard required course of study, or its equivalent, leading to a degree.

"Faculty" means any individual or group of individuals who are qualified by education and experience to give expert instruction and evaluation in their specialties, to supervise curricular experiences, and to evaluate learning for credit.

"Home campus" is also known as "in-region". Both "home campus" and "in-region" are defined as the approval region within which an institution's original operating authority was granted.

"Illinois proprietary institution~~Proprietary Institution~~" means an institution described in Section 1030.10(a) and (b) that is not otherwise exempted in Section 1030.10(c) and meets the following criteria:

Private corporation, limited liability company, or other entity that is initially incorporated or organized in this State, if required by law; and

Maintains a place of business within the State; and

Holds a current certificate of good standing from the Secretary of State, if required by law to file with the State; and

Is investor-owned and/or organized for profit.

Illinois proprietary institutions do not include public institutions authorized under the domestic laws of this State, private not-for-profit institutions permitted to be exempt from taxation under section 501(c)(3) of the United States Internal Revenue Code (26 USC 501(c)(3)), or religious institutions that have not applied for recognition of tax-exempt status but have filed as a not-for-profit entity with the Illinois Secretary of State.

"Institution size~~Size~~" is determined by applying the formula for the calculation of FTE students (using fall student headcounts) developed by the Integrated Postsecondary Education Data System (IPEDS) to the data reported by the institution to IPEDS, which is the U.S. Department of Education postsecondary data collection program.

"Letter of intent~~Intent~~" means the notice~~Notice~~ of intent~~Intent~~ form provided by the Board and completed by the institution that is seeking operating authority, as provided in Section 1030.30(b).

"Mediated instruction" means, for the purposes of this Part, the delivery of instruction at a distance facilitated by technology, such as via teleconferencing, video-conferencing, or internet.

"New degree program" means one or more of the following:

A degree program offered at a different educational level from a degree program already approved at a given institution.

A degree program in a different six-digit CIP (Classification of Instructional Programs taxonomy developed by the National Center for Educational Statistics and used in the Integrated Postsecondary Education Data System) code from that already authorized.

A new professional or specialist degree or certificate.

"New geographic location" means an additional out-of-region instructional site at which 50 percent or more of a Board authorized degree program is offered. Institutions offering less than 50 percent of credit hours for a program that has either been authorized by the Board for delivery in the institution's home region or does not require Board authorization as a result of the exemption for institutions that have been in existence since prior to the 1961 Act as noted in Section 1030.10 does not require additional approval if the institution is authorized in that region. Any program offered in an initial operating region or a new region for which there is no current Board authorization must receive degree approval for the program before the 50 percent new geographic location definition applies for additional out-of-region locations~~is also known as "out-of-region". Both "new geographic location" and "out-of-region" are those sites located outside of the region within which an institution's original operating authority was granted~~.

"Notice of intent~~Intent~~" means the form provided by the Board and completed by the institution that is seeking authority to award one or more degrees as provided in Section 1030.60(b).

"Out-of-state institution~~Out of State Institution~~" means an institution described in Section 1030.10(a) or (b) that is not otherwise exempted in Section 1030.10(c) and meets one of the following:

Public institution authorized under domestic laws other than the laws of this State; or

Private corporation, limited liability company, or other entity that is

initially incorporated or organized under domestic laws other than the laws of this State, if required, and initially operated outside the State; or

Not-for-profit corporation, limited liability company, or other entity that maintains its primary place of business or home office outside this State.

"Region" refers to a geographic~~geographical~~ area within which an institution may operate a unit of instruction and is not limited to the site within the region where the institution initially applied. A region consists of one or more coterminous community college districts. The community college districts are also property taxing districts established as provided in 110 ILCS 805/Art. III. The ten regions, described by community college district and community college district numbers, are as follows (see also Illustration A):

"North Suburban Region (1)" consists of the Lake County (532), Oakton (535), and William R. Harper (512) community college districts;

"Fox Valley Region (2)" consists of the Elgin (509), Kishwaukee (523), McHenry (528), Rock Valley (511), and Waubonsee (516) community college districts;

"West Suburban Region (3)" consists of the DuPage (502), Morton (527), and Triton (504) community college districts;

"Western Region (4)" consists of the Black Hawk (503), Carl Sandburg (518), Highland (519), John Wood (539), Sauk Valley (506), and Spoon River (534) community college districts;

"Central Region (5)" consists of the Heartland (540), Illinois Central District (514), Illinois Valley (513), and Lincoln Land (526) community college districts;

"South Metro Region (6)" consists of the Joliet (525), Kankakee (520), Moraine Valley (524), Prairie State (515), and South Suburban (510) community college districts;

"Prairie Region (7)" consists of the Danville (507), Lake Land (517), Parkland (505), and Richland (537) community college districts;

"Southwestern Region (8)" consists of the Illinois Eastern (529), Kaskaskia (501), Lewis and Clark (536), and Southwestern Illinois (522) community college districts;

"Southern Region (9)" consists of the John A. Logan (530), Rend Lake (521), Shawnee (531), and Southeastern (533) community college districts; and

"Chicago Region (10)" consists of the City Colleges of Chicago (508) community college district.

"Terminal degree" means the highest level of college degree available in a particular field.
~~"Synchronous" means instruction in which the teacher and students are required to meet at the same time or the students are required to meet at the same time. In face to face instruction, this means that everyone is in the same room at the same time. In on-line instruction, synchronous instruction occurs through the use of technologies such as chat, two-way video conferencing or audio conferencing.~~

"Upper-division instruction" means course content and teaching appropriate for junior- and senior-year students in a baccalaureate program or other students with expertise in the subject.

(Source: Amended at 36 Ill. Reg. 6525, effective April 11, 2012)

Section 1030.30 Institutional Approval

The following general rules apply to institutions seeking a Certificate of Approval under the 1945 Act and an Authorization to Operate under the 1961 Act. Section 1030.40 identifies exceptions to these rules for those institutions covered by only the 1945 Act. Section 1030.50 identifies exceptions to the general rules for the institutions covered by only the 1961 Act.

a) Criteria for Evaluation of the Application for a Certificate of Approval and/or Authorization to Operate
The following criteria are designed to measure the appropriateness of the stated educational objectives to the name and degree programs of a given institution and the extent to which suitable and proper processes have been developed for meeting those objectives:

1) For institutions requiring approval, the~~The~~ objectives for the institution and its degree programs must be consistent with what the institutional name and degree program titles imply.

A) The term "university" shall only be used in the name of an institution of higher education when the institutional structure includes two or more distinct colleges (e.g., College of Business, College of Education, and College of Liberal Arts and Sciences) providing instruction at the baccalaureate and graduate levels, and is involved in public service activities, scholarship and research.

B) The term "college" shall only be used to refer to an institution providing instruction at the postsecondary level.

C) Degree program names shall adhere to the Classification of Instructional Programs (CIP) developed by the National Center for Educational Statistics.

2) The caliber and content of each course or program of instruction, training or study shall be reasonable and adequate for achieving the stated degree objectives for which the course or program is offered.

A) Degree program admission policies must include, at a minimum, the following:

i) Undergraduate degrees must require a high school diploma or its equivalency, or passage of an ability to benefit test that has been approved pursuant to U.S. Department of Education regulations (see 34 CFR 668.145). Home school students who have obtained a diploma or similar credential under applicable state law are considered to have met this equivalency requirement. Students who do not meet such a standard may be admitted provisionally but may only take non-credit bearing coursework until the student passes an ability to benefit test.

ii) Graduate degrees must require at least a baccalaureate degree from an accrediting authority

recognized by the U.S. Department of Education or the Council for Higher Education Accreditation or degree from another country evaluated for U.S. equivalency, with the exception of degrees for professional practice whose professional standards do not require baccalaureate degrees for entry or for dual degree programs that can demonstrate equivalency of student outcomes at both the undergraduate and graduate levels. For purposes of dual degree programs that allow individuals to complete a bachelor's degree and either a graduate or professional degree within the same program, a student is considered an undergraduate student for at least the first three years of that program.

B) Institutions must show the capacity to develop, deliver, and support academic programs. Procedures and policies that will assure the effective design, conduct, and evaluation of the degree program under the academic control of the institution must be developed. Assessment plans must demonstrate that the institution has identified clear and appropriate program and student learning goals and must have defined appropriate outcomes. Appropriate data must be collected and may be requested by the Board to show the level of student learning that has occurred as a result of participation in the institution's programs of study.

C) Degree programs must meet the following credit hour requirements:

i) Associate degree requires at least 60 semester credit hours or 90 quarter credit hours.

ii) Baccalaureate degree requires at least 120 semester credit hours or 180 quarter credit hours and at least 40 semester credit hours (60 quarter credit hours) in upper-division courses.

iii) Master's degree requires at least 30 semester credit hours or 45 quarter credit hours of appropriate post-baccalaureate coursework.

iv) Doctor's degree – Professional Practice requires the completion of the academic requirements to begin practice in the profession; at least 60 semester hours of postsecondary credit required for admission to the program; and a total of at least six academic years of college work to complete the degree program, including prior required postsecondary work plus the length of the professional program itself.

v) Doctor's degree – Research and Scholarship requires the completion of an organized program of study beyond the master's degree and requires completion of an organized program of study. The program shall demonstrate full understanding of the level and range of doctoral scholarship, the function of a dissertation and its defense, the nature of comprehensive examination, and other standards commonly held for such degrees; at least 2 full time years of advanced academic coursework beyond the master's degree; and an independent performance of basic or applied research at the level of the professional scholar, typically a dissertation, or to perform independently the work of a profession that involves the highest levels of knowledge and expertise

D) Success in student progression and graduation, and success rates in programs preparing students for certification and licensure, shall be consistent with expectations in higher education and the appropriate related field of study. At a minimum, the Board shall consider the following factors, based on results for similar institutions:

i) Graduation rates, degree completion rates, retention rates, and pass rates for licensure and certification.

ii) Success rate, which shall be, at a minimum, higher than that of the lowest quartile of these measures for similar Illinois institutions defined as open versus competitive enrollment institutions and primarily associate versus primarily baccalaureate granting institutions. Exceptions

may be made to the lowest quartile if an institution is above the national average for these measures using the same comparison categories of institutions.

E) Additional student success measures shall be considered in the review of applications for authorization. The Board shall establish minimum rates of success based on results for similar institutions.

i) At a minimum these data shall include student loan default rates, student indebtedness rates, job placement rates, student learning measures and other success indicators.

ii) The success rate shall be, at a minimum, higher than that of the lowest quartile of these measures for similar Illinois institutions defined as open versus competitive enrollment institutions and primarily associate versus primarily baccalaureate granting institutions. Exceptions may be made to the lowest quartile if an institution is above the national average for these measures using the same comparison categories of institutions.

F) Requirements for Technologically Mediated Instruction Offered at a Distance. In addition to meeting other requirements in this Part, programs offered through electronically mediated distance learning must, at a minimum, meet the following requirements:

i) The institution assures adequacy of technical and physical plant facilities, including appropriate staffing and technical assistance, to support its electronically offered programs.

ii) The institution provides students, faculty and staff with effective technical support and training for each educational technology hardware, software and delivery system required in a program. The help desk function is available to students during hours when it is likely to be needed, which shall be, at a minimum, 18 hours a day.

iii) Appropriate measures for security of systems and adequacy of support are maintained. The selection of technologies is based on appropriateness for the students, faculty and curriculum.

iv) Faculty are full participants in decisions regarding curricula and program oversight.

v) Demonstration of student learning and program outcomes are appropriate to the field and degree level and consistent regardless of program delivery method.

vi) Appropriate admission processes, policies and assessments are used to ensure that students are capable of succeeding in an on-line learning environment. Students are adequately informed of the nature and expectations of on-line learning.

vii) Assessments of student learning, especially exams, take place in circumstances that include student identification and assurance of the integrity of student work.

viii) Assessment of electronically offered programs by the institution occurs in the context of the regular evaluation of all academic programs.

3) The institution shall have adequate and suitable space, equipment and instructional materials to provide education of suitable quality.

4) The education, experience and other qualifications of faculty, staff and instructors shall reasonably ensure that the students will receive education consistent with the objectives of the course or program of study.

A) At a minimum, faculty shall have a degree from an institution accredited by a U.S. Department of Education recognized accrediting body or a degree from another country evaluated for U.S. equivalency in the discipline they will teach or

for which they will develop curricula at least one level above that of the courses being taught or developed.

i) Faculty providing undergraduate general education coursework shall possess, at a minimum, a master's degree in the field of instruction.

ii) Faculty engaged in providing technical and career coursework at the associate degree level shall possess, at a minimum, a bachelor's degree in the field of instruction or equivalent training in the occupational field.

iii) Faculty teaching in a baccalaureate degree program shall have, at a minimum, a master's in the field of instruction.

iv) Faculty teaching in a graduate program shall have a doctorate or terminal degree in the field of instruction.

v) Exceptions may be made for professional experience, equivalent training and other qualifications; however, these will be the exceptions and not the rule in meeting faculty qualification requirements. These exceptions for faculty may be recommended by the Board staff.

B) Faculty to student ratios and full time faculty to part time faculty ratios shall be factors in determining appropriate provision of qualified faculty. Institutions shall have policies in place that serve to ensure equivalency of instruction and program delivery across faculty members, including methods of measuring equivalency of student learning outcomes across faculty. The Board shall establish minimum rates of success based on data for similar institutions. The ratios shall be, at a minimum, higher than those of the lowest quartile of these measures for similar Illinois institutions defined as open versus competitive enrollment institutions and primarily associate versus primarily baccalaureate granting institutions. Exceptions may be made to the lowest

quartile if an institution is above the national average for these measures using the same comparison categories of institutions.

5) Program Information

A) The institution shall provide to the public upon request a catalog, either in print or electronically, with the information listed in this subsection (a). This information shall be provided in print and on the institution's website without requiring the student to provide contact or other personal information in order to access the information.~~be prepared to provide students and other interested persons with a catalog or~~ The catalog or brochure shall contain ~~containing~~ the following information:

i) Descriptions of the degree programs offered, program objectives, length of program and institutional calendars with degree program start and end dates;

ii) Schedule of tuition, fees and all other charges and expenses necessary for completion of the course of study, and cancellation and refund policies;

iii) A statement regarding the transferability of college credits, including the fact that the decision to accept transfer credits is currently made by receiving institutions;

iv) A statement as to how the institution will advise students on the nature of the transfer process, including the importance of consulting with institutions to which the student may seek to transfer;

v) Evidence of articulation arrangements with institutional counterparts, when these arrangements exist;

vi) A statement of the institution's most recent graduation rates and the numbers of graduates and enrollments as provided by the institution to the Integrated Postsecondary Education Data System (IPEDS). There is no exception if the institution does not report data to IPEDS. The State also

requires the collection of data on student financial aid and dual credit offerings;~~and~~

vii) A statement of the institution's accreditation status with a U.S. Department of Education recognized accrediting body. If no such accreditation exists, the institution must prominently state this in its advertising and published materials; and

viii) Other material facts concerning the institution and the program or course of instruction as are likely to affect the decision of the student to enroll, together with any other information specified by the Board and defined in this Part.

B) The information listed in subsection (a)(5)(A) shall be available to prospective students prior to enrollment.

6) Upon satisfactory completion of the degree program, the student shall be given the appropriate degree by the institution, indicating that a specifically approved course of instruction or study has been satisfactorily completed by the student.

7) Adequate records shall be maintained by the institution to show attendance, progress or grades, and consistent standards should be enforced relating to attendance, progress and performance.

8) The institution shall be maintained and operated in compliance with all pertinent local, State and national ordinances and laws.

9) The institution should be financially stable and capable of assuring the revenues needed for meeting stated objectives and fulfilling commitments to students.

10) Neither the institution nor its agents should engage in advertising, sales, collection, credit or other practices of any type that are false, deceptive, misleading or unfair.

11) The institution should have a fair and equitable cancellation and refund policy. This policy shall apply equally to all students regardless of

whether the student receives federal or State financial aid.

12) The faculty, staff and instructors of the institution shall be of good professional reputation and character.

13) If the institution requires the student to sign an enrollment agreement or a similar agreement, the agreement shall provide consumer information including, but not limited to: an explanation of all criteria and requirements for retention, progress towards degree, and graduation of the student; the institution's tuition, cancellation and refund policies; and a statement of the purpose and amount of any fees assessed.

A) No institution shall enter into any enrollment agreement in which the student waives the right to assert against the school or any assignee any claim or defense he or she may have against the school arising under the agreement.

B) Although the school may use an enrollment agreement that sets forth the total cost of the program, no school may have a tuition policy or enrollment agreement that charges a student for multiple periods of enrollment prior to completion of the single semester, quarter, term or other period of enrollment.

14) Any institution applying for a Certificate~~certificate~~ of Approval~~approval~~ or authorization to operate in the State of Illinois must specify its accreditation status. New institutions without accreditation from an accrediting authority recognized by the U.S. Department of Education or the Council for Higher Education Accreditation shall provide a clearly defined plan to move from candidate to affiliate status. The plan should include the name of the accrediting organization, the basic outline of the accreditation process, and the projected time line for obtaining affiliate status within five years after the date of Board approval, unless the Board waives the original time line because it is found to be an unrealistic expectation.

b) Procedures for Obtaining a Certificate of Approval and/or Authorization to Operate
Following is a description of the steps in the approval process:

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Letter of Intent
The Chief Executive Officer of the institution seeking a Certificate of Approval and/or Authorization to Operate a degree-granting postsecondary institution in the State of Illinois should make this intention known by writing to the Board. Following receipt of this letter, the Board staff may arrange a preliminary conference with institutional representatives.

2) Preliminary Conference
The agenda will include a discussion of criteria to be met by the institution and procedures used in applying for a Certificate of Approval and/or Authorization to Operate.

3) Letter of Application and Documentation
Following the preliminary conference, the institutional representatives shall complete the application supplied by the Board. The application requests information and supporting evidence to demonstrate that the institution meets the criteria established.

4) Staff Analysis
Following the receipt of the formal application and accompanying documentation, staff will review and analyze all materials.

5) Site Visit

A) Following completion of documentation and staff analysis of the application, a site visit may be arranged in order to verify and supplement the information provided about the proposed institution. Site visits may be scheduled if:

i) the Board is not familiar with the physical facilities;

ii) the institution asks for a site visit;

iii) questions have been raised about the veracity of the application; or

iv) for other reasons the proposed institution/program does not lend itself to an in-office analysis.

B) The site visit may include interviews with prospective administrators, students, faculty and/or board members and observations of facilities, record systems, financial data and/or curricular resources.

6) Outside Consultants
The Executive Director of the Board, at his or her discretion, may utilize the services of outside consultants to assist the staff in the verification and/or evaluation of the documentation submitted or obtained through the site visit.

7) Staff Report

A) Following the site visit, Board staff will prepare an analysis of the findings and develop a recommendation to the Board regarding the institutional application. This recommendation will be shared with the applicant.

B) The recommendation will be one of the following:

i) That the institution be issued a Certificate of Approval and/or Authorization to Operate, subject to annual reporting and the implementation and maintenance of the conditions under which approval/authorization has been granted; or

ii) That the institution be denied a Certificate of Approval and/or Authorization to Operate.

8) Staff Recommendations to the Board
The Executive Director of the Board will submit the staff recommendation to the Board for action at a regular meeting. The Chief Executive Officer of the applicant institution or a designee will be invited to attend the meeting and comment on the recommendation. In the event the staff recommendation is negative, the applicant shall be given an opportunity to respond in writing. This response shall be transmitted to the Board at the same time as the staff recommendation.

9) Board Action

Following the Board's decision to issue a Certificate of Approval and/or Authorization to Operate or to deny a Certificate of Approval and/or Authorization to Operate, a letter signifying the action will be sent from the Executive Director of the Board to the Chief Executive Officer of the institution. A letter of approval will serve as the official Certificate of Approval/Authorization to Operate for the institution in the State of Illinois.

c) Initial authorization to operate in Illinois for institutions new to the State shall be for five years. In the fifth year of operation, the Executive Director of the Board shall instruct staff to conduct a review. The Board may deny a continuation of the initial approval or offer a limited extension if the institution:

1) Has failed to implement and maintain the conditions that were presented in its application and that formed the basis upon which authorizations were granted;

2) Has failed to maintain sound fiscal status; ~~or~~

3) Has failed to achieve accreditation through a U.S. Department of Education recognized accrediting body for degree granting institutions during the initial five year period. Failure to achieve accreditation shall be grounds for immediate revocation of approval. Until accreditation is achieved, the institution shall clearly and appropriately state in all promotional materials and advertisements and on its webpage that it is not accredited; or

4) Has failed to demonstrate success in student progression and graduation and success rates in programs preparing students for certification and licensure that are consistent with expectations in higher education and the appropriate related field of study. At a minimum, the Board shall consider the following factors, based on results for similar institutions:

i) Graduation rates, degree completion rates, retention rates, and pass rates for licensure and certification.

ii) Success rate, which shall be, at a minimum, higher than that of the lowest quartile of these measures for similar Illinois

institutions defined as open versus competitive enrollment institutions and primarily associate versus primarily baccalaureate granting institutions. Exceptions may be made to the lowest quartile if an institution is above the national average for these measures using the same comparison institutions.

iii) At a minimum, the data shall include student loan default rates, student indebtedness rates, job placement rates, student learning measures and other success indicators.

iv) The success rate shall be, at a minimum, higher than that of the lowest quartile of these measures for similar Illinois institutions defined as open versus competitive enrollment institutions and primarily associate versus primarily baccalaureate granting institutions. Exceptions may be made to the lowest quartile if an institution is above the national average for these measures using the same comparison categories of institutions.~~Has failed to achieve affiliation status from an accreditation agency within the institution's proposed time line for obtaining accreditation, unless the Board waives the original time line because it is found to be an unrealistic expectation.~~

d) Nothing in this Section shall be construed to prevent the Board from withdrawing Certification of Approval or Authorization to Operate at any time, including during the first five years of operation, if an institution has failed to implement and maintain the conditions that were presented in its applications and that form the basis upon which its certificate or authorization was granted.

e) Publications and Information. Institutions shall be scrupulously ethical in all communication with the public and with prospective students. School publications, advertisements and statements shall be wholly accurate and in no way misleading. Violations of this subsection shall be grounds for immediate investigation of the institution pursuant to Section 1030.70 and, depending on the results of the investigation, may be grounds for revocation proceedings under Sections 1030.70 and 1030.80.

1) An institution may state that it is approved or authorized to operate in the State of Illinois only after approval has been officially granted and received in writing from the Board and while authorization is maintained.

A) Institutions authorized by the Board may use the authorization in advertising and promotional material and on letterhead stationery only if using the following language: (name of school) is authorized for operation by the Illinois Board of Higher Education. The entire statement must be used with the same size font and font type of print.

B) Institutions authorized by the Board that have presence, advertise or offer instruction via internet, world wide web or other electronic telecommunication means must state or have a link on the first page (as registered with standard web/internet search engines) to the following statement that can be readily viewed by the consumer: (name of school) is authorized to operate as a postsecondary educational institution by the Illinois Board of Higher Education. In the case of an internet site, within the required statement given above, Illinois Board of Higher Education must be an electronic link to the Board's website at www.ibhe.org.

2) No statement shall be made that the institution or its courses of instruction have been accredited unless the accreditation is identified as that of an appropriate U.S. Department of Education recognized accrediting agency. An institution shall not advertise or state in any manner that it is "accredited" by the Board.

3) No institution shall publish or otherwise communicate to prospective students, faculty, staff or the public misleading or erroneous information about the operating or degree-granting status of a given institution.

4) Recruitment and informational materials of an institution that has received only approval and/or authorization from the Board to operate shall indicate that the institution is not yet authorized to award degrees.

5) No dollar amount shall be quoted in any advertisement as representative or indicative of the earning potential of graduates.

6) Institutions or representatives shall not use a photograph or other such illustration in public documents, sales literature or otherwise in such a manner as to convey a false impression as to size, importance or location

of the institution or equipment and facilities associated with that institution.

7) Institutions or representatives shall not make deceptive statements concerning other institutional activities in attempting to enroll students.

8) No statement or representation shall be made that students will be guaranteed employment while enrolled in the institution or that employment will be guaranteed for students after graduation, nor shall any institution or representative misrepresent opportunities for employment upon completion of any course of study.

9) The Board, at any time, may require that an institution furnish proof to the Board of any of its advertising claims. If proof acceptable to the Board cannot be furnished, a retraction of the advertising claims, published in the same manner as the claims themselves, must be published by the institution and continuation of that advertising shall constitute cause for revocation of the institution's Certificate of Approval and Authorization to Operate.

10) Student loans offered to students by the institution or those agents it recommends must clearly state whether the loans are federal student aid loans.

11) No statement shall be made by an institution or its representatives that the programs and/or courses or exams are transferable to another institution without current documentation by an authorized official of the receiving institution.

12) Each Board authorized institution or institution receiving a Board degree authorization must provide in its catalog and print promotional materials and on its website the Board's mailing address and the Board's website link for reporting complaints. For the website information, there must be an electronic link to the Board's website on the first page (as registered with standard web/internet search engines).

(Source: Amended at 36 Ill. Reg. 6525, effective April 11, 2012)

Section 1030.60 Degree Authorization under the 1961 Act

a) Criteria for New Degree Programs
The Board requires that a non-public or out-of-state public institution demonstrate that it can maintain and operate a new degree program that meets the standard criteria for those degree programs. The following standard criteria are designed to measure the appropriateness of the stated educational objectives to the degree programs of a given institution and the extent to which suitable and proper processes have been developed for meeting those objectives:

1) All rules, criteria, and procedures defined in Section 1030.30 shall apply.

2) The objectives of the degree program must be consistent with what the degree program title implies.

3~~2~~) The requested degree program shall be congruent with the purpose, goals, objectives and mission of the institution.

4~~3~~) The caliber and content of the curriculum shall assure that the stated degree objectives for which the program is offered will be achieved.

5~~4~~) The institution shall have adequate and suitable space, equipment and instructional materials to provide education of suitable quality.

6~~5~~) The education, experience and other qualifications of directors, administrators, supervisors and instructors shall ensure that the students will receive education consistent with the objectives of the program.

7~~6~~) The information the institution provides for students and the public shall accurately describe the degree programs offered, program objectives, length of program, schedule of tuition, fees, and all other charges and expenses necessary for completion of the course of study, cancellation and refund policies, and such other material facts concerning the institution and the program or course of instruction as are likely to affect the decision of the student to enroll. This information, including any enrollment agreements or similar agreements, shall be available to prospective students prior to enrollment.

8~~7~~) Fiscal and personnel resources shall be sufficient to permit the institution to meet obligations to continuing programs while assuming additional

resource responsibilities for the new degree program.

9~~8~~) The faculty, staff and instructors of the institution shall be of good professional reputation and character.

b) Procedures for Obtaining Authority to Award One or More New Degrees
The Board shall approve all new degree programs in institutions described in Section 1030.10(b) that are not otherwise exempted in Section 1030.10(c). Institutions authorized to offer a degree program at a site within a region are not required to obtain additional approval to offer the same degree at a different site within the same region. Following is a description of the steps in the approval process:

1) New Degree Program Request

A) The Chief Executive Officer of the institution seeking approval of a new degree program in the State of Illinois should make this intention known by completing a notice of intent on the form provided by the Board prior to submission of the request for approval. The notice of intent shall include the degree and program name, region where located, description of the program, demographics of the intended students, estimated enrollment, and contact person. Notices of Intent shall be publicly posted by the Board for no less than 30 days before Board action on the application.

B) The institution requesting permission to offer a new degree program will complete an application provided by the Board.

C) Information to be provided by the institution shall include:

i) program titles and descriptions;

ii) program objectives;

iii) curriculum;

iv) relationship of new programs to existing programs;

v) faculty;

vi) recommendation of internal governance bodies;

vii) facilities;

viii) finances; and

ix) program publicity information.

2) Governing Board Approval
The application shall be approved by the institution's governing board prior to submission to the Board.

3) Submission of the Application
Applications may be submitted to the Board at any time.

4) Board Staff Analysis
Following receipt of the application, Board staff will review and analyze the application and documentation submitted.

5) Additional Documentation and Site Visit
In the case of a proposed new degree program for which Board staff determines it is necessary to verify or supplement the information supplied in the application, the staff may request additional written documentation and/or arrange for a site visit.

6) Outside Consultants
The Executive Director of the Board, at his or her discretion, may utilize the services of outside consultants to assist the staff in a site visit and in the evaluation of the documentation submitted.

7) Staff Report
Following the staff analysis, Board staff will summarize its findings and develop a recommendation to the Board regarding the new degree program request. This recommendation will be shared with the applicant. This recommendation will be one of the following:

A) That the degree program be approved to admit students, with the

appropriate degrees being awarded upon program completion, but no sooner than one year after the approval date; or

B) That the degree authority requested not be granted.

8) Staff Recommendations to the Board
The Executive Director of the Board will submit the staff recommendation for action to the Board at a regular meeting. The Chief Executive Officer of the institution, or a designee, will be invited to attend and comment on the recommendation. In the event the staff recommendation is negative, the applicant shall be given an opportunity to respond in writing. This response shall be transmitted to the Board at the same time as the staff recommendation.

9) Board Action
Following the Board's decision to approve or deny the degree-granting request, a letter signifying the action will be sent from the Executive Director of the Board to the Chief Executive Officer of the institution. A letter of approval will serve as official authorization for the institution to award the stated degrees.

10) Awarding Degrees
Institutions shall not award new degrees until one year after authorization by the Board to do so.

11) New Application
Any institution denied approval to award a new degree must file a new application in order to be given subsequent consideration for approval.

12) Advertising of Degree Programs

A) An institution may state that it is approved or authorized to award a degree in the State of Illinois only after that approval has been officially granted and received in writing from the Board.

B) An institution shall not advertise or state in any manner that it is "accredited" by the Board to award degrees.

C) No institution shall publish or otherwise communicate to prospective students, faculty, staff or the public misleading or erroneous information about the degree-granting status of a given institution.

13) No Program Changes for the First Year
Institutions applying after December 15, 2008 shall not deviate from the approved plan for one year after the date of the letter of approval.

14) Institutions Exempt from Approval
Institutions offering a previously authorized degree program at another site within the same region shall not be required to apply for additional Board approval.

(Source: Amended at 36 Ill. Reg. 6525, effective April 11, 2012)

Section 1030.70 Maintenance of Approval under the 1945 Act

a) Most institutions are approved to operate under both the 1945 Act and the 1961 Act. Institutions under only the 1945 Act shall comply with Section 1030.70. Institutions under only the 1961 Act shall comply with Section 1030.80. Institutions under both Acts shall comply with both Sections 1030.70 and 1030.80. When the two Sections are identical, the institution will be considered in compliance with the 1945 Act by complying with Section 1030.80 and vice versa.

b) The following rules govern maintenance of the Certification of Approval under the 1945 Act:

1) Annual Report
Each approved institution shall file annually with the Board its current catalogs.

2) Reviews
The staff of the Board may conduct reviews and/or visitations of approved institutions as necessary for the implementation of the statute and this Part.

3) Investigations of Institutions
The status of institutions under investigation as described in this Section

shall be reported in Board public materials as "Institutions under investigation: on hold pending review of Board approval status". ~~Complaints Concerning Institutions~~

A) The staff of the Board shall initiate an investigation upon receipt of a verified written complaint and may initiate an investigation in response to oral or written information concerning any of the following:

i) Alleged violation of any of the conditions governing issuance of the Certificate of Approval;

ii) Alleged failure to comply with this Part;

iii) Alleged fraudulent conduct on the part of any person operating the institution or of any person, acting within the scope of his/her employment by the institution, on account of which any student ever enrolled in the institution has been injured or has suffered financial loss;

iv) Loss, suspension, probation or similar adverse action taken by an accrediting body with which the institution is or was affiliated;

v) Actions of federal or state regulatory agencies or Offices of Attorneys General, Offices of Inspectors General, or similar bodies that affect an institution's status with those bodies.

B) The institution will be notified by the Board about the initiation of an investigation. During the investigation there may be a temporary hold placed on any of the institution's pending applications and requests to the Board for modification of existing approvals. The hold will be for a specified period of time not to exceed six months, unless the Board begins collection of pertinent information related to satisfying the issues associated with the investigation, such as the results of adverse actions by federal or state regulatory agencies, the results of pending court action for which a sworn affidavit has been filed, actions of accrediting

bodies, or similar information. Upon completion of the investigation, the Board will accept the institution's request to voluntarily relinquish its approval, begin~~Board begins~~ the process for revocation as provided in subsection (b)(4), at which time the hold~~ will continue~~ continues, or remove the hold. Information that any current authorizations or future applications are on hold will be provided by the Board on its web page or in print materials that reference authorized institutions~~ until the Board decision is made~~.

4) Revocation of the Certificate of Approval

A) Grounds for revocation include any of the following:

i) Violation of any of the conditions governing issuance of the Certificate of Approval;

ii) Failure to comply with this Part;

iii) Fraudulent conduct on the part of any person operating the institution or of any person, acting within the scope of his/her employment by the institution, on account of which any student ever enrolled in the institution has been injured or has suffered financial loss;

iv) Failure to offer degrees or instruction for one continuous 12-month period;

v) Abandonment of the institution;

vi) Loss of accreditation status with an accrediting body with which the institution is or was affiliated;

vii) Actions of federal or state regulatory agencies or Offices of Attorneys General, Offices of Inspectors General, or similar bodies that affect an institution's status with those bodies.

B) Procedures for Revocation

i) Before revoking any certificate to operate, the Board shall designate a Hearing Officer who shall schedule and conduct a hearing, as prescribed in Section 6-9 of the 1945 Act. The Board shall not be required to schedule a hearing and has the option to waive a hearing if the institution has not operated for one continuous 12-month period or the institution has been abandoned; even in these cases, however, the Board shall be required to revoke the certificate at a public meeting at which any opponent who is injured or impacted by the revocation must be given the opportunity to be heard.

ii) If the Board decides to grant a rehearing pursuant to Section 10 of the 1945 Act, it shall appoint another Hearing Officer, different from the first, who shall conduct a hearing upon only those grounds for which the rehearing was granted. The second Hearing Officer shall submit a written report of findings and recommendations to the Board, which shall make a final determination.

iii) Upon revocation of the Certificate to Operate, the Certificate of Approval shall be rendered invalid.

iv) At any time after revocation of a Certificate of Approval, the Board may restore it to the institution.

v) A closed institution shall arrange for its student records to be maintained in a safe and suitable place as determined by the Board (such as another like kind of institution or the Board).

C) Voluntary Relinquishing of Approval

i) Institutions may voluntarily relinquish their Certificate of Approval, Authorization to Operate, or Authorization to Grant Degrees. The voluntary relinquishment shall be in writing and does not require a hearing or any other Board action to be effective.

ii) Institutions relinquishing approval and/or authorization shall be required to provide for an appropriate repository of records and may be required to provide a student completion plan that must be approved by the Board.

D) Change of Legal Status of the Institution

i) An institution's Certificate of Approval, Authorization to Operate and Authorization to Award Degrees are granted to a specific legal entity based on the conditions under which the institution and/or its degrees were authorized. A change to the legal status of the entity shall result in immediate loss of the certificate or authorization.

ii) A change of legal status ends the exempted status of institutions described in Section 1030.10. After a change of legal status, institutions previously exempted must seek new operating and degree granting authority.

iii) Institutions that are planning a change of legal status shall inform the Board as early as possible. If new approvals will be sought by the institution, a plan should be developed in consultation with the Board to facilitate the transition process.

iv) In cases in which a change in shareholders results in new leadership of an institution, the Board shall require that the institution submit documentation demonstrating that no change has occurred in the operation of the institution that would affect the conditions under which the institution and/or its degrees were authorized.

v) Merger of two institutions resulting in the creation of a new institution causes both institutions to lose their approvals and results in the need for new authorizations.

(Source: Amended at 36 Ill. Reg. 6525, effective April 11, 2012)

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section 1030.90 Academic Application Processing Fees

a) Fees
Fees are assessed in connection with applications for certificates of approval under the 1945 Act and applications for authorization to operate and authorization to grant degrees under the 1961 Act, including filing letters of intent and notices of intent and submitting change requests. These fees apply beginning on April 9, 2009.

1) Application Fees

A) Certificate of Approval~~approval~~ or Authorization~~authorization~~ to Operate~~operate~~, $5,000. Only one fee of $5,000 shall be charged if both are sought in the same application. This is a one-time fee that does not apply to entities that have been previously approved or authorized by the Board.

B) Letter of Intent or Notice of Intent, $250. One fee shall be submitted with each filing.

C) Authorization to Grant Degrees~~grant degrees~~

i) The fee is based on the type of institution, institution size, and degree level as outlined in subsection (a)(2).

ii) This fee applies to each request for authorization to grant a new degree or an additional degree in a region.

D) Change request, $250. The fee shall be charged for each request within a region. One submission with 10 requests shall be assessed for 10 change requests ($2,500).

2) Schedule of Fees

A) Illinois Proprietary Institutions

Institution Size

	< 200 Students	200-500 Students	> 500 Students
Certificate of Approval or Authorization to Operate	$ 5,000	$ 5,000	$ 5,000
Associate Degree per Region	750	950	1,250
Bachelor Degree per Region	1,450	1,650	1,950
Masters Degree per Region	2,250	2,550	2,950
Doctoral/First Professional per Region	3,500	3,750	4,000
Letter or Notice of Intent	250	250	250
Change Request per Region	250	250	250

B) Out-of-State Institutions

	Institution Size		
	< 200 Students	200-500 Students	> 500 Students
Certificate of Approval or Authorization to Operate	$ 5,000	$ 5,000	$ 5,000
Associate Degree per Region	1,750	1,950	2,250
Bachelor Degree per Region	2,450	2,650	2,950
Masters Degree per Region	3,250	3,550	3,950
Doctoral/First Professional per Region	4,500	4,750	5,000
Letter or Notice of Intent	250	250	250
Change Request per Region	250	250	250

b) Remittance

1) Fees shall be submitted as check, certified check, cashier's check, or money order payable to the Illinois Board of Higher Education.

2) The Board shall return fees if, after further investigation, the Board determines that the institution's request does not require Board approval or authorization, minus a fee of $250 for processing. No refund shall be awarded for any application that requires Board approval and has been reviewed by Board staff. Applications withdrawn by the institution shall receive no refund.

3) Fees shall be submitted to:

Illinois Board of Higher Education
Academic Affairs Fee Remittance
431 East Adams, Second Floor
Springfield, Illinois 62701-1404

c) Processing

1) Applications, notices, and change requests submitted to the Board with insufficient fees shall be considered incomplete. The Board will notify the institution of the amount due. No further action shall be taken by the Board until the full amount due is submitted.

2) Applications, notices and change requests submitted to the Board with incorrect fees shall be considered incomplete. The incorrect fee amount will be returned to the institution. No further action shall be taken by the Board until the full and correct fee amount due is submitted.

3) The Board will not accept applications from institutions that have not provided the information necessary for the Board to process a previously submitted application.

(Source: Amended at 36 Ill. Reg. 6525, effective April 11, 2012)

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Approval of New Units of Instruction, Research and Public Service at Public Institutions

2) Code Citation: 23 Ill. Adm. Code 1050

3)

Section Numbers:	Proposed Action:
1050.10	Amendment
1050.20	Amendment
1050.30	Amendment

4) Statutory Authority: Implementing Section 7 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/7 and 9.05]

5) Effective Date of Amendments: April 11, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? The rulemaking does not include an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Board of Higher Education's office and is available for public inspection.

9) Notice of Proposal Published in the Illinois Register: December 23, 2011, 35 Ill. Reg. 19865

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: As per JCAR's request, a definition for "terminal degree" was added to Section 1050.10.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any other amendments pending on this Part? No

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Amendments: This rule guides the reviews of (a) applications for new degree programs at public universities and community colleges and (b) proposals from public universities to establish new research and public service centers. This rule also requires the institutional review of all degree programs within a cycle of eight years and submission to the Board of Higher Education of a summary of each review. The reviews should lead to continuation of strong programs, corrective measures to address problem areas, and suspension or elimination of less effective programs.

The proposed amendments are based around 4 themes: (1) tightening requirements prior to approval through use of more specific definitions; (2) increasing transparency and accountability through new specific requirements related to consumer information disclosure and essential data elements; (3) tightening and publicizing the post-approval review process by using automatic triggers for review driven by data, complaints, and public disclosures such as adverse actions of accrediting bodies and federal and state authorities; and (4) administrative procedural changes.

These proposed amendments are consistent wherever practicable with the proposed amendments to the Program Review (Private Colleges and Universities) rules (23 Ill. Adm. Code 1030).

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

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, 2nd Floor
Springfield, Illinois 62701

Telephone: 217/557-7358
E-Mail: helland@ibhe.org
Facsimile: 217/782-8548

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

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1050
APPROVAL OF NEW UNITS OF INSTRUCTION, RESEARCH AND PUBLIC SERVICE AT PUBLIC INSTITUTIONS

Section
1050.10 Institutions Required to Receive Approval
1050.20 Definitions
1050.30 Criteria for Approval
1050.40 Procedures of Obtaining Approval
1050.50 Review of Existing Units of Instruction, Research and Public Service
1050.ILLUSTRATION A Map of Regions

AUTHORITY: Implementing Section 7 and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/7 and 9.05].

SOURCE: Amended and effective April 15, 1976; rules repealed and new rules adopted and codified at 8 Ill. Reg. 16907, effective September 4, 1984; amended at 23 Ill. Reg. 13074, effective October 13, 1999; amended at 33 Ill. Reg. 78, effective December 23, 2008; amended at 36 Ill. Reg. 6566, effective April 11, 2012.

Section 1050.10 Institutions Required to Receive Approval

a) *The Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, or the Illinois Community College Board, and the campuses under their governance or supervision shall not hereafter undertake the establishment of any new unit of instruction, research or public service without the approval of the Board.*

b) *The term "new unit of instruction, research or public service" includes the establishment of a college, school, division, institute, department or other unit in*

any field of instruction, research or public service not theretofore included in the program of the institution, and includes the establishment of any new branch or campus. The term does not include reasonable and moderate extensions of existing curricula, research, or public service programs which have a direct relationship to existing programs; and the Board may, under its rulemaking power, define the character of such reasonable and moderate extensions. [110 ILCS 205/7]

(Source: Amended at 36 Ill. Reg. 6566, effective April 11, 2012)

Section 1050.20 Definitions

"Ability to benefit" means a standard for admission by which a student who does not possess a high school diploma or GED has demonstrated that he or she can profit materially or personally from a certain course of study through passage of an ability to benefit test that has been approved by the U.S. Department of Education and administered in compliance with U.S. Department of Education guidelines related to ability to benefit test policies and procedures outlined in federal financial aid regulations. (See 34 CFR 668.145 and 668.152.)

~~"Asynchronous" means instruction in which the teacher and students do not meet at the same time. Online instruction is more likely to be asynchronous, allowing students to access and participate in the course when they choose to do so.~~

"Board" refers to the Board of Higher Education.

"Board of Control" means one of the following:

The Board of Trustees of the University of Illinois, the Board of Trustees of Southern Illinois University, the Board of Trustees of Chicago State University, the Board of Trustees of Eastern Illinois University, the Board of Trustees of Governors State University, the Board of Trustees of Illinois State University, the Board of Trustees of Northeastern Illinois University, the Board of Trustees of Northern Illinois University, the Board of Trustees of Western Illinois University, the Illinois Community College Board, or the campuses under their governance or supervision.

"Credit hour" means an amount of work represented in intended learning outcomes and verified by evidence of student achievement that is an institutionally established equivalency that reasonably approximates not less than:

One hour of classroom or direct faculty instruction and a minimum of two hours of out-of-class student work each week for approximately 15 weeks for one semester or trimester hour of credit, or 10 to 12 weeks for one quarter hour of credit, or the equivalent amount of work over a different period of time; or

Documented student learning outcomes and evidence of student achievement resulting from a program provided through an alternative delivery method that demonstrates equivalency to those offered through traditional classroom delivery; or

At least an equivalent amount of student work as required to achieve intended learning outcomes as verified by evidence of student achievement for other academic activities as established by the institution, including laboratory work, internships, practica, studio work, and other academic work leading to the award of each credit hour.

"Degree" means any designation, appellation, series of letters or words, or other symbol that~~which~~ signifies or purports to signify that the recipient has satisfactorily completed an organized program of study of at least one year beyond the secondary school level. It shall include, but not be limited to, the following: certificate, associate, bachelor, post-baccalaureate certificate, master, post-master certificate, doctor's degree~~doctorate~~ − professional practice (degree required for entry into specific profession such as law or medicine), and doctor's degree~~doctorate~~ − research and scholarship.

"Faculty" means any individual or group of individuals who are qualified by education and experience to give expert instruction and evaluation in their specialties, to supervise curricular experiences, and to evaluate learning for credit.

"Home campus" is also known as "in-region". Both "home campus" and "in-region" are defined as the Board approved region within which the institution's original campus would have been located had the regions existed at that time.

"Mediated instruction" means, for the purposes of this Part, the delivery of instruction at a distance facilitated by technology, such as via teleconferencing, video-conferencing, or internet.

"New branch" or "new campus" means a new site that houses a full range of instruction, as well as administrative and support services.

A "branch" is an administrative unit of an institution that has a continuing educational mission and serves as a secondary instructional site for the institution.

A "campus" is an organized administrative unit of an institution that has a continuing educational mission and serves as a primary instructional site for the institution.

A "new branch" or "new campus" is characterized by the following criteria: the site offers courses in educational programs leading to a degree, certificate or other recognized educational credential; it is permanent in nature; it has its own faculty and administrative or supervisory organization; and has its own budgetary and hiring authority.

"New instructional location" means an additional out-of-region instructional site separate from a branch or campus at which 50 percent or more of a program is offered, but that otherwise does not meet the definition of a new branch or campus. A new location does not constitute a new branch or campus unless the site meets the other criteria in the definition of a branch or campus. For programs that have been previously authorized by the Board, institutions may request a Reasonable and Moderate Extension request to add the program to an out-of-region new instructional location.

"New geographical location" is also known as "out-of-region". Both "new geographical location" and "out-of-region" sites are those sites located outside of the region within which the institution's original campus would have been located had the regions existed at that time.

"New unit~~Unit~~ of instruction~~Instruction~~" means one or more of the following:

Any new organized program of study beyond the secondary school level that results in the formal award of a degree to a student.

Any organized program of study beyond the secondary school level that is offered at a new geographical location and results in the award to a student of an existing degree (i.e., one that is currently granted by the institution).

Any new formally organized administrative entity that would have a continuing instructional mission, including but not limited to a campus, branch, college, school, department or division.

"New unit of instruction, research or public service" includes the establishment of a college, school, division, institute, department or other unit in any field of instruction, research or public service not previously included in the program of the institution, and includes the establishment of any new branch or campus. The term does not include reasonable and moderate extensions of existing curricula, research, or public service programs that have a direct relationship to existing programs; the Board may, under its rulemaking power, define the character of reasonable and moderate extensions. [110 ILCS 205/7]

"New unit~~Unit~~ of public service~~Public Service~~" means any new formally organized administrative entity that would have a continuing public service mission, including but not limited to a school, department, division, institute or center.

"New unit~~Unit~~ of research~~Research~~" means any new formally organized administrative entity that would have a continuing research mission, including but not limited to a school, department, division, institute or center.

"Reasonable and moderate extension~~Moderate Extension~~" means one or more of the following:

An addition to or modification of an existing unit of instruction that has a direct relationship to the existing unit and that does not result in a significant change in curriculum, objectives or resources for the unit of instruction.

An addition of a unit supported primarily through external funding, including the establishment of a grant-funded center. When approved under this category, the unit would hold approval through the period of external funding and would not require additional approval unless the

external funding was no longer available. The university would not commit to maintain the unit if the external funding was lost and the university would report elimination of the center through the annual listing process provided to the Board.

An addition of an out-of-region Board approved program of study at a new instructional location.

An addition to or modification of an existing unit of research or public service that has a direct relationship to an existing unit of instruction, research or public service; is consistent with the existing research or public service mission of the campus; and will be concluded within a well defined time frame.

A change in classification, title or degree designation of an existing unit of instruction, research or public service that more accurately reflects the content, objectives and programmatic activities for the unit.

An addition of a certificate program from one or more existing units of instruction.

"Region" refers to a geographical area within which an institution may operate a unit of instruction, research and public service and is not limited to the site within the region where the institution initially applied. A region consists of one or more coterminous community college districts. The community college districts are also property taxing districts established as provided in 110 ILCS 805/Art. III. The ten regions, described by community college district and community college district numbers, are as follows (see also Illustration A):

"North Suburban Region (1)" consists of the Lake County (532), Oakton (535), and William R. Harper (512) community college districts;

"Fox Valley Region (2)" consists of the Elgin (509), Kishwaukee (523), McHenry (528), Rock Valley (511), and Waubonsee (516) community college districts;

"West Suburban Region (3)" consists of the DuPage (502), Morton (527), and Triton (504) community college districts;

"Western Region (4)" consists of the Black Hawk (503), Carl Sandburg (518), Highland (519), John Wood (539), Sauk Valley (506), and Spoon River (534) community college districts;

"Central Region (5)" consists of the Heartland (540), Illinois Central District (514), Illinois Valley (513), and Lincoln Land (526) community college districts;

"South Metro Region (6)" consists of the Joliet (525), Kankakee (520), Moraine Valley (524), Prairie State (515), and South Suburban (510) community college districts;

"Prairie Region (7)" consists of the Danville (507), Lake Land (517), Parkland (505), and Richland (537) community college districts;

"Southwestern Region (8)" consists of the Illinois Eastern (529), Kaskaskia (501), Lewis and Clark (536), and Southwestern Illinois (522) community college districts;

"Southern Region (9)" consists of the John A. Logan (530), Rend Lake (521), Shawnee (531), and Southeastern (533) community college districts; and

"Chicago Region (10)" consists of the City Colleges of Chicago (508) community college district.

~~"Synchronous" means instruction in which the teacher and students are required to meet at the same time or the students are required to meet at the same time. In face to face instruction, this means that everyone is in the same room at the same time. In online instruction, synchronous instruction occurs through the use of technologies such as chat, two-way video conferencing or audio conferencing.~~

"Terminal degree" means the highest level of college degree available in a particular field.

"Upper-division instruction" means course content and teaching appropriate for junior- and senior-year students in a baccalaureate program or other students with expertise in the subject.

BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 36 Ill. Reg. 6566, effective April 11, 2012)

Section 1050.30 Criteria for Approval

The Board of Higher Education will evaluate new units of instruction, research or public service by applying the following criteria:

a) Criteria Applicable to All Units of Instruction, Research and Public Service

1) Mission and Objectives

A) The objectives of the unit of instruction, research or public service are consistent with the mission of the college or university.

B) The objectives of the unit of instruction, research or public service are consistent with what the unit title implies.

2) Academic Control
The design, conduct and evaluation of the unit of instruction, research or public service are under the direct and continuous control of the sponsoring institution's established processes for academic planning and quality maintenance.

3) Faculty and Staff

A) The academic preparation and experience of faculty and staff ensure that the objectives of the unit of instruction, research or public service are met.

B) The academic preparation and experience of the faculty and staff, as evidenced by level of degrees held, professional experience in the field of study and demonstrated knowledge of the field, ensure that they are able to fulfill their academic responsibilities. At a minimum, faculty shall have a degree from an institution accredited by a U.S. Department of Education recognized accrediting body or a degree from another country evaluated for U.S. equivalency in the discipline they will teach or for which they will develop curricula at least one level above that of the courses being taught or developed.

i) Faculty providing undergraduate general education coursework shall possess, at a minimum, a master's degree in the field of instruction.

ii) Faculty engaged in providing technical and career coursework at the associate degree level shall possess, at a minimum, a bachelor's degree in the field of instruction or equivalent training in the occupational field.

iii) Faculty teaching in a baccalaureate degree program shall have, at a minimum, a master's degree in the field of instruction.

iv) Faculty teaching in a graduate program shall have a doctorate or terminal degree in the field of instruction.

v) Exceptions may be made by the Board for professional experience, equivalent training and other qualifications; however, except in extraordinary circumstances, these should prove the exception and not the rule in meeting faculty qualification requirements.

C) The involvement of faculty in the unit of instruction, research or public service is sufficient to cover the various fields of knowledge encompassed by the unit, to sustain scholarship appropriate to the unit, and to assure curricular continuity and consistency in student evaluation.

D) Faculty to student ratios and full time faculty to part time faculty ratios shall be factors in determining appropriate provision of qualified faculty. Institutions shall have policies in place that serve to ensure equivalency of instruction and program delivery across faculty members, including methods of measuring equivalency of student learning outcomes across faculty. The Board will establish minimum rates of success based on data for similar institutions. The ratios shall be, at a minimum, higher than those of the lowest quartile of these measures for similar Illinois institutions defined as open versus competitive enrollment institutions, and primarily

associate versus primarily baccalaureate granting institutions. Exceptions may be made to the lowest quartile if an institution is above the national average for these measures using the same comparison categories of institutions.

E) Support personnel, including but not limited to counselors, administrators, clinical supervisors, and technical staff, that~~which~~ are directly assigned to the unit of instruction, research or public service, have the educational background and experience necessary to carry out their assigned responsibilities.

4) Support Services

A) Facilities, equipment and instructional resources (e.g., laboratory supplies and equipment, instructional materials, computational equipment) necessary to support high quality academic work in the unit of instruction, research or public service are available and maintained.

B) Clinical sites necessary to meet the objectives of the unit of instruction, research or public service.

C) Library holdings and acquisitions, owned or contracted for by the institution, that are necessary to support high quality instruction and scholarship in the unit of instruction, research and public service, are conveniently available and accessible, and can be maintained.

5) Financial

A) The financial commitments to support the unit of instruction, research or public service are sufficient to ensure that the faculty and staff and support services necessary to offer the unit of instruction, research or public service can be acquired and maintained.

B) Projections of revenues necessary to support the unit of instruction, research or public service are based upon supportable estimates of state appropriations, local tax support, student tuition and fees,

private gifts, and/or governmental grants and contracts.

6) Statewide Needs and Priorities

A) The unit of instruction, research or public service is educationally and economically justified based on the educational priorities and needs of the citizens of Illinois.

B) The unit of instruction, research or public service meets a need that is not currently met by existing institutions and units of instruction, research or public service.

b) Criteria Applicable Only to Units of Instruction

1) Curriculum

A) The caliber and content of the curriculum must assure that the objectives of the unit of instruction will be achieved.

B) The breadth and depth of the curriculum must be~~are~~ consistent with what the title of the unit of instruction implies.

C) The admission and graduation requirements for the unit of instruction must be~~are~~ consistent with the stated objectives of the unit of instruction.

D) Institutions must show the capacity to develop, deliver and support academic programs. Procedures and policies that will assure the effective design, conduct and evaluation of the degree program under the academic control of the institution must be developed. Assessment plans must demonstrate that the institution has identified clear and appropriate program and student learning goals and has defined appropriate outcomes. Appropriate data must be collected and may be requested by the Board to show the level of student learning that has occurred as a result of participation in the institution's programs of study.

E) Degree programs must meet the following credit hour requirements:

i) Associate degree requires at least 60 semester credit hours or 90 quarter credit hours.

ii) Baccalaureate degree requires at least 120 semester credit hours or 180 quarter credit hours and at least 40 semester credit hours (60 quarter credit hours) in upper-division courses.

iii) Master's degree requires at least 30 semester credit hours or 45 quarter credit hours of appropriate post-baccalaureate coursework.

iv) Doctor's degree – Professional Practice requires the completion of the academic requirements to begin practice in the profession; at least 60 semester hours of postsecondary credit required for admission to the program; and a total of at least six academic years of college work to complete the degree program, including prior required postsecondary work plus the length of the professional program itself.

v) Doctor's degree – Research and Scholarship requires the completion of an organized program of study beyond the master's degree and requiring completion of an organized program of study. The program shall demonstrate full understanding of the level and range of doctoral scholarship, the function of a dissertation and its defense, the nature of comprehensive examination, and other standards commonly held for such degrees; at least 2 full time years of advanced academic coursework beyond the master's degree; and an independent performance of basic or applied research at the level of the professional scholar, typically a dissertation, or to perform independently the work of a profession that involves the highest levels of knowledge and expertise.

F)~~D)~~ Provision must be~~is~~ made for guidance and counseling of students, evaluations of student performance, continuous monitoring of

progress of students toward their degree objectives and appropriate academic record keeping.

G) Success in student progression and graduation, and success rates in programs preparing students for certification and licensure, shall be consistent with expectations in higher education and the appropriate related field of study. At a minimum the Board shall consider these factors based on results for similar institutions.

i) Graduation rates, degree completion rates, retention rates, and pass rates for licensure and certification.

ii) The success rate shall be, at a minimum, higher than those of the lowest quartile of these measures for similar Illinois institutions defined as open versus competitive enrollment institutions, and primarily associate versus primarily baccalaureate granting institutions. Exceptions may be made to the lowest quartile if an institution is above the national average for these measures using the same comparison categories of institutions.

H) Additional student success measures shall be considered in the review of applications for authorization. The Board shall establish minimum rates of success based on results for similar institutions.

i) At a minimum, these data shall include student loan default rates, student indebtedness rates, job placement rates, student learning measures and other success indicators.

ii) The success rate shall be, at a minimum, higher than those of the lowest quartile of these measures for similar Illinois institutions defined as open versus competitive enrollment institutions, and primarily associate versus primarily baccalaureate granting institutions. Exceptions may be made to the lowest quartile if an institution is above the national average for these measures using the same comparison categories of institutions.

I) Requirements for Technologically Mediated Instruction Offered at a Distance. In addition to meeting other requirements in this Part, programs offered through electronically mediated distance learning must, at a minimum, meet the following requirements:

i) The institution assures adequacy of technical and physical plant facilities, including appropriate staffing and technical assistance, to support its electronically offered programs.

ii) The institution provides students, faculty and staff with effective technical support and training for each educational technology hardware, software and delivery system required in a program. The help desk function is available to students during hours when it is likely to be needed, at a minimum of 18 hours a day.

iii) Appropriate measures for security of systems and adequacy of support are maintained. The selection of technologies is based on appropriateness for the students, faculty and curriculum.

iv) Faculty are full participants in decisions regarding curricula and program oversight.

v) Demonstration of student learning and program outcomes are appropriate to the field and degree level and consistent regardless of program delivery method.

vi) Appropriate admission processes, policies and assessments are used to ensure that students are capable of succeeding in an on-line learning environment. Students shall be adequately informed of the nature and expectations of on-line learning.

vii) Assessments of student learning, especially exams, take place in circumstances that include definite student identification and assurance of the integrity of student work.

viii) Assessment of electronically offered programs by the institution occurs in the context of the regular evaluation of all academic programs.

2) Program Information

A) The information the institution provides for students and the public shall include the following:

i) An accurate description of the unit of instruction, including its objectives, length and residency requirements if any;

ii) Schedule of tuition, fees, and all other charges and expenses necessary for completion of the unit of instruction, and cancellation and refund policies;

iii) Student rights and responsibilities;

iv) A statement regarding the transferability of college credits, including the fact that the decision to accept transfer credits is determined by the receiving institutions;

v) A statement as to how the institution will advise students on the nature of the transfer process, including the importance of consulting with institutions to which the student may seek to transfer;

vi) Evidence of arrangements for the transfer of courses or credits or both to institutional counterparts, when these arrangements exist; these arrangements are also known as articulation agreements;

vii) A statement of the institution's most recent graduation rates and the number of graduates and enrollments as provided by the institution to the Integrated Postsecondary Education Data System (IPEDS) and any submissions of data to satisfy Board reporting requirements; and

viii) Other material facts concerning the institution and the unit of instruction as are likely to affect the decision of the student to enroll.

B) The information listed in subsection (b)(2)(A) shall be available to prospective students prior to enrollment and shall be included in the institution's catalog of programs.

3) Accreditation and Licensure
Appropriate steps shall be taken to assure that professional accreditation needed for licensure or entry into a profession as specified in the objectives of the unit of instruction is maintained or will be granted in a reasonable period of time.

c) Institutions Exempt from Approval

1) Institutions offering a Board approved degree program at another site within the same region shall not be required to apply for additional Board approval.

2) Institutions offering a degree program at the University Center of Lake County or the Quad-Cities Graduate Center shall not be required to apply for additional Board approval when offering degree programs approved for their home campus. For these institutions, center approval is required and the center shall be treated as part of their home campus, provided the center has notified the Board of its approval of the new degree program.

3) Institutions offering ~~one hundred percent asynchronous versus synchronous on-line instruction of~~ a Board approved degree program through mediated instruction shall not be required to apply for additional Board approval.

4) Institutions offering temporary programs meeting the following criteria shall not be required to apply for Board approval:

A) The unit of instruction is approved for offering in-region, and the academic standards of the in-region unit are maintained at the out-of-region site; and

B) The out-of-region unit of instruction is offered under contract to a single business, service organization, or government agency and enrollment is restricted to employees of the contracting business, employees or members of the organization or agency, or, in the case of a regional office of education, to the employees of public school districts within the region; and

C) The contractual arrangement assures that the out-of-region unit of instruction is self-supporting; that is, no State resources are required to support it; and

D) The out-of-region unit of instruction is offered to a single group of entering students for a single cycle not to exceed three years. Should the institution wish to continue the unit of instruction at the out-of-region site beyond the single cycle, the institution must submit an application for Board of Higher Education approval.

5) Additional Board approval is not required for Board approved institutions offering programs:

A) On federal military bases exclusively to base personnel and their family members;

B) At clinical or practice sites that are utilized as a part of Board approved degree programs;

C) Offering dual credit courses to high school students in high schools; or

D) Offering courses inside public correctional facilities.

(Source: Amended at 36 Ill. Reg. 6566, effective April 11, 2012)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Program Definitions

2) Code Citation: 89 Ill. Adm. Code 521

3) Section Number: 521.20 — Adopted Action: Amendment

4) Statutory Authority: Implementing and authorized by Section 3(a), (b), and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b), and (k)]

5) Effective Date of Amendment: April 13, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference,is on file in the agency's principal office and is available for public inspection.

9) Notice of proposal published in the Illinois Register: 35 Ill. Reg. 14002; August 19, 2011

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: None

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.

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 Rulemaking: This rulemaking pertains to the Vocational Rehabilitation Program. It revises and adds definitions of terms commonly used in the program. In addition, the proposed rulemaking removes the definition of Residency due to the Dept. of Education, Rehabilitation Services Administration (RSA) directing the Division to remove proof of residency since this is a federal program and is available in all states.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

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

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 521
PROGRAM DEFINITIONS

Section
521.10 Purpose
521.20 Definitions

AUTHORITY: Implementing and authorized by Section 3(a), (b) and (k) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(a), (b) and (k)].

SOURCE: Adopted at 32 Ill. Reg. 10054, effective June 26, 2008; amended at 36 Ill. Reg. 6585, effective April 13, 2012.

Section 521.20 Definitions

"Act" means the Disabled Persons Rehabilitation Act [20 ILCS 2405].

"Advocacy" means pleading an individual's cause or speaking or writing in support of an individual that may include representation before public ~~and/~~or private entities on the behalf of one's self, another individual~~,~~ or a group of individuals.

"Assistive Technology" means any item, piece of equipment, product or system, whether modified, customized or acquired commercially from the manufacturer or off the shelf, that is used to increase, maintain or improve the functional capabilities of an individual with a disability.

"Auxiliary Services" means services that reasonably accommodate a person with a disability and ensure equal access to service delivery (e.g., readers, interpreters, note-takers, computer assisted realtime captioning (CART), etc.). Auxiliary services may be necessary to assist a customer with the completion of a substantial service.

"Center for Independent Living" or "CIL" means a consumer-controlled, community based, cross-disability, nonresidential, private not-for-profit agency

that is designed and operated within a local community by individuals with disabilities and that provides an array of independent living services.

"Client Assistance Program" or "CAP" means a program funded under~~by~~ the federal Rehabilitation Act of 1973 (VR Act) (29 USC 701 et seq.) to provide assistance in informing and advising all customers and applicants of all available benefits under the VR Act and upon request of such a customer to assist in the customer's relationship with projects, programs and services provided by the VR Act. ~~CAP may also serve customers of the Home Services Program.~~ CAP services can include assistance and advocacy in pursuing legal, administrative or other appropriate remedies to ensure the protection of the customer's rights under the Act. CAP may also serve customers of the Home Services Program.

"Comparable Benefit" means a service that is available at the time the service is needed by a customer and is used to determine eligibility (see 89 Ill. Adm. Code 553) or to achieve the vocational goal and objectives specified in the customer's Individualized Plan for Employment (IPE) (see 89 Ill. Adm. Code 572) that, when provided to DHS-DRS customers by a public or private agency or agencies other than DHS-DRS, offset costs that would otherwise be paid by DHS-DRS or the customer.

"Competitive Employment Outcome" means full-time or part-time work in the competitive labor market in an integrated setting, for which the customer is compensated with the customary wage and level of benefits, but not less than the minimum wage.

"Confidential Information" means all closed, active and future records and conversations (including Teletypewriter/Telecommunication Devices for the Deaf (TTY) and Nextalk) kept by DHS-DRS concerning the customer's program of services. Printouts from TTY conversations must be destroyed upon completion and documentation of the call.

"Customer" means a person who has requested, been referred for, is receiving, or has received any DHS-DRS services, including a student at a DHS-DRS school.

"Customer Financial Analysis" means a calculation using form IL 488-0265, developed by DHS-DRS to determine the customer and family financial participation.

"Customer Financial Participation" means the amount of money, as determined by the completion of the Customer Financial Analysis, that a customer ~~and/~~or the customer's family must contribute to the cost of services and the amount of any voluntary contributions the customer ~~and/~~or his or her family wishes~~wish~~ to contribute to the cost of services.

"Dependent" means an individual who receives half or more of his or her normal living expenses~~support~~ from his or her family. When a dependent customer is receiving training services at a post-secondary institution, the customer may retain dependent status up to the age of 24.~~;however, the dependency of an individual receiving training service at an institution that participates in the federal assistance program shall be verified by information contained in the Free Application for Federal Student Aid (FAFSA).~~

"DHS" means the Illinois Department of Human Services.

"DHS-DRS" means the Illinois Department of Human Services-Division of Rehabilitation Services.

"Director" means the Director of the Division of Rehabilitation Services.

"Employee" means any person employed by DHS-DRS to participate in the delivery of DHS-DRS programs. The term shall also include supervisory level personnel and others in management positions.

"Extended Period of Time" means a period of at least six months or longer.

"Extended Services" means services that are needed over an extended period of time to maintain a customer with a most significant disability who had participated in the Supported Employment Program. Extended services include both paid and unpaid services.

"Family", for purposes of identifying individuals included in the family when completing the Customer Financial Analysis, shall include the customer and all other family members. A family member is anyone who resides in the same household and is related to the customer by blood or marriage or has a close interpersonal relationship with the customer.

"Financial Contribution" means the amount of DHS-DRS' payment for services that are needed to determine eligibility or to assist in achieving an employment outcome.

"Financial Participation" means the amount of money, as determined by the completion of the Customer Financial Analysis, that a customer ~~and/~~or the customer's family must contribute to the cost of services, and the amount of any voluntary contributions the customer ~~and/~~or the customer's family wishes to contribute to the cost of services.

"Grievant" means any customer, or licensed vendor as specified in 89 Ill. Adm. Code 650 (Vending Facility~~Facilities~~ Program for the Blind), who has been aggrieved by any action or inaction by DHS-DRS.

"Guardian" means the person appointed by a court as the guardian of the person of a minor or an adult.

"Hearing" means an administrative hearing of the appeal of the grievant as set forth in 89 Ill. Adm. Code 510.105 and presided over by an Impartial Hearing Officer.

"Hearings Coordinator" means the DHS Chief, Bureau of Administrative Hearings, who is responsible for communicating with the grievant about the appeal requests, docketing and scheduling hearings, and coordinating the appointment of Impartial Hearing Officers.

"Impartial Hearing Officer" means the individual appointed to conduct the hearing (see 89 Ill. Adm. Code 510.90).

"Inaction" means the failure of DHS-DRS to act within the time lines specified by the program rules.

"Income" means all earned and other income from all sources, including all types of public support; wages, tips, disability payments, Worker's Compensation, interest or dividends from investments, savings, trust funds, certificates of deposit, etc.; child support, spousal support, income from rental and leased property; and private sources. The value of readily available assets (i.e., cash-on-hand, checking accounts, savings accounts, certificates of deposit, stocks, bonds, accessible trust funds) shall not be considered as income for the purpose of

completion of the Customer Financial Analysis, unless those assets have been established for the support or training of the customer. Income from all family members, 19 and older, will be included in the completion of the customer financial analysis.

"Independent Living Core Services" means the minimum services an organization must provide to be considered a CIL. These services are information and referral services, independent living skills training, peer counseling, including cross-disability peer counseling, and individual and system advocacy.

"Independent Living Plan" or "ILP" means a written plan that outlines the Independent Living Services that are to be provided to a customer determined eligible to receive Independent Living Services. The ILP must be jointly developed by the CIL and the customer, who will receive Independent Living Services. An ILP must be developed for each customer who receives Independent Living Services unless the customer specifically signs a statement waiving his or her rights to have an ILP.

"Independent Living Services" means services in addition to the Independent Living Core Services provided by a CIL that DHS would take into consideration when approving funding or continued funding for a CIL.

"Industry Recognized Credential" means a certificate, license or other documentation indicating that an individual has completed training that allows him or her to engage in a particular occupation.

"Informal Resolution Conference" means an attempt to informally resolve an appeal by the grievant and DHS-DRS, as set forth in 89 Ill. Adm. Code 510.100.

"Informed Choice" means an interactive process between DHS-DRS and the customer that provides sufficient, objective information and options that are designed to empower the customer in selecting services, providers and outcomes.

"Integrated Setting" means a setting typically found in the community in which customers interact with non-disabled individuals other than individuals who are providing service to the customer. With respect to an employment outcome, an integrated setting means a setting typically found in the community in which the customer interacts with non-disabled individuals, to the same extent that non-disabled individuals in comparable positions interact with other persons.

"Job Coaching" means a method of providing ongoing support services through the use of a worker known as a "job coach" who is present with the customer at the job site. These workers provide a variety of training, monitoring and support functions to customers receiving supported employment services.

"Mediator" means an individual who is qualified in mediation and knowledgeable of the laws and regulations relating to the provision of vocational rehabilitation services.

"Natural Supports" mean unpaid assistance provided in the work setting to a customer receiving supported employment services.

"Normal Living Expenses" means housing, food that is purchased for preparation and consumption at home, clothing and utilities.

"On-the-Job Evaluation" means the methods and determinations used to evaluate whether a customer has the capabilities to perform work tasks relevant to their ability to achieve an employment outcome.

"On-the-Job Training" means specific skills training provided at an employment site to a customer who has demonstrated the ability to perform the duties associated with the specific job title.

"Ongoing Support Services" means support services that are provided over a time-limited period that are designed to assist a customer with a most significant disability to maintain employment in a supported employment setting. Ongoing support services are provided in accordance with a support reduction schedule as described in the customer's IPE.

"Order of Selection" means the process that determines the priority in which customers are served, based on the categories listed in 89 Ill. Adm. Code 553.130.

"Parent" means either a natural or adoptive parent, except those whose parental rights have been terminated voluntarily or by order of a court, or otherwise restricted by order of a court.

"Personal Assistant" or "PA" means an individual employed to assist an individual with a disability to perform daily living activities that the individual

would typically perform without assistance if the individual did not have a disability.

"Personal Representative" means an attorney, CAP representative or other individual designated by a grievant to act on the grievant's behalf in the proceedings of a hearing.

"Physical & Mental Restoration" means medical or medically related rehabilitation and therapeutic services that are likely, within a reasonable period of time, to correct or modify substantially a stable or slowly progressive physical or mental impairment that constitutes a substantial impediment to employment.

"Placement" means services necessary to assist a customer in obtaining employment in his or her chosen occupational area. Placement services shall include, but not be limited to: interviewing skills training; resume preparation; interview preparation; referral to other agencies and prospective employers; and identification of prospective employers.

"Post-employment Services" means a VR service provided to a customer, not lasting more than 6 months, to maintain, regain or advance in employment.

"Post-school Activities" means vocationally oriented activities undertaken by a customer or~~client/~~ student after he or she leaves the secondary education system. These activities may include: post-secondary education; vocational training; integrated employment, including supported employment; continuing and adult education; VR services; and community participation.

"Proof of Income" means the portion of the most recent tax return that contains the adjusted gross income and the signature of the person submitting the return. Proof of income must be provided for each individual included in the definitions~~definition~~ of "family" and "income" in this Section. An estimated annual income will be calculated based on current wage records if an annual federal tax return has not yet been completed or if the financial status has significantly changed since the last submitted tax return.

"Rehabilitation Closure" means a closure taken on a customer's case when he or she was provided substantial services over an extended period of time that enabled the customer to achieve a successful employment outcome.

"Rehabilitation Services Administration" or "RSA" is a division under the U.S. Department of Education that administers the federal VR program.

"Rehabilitation Technology" means systematic application of technologies, devices and services to meet the needs of people with disabilities and to address the barriers confronted by them.

"Representative" means an attorney, CAP representative or other individual designated by the customer who is authorized to act on the customer's behalf.

~~"Residency" means proof of residency as identified under 89 Ill. Adm. Code 557.15. Eligible individuals who are a resident of the State of Illinois must be available to plan, discuss and implement services through an IPE. Individuals from other states who are attending training programs in Illinois are considered residents of their home state.~~

"Schools" means the three State Schools operated by DHS-DRS: the Illinois Center for Rehabilitation and Education-Roosevelt, the Illinois School for the Deaf, and the Illinois School for the Visually Impaired.

"Secondary Transitional Experience Program" or "STEP" means a program of transition services provided through cooperative agreement of DHS-DRS and a Local Educational Agency (LEA).

"Self-employment" means a customer working for himself or herself in a business selling goods or services for the purpose of making a profit that will allow the customer to achieve an employment outcome.

"Services" means the services provided by and through DHS-DRS to customers of the Vocational Rehabilitation program ~~and~~ as described in 89 Ill. Adm. Code 590 (Services).

"Standard Budget Allowance" or "SBA" means a figure equal to 70% of the State Median Income established by the Office of Community Programs of the U.S. Department of Health and Human Services that are published annually in the Federal Register.

"State Plan for Independent Living" means the plan jointly developed by DHS and the Statewide Independent Living Council (SILC) (see 89 Ill. Adm. Code

515) and approved by the Director and the Chairperson of SILC, which is submitted for review and approval by RSA. The State Plan includes outlines for services, goals and objectives of the DHS-DRS Independent Living Program, as well as the plan for Independent Living Services throughout the State, and is the basis for Part B Funds received from RSA.

"Statewide Independent Living Council" or "SILC" means the council established pursuant to the VR Act and the Disabled Persons Rehabilitation Act [20 ILCS 2405/12a] and governed by 89 Ill. Adm. Code 515.

"Substantial Services" means services such as training, restoration and/or placement that, when provided in the context of the counseling relationship, collectively and significantly contribute to the achievement of an employment outcome consistent with the informed choice of the individual.

"Successful Outcome" means, with respect to a customer:

entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market;

satisfying the vocational outcome of supported employment; or

satisfying any other vocational outcome recognized by RSA.

"Support Reduction Schedule" means a planned method of gradual reduction in the amount of ongoing support services provided to a customer receiving supported employment services. The purpose of the support reduction schedule is to reduce reliance on supports during the course of the customer's participation in supported employment services to the greatest degree possible while maintaining the customer in employment, and to assist the customer in making a transition to extended services.

"Support Services" means non-disability related services (e.g., tutors, transportation, books and supplies, etc.) needed to assist in the completion of a substantial service required to obtain the employment outcome.

"Supported Employment" means competitive employment in an integrated setting with ongoing support services for customers with the most significant disabilities:

for whom competitive employment has not traditionally occurred or has been interrupted or intermittent as a result of their disability; and

who, because of the nature of their disabilities, need intensive supported employment services in order to perform this work.

"Supported Employment Services" means ongoing services needed to support and maintain an individual with the most significant disability in supported employment. These services are provided for a period of time not to exceed 18 months, unless, under special circumstances, the time is extended to achieve the rehabilitation objectives identified in the IPE.

"Time-limited Services", in the context of supported employment services, means services that are provided for a period of no more than 18 months in accordance with a support reduction schedule. Under special circumstances this time period may be extended with the agreement of the customer and the counselor when an extension is needed to achieve the employment outcome.

"Transition" means a coordinated set of services for a customer or ~~/~~student, usually enrolled at the secondary education level, designed to promote movement from school to employment.

"Transitional Employment" means a series of temporary job placements in competitive work, in an integrated work setting with ongoing support services for individuals with the most severe disabilities due to mental illness.

"Un-served" or "Under-served" means groups or populations of individuals with severe disabilities living in the State that are not receiving sufficient services.

"Unusual Allowable Expenses" as related to the completion of the customer financial analysis, are~~means~~ expenses directly related to the customer's or other family member's disability, such as on-going medical treatment, medication, adaptive equipment, ~~a one-time allowance for the purchase of a van or van modification~~ and rehabilitation technology services. These costs~~, that~~ are currently being paid by the customer ~~and/~~or customer's family and~~that~~ are not paid for through insurance or any other source. Cost ~~and/or cost~~ associated with another family member attending post-secondary education, which is currently ~~that are~~ paid by the family, shall also be included as an Unusual Allowable

Expense. Unusual Allowable Expenses shall not be included in the customer Financial Analysis without appropriate documentation of each expense.

"VR Act" means the federal Rehabilitation Act of 1973 (29 USC 701 et seq.).

(Source: Amended at 36 Ill. Reg. 6585, effective April 13, 2012)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Services

2) Code Citation: 89 Ill. Adm. Code 590

3)

Section Numbers:	Adopted Action:
590.20	Amendment
590.30	Amendment
590.45	Amendment
590.47	New Section
590.50	Amendment
590.60	Amendment
590.70	Amendment
590.80	Amendment
590.85	New Section
590.90	Amendment
590.100	Amendment
590.110	Amendment
590.120	Amendment
590.130	Amendment
590.140	Amendment
590.150	Amendment
590.160	Amendment
590.170	Amendment
590.190	Amendment
590.210	Amendment
590.220	Amendment
590.230	Amendment
590.240	Amendment
590.250	Amendment
590.270	Amendment
590.290	Amendment
590.300	Amendment
590.310	Amendment
590.315	Amendment
590.320	Amendment
590.330	Amendment
590.400	Amendment
590.410	Amendment
590.420	Amendment

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

590.440	Amendment
590.460	Repealed
590.470	Amendment
590.480	Amendment
590.490	Amendment
590.600	Amendment
590.610	Amendment
590.620	Amendment
590.630	Amendment
590.640	Amendment
590.660	Amendment
590.670	Amendment
590.680	Amendment
590.720	Amendment
590.730	Amendment
590.750	Amendment
590.800	New Section
590.810	New Section
590.820	New Section
590.830	New Section
590.840	New Section
590.850	New Section
590.860	New Section
590.870	New Section
590.880	New Section

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625]

5) Effective Date of Amendments: April 13, 2012

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.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

9) Notice of proposal published in the Illinois Register: 35 Ill. Reg. 14015; August 19, 2011

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version:

In Section 590.60(a)(1), struck "surgeon (i.e., doctor of medicine, psychiatry or osteopathy), or chiropractor" and added" as defined by, and" before "licensed".

In Section 590.80(b), added "needs" after "medication" and changed "is" to "are".

In Section 590.90(b)(4), changed "ANSI Section 3.6 (1989)" to "ANSI/ASA S3.6-2010" and "1899L Street" to "1899 L Street".

In Section 590.90(b)(5), removed the parentheses around the title of the Part and added "the" in order to be consistent with all of our other rules.

In Section 590.150, after "case", changed "file" to "record".

In Section 590.190(d), changed "services covered by kidney transplants and related services covered by Section 590.150" to "services provided under Section 590.150, Kidney Transplant and Related Services".

In Section 590.240, removed the added language "Facilities within the State of Illinois and" at the beginning of the 2nd sentence.

In Section 590.250, changed "student at large" to "student-at-large".

In Section 590.270(b)(1), struck "academic" following "additional".

In Section 590.270(b)(2), deleted "academic" following "additional".

In Section 590.410(a), deleted "if" and added "the following criteria" after the "and".

In Section 590.410(a)(3), added "the automobile is" after "or not".

In Section 590.410(b), removed the comma and added "when" after "years".

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

In Section 590.440, removed the parentheses around "Illinois Accessibility Code" and changed the hyphen to a comma.

In Section 590.610, after "DHS-DRS rules" added "under Title 89, Chapter IV, Subchapter b (Vocational Rehabilitation)".

In Section 590.660, replaced the proposed subsection (b) with:

"b) When calculating a customer's increased costs, the following normal living expense standards for food and shelter shall be utilized:

1) The standard for shelter shall be the DHS TANF payment level for one adult (see 89 Ill. Adm. Code 112, Subpart H).

2) The standard for food shall be the DHS SNAP benefit amount for a family of one (see 89 Ill. Adm. Code 121.64) or the customer's actual normal food expense prior to service, whichever is greater.".

In Section 590.670, struck the 2nd sentence of (a) and added:

"An example may be clothing purchased for a customer's job interview or when a customer's training institution or employment requires special attire.".

In Section 590.670(c)(1)(A), moved the comma after "alone" and placed it after "VR services".

In Section 590.670(c)(1)(C), after "relocates" removed "with a dependent family for VR services, the increased cost is" and added "for VR services with a dependent family, the increased cost shall be".

In Section 590.670(c)(2), added a period after "education" and removed "if those services are listed on the IPE" and add "Food services must be listed on the customer's IPE.".

In Section 590.730(b)(1), after "Selection", added "(see 89 Ill. Adm. Code 553.130)".

In Section 590.830, removed the comma after "skills".

12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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 Rulemaking: This Part explains services that are available through the DRS' Vocational Rehabilitation Program. This rulemaking revises language to reflect current program practices and policy; identifies the need for documentation in the case record, which is necessary for case review and auditing purposes; and lists items that do not require bids because they are specialized items or their costs are standardized.

In addition, this rulemaking adds language that outlines the Division's current policy to not pay for services or equipment purchased by a customer prior to the approval and signing of the IPE; outlines the Division's Cooperative Working Agreements with Institutions of Higher Education; adds language regarding individuals who are in default on child support payments or State/federal obligations; revises DHS-DRS' participation in vehicle and van adaptations; repeals definitions that will be added to proposed changes for Part 521; and adds language regarding the responsibilities of Local Educational Agencies.

Finally, this rulemaking adds a new Subpart titled Supported Employment; revises language regarding customers attending private or out-of-state training institutions; inserts language regarding a $25.00 contribution for supplies for training cases; and repeals language regarding the purchase of transportation services for customers in training programs when housing is not available at the training site.

16) Information and questions regarding this rulemaking shall be directed 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

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: VOCATIONAL REHABILITATION

PART 590
SERVICES

SUBPART A: GENERAL ISSUES

Section
590.10 General Applicability
590.20 Availability of Services
590.30 Effect of Financial Status on Services
590.35 Effect of Comparable Benefits
590.40 Choice of Service Providers
590.45 DHS-DRS Bidding Procedure
590.47 Previously Purchased Services and Equipment

SUBPART B: MEDICAL, PSYCHOLOGICAL AND RELATED SERVICES

Section
590.50 Provision of Services
590.60 Qualification of Medical and Psychological Service Providers
590.70 Treatment of Acute Conditions
590.80 Medication ~~and Treatment~~
590.85 Treatment
590.90 Hearing Aid Evaluations~~Aids~~
590.100 ~~Binaural~~ Hearing Aids
590.110 Speech and Language Services
590.120 Low Vision Devices
590.130 Mental Restoration Services
590.140 Heart Surgeries
590.150 Kidney Transplant and Related Services
590.160 Chiropractic Services
590.170 Prosthetic and Orthotic Devices
590.180 Wheelchairs
590.190 Prohibited Services

SUBPART C: TRAINING AND RELATED SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section
590.200 Provision of Services
590.210 Qualification of Training Facilities/Institutions
590.220 Purpose and Types of Training
590.230 Financial Guidelines for Training Services
590.240 Undergraduate and Non-degree~~Graduate School~~ Training
590.250 Graduate School Training~~Choice of Training Facility/Institution~~
590.260 Summer School
590.270 Grades and Attendance
590.280 Health Status
590.290 On-the-Job Training
590.300 Default on Financial Obligations~~Educational Loans~~

SUBPART D: PROGRAM FOR SELF-EMPLOYMENT

Section
590.310 Provision of Services
590.315 Eligibility for Participation in the Program for Self-Employment
590.320 Program for Self-Employment
590.330 Services and Goods not Available~~Ineligible Costs~~
590.350 Recovery of Tools, Equipment, Supplies and Initial Stock
590.360 Transfer of Title

SUBPART E: VEHICLE ADAPTATION AND ENVIRONMENTAL MODIFICATION

Section
590.375 Provision of Services
590.380 Vendor Requirements
590.400 Vehicle Adaptation
590.410 ~~DHS-DRS Financial Participation in~~ Van Adaptation
590.420 Environmental Modification
590.430 Written Agreements for Environmental Modification
590.440 Compliance with Capital Development Board Specifications

SUBPART F: ~~PERSONAL~~ SUPPORT SERVICES AND AUXILIARY SERVICES~~AIDS~~

Section
590.450 Provision of Services

590.460 Types of Services (Repealed)
590.470 Tools and Equipment~~Services~~
590.480 Qualifications for Services Provided by Individuals
590.490 Payment for Support and Auxiliary Services Provided by Individuals and Conditions of Service Provision

SUBPART G: COMPUTER EQUIPMENT AND SENSORY AID LOAN

Section
590.500 Provision of Services (Repealed)
590.510 Definitions (Repealed)
590.520 Purpose of Equipment Loans (Repealed)
590.530 Criteria for Loan of Equipment/Aids (Repealed)
590.540 Equipment/Aids Loan Request Procedures and Approval Process (Repealed)
590.550 Duration of Loans (Repealed)
590.560 Maintenance and Return of Equipment/Aids (Repealed)
590.570 Assistance in Obtaining Permanent Equipment/Aids (Repealed)
590.580 Limitations on Available Equipment/Aids (Repealed)

SUBPART H: OTHER SERVICES

Section
590.590 Provision of Services
590.600 Transportation ~~and Temporary Lodging~~
590.610 Other Goods and Services
590.620 Equipment Sets

SUBPART I: PLACEMENT

Section
590.630 Provision of Placement Services
590.640 Description of Services

SUBPART J: INCREASED COSTS

Section
590.650 Provision of Services
590.660 Increased Costs
590.670 Determination of the Need for Increased Costs

590.675 Determination of Client Financial Participation in Maintenance (Repealed)
590.680 Exceptions

SUBPART K: POST-EMPLOYMENT SERVICES

590.700 Provision of Services
590.710 Definitions (Repealed)
590.720 Scope of Services

SUBPART L: TRANSITION

590.730 Provision of Services
590.740 Definitions (Repealed)
590.750 Secondary Transitional Experience Program (STEP)

SUBPART M: SUPPORTED EMPLOYMENT

590.800 Provision of Services
590.810 Qualification of Supported Employment and Extended Services Providers
590.820 Justification of Need for Supported Employment
590.830 Purpose and Types of Supported Employment
590.840 Service Requirements
590.850 Monitoring of Individuals in Supported Employment
590.860 Off-Site Services and Monitoring
590.870 Transition to Extended Services
590.880 Purpose and Types of Extended Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

SOURCE: Emergency rules adopted at 17 Ill. Reg. 11812, effective July 1, 1993, for a maximum of 150 days; adopted at 17 Ill. Reg. 20461, effective November 15, 1993; amended at 18 Ill. Reg. 11275, effective June 30, 1994; emergency amendment at 18 Ill. Reg. 16468, effective October 20, 1994, for a maximum of 150 days; amended at 19 Ill. Reg. 7260, effective May 12, 1995; amended at 19 Ill. Reg. 7435, effective May 19, 1995; amended at 19 Ill. Reg. 10153, effective June 29, 1995; amended at 19 Ill. Reg. 10709, effective June 29, 1995; amended

at 20 Ill. Reg. 6319, effective April 18, 1996; amended at 20 Ill. Reg. 6523, effective April 18, 1996; amended at 20 Ill. Reg. 10375, effective July 19, 1996; amended at 21 Ill. Reg. 1395, effective January 17, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 201, effective December 15, 1998; amended at 23 Ill. Reg. 7502, effective June 17, 1999; emergency amendment at 24 Ill. Reg. 6728, effective April 14, 2000, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 10372, effective July 1, 2000, for a maximum of 150 days; emergency expired on November 27, 2000; amended at 24 Ill. Reg. 13687, effective August 23, 2000; amended at 24 Ill. Reg. 18561, effective November 30, 2000; amended at 25 Ill. Reg. 4568, effective April 1, 2001; amended at 27 Ill. Reg. 12602, effective July 21, 2003; amended at 30 Ill. Reg. 1886, effective January 30, 2006; amended at 31 Ill. Reg. 7006, effective April 30, 2007; recodified at 32 Ill. Reg. 6772; amended at 32 Ill. Reg. 10086, effective June 26, 2008; amended at 36 Ill. Reg. 6598, effective April 13, 2012.

SUBPART A: GENERAL ISSUES

Section 590.20 Availability of Services

Services described in this Part shall only be provided to customers who have been determined eligible to receive VR services (89 Ill. Adm. Code 553) for whom an Individualized Plan for Employment (IPE) has been developed calling for the provision of such services to reach the customer's employment outcome. There must be documentation in the case record to indicate that services defined in this Part will reduce the customer's impediment to employment.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.30 Effect of Financial Status on Services

Unless otherwise specified in this Part, services contained in this Part shall be provided in accordance with Customer~~Client~~ Financial Participation (89 Ill. Adm. Code 562).

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.45 DHS-DRS Bidding Procedure

a) Counselors may purchase items necessary to support a customer's IPE that cost less than $1000 without obtaining bids.

b) Counselors may purchase, with proper approval, items costing more than $1000 after pursuing three bids. If the item is available from fewer than 3 sources, the maximum number of bids shall be sought. The counselor shall document all bidding activities.~~All bidding activities shall be documented by the counselor.~~ A bid is an attempt to receive a purchase price. The process used shall give all providers an adequate opportunity to respond and shall include a due date.

c) The lowest bid received shall be selected in each case unless there are documented reasons to reject the lowest bid. Should the customer choose another bidder and there are no documented reasons for not selecting the lowest bid, the customer shall pay the difference between the bids in addition to other customer financial participation, if any.

d) Customized prosthetics, orthotics and wheelchairs may be purchased without bids after documented consultation with the Central Office Resource Specialist.

e) Hearing aids may be authorized without bids based on medical recommendation. After the 30-day trial period, hearing aids will be vouchered at the manufacturer's invoice price.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.47 Previously Purchased Services and Equipment

DHS-DRS shall not pay for any services or equipment purchased by a customer prior to the completion, approval and signing of the customer's IPE. This shall include, but is not limited to, training services, vehicle modifications, tools, equipment, mental and physical restoration services, medication, wheelchairs, hearing aids, prosthetics, etc.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART B: MEDICAL, PSYCHOLOGICAL AND RELATED SERVICES

Section 590.50 Provision of Services

a) All services described in this Subpart shall be provided in accordance with the provisions of this Subpart and Subpart A of this Part.

b) All services provided in accordance with this Subpart shall be recommended in

writing by the qualified professional as specified in Section 590.60.customer's physician or psychologist who will perform the service.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.60 Qualification of Medical and Psychological Service Providers

To be qualified to provide the services specified in SectionsSection 590.40 and 590.50 of this Part, the following shall apply:

a) for providing services to individuals with mental or physical disabilities, the Individualindividual service providers must be:

1) a physician, as defined by, and surgeon (i.e., doctor of medicine, psychiatry or osteopathy), or chiropractor licensed pursuant to, the Medical Practice Act of 1987 [225 ILCS 60];

2) a licensed registered professional nurse licensed pursuant to the NurseNursing and Advanced Practice Nursing Act [225 ILCS 65];

3) a therapist or physician assistant licensed pursuant to the Physician Assistant Practice Act of 1987 [225 ILCS 95];

4) a psychologist licensed to practice under the Clinical Psychologist Licensing Act [225 ILCS 15] or a social worker licensed to practice under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] or a professional counselor licensed to practice under the Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 1071O] or a marriage and family counselor licensed to practice under the Marriage and Family Therapy Licensing Act [225 ILCS 55] by the Illinois Department of Financial and Professional RegulationDepartment of Professional Regulation or, for customers receiving secondary educational services, a psychologist certified by the Illinois State Board of Education. Psychological testing or evaluation performed by an individual who does not meet the criteria above but who has the appropriate training and skill to administer such testing and evaluation may be accepted if cosigned by an individual holding the credentials listed in this subsection (a)(4)above;

5) an optometrist licensed pursuant to the Optometric Practice Act [225 ILCS

80]; or

6) a podiatrist~~podiatrists~~ licensed pursuant to the Podiatric Medical Practice Act of 1987 [225 ILCS 100]; or~~.~~

7) a speech and language pathologist licensed pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

~~b) Hospitals used to provide services to customers under this Part must be approved by the Joint Commission on Accreditation of Hospitals.~~

b)~~c)~~ In order to provide hearing and hearing aid evaluations under Section 590.100~~90~~ – Hearing Aids, the evaluator must:

1) be licensed pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act ~~(Audiology Act)~~ [225 ILCS 110]; and

2) meet the requirements set forth in the Hearing Instrument Consumer Protection Act ~~(Hearing Aid Act)~~ [225 ILCS 50].~~; or~~

~~3) if not approved as of the effective date of this Part, be approved by the Manager, Division of Services for Persons who are Deaf or Hard of Hearing, or his/her designee. This approval shall be based on the evaluator's ability to:~~

~~A) conduct testing in an acoustically treated booth;~~

~~B) ensure a maximum ambient noise level at or below the standards established by the American National Standards Institute (ANSI 3.1-1977); and~~

~~C) provide testing with both ear phones and in a sound field (any test environment in which auditory stimuli are presented via a calibrated audiometer through one or more loudspeakers).~~

c) The Joint Commission on Accreditation of Healthcare Organizations must approve hospitals providing services to customers under this Part.

~~d) Speech and language pathologists must be approved by American Speech and~~

~~Hearing Association (ASHA) and have a Certificate of Clinical Competence (CCC) in Speech Pathology.~~

~~e)~~ ~~Hospital surgical teams providing heart surgery (Section 590.140) must perform at least 100 such operations per year as documented by the hospital in which the services will be performed.~~

~~f)~~ ~~Prosthetic/orthotic device vendors must be certified by the American Board of Certification in Orthotics and Prosthetics, Inc., or by the National Association of Retail Druggists.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.70 Treatment of Acute Conditions

~~At any time when an acute illness or condition arises during the time the customer is receiving services under an IPE,~~ DHS-DRS may~~will~~ pay for the treatment of an acute illness when the following conditions are met: ~~if no comparable benefits are available and the following conditions are present:~~

a) it is in support of a substantial service listed on the IPE;~~the duration of the acute condition is short enough that it will not interfere with the provision of services;~~

b) there is no comparable benefit available;

c)~~b)~~ the treatment is deemed necessary and recommended by the appropriate medical professional;

d)~~c)~~ the treatment is mutually agreed to by the customer and the counselor; and

~~d)~~ ~~the treatment is necessary to avoid an interruption of service listed in the customer's IPE; and~~

e) the customer's IPE is amended to allow for the provision of these services.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.80 Medication ~~and Treatment~~

~~a) DHS-DRS may pay for medication/treatment (e.g., doctor's office visits, medication) necessary to cure or stabilize a condition in accordance with the customer's IPE.~~

a) DHS-DRS may pay for:

1) medication as a substantial service necessary to cure or stabilize a condition in accordance with the customer's IPE; or

2) ongoing medication as a support service to the substantial service on the customer's IPE.

b) Customers provided services under subsection (a) must be re-evaluated every six months to determine whether their medication needs are still required.

~~b) DHS-DRS shall not pay for ongoing medication/treatment (treatment for a condition for which there is no foreseeable date of termination of the medication/treatment) except as a support service to the primary service on the IPE (e.g., a customer requires insulin to control his/her diabetes in order to attend training) and then only until completion of that primary service.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.85 Treatment

a) DHS-DRS may pay for treatment (e.g., doctor's office visits, therapy, surgery) necessary to cure or stabilize a condition in accordance with the customer's IPE.

b) DHS-DRS shall not pay for ongoing treatment except as a support service to the substantial service on the IPE and then only until completion of that substantial service.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.90 Hearing Aid Evaluations~~Aids~~

Any customer ~~who has been~~ determined to have a hearing disability as documented in the case record~~confirmed during the Determination of Eligibility (89 Ill. Adm. Code 553.20)~~ and for whom a hearing aid is expected to be a necessary service~~the outcome of the Comprehensive~~

~~Assessment of Rehabilitation Needs (89 Ill. Adm. Code 553.100) is that attainment of a hearing aid is or is expected to be a necessary service~~ must undergo a hearing evaluation and a hearing aid evaluation.

a) A hearing evaluation shall consist of:

1) air and bone conduction testing;

2) speech reception threshold;

3) speech discrimination;

4) most comfortable loudness level; and

5) uncomfortable loudness level.

b) A hearing aid evaluation shall consist of:

1) selection of an appropriate hearing aid, based upon the outcome of the hearing evaluation (89 Ill. Adm. Code 590.90(a));

2) fitting of the hearing aid;

3) adaptation and services of the hearing aid;

4) testing of the hearing aid by means of an audiometer calibrated to American National Standards Institute standards (ANSI/ASA S3.6-2010~~ANSI 3.6-1989~~, with no later amendments, available from ANSI, 1899 L Street, NW, 11th Floor, Washington DC 20036); and

5) other testing allowed pursuant to 77 Ill. Adm. Code 682.300, the ~~=~~ Hearing Instrument~~Aid~~ Consumer Protection Code.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.100 ~~Binaural~~ Hearing Aids

Hearing~~Binaural hearing~~ aids will be purchased for a customer ~~only~~ when:

a) the provisions listed at Section 590.20 are met;

b) the need for a hearing aid or aids ~~binaural~~ is evidenced in the customer's audiological profile (i.e., the results of the customer's hearing and hearing aid evaluations); and

c) the customer demonstrates an ability to effectively utilize hearing aids as determined by a qualified evaluator. ~~the customer's ability to effectively utilize binaural hearing aids by improved discrimination ability, increased sound source identification and increased sound direction has been certified by a qualified evaluator (Section 590.60(c)).~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.110 Speech and Language Services

Pursuant to the provisions of 89 Ill. Adm. Code~~code~~ 590.20, DHS-DRS will provide speech and language pathology services ~~(i.e., speech, language and/or dysphagia evaluations; speech, language and/or dysphagia therapy; and speech reading services)~~ in accordance with the customer's long term rehabilitation goals as stated on his or ~~/~~her IPE (89 Ill. Adm. Code 572).

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.120 Low Vision Devices

Pursuant to the provisions of 89 Ill. Adm. Code 590.20, DHS-DRS will provide low vision devices to the customer, including electronic devices (e.g., closed circuit television magnification systems).

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.130 Mental Restoration Services

a) Pursuant to the provisions of 89 Ill. Adm. Code 590.20, DHS-DRS will, with the exception of electro-shock treatments, provide in-patient mental restoration services from a private hospital only when the need for those~~such~~ services is documented in the customer's case record~~file~~ by reports from the customer's psychiatrist or psychologist and comparable benefits (89 Ill. Adm. Code 567.30(e~~d~~)) are not timely or available.

b) In ~~such~~ cases described in subsection (a), comparable benefits shall be arranged at the soonest possible time after initiation of services and DHS-DRS funding will~~shall~~ be withdrawn.

c) DHS-DRS shall not pay for on-going mental~~-~~ restoration services ~~(when there is no forseeable ending date for the services)~~ unless these services are in support of a substantial ~~primary~~ service listed on the customer's IPE. ~~and then only until completion of the primary service.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.140 Heart Surgeries

Pursuant to the provisions of 89 Ill. Adm. Code 590.20, DHS-DRS will provide heart surgery for a customer when documentation from the customer's physician is contained in the customer's case record~~file~~ and indicates that the customer's prognosis for returning to gainful employment is good.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.150 Kidney Transplant and Related Services

Pursuant to the provisions of 89 Ill. Adm. 590.20, and with supporting documentation from the customer's physician, DHS-DRS shall provide kidney transplant, dialysis and artificial kidney services to a customer diagnosed as having end stage renal failure when information contained in the customer's case record~~file~~ indicates the customer's prognosis for returning to gainful employment is good.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.160 Chiropractic Services

Pursuant to the provisions of Section 590.20, and with supporting documentation from the customer's physician, chiropractic services may be provided to customers when there are no medical contraindications to spinal manipulations.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.170 Prosthetic and Orthotic Devices

a) Pursuant to the provisions of 89 Ill. Adm. Code 590.20, prosthetic and orthotic devices may be provided to a customer when the customer has been evaluated by a physiatrist, orthopedist or other qualified physician and a physician has issued a prescription for the device.~~:~~

~~1) the customer has undergone an evaluation at an amputee clinic; or~~

~~2) has been evaluated by a physiatrist, orthopedist, or other qualified physician and the need for evaluation by an amputee clinic has been waived by the Rehabilitation Services Supervisor and the DHS-DRS State Program Specialist for Medical Services.~~

b) The evaluation ~~by an amputee clinic referenced in (b)~~ shall include an assessment of the customer's readiness for fitting of the device, evaluation of the fit, evaluation of the fabrication of the completed device and evaluation of the customer's individual training needs for the use of the device.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.190 Prohibited Services

Under no circumstances shall DHS-DRS provide to a customer:

a) ~~intestinal by-pass or stapling~~ surgeries for the treatment of extreme obesity;

b) abortions~~,~~ or any associated services;

c) transsexual services~~,~~ or any associated services;

d) organ transplants~~,~~ or any related services, with the exception of ~~Kidney Transplants and~~ services provided under Section~~Related Services (89 Ill. Adm. Code~~ 590.150, Kidney Transplant and Related Services~~)~~;

e) any drug, therapeutic device, procedure~~,~~ or surgery that~~which~~ cannot be legally prescribed by a licensed medical professional or that~~which~~ is outside accepted medical practice; ~~and~~ any drug that has not been approved by the Food and Drug Administration (FDA) of the United States Department of Health and Human

Services; any therapeutic device that has been banned under 21 USC 360f; or any procedure or surgery that cannot be prescribed or performed by a licensed medical professional; and

f) surgical or other services solely for cosmetic purposes. A surgery or service is not "solely for cosmetic purposes" when it would correct or substantially modify a physical condition that~~which~~ constitutes an impediment to employment. 89 Ill. Adm. Code~~Section~~ 553.150 sets out the functional capacities that, if seriously limited, could constitute an impediment to employment.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART C: TRAINING AND RELATED SERVICES

Section 590.210 Qualification of Training Facilities/Institutions

a) Any training facility/institution/program not operated by DHS-DRS that is used to provide services to a VR customer must be approved by, or registered with, the Illinois State Board of Education pursuant to 23 Ill. Adm. Code 1, 25, 254, 401 and 451, the Board of Higher Education pursuant to 23 Ill. Adm. Code 1000, 1010, 1030 and 1050, the Illinois Community College Board pursuant to 23 Ill. Adm. Code 1501, or registered with the Illinois Department of Financial and Professional Regulation pursuant to 68 Ill. Adm. Code: Chapter I, Subchapter b.

b) Any training facility located outside of the State of Illinois shall be registered with the appropriate regulating entity ~~for such regulation~~ in that state~~,~~ and approved for use by the VR agency in that state.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.220 Purpose and Types of Training

Vocational, technical or academic training may be available to a customer of the VR program, as appropriate. The training shall be determined by the customer's Assessment ~~of Rehabilitation Needs~~ (89 Ill. Adm. Code 553.100) and shall be included in the customer's IPE (89 Ill. Adm. Code 572).

a) Degree Training

DHS-DRS requires supporting evidence to indicate a customer has the ability and the capability to succeed in college level training before DHS-DRS will commit to any financial contribution for post-secondary education.

1) For individuals with no prior post-secondary training, supporting evidence shall include the following:

A) ACT, SAT or Prairie State score;

B) high school curriculum;

C) class rank;

D) high school cumulative grade point average;

E) other diagnostic tests as appropriate; and

F) other supporting documentation, as appropriate.

2) For individuals with prior post-secondary training, in addition to the evidence required by subsection (a)(1), the following information will be evaluated to determine if there is a need for further post-secondary training that would lead to employment:

A) number of credit hours previously earned;

B) degree and certifications currently held;

C) previous work history related to degree held; and

D) reasons the customer is not employed with current qualifications.

b) Non-Degree Training
DHS-DRS requires supporting evidence to indicate a customer has the ability and the capability to succeed in vocational or technical training before DHS-DRS will commit to any financial contribution. Supporting evidence shall include:

1) high school curriculum and ~~/~~grades; and

2) previous work experience, if applicable.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.230 Financial Guidelines for Training Services

a) Training services shall be provided to a customer in accordance with the provisions set forth at 89 Ill. Adm. Code 562 —(Customer Financial Participation). Customers attending training must provide proof of award or denial of financial assistance, the amount of the~~such~~ award, acceptance at the institution, and any previous transcript before the implementation of the customer's IPE or subsequent amendment.

b) DHS-DRS VR Program will assist with the purchase of books, supplies and materials~~,~~ required of all students, necessary for a customer to complete his or ~~/~~her training program in accordance with 89 Ill. Adm. Code 562 ~~— Customer Financial Participation~~ and 89 Ill. Adm. Code 567 —(Comparable Benefits). DHS-DRS may contribute up to $25 per term for consumable supplies (e.g., paper, pencils, notebooks).

~~c) DHS-DRS VR Program will assist with the purchase of transportation services necessary for the customer to complete his/her training program in accordance with 89 Ill. Adm. Code 562 – Customer Financial Participation and 89 Ill. Adm. Code 567 Comparable Benefits, and 89 Ill. Adm. Code 590.600 – Transportation and Temporary Lodging when housing is not available for the customer at the training site.~~

c)~~d)~~ DHS-DRS will assist with the purchase of the medical/health related insurance coverage, if offered and required by the training institution. This shall be done in accordance with 89 Ill. Adm. Code 562 ~~— Customer Financial Participation~~ and 89 Ill. Adm. Code 567~~— Comparable Benefits~~.

d) DHS-DRS will assist with the purchase of support services in accordance with 89 Ill. Adm. Code 562 and 567.

e) DHS-DRS will assist with the purchase of auxiliary~~other support~~ services ~~(i.e., tutor services, reader services, note taker services)~~ in accordance with Cooperative Working Agreements (CWA) with the institution of higher education. If no CWA has been established, the counselor will contact the

Services for the Deaf and Hard of Hearing unit, which monitors CWA, prior to purchasing any auxiliary services.~~89 Ill. Adm. Code 562 – Customer Financial Participation and 89 Ill. Adm. Code 567 – Comparable Benefits. If education or language tutorial services are to be provided to a customer who is deaf to assist in the completion of the training program, the tutor must:~~

~~1) be certified by the Illinois State Board of Education;~~

~~2) hold at least a bachelor's degree in deaf education from an accredited college or university; or~~

~~3) be approved by the Manager of Services for Persons Who Are Deaf or Hard of Hearing. Approval is based upon the individual's signing skills and related experience/education. Skill and education/experience shall be verified by letters of reference provided by the individual from other appropriate service providers, or by resume, and personal interview which shall include an assessment of the individual's signing skills by the Manager or designee.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.240 Undergraduate and Non-degree ~~Graduate School~~ Training

The customer has the right to make an informed choice of the training facility that he or she will attend in completing his or her IPE. State of Illinois public institutions of higher education shall be given preference over out-of-state and private institutions.

a) Non-Degree Training

1) DHS-DRS will provide financial contribution up to the total cost leading to the industry-recognized credential required to achieve the employment outcome. The DHS-DRS financial contribution will be based on the total cost of attendance at an Illinois in-district community college, unless training can be obtained at a lower cost from another institution. DHS-DRS financial contribution is less comparable benefits (see 89 Ill. Adm. Code 567.20) and less any customer financial participation (see 89 Ill. Adm. Code 562.30).

2) DHS-DRS will annually establish a maximum financial contribution for tuition and fees if no program is available from an Illinois public community college leading to an industry-recognized credential. DHS-DRS financial contribution is less comparable benefits and less any customer financial participation.

b) Associate Degree Training

1) For customers attending an Illinois public community college, DHS-DRS will provide financial contribution up to the in-district cost, less comparable benefits and less any customer financial participation.

2) For customers attending private or out-of-state institutions granting an associate degree, DHS-DRS will provide financial contribution no greater than the in-district costs of the Illinois community college district in which the customer resides, less comparable benefits and less any customer financial participation.

c) Bachelor's Degree Training

1) For customers attending an Illinois public four-year university, DHS-DRS will provide financial contribution up to the published costs for in-state tuition and fees, less comparable benefits and less any customer financial participation.

2) For customers attending private or out-of-state institutions granting a bachelor's degree, DHS-DRS will annually establish a maximum financial contribution for tuition and fees. DHS-DRS will provide financial contribution up to the maximum amount, less comparable benefits and less any customer financial participation.

d) Exceptions may be granted by the appropriate Bureau Chief for an individual customer if there are extenuating circumstances relating to the customer's disability.

e) The State VR Director can make an exemption for a specified institution of higher education based on the value of the unique program and contribution of services to customers as related to their disabilities and documented success of the institution of higher education.

~~Choice of graduate school training facility/institution shall be consistent with the guidelines established in 89 Ill. Adm. Code 590.250. Customers attending graduate school must financially contribute toward their training costs. A customer's financial contribution towards training costs is 10% of tuition and fees, in addition to any financial participation that is determined during the customer's financial analysis (89 Ill. Adm. Code 562).~~

~~a) DHS-DRS shall assist with a financial contribution toward graduate school only when the graduate degree is required to achieve the customer's employment outcome. The necessity of the graduate degree is to be determined by the counselor and the customer based on knowledge of the occupational choice and labor market information.~~

~~b) The customer shall provide proof of acceptance into the graduate school program that is required for the customer's employment outcome.~~

~~c) In accordance with 89 Ill. Adm. Code 567.20(b), the customer must provide proof of award or denial of financial assistance and the amount of any award. This includes any comparable benefits related to training that reduce the cost of tuition and fees. This information must be provided prior to implementation of the IPE or subsequent amendments.~~

~~d) Exceptions to the financial contribution for graduate school training may be granted by the appropriate Bureau Chief if there are extenuating circumstances relating to the customer's disability or personal and/or financial situation.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.250 Graduate School Training~~Choice of Training Facility/Institution~~

DHS-DRS shall assist with financial contribution toward graduate school only when the graduate degree is required to achieve the customer's employment outcome. The necessity of the graduate degree is to be determined by the counselor and the customer based on knowledge of the occupational choice and labor market information. The customer shall provide proof of acceptance into the specific graduate program that is required for the customer's employment outcome. Customers accepted as a student-at-large do not qualify for DHS-DRS financial contribution.

a) Customers attending graduate school must financially contribute toward their training costs. A customer's financial contribution toward training costs is 10% of published tuition and fees in addition to any financial participation that is determined during the customer's financial analysis (see 89 Ill. Adm. Code 562). Customers receiving SSI or SSDI are exempt from the 10% requirement.

b) For customers attending an Illinois public university graduate program, DHS-DRS will provide financial contribution up to the published in-state tuition costs less the 10% fee requirement, less comparable benefits (see 89 Ill. Adm. Code 567.20) and less any customer financial participation (see 89 Ill. Adm. Code 562.30).

c) For customers attending a private or out-of-state graduate program, DHS-DRS will annually establish a maximum financial contribution for tuition and fees. DHS-DRS will provide financial contribution up to the maximum amount less the 10% fee requirement, less comparable benefits and less any customer financial participation.

d) In accordance with 89 Ill. Adm. Code 567.20(b), the customer must provide proof of award or denial of financial assistance and the amount of any award. This includes any comparable benefits related to training that reduce the cost associated with training This information must be provided prior to implementation of the IPE or subsequent amendments.

e) Exceptions to the 10% financial participation requirement and the course completion requirement may be granted by the appropriate Bureau Chief if there are extenuating circumstances relating to the customer's disability.

~~The customer has the right to make an informed choice of the training facility that he/she will attend in completion of his/her IPE. Facilities within the State of Illinois and State operated institutions of higher education shall be given preference over out-of-state and private institutions.~~

~~a) Degree Training~~

~~1) If the customer provides proof of acceptance at an Illinois public four-year university, DHS-DRS will provide financial contribution for academic courses directly applicable to a degree in compliance with 89 Ill. Adm. Code 567.20 and 89 Ill. Adm. Code 590.270~~

~~2) If the customer provides proof of acceptance at an Illinois public four-year university and the customer chooses to attend a private or out-of-state university, DHS-DRS will provide financial contribution up to the amount of the Illinois public university where the customer was accepted minus comparable benefits (89 Ill. Adm. Code 567.20).~~

~~3) DHS-DRS may contribute funds for the cost of one application to an Illinois institution of higher education.~~

~~4) If the customer does not provide proof of acceptance to an Illinois public four-year university or community college, DHS-DRS will provide financial contribution up to the amount of the community college within the customer's home district minus all comparable benefits (89 Ill. Adm. Code 567.20).~~

~~5) The State VR Director can make an exemption for the customer to attend a specified institution of higher education based on the value of the unique program and contribution of services to the customers as related to their disabilities and documented success of the institution of higher education.~~

~~b) Non-Degree Training/Certification~~
~~For non-degree certification or training programs, in-state or out-of-state, DHS-DRS will provide financial contribution up to the cost of a similar program at the in-district Illinois public community college minus comparable benefits (89 Ill. Adm. Code 567.20).~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.270 Grades and Attendance

a) Grades

1) DHS-DRS will provide financial contribution to a customer in educational training as long as the customer meets each part of the following two-part test:

A) maintains a cumulative "C" grade point average (GPA); and

B) maintains a sufficient cumulative GPA to meet graduation requirements in his or ~~/~~her major field of study. If the customer does not have a major field of study, the customer meets this second test by maintaining a sufficient cumulative GPA to meet graduation requirements.

2) If at any time a customer's cumulative GPA fails to meet either part of the two part test in subsection (a)(1), DHS-DRS will only continue to provide financial contribution for one additional grading period, regardless of when taken, provided the customer and counselor agree continued educational training is appropriate. DHS-DRS must give notice to the customer of this additional grading period of financial contribution as soon as it learns of the customer's GPA deficiency. This notice may come after the start of the additional grading period. At the completion of the additional grading period, the customer must meet each of the two tests in subsection (a)(1). DHS-DRS may continue vocational rehabilitation services but will discontinue paid financial contribution toward the educational training until the customer has removed deficiencies without DHS-DRS paid financial contribution.

3) If the customer fails a course that DHS-DRS paid for, the customer will be required to pay for an equal number of hours, applicable toward the degree, the following term. DHS-DRS will not provide financial contribution for support or auxiliary services for those numbers of hours.

4) Changing, withdrawing, or dropping courses during a term requires documented pre-approval from the DHS-DRS counselor. If a customer drops a course or withdraws without pre-approval, the customer will be required to pay for an equal number of hours, applicable toward the degree, the following term. DHS-DRS will not provide financial contribution for support or auxiliary services for those numbers of hours.

b) Attendance

1) DHS-DRS will allow~~may provide financial contribution to~~ a customer up to~~for no more than the equivalent of~~ three ~~academic~~ years from the start date of the initial training service, as indicated on the IPE, to complete an associate's~~Associate's~~ degree or reach junior standing, and no more than~~up to the equivalent of~~ three additional ~~academic~~ years to complete a

bachelor's~~Bachelor's~~ degree. If the customer requires additional ~~academic~~ terms to complete the degree, DHS-DRS will not provide financial contribution for those additional terms or for support or auxiliary services for those additional terms.~~those additional terms, plus any support or auxiliary services will be paid for by the customer prior to any DHS-DRS financial contribution.~~

2) DHS-DRS will allow~~may provide financial contribution to~~ a customer in a graduate program up to~~for no more than the equivalent of~~ three ~~academic~~ years from the start date of the initial training service, as indicated on the IPE, to complete a master's~~Master's~~ degree, and no more than three additional years to complete a doctorate degree. If the customer requires additional terms to complete the degree, DHS-DRS will not provide financial contribution for those additional terms or for support or auxiliary services for those additional terms.~~, those additional terms, plus any support or auxiliary services, will be paid for by the customer prior to any DHS-DRS financial contribution.~~

3) Exceptions for a customer to be given additional time may be granted, by the appropriate Bureau Chief, if there are extenuating circumstances relating to the customer's disability or personal and/or financial situation.

4) Specialized programs of study (i.e., medical, law) that do not conform to the traditional master's and doctoral programs may be granted an exception by the appropriate Bureau Chief when written justification is provided.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.290 On-the-Job Training

If, as a result of the ~~Comprehensive~~ Assessment ~~of Rehabilitation Needs~~ (see 89 Ill. Adm. Code 553.100), on-the-job training~~On-the-Job Training~~ (OJT) is identified as a necessary service, the following requirements must be met:

a) the customer's IPE (see 89 Ill. Adm. Code 572) must list OJT as a substantial service. Additionally, the IPE must adhere to 89 Ill. Adm. Code 572.50(b)~~specifically state the objectives, supplies needed and the anticipated length of the OJT~~; and

b) the wages paid to the customer by the trainer or ~~/~~employer during the OJT must be at least minimum wages.~~, unless a United States Department of Labor Training Certificate (WH 224) has been issued for the client pursuant to 23 USC 201 et seq.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.300 Default on Financial Obligations~~Educational Loans~~

a) DHS-DRS shall not provide financial assistance for post-secondary education for~~to~~ a customer who is in default on any educational grant or loan, as authorized by Title IV of the Higher Education Act, unless the customer has provided proof of the repayment or a deferral agreement has been made with the lender.

b) DHS-DRS shall not provide any financial assistance issued directly to a customer who is in default on any:

1) child support payments, whether administrative or court ordered; or

2) State or federal obligation.

c) Approval of financial assistance issued directly to a customer shall only be granted when the customer has provided proof of a repayment or deferral agreement made with the vendor, court or government.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART D: PROGRAM FOR SELF-EMPLOYMENT

Section 590.310 Provision of Services

a) All services described in this Subpart shall be provided in accordance with the provisions of this Subpart and Subpart A of this Part.

~~b) Self-employment is a customer working for oneself in a business selling goods or services for the purpose of making a profit that will allow the customer to achieve an employment outcome.~~

b)~~c)~~ Prior to provisions of any of the services listed in this Subpart, the counselor shall consult with the appropriate Regional/Central Office Resource Specialist~~regional/central office resource specialist~~ when considering self-employment as an employment goal for a customer. DHS-DRS participation in such a program must be approved in writing by the Rehabilitation Services Supervisor prior to initiation of an ~~Individualized Plan for Employment (~~IPE~~)~~ (see 89 Ill. Adm. Code 572).

c)~~d)~~ A copy of this Subpart ~~the Illinois Administrative Code pertaining to the Program for Self-Employment (Sections 590.310 through 590.370)~~ must be provided to the customer prior to the completion of the Preliminary Program for Self-Employment Questionnaire (see Section ~~89 Ill. Adm. Code~~ 590.315(b)).

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.315 Eligibility for Participation in the Program for Self-Employment

For customers interested in self-employment opportunities, the following steps to determine eligibility must be completed before the IPE~~Individualized Plan for Employment~~ and the Self-Employment Plan can be developed.

a) Options other than self-employment must be explored with the customer and, as appropriate, a business mentor to determine if an equal or greater opportunity for successful employment is available in the competitive labor market.

b) To be eligible for participation in the Program for Self-Employment, the customer, in consultation with the business mentor and the counselor, will ~~must~~ complete the Preliminary Program for Self-Employment Questionnaire that documents:

1) Previous formal education and/or training in business operation:

A) Evidence of education or training is indicated by:

i) a two or four year degree in business/financial management or related field; or

ii) prior business management experience that provides business knowledge equivalent to the formal education described in subsection (b)(1)(A)(i); or~~.~~

iii) documentation of the customer working with an appropriate business mentor.

B) Exceptions to subsections (b)(1)(A)(i) and (ii) may be granted by the appropriate Bureau Chief.

2) Self-employment is a viable employment option for the customer and is consistent with the customer's unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice.

3) Self-employment shall enable the customer to engage in gainful employment that will generate income at a level equal to or above the earnings level of Substantial Gainful Activity (SGA) as determined annually by the U.S. Social Security Administration for Title II recipients.

4) Evidence that the customer has available cash or credit resources to cover 50% of all eligible costs of the customer's Program for Self-Employment and any required participation as determined in the financial analysis in 89 Ill. Adm. Code 562.

5) Evidence that the customer has available resources to cover all eligible expenses over the $10,000 limit that DHS-DRS will contribute towards eligible costs under the customer's Program for Self-Employment. The appropriate Bureau Chief may grant exceptions to the DHS-DRS contribution limit. ~~Exceptions to the DHS-DRS contribution limit may be granted by the appropriate Bureau Chief.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.320 Program for Self-Employment

a) Prior to the provision of self-employment services, the customer must complete a business plan for development of the business. The business plan shall include, but not be limited to:

1) a full description of the proposed business or service operation;

2) the customer's qualifications for, interest in, and need for self-employment as an employment outcome as evidenced by the customer's Assessment (see 89 Ill. Adm. Code 553.100);

3) the estimated total capital needs for the establishment of the business and evidence of the availability of such funds (i.e., personal account statements, verification of loan availability, complete listing of all personal liabilities);

4) financial estimates for the first 12 months of operation;

5) plans for business development and marketing;

6) evidence that the proposed business has a reasonable chance of success (i.e., provide net income to meet a majority of the customer's living expenses) as established by:

A) market surveys;

B) signed statements from consultants and experts that the business has a reasonable chance of success based on market conditions, demand and competition; and

7) evidence of additional financing necessary to make the business operational.

b)~~a)~~ Tools, equipment, supplies and initial stock necessary to begin a specific business may be provided to a customer in order for him or ~~/~~her to obtain a successful employment outcome when it has been determined by the customer, counselor~~,~~ and the Supervisor that self-employment is a realistic employment goal for the individual. All tools, equipment, supplies and initial stock purchased for a customer must be specifically listed in the customer's IPE (see 89 Ill. Adm. Code 572).

c)~~b)~~ DHS-DRS shall pay up to 50% of the eligible costs of the customer's Program for Self-Employment not to exceed the $10,000 maximum limit. The appropriate Bureau Chief may grant exceptions to the DHS-DRS contribution

limit.~~Exceptions to the DHS-DRS contribution limit may be granted by the appropriate Bureau Chief.~~

1) The cost shall not include those listed as ineligible in Section 590.330 or any in-kind contributions.

2) All required financial participation from the financial analysis in 89 Ill. Adm. Code 562 is in addition to the customer's 50% contribution and shall be applied to the DHS-DRS share of the cost.

d)~~e)~~ DHS-DRS shall pay up to 100% of any Program for Self- Employment cost associated with accommodating the customer's disability.

~~d)~~ ~~Prior to the provision of such services, the customer must complete a business plan for development of the business. The business plan shall include, but not be limited to:~~

~~1)~~ ~~a full description of the proposed business or service operation;~~

~~2)~~ ~~the customer's qualifications for, interest in, and need for self-employment as an employment outcome as evidenced by the customer's Assessment;~~

~~3)~~ ~~the estimated total capital needs for the establishment of the business and evidence of the availability of such funds (i.e., personal account statements, verification of loan availability, complete listing of all personal liabilities);~~

~~4)~~ ~~financial estimates for the first 12 months of operation;~~

~~5)~~ ~~plans for business development and marketing;~~

~~6)~~ ~~evidence the proposed business has a reasonable chance of success (i.e, provide net income to meet a majority of the customer's living expenses) as established by:~~

~~A)~~ ~~market surveys;~~

~~B)~~ ~~signed statements from consultants and experts that the business has a reasonable chance of success based on market conditions,~~

~~demand and competition; and~~

~~7) evidence for additional financing necessary to make the business operational.~~

e) The customer must provide monthly statements to the counselor detailing the financial activity of the business, including a statement of profit or loss for a minimum of nine months.

f) At a minimum of every three months of operation, the customer must provide the counselor with a full detailed inventory of all tools, equipment, supplies and stock purchased to establish the business, regardless of the purchaser, until disposition of the operation as identified under Sections 590.350 and 590.360. Frequency of the inventory shall be determined by the counselor and appropriate DHS-DRS staff.

g) All tools, equipment, supplies and initial stock shall be maintained by the customer in good order. The customer must ensure all proper up-keep and maintenance is done as specified by the manufacturer. In the event of break-down or defect, the customer must have the item repaired. As most items carry a manufacturer warranty, all costs should be covered under those~~such~~ provisions.

h) The customer is expected to maintain and replenish an adequate supply of all initial stock and supplies.

i) DHS-DRS shall maintain title to all tools and equipment purchased with DHS-DRS funds for at least nine months of operation of the business enterprise. Disposition of the title shall be determined per Sections 590.350 and 590.360.

j) The customer shall have appropriate business insurance coverage that includes personal liability, property damage/loss, and worker's compensation.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.330 Services and ~~/~~Goods not Available

DHS-DRS shall not provide funding for the following, under this Part:

a) cash for establishing a business;

b) purchase of any real property;

c) remodeling of a building or facility that~~which~~ is non-essential to the operation of the business;

d) purchase of a vehicle requiring licensure for street use;

e) purchase of accounts receivable or business "goodwill";

f) tax bonds;

g) reimbursement for sales tax, interest or service charges;

h) funds to pay wages for employees;

i) funds to obtain patents or any associated costs; and

j) funds to develop and produce prototype products or any associated costs.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART E: VEHICLE ADAPTATION AND ENVIRONMENTAL MODIFICATION

Section 590.400 Vehicle Adaptation

a) DHS-DRS shall not participate in the purchase of any vehicle.

b)~~a)~~ DHS-DRS shall participate in the purchase of the necessary vehicle adaptive equipment, and its installation, ~~in accordance with Subpart A of this Part, with the exception listed in Section 590.410(c),~~ necessary to meet the minimum requirements for the ~~individual~~ customer to safely operate his or ~~/~~her vehicle.

c)~~b)~~ As a rehabilitation technology service, vehicle adaptation is exempt from the provisions regarding comparable benefits (see 89 Ill. Adm. Code 567), but not from the provisions of customer financial participation in the cost of the services (see 89 Ill. Adm. Code 562).

d) The vehicle must be titled in the name of the customer or the customer's guardian.

e) Any vehicle, new or used, to be adapted by DHS-DRS must be equipped with all necessary factory-installed options so that the vehicle may be modified, using non-standard equipment, at the least possible cost.

f) The vehicle must be appropriate to meet the customer's disability related needs and the customer's vocational outcome. Should the customer choose to purchase a vehicle beyond the minimum requirements, the additional cost for the adaptations will be the financial responsibility of the customer.

g) The customer is expected to insure and properly maintain any vehicle and the equipment in which DHS-DRS has participated in the adaptation. Manufacturers' specifications are to be followed in terms of proper care and maintenance.

h) All customers considering vehicle adaptation must consult with DHS-DRS staff prior to the purchase of any vehicle to ensure the appropriateness of the adaptations.

i) If the customer will be the driver of the vehicle, the customer must have proper licensing and restrictions as defined by the Secretary of State.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.410 ~~DHS-DRS Financial Participation in~~ Van Adaptation

a) DHS-DRS participation in the purchase of adaptive equipment for a van must meet all criteria found in Section 590.400 and the following criteria:

1) A van is required for the customer to meet the employment goal;

2) The customer cannot access or utilize public transportation; and

3) Due to the nature of the customer's disability, he or she is unable to use an automobile, whether or not the automobile is adapted.

b) When a used van is to be adapted, the van must have an expected useful life of at least 5 years when considering the condition and mileage of the van prior to adaptation. The condition of the van shall be verified by at least one reputable mechanic/adaptor who has been selected by DHS-DRS. Any repairs determined

necessary as a result of the evaluations by the mechanic/adaptor must be made, at the expense of the customer, prior to the time DHS-DRS will participate in the cost of adaptation.

~~a) DHS-DRS shall not participate in the purchase of any vehicle nor the purchase of the adaptive equipment that has been installed in a vehicle prior to the purchase of the vehicle by the customer, without approval of the appropriate Bureau Chief.~~

~~b) A one time unusual allowable expense, to reduce customer financial participation, is available (see 89 Ill. Adm. Code 562) for the purchase of a van for transportation if the van is required for the customer to meet the employment goal and if:~~

~~1) due to the nature of the customer's disability, he/she is unable to use an automobile, whether modified or not, or make use of public transportation;~~

~~2) DHS-DRS agrees, as evidenced by the Assessment (89 Ill. Adm. Code 553.100), that the purchase of the adaptive equipment is essential for the customer's use of the vehicle;~~

~~3) the van was purchased by, and title is held in the name of, the customer or is being purchased by the customer, the customer's spouse, or the customer's parent;~~

~~4) the van is purchased in the same calendar year or within the past 12 months as the adaptive equipment.~~

~~c) When it is determined the customer is eligible for the unusual allowable expense, it shall be calculated as follows:~~

~~1) $7,000 shall be deducted from the price the customer paid for the van; and~~

~~2) the customer may claim the remainder of the purchase price, up to $6,000, as the one time unusual allowable expense to determine his/her financial eligibility for DHS-DRS assistance (see 89 Ill. Adm. Code 562).~~

c)~~d)~~ DHS-DRS shall not participate in any cost associated with the removal, replacement, repainting, relocation or restoration of such items as cabinets, beds, appliances, etc., associated with the cost of adapting a~~an individual client's~~

customer's van. ~~Neither shall DHS-DRS pay for any costs associated with the adaptation of a vehicle that are required due to the inappropriateness of the vehicle to meet the client's needs.~~

~~e)~~ ~~DHS-DRS financial participation for the conversion of a mini-van (less than a full-sized van (Section 590.380(b)) shall not exceed that which is reasonable and customary to adapt a full-sized van. Such a determination shall be based on DHS-DRS records regarding previous van conversions and information received from the vendor and/or evaluator.~~

~~f)~~ ~~When a used vehicle is to be adapted, the vehicle must have an expected useful life of at least 5 years when considering the condition and mileage of the vehicle prior to adaptation. Condition of the van shall be verified by at least one reputable mechanic/adaptor. Any repairs determined necessary as a result of the evaluations by the mechanic/adaptor shall be made, at the expense of the client, prior to the time DHS-DRS will participate in the cost of adaptation.~~

~~g)~~ ~~Any vehicle, new or used, to be adapted by DHS-DRS must be equipped with all necessary factory-installed options so that the vehicle may be modified, using non-standard equipment, at the least possible cost.~~

~~h)~~ ~~The client is expected to insure and properly maintain any vehicle in which DHS-DRS has participated in the adaptation. Manufacturers' specifications are to be followed in terms of proper care and maintenance.~~

~~i)~~ ~~All clients considering vehicle adaptation should consult with DHS-DRS staff prior to the purchase of any vehicle to ensure the vehicle's adaptability prior to purchase of the vehicle and to ensure DHS-DRS will, if the client is eligible and vehicle adaptation is an appropriate service for the client, participate in the adaptation of the specific vehicle, pursuant to the provisions of this Subpart.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.420 Environmental Modification

DHS-DRS shall purchase environmental modifications necessary for the customer to meet his or ~~/~~her health and hygiene needs in accordance with Subpart A of this Part.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.440 Compliance with Capital Development Board Specifications

All environmental modification services that~~which~~ include remodeling of a building provided to a customer~~client~~ must be made in compliance with the specifications established by the Capital Development Board (see 71 Ill. Adm. Code 400, the Illinois Accessibility Code).

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART F: ~~PERSONAL~~ SUPPORT SERVICES AND AUXILIARY SERVICES~~AIDS~~

Section 590.460 Types of Services (Repealed)

~~a) For the purpose of this Subpart, Personal Support Services and Auxiliary Aids shall mean services provided by an individual or through electronic/mechanical devices (equipment) which allow customers with sensory, manual or speaking impairment to achieve a level of performance equal to that of an individual who does not have such impairments.~~

~~b) Such services shall include personal assistance (PA) services, interpreter services (i.e., sign language), computer assisted realtime captioning (CART), drivers, sensory augmentation devices, readers, notetakers and accessible format documents (e.g., Braille, large print, audio tape).~~

~~c) Such services shall also include foreign language interpreter services.~~

(Source: Repealed at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.470 Tools and ~~Services /~~Equipment

a) DHS-DRS shall provide tools and equipment~~such services~~ to the customer as determined necessary by the~~as a result of the Extended Evaluation (89 Ill. Adm. Code 553.80) and/or the~~ Assessment ~~of Rehabilitation Needs Summary~~ (see 89 Ill. Adm. Code 553.100) for the completion of his or ~~/~~her employment objective as described in his or ~~/~~her IPE (see 89 Ill. Adm. Code 572).

~~b) Services provided by an individual (i.e, sign language interpreter, CART, notetaker, reader, PA services) under this Subpart shall continue until the customer's case is closed and as determined necessary by the customer and~~

~~counselor.~~

b)~~e)~~ Tools and equipment may be provided to a customer in order to obtain a successful employment outcome. All tools and equipment must be specifically listed in the customer's IPE. These services must comply with all bidding requirements outlined in Section 590.45.

c)~~d)~~ DHS-DRS shall retain title to any tools or equipment purchased for use by a customer. Prior to the purchase of any tools or equipment for customer use, the customer must agree to maintain the tools or equipment in proper working order and condition, and agree to return the tools or equipment to DHS-DRS at any time the customer has no further use for the tools or equipment or is otherwise not using the tools or equipment for the purpose for which purchased.

d)~~e)~~ The customer may retain the tools or equipment even after he or ~~/~~she has successfully attained his or ~~/~~her employment outcome~~vocational goal~~ and his or ~~/~~her case has been closed, pursuant to 89 Ill. Adm. Code 595, as long as he or ~~/~~she is using the tools or equipment for the purpose for which originally purchased.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.480 Qualifications for Services Provided by Individuals

Individuals providing services under this Subpart shall meet the following qualifications:

a) PA services – such individuals shall meet the standards set forth at 89 Ill. Adm. Code 686.10 (Personal Assistants (PA) Requirements) that enumerates the requirements for individuals who will be employed by the customer to provide PA services through the DHS-DRS Home Services Program.

b) Readers and Notetakers – such an individual shall meet the approval of the customer, with concurrence of the counselor, as to his or ~~/~~her ability to adequately perform such duties.

c) Drivers – such an individual shall be licensed pursuant to the Illinois Motor Vehicle Code, carry at least the minimum required liability insurance, and meet the approval of the customer, with concurrence of the counselor, as to his or ~~/~~her ability to adequately perform such duties.

d) Sign language interpreters shall meet the regulations as set forth in the Interpreter for the Deaf Licensure Act of 2007 [225 ILCS 443]~~Public Act 90-200~~.

e) Foreign Language Interpreters – shall meet the approval of the counselor and customer.

f) CART providers shall meet the ~~following~~ criteria established by the Illinois Shorthand Reporters Association (ISRA).~~:~~

~~1) Illinois Certified Shorthand Reporter;~~

~~2) attendance of 6 hours in CART training sponsored by the Illinois Shorthand Reporters Association (ISRA);~~

~~3) DHS-DRS sponsored Sensitivity Training;~~

~~4) submission of work history, including 4 hours realtime experience.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.490 Payment for Support and Auxiliary Services Provided by Individuals and Conditions of Service Provision

a) Individuals providing PA services shall be paid only for those hours in which services are being provided to the customer in the customer's home, at the customer's training site or on the customer's worksite and in accordance with the customer's ~~Individualized Plan for Employment (~~IPE~~)~~ (see 89 Ill. Adm. Code 572). An individual employed by the customer to provide PA services shall be paid at an hourly rate equal to that paid to an individual providing PA services through the DHS-DRS Home Services Program (see 89 Ill. Adm. Code 686.40(a)).

b) An individual providing reader or notetaker services shall be paid only for those hours in which those~~such~~ services are being directly provided to the customer and in accordance with the customer's IPE~~ (89 Ill. Adm. Code 572)~~. Individuals providing reader or notetaker services shall be paid at a rate established by DHS-DRS and, subject to appropriation, those rates may be comparable to the rate paid to personal assistants under the DHS-DRS Home Services Program. ~~An individual providing reader or notetaker services shall be paid at an hourly rate of~~

~~$8.~~

c) An individual providing driver services to a customer shall be paid an hourly rate for all driving and required waiting time and shall be reimbursed for mileage in accordance with State Travel Regulations (see 80 Ill. Adm. Code 3000.Appendix A). Individuals providing driver services shall be paid at a rate established by DHS-DRS and, subject to appropriation, those rates may be comparable to the rate paid to personal assistants under the DHS-DRS Home Services Program. ~~An individual providing driver services shall be paid at an hourly rate of $8.~~

d) An individual providing Interpreter Services~~, either foreign language, sign language~~ or CART~~,~~ shall be paid at a~~the hourly, ½ day or full day~~ rate established by DHS-DRS for that individual's~~his/her~~ license or level of ~~certification/~~qualification and in accordance with the following:

1) minimum payment shall be for a period of 2 hours even though actual work time may be less;

2) if there is less than a one hour lapse during provision of services (e.g., lunch, break) the individual shall be paid for the entire time span of the assignment;

3) an individual who is required to be on site even though he or ~~/~~she does not interpret shall be paid during that period of time;

4) an individual who must travel more than 20 miles one-way for an assignment shall be paid travel reimbursement in accordance with State Travel Regulations (80 Ill. Adm. Code 3000.Appendix A);

5) no payment shall be made to an individual whose assignment is cancelled more than 48 hours prior to the scheduled beginning of the assignment. If cancellation occurs less than 48 hours prior to the scheduled beginning of the assignment, for single day assignments the individual shall be paid for the entire scheduled assignment time. For multiple day assignments, the individual shall be paid for the time scheduled for the assignment during the first 48 hours of the scheduled assignment;

6) if a customer does not appear for a scheduled appointment, the individual shall stay on-site for one hour. If the customer does not appear after the

one hour wait, the individual shall consult the DHS-DRS contact person for instructions. The individual shall be paid in accordance with the provisions of subsections (d)(1), (3) and (5) and reimbursed for travel in accordance with subsection (d)(4);

7) if an individual has to cancel a scheduled assignment, he or ~~/~~she shall contact the DHS-DRS contact person immediately and assist in finding a suitable replacement. The suitability of the replacement shall be determined by the DHS-DRS contact person. An individual who cancels a scheduled assignment shall not be paid for any of the scheduled services, reimbursed travel cost, or paid a finders fee for locating a replacement.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART H: OTHER SERVICES

Section 590.600 Transportation ~~and Temporary Lodging~~

~~a)~~During the completion of the customer's IPE (see 89 Ill. Adm. Code 572), transportation and~~/or~~ temporary lodging may be necessary to complete the customer's~~his/her~~ employment outcome.

~~1) When necessary, DHS-DRS shall reimburse the customer and, when the customer requires a PA (Section 590.460), reimburse the PA, for travel and lodging expenses pursuant to Department of Central Management Services rules at 80 Ill. Adm. Code 3000 – The Travel Regulation Council. Mileage shall be paid to the customer at 50% of the established rate of the Travel Regulation Council, rounded to the next cent.~~

a)~~2)~~ The following shall ~~also~~ apply:

1) Mileage shall be paid to the customer at 50% of the established rate of the Travel Regulation Council (80 Ill. Adm. Code 3000) rounded to the next cent.

2)~~A)~~ Mileage shall be computed on one round trip per day for services listed on the IPE that are required to achieve the employment outcome or for diagnostic services approved by the counselor.~~that the customer attends a reimbursable event (reimbursement is available only for attending services planned in the IPE for which transportation reimbursement is being made~~

~~available).~~

3)~~B)~~ If the public transportation system is accessible to the customer and meets the customer's schedule, the maximum DHS-DRS shall pay is~~the customer for transportation shall be~~ the cost of public transportation.

4) DHS-DRS shall provide long-term increased costs (see 89 Ill. Adm. Code 590.670) or transportation costs, whichever is less.

b)~~3)~~ Transportation costs listed on an IPE will be discontinued when~~These expenses shall not be reimbursed once~~ the customer has obtained~~customer's~~ employment commensurate with the outcome goal on the IPE~~has been attained~~ and the first pay check has been received.

c)~~b)~~ Transportation via ambulance or medical van will only be provided based on the customer's IPE ~~(89 Ill. Adm. Code 572)~~ and when ordered by the customer's attending physician.

d)~~c)~~ Customer transportation needs for training at ICRE-Wood will be determined by the customer's training schedule and the training schedule of ICRE-Wood.

e)~~d)~~ DHS-DRS will not pay for transportation for customers in residence at a college or training program.

f)~~e)~~ DHS-DRS shall not pay for automobile insurance, ~~or~~ maintenance or licensing fees.

g~~f~~) DHS-DRS may pay for vehicle~~car~~ repairs when:

1) a mechanic selected by DHS-DRS has determined that the repairs will permit the vehicle to have an expected useful life of at least five additional years;

2) the repair costs will be less than the value of the vehicle;

3)~~1)~~ the vehicle~~car~~ cannot be driven or is unsafe to operate;

4)~~2)~~ there is no other means of transportation available to the customer; and

5)~~3)~~ a substantial~~critical~~ service in the customer's IPE will not be completed because of the lack of transportation.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.610 Other Goods and Services

~~a)~~DHS-DRS may provide other services, including services to a customer's family members (see 89 Ill. Adm. Code 521), not specifically described in this Part that are necessary for a customer to overcome his or ~~/~~her impediment to employment and attain a successful employment outcome unless specifically prohibited by federal~~Federal~~ law or regulation, State law or DHS-DRS rules under Title 89, Chapter IV, Subchapter b (Vocational Rehabilitation). ~~b)For the purpose of this Subpart, "family member" shall mean any relative by blood or marriage of the customer and any other individual living in the customer's household with whom the customer has a close interpersonal relationship. A close interpersonal relationship is determined by the presence of an emotional commitment between the individuals, not by financial commitments. Adopted individuals shall be considered as family members.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.620 Equipment Sets

a) For the purposes of this Section, the provisions of Subpart A of this Part do not apply.

b) DHS-DRS shall certify individuals as deaf, severely hard of hearing, ~~or~~ deaf-blind or speech impaired for the purpose of obtaining equipment sets (~~Teletypewriter/~~Telephone Devices for the Deaf (TTYs~~/TDDs~~)), Large Visual Display (LVD) TTY, Amplified Telephone, or Telebraille Devices~~telebraille devices~~) without charge per the Public Utility Act [220 ILCS 5/13-703].

c) DHS-DRS shall certify individuals seeking eligibility for a TTY, LVD TTY or Amplified Telephone~~/TDD~~ who are deaf or severely hard of hearing and who are: present customers, past customers for whom DHS-DRS holds records, or individuals known to certifying staff through professional affiliation (e.g., past customers for whom DHS-DRS no longer has records~~, a family member of a customer~~ or former student of the Illinois School for the Deaf or the Illinois Center for Rehabilitation and Education-Roosevelt).

d) DHS-DRS will certify individuals who are seeking eligibility for a Telebraille Device~~telebraille device~~ who are:

1) deaf or severely hard of hearing;

2) blind or severely visually impaired;

3) capable of using Grade 1 Braille; and

4) a present or past DHS-DRS customer. If the individual's Braille skills are unknown, a series of short questions in Grade 1 Braille will be given to the individual by DHS-DRS staff for the individual to respond to in Braille.

e) If the individual seeking certification from DHS-DRS is not known by DHS-DRS staff, as listed in subsections (c) and (d), DHS-DRS shall inform the individual of other certifying agents as listed at 83 Ill. Adm. Code 755.200.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART I: PLACEMENT

Section 590.630 Provision of Placement Services

a) All services described in this Subpart shall be provided in accordance with the provisions of this Subpart and Subpart A of this Part.

b) Placement services are ~~normally~~ provided by DHS-DRS staff. There~~ but there~~ is no customer financial participation (see 89 Ill. Adm. Code 562) required for any placement service.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.640 Description of Services

Placement services are those services necessary to assist a customer in achieving an employment outcome indicated on the IPE~~client in obtaining employment in his/her chosen occupational area~~. Placement services will~~shall~~ include, but are not ~~be~~ limited to:

a) interviewing skills training;

b) resume preparation;

c) interview preparation;

d) referral to other agencies and prospective employers; and

e) identification of prospective employers.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART J: INCREASED COSTS~~MAINTENANCE~~

Section 590.660 Increased Costs

Increased costs are expenses such as food, shelter and clothing that exceed a customer's normal living expenses. These increased costs are due to the customer's participation in an assessment for determining eligibility and VR services provided under an IPE.

a) DHS-DRS will not pay for normal living expenses and shall only pay for increased costs.

b) When calculating a customer's increased costs, the following normal living expense standards for food and shelter shall be utilized:

1) The standard for shelter shall be the DHS TANF payment level for one adult (see 89 Ill. Adm. Code 112, Subpart H).

2) The standard for food shall be the DHS SNAP benefit amount for a family of one (see 89 Ill. Adm. Code 121.64) or the customer's actual normal food expense prior to service, whichever is greater.

c) DHS-DRS shall pay for these increased costs in the manner spelled out in this Subpart.

~~Increased costs are expenses such as food, shelter and clothing, that are in excess of the customer's normal living expenses and that are necessitated by the customer's participation in an assessment for determining eligibility and vocational rehabilitation services under an IPE. Normal living expenses shall not be paid by DHS-DRS. DHS-DRS shall only pay for increased~~

~~costs. Minimum normal living expense for shelter and food are established as the DHS TANF payment level for shelter for one adult and the DHS Maximum Food Stamp Benefit level for a Family of One or the actual normal living expenses prior to service, whichever is greater. DHS-DRS shall pay for these increased costs in the manner spelled out in this Subpart.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.670 Determination of the Need for Increased Costs

a) One Time Expenses
Payments for one time increased costs shall be made as needed. An example may be clothing purchased for a customer's job interview or when a customer's training institution or employment requires special attire.~~These would include the purchase of clothing, when the customer's employment requires special attire, or for a customer's job interview, or for training if the teacher or institution requires special clothing for a course.~~

b) Short Term Increased Costs
Short term financial support for increased costs resulting from the customer's having to leave his or ~~/~~her home to receive services shall be provided using the State per diem and lodging rates. Short term shall mean any period of less than 4 weeks.

c) Long Term Increased Costs
Any service that requires a customer to relocate and to have additional living expenses for services such as food and/or shelter that will exceed 4 weeks may make the customer eligible to receive monetary support for increased costs. DHS-DRS shall provide long-term increased costs or transportation costs, whichever is less (see 89 Ill. Adm. Code 590.600). The customer shall receive funds for these increased costs as follows:

1) Shelter
DHS-DRS will pay for shelter~~Shelter shall be paid~~ when it meets the standards of increased costs. The increased cost of shelter shall be figured using the appropriate institution of higher education's published cost of housing and subtracting either the DHS TANF payment level~~allowance~~ for shelter for one~~an~~ adult or the actual shelter expense before the service began, whichever is greater. If there is no published cost, the actual cost of shelter before the service began or the TANF payment level~~amount~~ for

shelter, whichever is greater, will be subtracted from the cost of a median one-bedroom apartment in the area of service provision.

A) If the customer is a dependent residing with family and relocates alone for VR services, the increased cost for shelter shall be the lesser of:~~If the customer relocates for VR services, but must pay shelter cost for self or dependent family in the customer's home community or elects to live in an apartment instead of utilizing housing of the educational facility, the increased cost is either the lesser of:~~

i) The published housing cost of the institution of higher education less the DHS TANF payment level for shelter; or

ii) The cost of a median one-bedroom apartment, as established by Housing and Urban Development (HUD), in the area of service provision, less the DHS TANF payment level for shelter.

~~A) the published housing cost of the institution of higher education; or~~

~~B) the cost of a median one bedroom apartment in the area of service provision.~~

B) If the customer must maintain his or her residence in the home community and relocates alone for VR services, the increased cost for shelter shall be the lesser of:

i) the published housing cost of the institution of higher education less the DHS TANF payment level for shelter; or

ii) the cost of a median one-bedroom apartment, as established by HUD, in the area of service provision, less the DHS TANF payment level for shelter.

C) If the customer relocates for VR services with a dependent family, the increased cost shall be the difference between the family's prior cost of shelter in the home community and the lesser of the published housing cost of the institution of higher education or the

cost of a median one-bedroom apartment, as established by HUD, in the area of service provision, less the DHS TANF payment level for shelter.

2) Food

DHS-DRS may pay the~~The~~ increased cost of food when the customer chooses to use the food plan offered by the institution of higher education. Food services must be listed on the customer's IPE. ~~may be paid when the institution of higher education being attended by the customer is included in the IPE and offers food service.~~ The increased cost of food shall be figured using the facility's minimum cost basic seven or five day meal plan, whichever is appropriate for the customer. The~~The customer's actual food cost before service or the~~ amount established as the maximum SNAP~~Food Stamp~~ benefit~~Benefit~~ for a family of one shall be subtracted from the cost of the basic meal plan. ~~whichever is greater.~~ The difference shall be the customer's monthly increased cost for food. If the customer chooses not to use the facility's food service or there is no food service at the facility, there is no increased cost.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.680 Exceptions

Exceptions to this Subpart shall be granted by the appropriate Bureau Chief of DHS-DRS. Requests for exceptions must be in writing and include an explanation and justification for the~~and explain and justify~~ increased costs above those established by this Subpart~~Part~~.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART K: POST-EMPLOYMENT SERVICES

Section 590.720 Scope of Services

a) Services listed in this Part may be provided to a customer as post-employment services when the following are met:

1) the customer requires these services to maintain, regain or advance in employment;

2) services are directly related to those services provided to the customer in his or her original IPE and amendments (see 89 Ill. Adm. Code 572);

3) the services are not expected to last for an extended period of time (i.e., six months or more);

4) the customer will not require multiple services; and

5) the services will improve the customer's level of independence and result in the termination of post-employment services.

b) If at any time the services are expected to exceed the 6 month timeframe, an application will be completed and eligibility will be determined (see 89 Ill. Adm. Code 553.50).

~~Any service which may be provided to a customer pursuant to this Part may be provided to a customer in post-employment services when, in the counselor's professional judgement and with the concurrence of the customer: the customer requires these services to maintain, regain or advance in employment consistent with the individual's abilities, capabilities, and interests; such services are directly related to those services provided to the customer in his/her original IWRP and amendments (89 Ill. Adm. Code 572); the need for possible post-employment services was identified at the time of closure of the customer's case; the services are not expected to last for an extended period of time (i.e., six months or more); the customer will not require multiple services, and such services will improve the customer's level of independence and result in the termination of post-employment services. At any time services are expected to last in excess of 6 months, opening a new case should be discussed with the customer.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART L: TRANSITION

Section 590.730 Provision of Services

a) All services described in this Subpart shall be provided in accordance with the provisions of this Subpart and Subpart A ~~of this Part~~.

b) All transition services provided to a customer~~client/student~~ pursuant to this Subpart ~~must~~:

1) must be provided after the customer has been certified eligible for VR services and placed in an open category under the Order of Selection (see 89 Ill. Adm. Code 553.130) or be provided as a trial work experiencenecessary as evidenced by his/her Individualized Written Rehabilitation Program (IWRP) (89 Ill. Adm. Code 572);

2) must be provided in coordination with the customer'sclient's/student's Individualized Education Program (IEP), per 89 Ill. Adm. Code 572.40;

3) must be based on the customer'sclient's/student's needs and informed choice (see 89 Ill. Adm. Code 557.20)taking into account his/her preferences and interests; and

4) may include classroom instruction, community based work experience, development of employment orand other post-secondary objectives, and, as appropriate, daily living skills and functional vocational assessment.

c) An IPE must be developed no later than the last semester of the year in which the student is expected to leave school.

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.750 Secondary Transitional Experience Program (STEP)

a) All services described in this Section shall be provided in accordance with the provisions of Section 590.730.While necessary transition services may be provided to any VR customer, the majority of such services are provided through STEP. STEP is a cooperative program between DHS-DRS and LEAs in which DHS-DRS provides funding to LEAs to enhance transition services provided to customers/students. Under cooperative agreements with the LEA, DHS-DRS provides funding to assist in the provision of:

1) classroom instruction in the areas of career exploration;

2) independent living and community mobility skills training; and

3) in-school and community-based work experience.

b) DHS-DRS provides funding under Cooperative Working Agreements with the

Local Educational Agency (LEA) to provide in-school and community-based work experiences. Secondary Transitional Experience Program (STEP) services are provided to individuals to enhance the educational and transitional programming provided by the LEA and do not replace programming which the LEA is required to provide. The LEA is responsible for the provision of adaptive equipment and auxiliary aids necessary for the students to achieve their educational and transitional goals.~~STEP services are provided to individuals to enhance the educational and pre-vocational programming provided by the LEA and do not replace programming which the LEA is required to provide. Further, the primary responsibility for the provision of adaptive equipment and auxiliary aids necessary for the students to achieve the student's educational and pre-vocational goals shall rest with the LEA.~~

(Source: Amended at 36 Ill. Reg. 6598, effective April 13, 2012)

SUBPART M: SUPPORTED EMPLOYMENT

Section 590.800 Provision of Services

All services described in this Subpart shall be provided in accordance with the provisions of this Subpart and Subpart A.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.810 Qualification of Supported Employment and Extended Services Providers

Supported Employment and Extended Services will be provided by Community Rehabilitation Providers that meet the criteria in 89 Ill. Adm. Code 530.5.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.820 Justification of Need for Supported Employment

Prior to the provision of supported employment services, the rehabilitation counselor shall provide a written justification of the need for supported employment. The justification shall include an evaluation of the individual's needs, and must establish all four of the following conditions:

a) the individual is eligible for vocational rehabilitation services, as defined in 89 Ill. Adm. Code 553.20, and has a most significant disability as defined in Ill. Adm. Code 553.140;

b) the individual, due to the nature and severity of his or her disability, has not worked or has worked only intermittently;

c) the individual has a need for ongoing support services in order to perform competitively at work; and

d) the individual has the ability to work in a supported employment setting.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.830 Purpose and Types of Supported Employment

The purpose of supported employment is to assist individuals with most significant disabilities and little or no work experience to become employed. Supported employment consists of the provision of a variety of ongoing supports to the customer in order to maintain competitive employment. These ongoing support services include:

a) specialized assessment or evaluation services;

b) intensive job skills training at the work site;

c) job development and placement;

d) social skills training;

e) regular observation and monitoring of the customer;

f) follow-up services to reinforce and stabilize the job placement;

g) facilitation of natural supports at the work site; and

h) similar services designed to promote job stability and improve job performance.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.840 Service Requirements

a) An IPE for supported employment services shall conform to the requirements in 89 Ill. Adm. Code 572.50(c).

b) Supported employment services are time-limited (see 89 Ill. Adm. Code 521) and shall not be provided for longer than 18 months except under special circumstances. Those special circumstances must be documented in the case record by the counselor and approved by the supervisor.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.850 Monitoring of Individuals in Supported Employment

a) Individuals participating in supported employment shall be monitored at least twice per month, on the job site, unless off-site services and monitoring are approved in the customer's IPE. The purpose of the monitoring is to evaluate the stability of the placement and to determine the individual's progress toward the targeted number of work hours specified in the IPE.

b) The rehabilitation counselor is responsible for ensuring the monitoring schedule is followed, which should include a support reduction schedule. The specific monitoring responsibilities of the community rehabilitation provider agency are to be specified in the IPE, as well as the schedule of reports to the counselor.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.860 Off-Site Services and Monitoring

Customers may request that supported employment services be provided away from the work site, with the approval of the rehabilitation counselor. Off-site services shall be specified in the IPE. Off-site monitoring shall include twice-monthly contacts with the customer, as well as monthly contact with the employer, if the customer approves that contact.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.870 Transition to Extended Services

a) The criteria for making the transition to extended services are:

1) The customer has made substantial progress toward meeting the targeted number of hours of employment specified in the IPE.

2) The hours of support specified in the support reduction schedule have been effectively minimized or have reached zero.

3) The customer and the rehabilitation counselor agree on the type and amount of extended services needed in order to maintain employment.

b) In addition, the criteria for closure of a successful employment outcome as defined in 89 Ill. Adm. Code 595.40 must be met.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

Section 590.880 Purpose and Types of Extended Services

Extended services are ongoing support services needed by an individual who has participated in supported employment in order to maintain employment. These include both paid and unpaid supports, also known as natural supports.

a) DHS-DRS shall develop an IPE for individuals receiving paid extended services funded by DHS-DRS. The IPE shall include a description of the services to be provided and the service provider, as well as a mechanism for evaluating the individual's need for support. DHS-DRS shall monitor the status of individuals in DHS-DRS-funded extended services at least twice per year.

b) Customers receiving natural supports as extended services do not require an IPE and are closed from the VR system.

c) Customers receiving extended services funded by an agency other than DHS-DRS do not require an IPE and are closed from the VR system.

(Source: Added at 36 Ill. Reg. 6598, effective April 13, 2012)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Health Care Employee Vaccination Code

2) Code Citation: 77 Ill. Adm. Code 956

3)

Section Numbers:	Adopted Action:
956.10	Amended
956.20	Amended

4) Statutory Authority: Section 2310-195, Section 2310-610, and Section 2310-650 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-195, 2310/2310-610, and 2310/2310-650]

5) Effective Date of Rulemaking: April 16, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 16431; Oct. 14, 2011

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 Sections 956.10 and 956.20, "MR/DD Community Care Act" was changed to "ID/DD Community Care Act".

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

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of the Rulemaking: Under Part 956, the Department may require any facility licensed by the Department to implement an influenza vaccination program for its employees. When Part 956 was adopted in May, 2010, long-term care facilities licensed under the ID/DD Community Care Act [210 ILCS 47] were omitted from the health care settings covered by Part 956 and listed in Section 956.10 (Definitions), and the ID/DD Community Care Act was not listed in Section 956.20 (Referenced Materials).

This rulemaking fixes that omission, and also adds to those two Sections, respectively, facilities licensed under the Specialized Mental Health Rehabilitation Act [210 ILCS 48], and the Act itself, which was enacted by the General Assembly in 2011.

16) Information and questions regarding these adopted amendments 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 Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 956
HEALTH CARE EMPLOYEE VACCINATION CODE

Section
956.10 Definitions
956.20 Referenced Materials
956.30 Influenza Vaccination
956.APPENDIX A Sample Declination Form

AUTHORITY: Sections 2310-195, 2310-610 and 2310-650 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-195, 2310-610 and 2310-650].

SOURCE: Emergency rule adopted at 34 Ill. Reg. 996, effective December 29, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 7725, effective May 19, 2010; amended at 36 Ill. Reg. 6656, effective April 16, 2012.

Section 956.10 Definitions

The following terms shall have the meaning ascribed to them whenever the term is used in this Part:

Health care employee − All paid and unpaid persons working in health care settings who have the potential for exposure to infectious materials, including body substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air. Health care employees include, but are not limited to, physicians, nurses, nursing assistants, therapists, technicians, emergency medical services employees, pharmacists, laboratory employees, and persons not directly involved in patient care (e.g., clerical, dietary, housekeeping, maintenance and volunteers) but potentially exposed to infectious agents that can be transmitted to and from health care employees.

Health care setting –

A facility licensed under the Alternative Health Care Delivery Act;

An ambulatory surgical treatment center, as defined in the Ambulatory Surgical Treatment Center Act;

An assisted living facility, a shared housing establishment, or a board and care home, as defined in the Assisted Living and Shared Housing Act;

A community living facility, as defined in the Community Living Facilities Licensing Act;

A life care facility, as defined in the Life Care Facilities Act;

A long-term care facility, as defined in the Nursing Home Care Act;

A long-term care facility, as defined in the ID/DD Community Care Act;

A long-term care facility, as defined in the Specialized Mental Health Rehabilitation Act;

An EMS System, as defined in the Emergency Medical Services (EMS) Systems Act;.

A freestanding emergency center, licensed under the Emergency Medical Services (EMS) Systems Act;

A home health agency, home services agency or home nursing agency, as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act;

A hospice care program or voluntary hospice program, as defined in the Hospice Program Licensing Act;

An end stage renal disease facility, as defined in the End Stage Renal Disease Facility Act;

A supportive residence, as defined in the Supportive Residences Licensing Act;

A hospital, as defined in the Hospital Licensing Act;

The University of Illinois Hospital, Chicago, as defined in the University of Illinois Hospital Act.

Influenza − An acute infectious respiratory disease, caused by influenza viruses.

Vaccination − The act or practice of vaccinating; inoculation with vaccine.

(Source: Amended at 36 Ill. Reg. 6656, effective April 16, 2012)

Section 956.20 Referenced Materials

The following Illinois statutes are referenced in this Part:

a) Alternative Health Care Delivery Act [210 ILCS 3]

b) Ambulatory Surgical Treatment Center Act [210 ILCS 5]

c) Assisted Living and Shared Housing Act [210 ILCS 9]

d) Community Living Facilities Licensing Act [210 ILCS 35]

e) Life Care Facilities Act [210 ILCS 40]

f) Nursing Home Care Act [210 ILCS 45]

g) Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

h) Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]

i) Hospice Program Licensing Act [210 ILCS 60]

j) End Stage Renal Disease Facility Act [210 ILCS 62]

k) Supportive Residences Licensing Act [210 ILCS 65]

l) Hospital Licensing Act [210 ILCS 85]

m) University of Illinois Hospital Act [110 ILCS 330]

n) ID/DD Community Care Act [210 ILCS 47]

o) Specialized Mental Health Rehabilitation Act [210 ILCS 48]

(Source: Amended at 36 Ill. Reg. 6656, effective April 16, 2012)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3) Section Number: 130.552 — Adopted Action: Amendment

4) Statutory Authority: 35 ILCS 120/3 and 20 ILCS 2505/2505-795

5) Effective Date of Amendments: April 12, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 19649; December 9, 2011

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The only changes made were grammar and punctuation or technical in nature. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This rulemaking is adopted as part of an effort to eliminate the Department's telefile program. These rules previously required liquor retailers to file a monthly statement of liquor purchases on an ST-1 return that was telefiled. This amendment eliminates the requirement to telefile the ST-1 return and instead requires that liquor retailers filing their monthly statement of liquor purchases include this statement on an ST-1 return that is electronically filed. The rules specify that this change will be effective for returns due on and after February 1, 2012. The statute

mandating that liquor retailers file a monthly statement allows the Department to adopt rules requiring the statement to be filed either electronically or telephonically. Originally, the Department chose to require telephonic filing. However, the number of telephonic filers has dropped significantly, while the number of electronic filers has increased significantly. Due to these factors, as well as budgetary constraints, the Department has chosen to discontinue its telefile program. These rules implement that determination. The rules, provide, however, that a taxpayer may petition for a waiver of the electronic filing requirement. The Department has made this accommodation for taxpayers that demonstrate they do not have access to the Internet

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

Jerilynn Troxell-Gorden
Illinois Department of Revenue
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

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130.101 Character and Rate of Tax
130.105 Responsibility of Trustees, Receivers, Executors or Administrators
130.110 Occasional Sales
130.111 Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115 Habitual Sales
130.120 Nontaxable Transactions

SUBPART B: SALE AT RETAIL

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130.201 The Test of a Sale at Retail
130.205 Sales for Transfer Incident to Service
130.210 Sales of Tangible Personal Property to Purchasers for Resale
130.215 Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220 Sales to Lessors of Tangible Personal Property
130.225 Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

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130.305 Farm Machinery and Equipment
130.310 Food, Soft Drinks and Candy
130.311 Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321 Fuel Used by Air Common Carriers in International Flights
130.325 Graphic Arts Machinery and Equipment Exemption
130.330 Manufacturing Machinery and Equipment
130.331 Manufacturer's Purchase Credit
130.332 Automatic Vending Machines

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
130.340 Rolling Stock
130.341 Commercial Distribution Fee Sales Tax Exemption
130.345 Oil Field Exploration, Drilling and Production Equipment
130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
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SUBPART D: GROSS RECEIPTS

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130.420 Finance or Interest Charges – Penalties – Discounts
130.425 Traded-In Property
130.430 Deposit or Prepayment on Purchase Price
130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.450 Installation, Alteration and Special Service Charges
130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

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130.501 Monthly Tax Returns – When Due – Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540 Returns on a Transaction by Transaction Basis

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

130.545 Registrants Must File a Return for Every Return Period
130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552 Alcoholic Liquor Reporting
130.555 Vending Machine Information Returns
130.560 Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section
130.601 Preliminary Comments
130.605 Sales of Property Originating in Illinois
130.610 Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section
130.701 General Information on Obtaining a Certificate of Registration
130.705 Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710 Procedure When Security Must be Forfeited
130.715 Sub-Certificates of Registration
130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725 Display
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SUBPART J: BINDING OPINIONS

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SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

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130.1101 Definition of Federal Area
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SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

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130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

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130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
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SUBPART N: SALES FOR RESALE

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130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the

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SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

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SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

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130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

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130.1801 When Powers of Attorney May be Given
130.1805 Filing of Power of Attorney With Department
130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

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130.1901 Addition Agents to Plating Baths

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

130.1905	Agricultural Producers
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130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
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130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
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DEPARTMENT OF REVENUE

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130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
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SUBPART T: DIRECT PAYMENT PROGRAM

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130.2500 Direct Payment Program
130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
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130.2520 Qualification Process and Requirements
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130.ILLUSTRATION A Examples of Tax Exemption Card
130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration
130.ILLUSTRATION C Food Flow Chart

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July l, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June l, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July l, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective

November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196,

effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012.

SUBPART E: RETURNS

Section 130.552 Alcoholic Liquor Reporting

a) Retailer Liquor Report. *Beginning on October 1, 2003, any person that is engaged in the business of selling alcoholic liquor at retail* through a liquor store, tavern, or restaurant *shall file a monthly statement with the Department listing the total amount paid for alcoholic liquor purchased during the preceding calendar month.* The statement shall be filed on such person's Form ST-1, Sales and Use Tax Return, by including the total amount shown on invoices for alcoholic liquor delivered during the preceding calendar month. For returns due through January 31, 2012, the~~Such~~ Form ST-1 Return shall be filed using the Department's TeleFile program (86 Ill. Adm. Code 770). For returns due on and after February 1, 2012, the Form ST-1 Return shall be filed by electronic means under the Department's electronic filing program in accordance with regulations at 86 Ill.

Adm. Code 760.100. Upon petition by a taxpayer, the Department may waive the electronic filing requirement if the taxpayer attests that it does not have access to the Internet. *The requirements of this subsection (a) shall not apply to any person who is a licensed distributor, importing distributor, or manufacturer as those persons are described in Sections 1-3.08, 1-3.15, and 1-3.16 of the Liquor Control Act of 1934.* The requirements of this subsection (a) shall not apply to any person who is required to make quarter monthly payments on the 7th, 15th, 22nd, and last day of each month under Section 3 of the Retailers' Occupation Tax Act. [35 ILCS 120/3] For purposes of this subsection (a):

1) "Liquor store" means any legal entity that is operated primarily to sell alcoholic liquor at retail to the public. To meet the primary test, the selling price of all the alcoholic liquor sold during a calendar year must exceed 50% of the selling price of all retail sales for that calendar year.

2) "Tavern" means any legal entity that is operated to sell alcoholic liquor at retail to the public for on-premises consumption.

3) "Restaurant" means any legal entity that is operated to sell food and alcoholic liquor at retail to the public for on-premises consumption.

b) Distributor Liquor Reports.

1) *Beginning on October 1, 2003, every distributor, importing distributor, and manufacturer of alcoholic liquor, as those persons are described in Sections 1-3.08, 1-3.15, and 1-3.16 of the Liquor Control Act of 1934, shall file, in an electronic format prescribed by the Department, a statement with the Department of Revenue, no later than the 10th day of the month for the preceding month during which transactions occurred showing the total amount of gross receipts from the sale of alcoholic liquor sold or distributed during the preceding calendar month to purchasers; identifying the purchaser to whom it was sold or distributed; the purchaser's tax registration number; and such other information reasonably required by the Department.*

2) *The statement required to be filed with the Department under this subsection (b) shall be filed no later than the 10th day of the month for the preceding calendar month in an electronic format prescribed by the Department.* If the distributor, importing distributor, or manufacturer files

its Form RL-26, Liquor Revenue Return, electronically, the statement required to be filed under this subsection (b) may be filed in conjunction with the electronic filing of the Liquor Revenue Return no later than the 15th day of the month for the preceding calendar month. [35 ILCS 120/3]

3) *Every distributor, importing distributor, or manufacturer of alcoholic liquor must personally deliver, mail, or provide by electronic means to each retailer listed on the monthly statement described in this subsection (b) a retailer's purchase statement containing a cumulative total of that distributor's, importing distributor's, or manufacturer's total sales of alcoholic liquor to that retailer no later than the 10th day of the month for the preceding month during which those transactions occurred. For purposes of this subsection (b), the term "electronic means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile.* [35 ILCS 120/3] The distributor, importing distributor, or manufacturer shall notify each retailer as to the method by which the distributor, importing distributor, or manufacturer will provide the retailer's purchase statement by personally delivering a written notice or mailing a written notice to each retailer. The personal delivery or mailing of the notice may be made by including such information on an invoice provided by mail or in person to the retailer. The following methods may be used by the distributor, importing distributor, or manufacturer to provide retailer's purchase statements to retailers:

A)~~1)~~ mailing a copy of the retailer's purchase statement to each retailer;

B)~~2)~~ delivering a copy of the retailer's purchase statement to each retailer, or in lieu of delivering a copy of the statement, by listing a cumulative total of the sales made to that retailer within that calendar month on all invoices delivered to the retailer; or

C)~~3)~~ sending or allowing access to the retailer's purchase statement through electronic means, provided that, if a retailer is unable to receive the statement by electronic means, the retailer must provide a written notice, by mail or in person delivery, to the distributor, importing distributor, or manufacturer of alcoholic liquor, stating that the retailer is unable to receive the statement by electronic means. Beginning with the month following the receipt of such notification from the retailer, the distributor, importing distributor,

or manufacturer shall furnish the retailer's purchase statement to that retailer by personal delivery or by mail as described in subsections (b)(3)(A) and (B)~~(b)(1) and (2)~~.

(Source: Amended at 36 Ill. Reg. 6662, effective April 12, 2012)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Motor Fuel Tax

2) Code Citation: 86 Ill. Adm. Code 500

3)

Section Numbers:	Adopted Action:
500.100	Amendment
500.200	Amendment
500.201	Amendment
500.202	Amendment
500.204	Amendment
500.210	Amendment
500.230	Amendment
500.235	Amendment
500.265	Amendment
500.280	Amendment
500.285	Amendment
500.298	Amendment
500.300	Amendment
500.305	Amendment
500.310	Amendment
500.315	Amendment
500.320	Amendment
500.325	Amendment
500.330	Amendment
500.335	Amendment
500.355	Amendment
500.400	Amendment

4) Statutory Authority: 35 ILCS 505/14, 20 ILCS 2505/2505-20, PA 96-1384, PA 96-161, and Public Act 94-654

5) Effective Date of Amendments: April 12, 2012

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.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 19062; November 18, 2011

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The only changes made were grammar and punctuation or technical in nature. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This rulemaking makes numerous technical changes to the motor fuel regulations and also implements the provisions of various statutory changes. Technical changes include amendment of rules governing motor fuel tax licensing application procedures and requirements, and an explanation of the manner in which the Department establishes its "Part B" rate, including authorization for the Department to utilize data derived from independent surveys to determine the average selling price per gallon of motor fuel. Regulations governing the licensing process under the International Fuel Tax Agreement ("IFTA") are being updated, including the addition of provisions specifying the grounds for denial of IFTA license renewals. New provisions are also being added to clarify the types of Department actions that can be protested by IFTA licensees. The regulations are amended to reflect the provisions of Public Act 94-654, which added an exemption for undyed diesel fuel used by spotters and tugs used to move parcels on both airport and private property. The regulations are also amended to reflect the provisions of Public Act 96-161, which extended the sunset date for the Leaking Underground Storage Tank Tax and the Environmental Impact Fee to January 1, 2025.

These regulations also implement the provisions of Public Act 96-1384, which enacted a number of changes to the Motor Fuel Tax Law. Primary among those changes are the increase in cost of a single trip permit ("STP") to $40 for a period of 96 hours (previously $20 for 72 hours), and provisions allowing the temporary waiver of IFTA registration or purchase of STPs upon the determination by the Revenue Director that a disaster exists (this allows commercial motor vehicles to move quickly through the state in order to assist in critical disaster relief efforts). The amendments also change the definition of

"distributor" so that persons who export fuel from Illinois can obtain a license and thus make tax-free purchases of fuel. Prior to this change, such persons were not able to purchase motor fuel tax-free; as a result of "destination state" laws that required them to pay tax to the state where the fuel was destined to be used, they were required to pay tax to both Illinois and the export state. Later, such purchasers filed large refund claims with Illinois that drained the Department's limited refund pool. By allowing these purchasers to obtain licenses as distributors, the law affords such purchasers an easy method to avoid double tax up front. The bill also amends the definition of "base jurisdiction" for the IFTA program to include the United States of Mexico (this change is made to conform to the requirements of the IFTA). These regulations also implement provisions of Public Act 96-1384 that pertain to the dyed diesel program, including new provisions regarding accessibility restrictions for pumps that dispense tax-free dyed diesel fuel, and a reduction in the amount of the first offense civil penalty imposed on persons found to be operating motor vehicles with dyed diesel fuel in their tanks (was $2500; now $1000), as well as reduction in the amount of both the first and second offense civil penalty for persons selling or attempting to sell dyed diesel fuel for highway use (was $5000 and $10,000; now, $1000 and $5000). The manner in which these penalties are applied has also been clarified in these regulations. In addition, these regulations implement provisions of Public Act 96-1384 requiring that fire or police department reports be submitted with claims for refunds based upon the loss of motor fuel due to fire or theft, as well as provisions allowing refunds for decal fees.

Public Act 96-1384 also authorizes the Department to adopt rules requiring electronic filing of motor fuel taxes, returns and applications, as well as electronic payments of motor fuel taxes. These rules implement these requirements for motor fuel use taxes (the IFTA program; STPs).

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

Jerilynn Troxell Gorden
Illinois Department of Revenue
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 500
MOTOR FUEL TAX

SUBPART A: DEFINITIONS

Section
500.100 Definitions
500.101 Definition of Receiver (Repealed)
500.102 Definition of Loss (Repealed)
500.103 Basis and Rate of Tax Payable by Receivers (Recodified)
500.105 Monthly Returns (Recodified)
500.110 Report of Loss of Motor Fuel (Recodified)
500.115 Daily Gallonage Record (Recodified)
500.120 Licenses Are Not Transferable (Recodified)
500.125 Changes of Corporate Officers (Recodified)
500.130 Blenders' Permits Are Not Transferable (Recodified)
500.135 Vehicles of Distributors Transporting Petroleum Products (Recodified)
500.140 Other Vehicles (Recodified)
500.145 Cost of Collection – Determination (Recodified)
500.150 Cost of Collection – Books and Records (Repealed)
500.155 Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers (Recodified)
500.160 Claims for Refund – Original Invoices (Recodified)
500.165 Definition of Loss (Recodified)
500.170 Sales of Special Fuel – Variation in Usage (Recodified)
500.175 Special Motor Fuel Permits and Decals (Recodified)
500.180 Estimated Claims Not Acceptable (Recodified)
500.185 Claimants Owning Motor Vehicles (Recodified)
500.190 Detailed Answers (Recodified)
500.195 Revocation of License, Etc. – Notice – Hearing (Recodified)

SUBPART B: MOTOR FUEL TAX

Section
500.200 Basis and Rate of the Motor Fuel Tax
500.201 Licensure

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

500.202 Basis and Rate of Tax Payable by Receivers
500.203 Monthly Returns
500.204 Report of Loss of Motor Fuel
500.205 Daily Gallonage Record
500.206 Special Fuel Sold or Used for Non-Highway Purposes
500.210 Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers
500.215 Documentation of Tax-free Sales of Fuel Made by Licensed Receivers
500.220 Vehicles of Distributors Transporting Petroleum Products (Repealed)
500.225 Other Vehicles (Repealed)
500.230 Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers
500.235 Claims for Refund of Taxes and Motor Fuel Use Tax Decal Fees – Invoices
500.240 Sales of Special Fuel – Variation in Usage (Repealed)
500.245 Estimated Claims
500.250 Claimants Owning Motor Vehicles (Repealed)
500.255 Detailed Answers
500.260 Revocation of License, Etc. – Notice – Hearing
500.265 Distributors' and Suppliers' Claims for Credit or Refund
500.270 Receivers' Claims for Credit
500.275 Procedure When Tax-Paid Motor Fuel is Returned to Licensee for Credit
500.280 Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems
500.285 Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas
500.290 When Purchaser's License Number With Department on Invoices Covering Sales of Special Fuel is Required (Repealed)
500.295 Cost of Collection – Determination (Repealed)
500.297 Protest Procedures for Certain Penalties
500.298 Civil Penalties for Dyed Diesel Fuel Violations

SUBPART C: MOTOR FUEL USE TAX

Section
500.300 Licensure – Temporary Waiver upon Determination of Disaster
500.301 Special Motor Fuel Permits and Decals (Repealed)
500.302 Motor Carrier's Quarterly Report (Repealed)
500.305 Licenses and Decals
500.310 Display of License and Decals

500.315 Renewal of Decals and Licenses
500.320 Single Trip Permits
500.325 Licensure of Lessors and Lessees
500.330 Cancellation of License
500.335 Quarterly Payment and Reporting
500.340 Credits and Refunds
500.345 Records Requirements
500.350 Revocation
500.355 IFTA Protest Procedures
500.360 Audits

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section
500.400 General Information
500.405 Due Date That Falls on Saturday, Sunday or a Holiday

SUBPART E: GENERAL REQUIREMENTS APPLICABLE TO ALL LICENSES AND PERMITS ISSUED UNDER THE MOTOR FUEL TAX LAW

Section
500.500 Licenses and Permits Are Not Transferable
500.501 Blenders' Permits Are Not Transferable (Repealed)
500.505 Changes of Corporate Officers

SUBPART F: INCORPORATION BY REFERENCE OF RETAILERS' OCCUPATION TAX

Section
500.600 Incorporation of the Retailers' Occupation Tax Regulations by Reference

AUTHORITY: Implementing the Motor Fuel Tax Law [35 ILCS 505] and authorized by Section 2505-20 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-20].

SOURCE: Adopted July 3, 1931; amended at 2 Ill. Reg. 1, p. 97, effective December 31, 1978; amended at 3 Ill. Reg. 13, p. 98, effective March 25, 1979; amended at 4 Ill. Reg. 28, p. 568, effective June 1, 1980; codified at 8 Ill. Reg. 8612; amended at 10 Ill. Reg. 4540, effective February 28, 1986; amended at 11 Ill. Reg. 10295, effective May 18, 1987; emergency amendment at 13 Ill. Reg. 13271, effective August 7, 1989, for a maximum of 150 days; emergency expired January 4, 1990; amended at 14 Ill. Reg. 6826, effective April 19, 1990;

amended at 15 Ill. Reg. 6305, effective April 16, 1991; amended at 15 Ill. Reg. 13538, effective August 30, 1991; recodified at 18 Ill. Reg. 4451; amended at 19 Ill. Reg. 3008, effective February 28, 1995; amended at 19 Ill. Reg. 17195, effective December 18, 1995; amended at 20 Ill. Reg. 10168, effective July 16, 1996; amended at 22 Ill. Reg. 2253, effective January 9, 1998; amended at 22 Ill. Reg. 14917, effective August 3, 1998; amended at 22 Ill. Reg. 16322, effective August 25, 1998; amended at 22 Ill. Reg. 20299, effective December 1, 1998; emergency amendment at 24 Ill. Reg. 880, effective January 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6918, effective April 21, 2000; amended at 24 Ill. Reg. 17826, effective November 28, 2000; amended at 26 Ill. Reg. 9912, effective June 24, 2002; amended at 27 Ill. Reg. 7870, effective April 21, 2003; emergency amendment at 27 Ill. Reg. 10547, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; amended at 28 Ill. Reg. 3921, effective February 13, 2004; amended at 32 Ill. Reg. 7134, effective April 21, 2008; amended at 36 Ill. Reg. 6677, effective April 12, 2012.

SUBPART A: DEFINITIONS

Section 500.100 Definitions

For purposes of this Part, the following definitions apply:

"Base Jurisdiction" means the jurisdiction where commercial motor vehicles are based for vehicle registration purposes and:

Where the operational control and operational records of the licensee's commercial motor vehicles are maintained or can be made available; and

Where some travel is accrued by commercial motor vehicles within the fleet.

"Blender" *means any person who engages in the practice of blending.* (Section 1.6 of the Law)

"Blending" *means the mixing together by any process whatsoever, of any one or more products with other products, and regardless of the original character of the products so blended, provided the resultant product so obtained is suitable or practicable for use as a motor fuel, except such blending as may occur in the process known as refining by the original refiner of crude petroleum, and except, also, the blending of products known as lubricating oil in the production of lubricating oils and greases and except, also, the dyeing of special fuel as*

required by Section 4d of the Law. (Section 1.5 of the Law)

"Commercial Motor Vehicle" means *a motor vehicle used, designed, or maintained for the transportation of persons or property and either having 2 axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,793 kilograms, or having 3 or more axles regardless of weight, or that is used in combination, when the weight of the combination exceeds 26,000 pounds or 11,793 kilograms gross vehicle weight.* For purposes of administration of the Motor Fuel Use Tax imposed by Section 13a of the Law, this term does not include motor vehicles operated by the State of Illinois or the United States, recreational vehicles, school buses and commercial motor vehicles operated solely within Illinois for which all motor fuel is purchased within this State. (Section 1.16 of the Law)

"Designated inspection site" *means any State highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Department to be used as a fuel inspection site. A designated inspection site will be identified as a fuel inspection site.* (Section 1.26 of the Law)

"Diesel fuel" means *any ~~petroleum~~ product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark.* (Section 2(b) of the Law)

"Distributor" *means a person who (i) produces, refines, blends, compounds or manufactures motor fuel in this State, or (ii) transports motor fuel into this State, or (iii) exports motor fuel out of this State, or (iv) who is engaged in this State in the distribution of motor fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he* or she *has active bulk storage capacity of not less than 30,000 gallons for gasoline as defined in Section 5(A) of the Law.* (Section 1.2 of the Law)

"Dyed diesel fuel" *means special fuel, as defined in Section 1.13 of the Law, dyed in accordance with Section 4d of the Law.* (Section 1.13B of the Law)

"Export" means the transportation of reportable motor fuel or fuel, by any vessel, from Illinois, when the~~such~~ motor fuel or fuel comes to rest in a different state, whether or not in the original vessel used to transport the motor fuel or fuel. Motor fuel or fuel delivered to a different state, by or on behalf of the seller,

constitutes an export by the seller. Motor fuel or fuel delivered to a different state, by or on behalf of the purchaser, constitutes an export by the purchaser. The exporter of the~~such~~ motor fuel or fuel is subject to the reporting and licensing requirements of the origin and destination states.

"Fuel" means *all liquids defined as "motor fuel"* and aviation fuels and kerosene, but excluding liquified petroleum gases. (Section 1.19 of the Law)

"Import" means the transportation of reportable motor fuel or fuel, by any vessel, into Illinois, when the~~such~~ motor fuel or fuel comes to rest in Illinois, whether or not in the original vessel used to transport the motor fuel or fuel. Motor fuel or fuel delivered into Illinois, from a different state, by or on behalf of the seller, constitutes an import by the seller. Motor fuel or fuel delivered into Illinois, from a different state, by or on behalf of the purchaser, constitutes an import by the purchaser. The importer of the~~such~~ motor fuel or fuel is subject to the reporting and licensing requirements of the origin and destination states.

"International Fuel Tax Agreement" or ~~(~~"IFTA"~~)~~ means the multijurisdictional International Fuel Tax Agreement ratified by Congress, the provisions of which were imposed upon States pursuant to Public Law 102-240, which mandates that no State shall establish, maintain or enforce any law or regulation that~~which~~ has fuel use tax reporting requirements not in conformity with the International Fuel Tax Agreement.

"Jurisdiction" is a state of the United States, the District of Columbia, a state of the United Mexican States, or a province or Territory of Canada.

"Kerosene-type jet fuel" *means any jet fuel as described in ASTM specification D 1655 and military specifications MIL-T-5624R and MIL-T-83133D (Grades JP-5 and JP-8).* (Section 1.25 of the Law)

"Law" means the Motor Fuel Tax Law [35 ILCS 505].

"Leasing" means the giving of possession and control of a vehicle for valuable consideration for a specified period of time.

"Loss" means, for purposes related to claims for refund, the reduction of motor fuel resulting from spillage, spoilage, leakage, theft, destruction by fire or any other provable cause, but does not include a reduction resulting from evaporation

or shrinkage due to temperature variations.

"Motor fuel" *means all volatile and inflammable liquids produced, blended or compounded for the purpose of, or which are suitable or practicable for, the propulsion of motor vehicles. Among other things, "motor fuel" includes "special fuel."* (Section 1.1 of the Law)

"Person" *means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, or any city, town, county or other political subdivision in this State. When used in these rules to prescribe or impose a fine or imprisonment or both, the term as applied to partnerships and associations shall mean the partners or members thereof; as applied to limited liability companies, the term means managers, members, agents or employees of the limited liability company; and as applied to corporations, the term shall mean the officers, agents, or employees thereof who are responsible for any violation of the Act.* (Section 1.11 of the Law)

"Power take-off equipment" *means any accessory that is mounted onto or designed as an integral part of a transmission of a motor vehicle that is registered for highway purposes whereby the accessory allows power to be transferred outside the transmission to a shaft or driveline and the power is used for a purpose other than propelling the motor vehicle.* (Section 1.27 of the Law)

"Premises" *means any location where original records are kept; where tank cars, ships, barges, tank trucks, tank wagons, or other types of transportation equipment are used to distribute fuel or motor fuel; or where containers, storage tanks, or other facilities are used to store or distribute fuel or motor fuel.* (Section 1.24 of the Law)

"Receiver" *means a person who either produces, refines, blends, compounds or manufactures fuel in this State, or transports fuel into this State or receives fuel transported to him* or her *from without the State or exports fuel out of this State, or who is engaged in the distribution of fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he* or she *has active fuel bulk storage capacity of not less than 30,000 gallons.* (Section 1.20 of the Law)

"Records" means all data maintained by the taxpayer, including data on paper, microfilm, microfiche or any type of machine-sensible data compilation.

"Recreational vehicle" means vehicles, such as motor homes, pickup trucks with attached campers, camping or travel trailers, van or truck campers, mini motor homes, or buses, used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

"Research and development" *means basic and applied research in the engineering, designing, development, or testing of prototypes or new products. "Research and development" does not include manufacturing quality control, any product testing by consumers, market research, sales promotion, sales service, or other non-technological activities or technical services.* (Section 1.29 of the Law)

"Revocation" means the withdrawal of license and privileges.

"Semitrailer" *means every vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.* (Section 1.28 of the Law)

"Special fuel" means *all volatile and inflammable liquids capable of being used for the generation of power in an internal combustion engine except that it does not include gasoline as defined in Section 5(A) of the Law, or combustible gases as defined in Section 5(B) of the Law. "Special fuel" includes "diesel fuel." All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of the Law.* (Section 1.13 of the Law)

"Supplier" *means any person other than a licensed distributor who (i) transports special fuel into this State; or (ii) exports special fuel out of this State; or (iii) engages in the distribution of special fuel primarily by tank car or tank truck, or both, and who operates an Illinois bulk plant where he* or she *has active bulk storage capacity of not less than 30,000 gallons for special fuel as defined in Section 1.13 of the Law.* (Section 1.14 of the Law)

"Terminal rack" *means a mechanism for dispensing motor fuel or fuel from refinery, terminal, or bulk plant into a transport truck, railroad tank car, or other means of transportation.* (Section 1.23 of the Law)

"Total distance" for purposes of the motor fuel use tax means all miles traveled

during the reporting period by every commercial motor vehicle in the licensee's fleet, regardless of whether the miles are considered taxable or nontaxable by a jurisdiction.

"Weight" for purposes of the motor fuel use tax means the maximum weight of the loaded vehicle or combination of vehicles during the registration period.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

SUBPART B: MOTOR FUEL TAX

Section 500.200 Basis and Rate of the Motor Fuel Tax

a) *The Motor Fuel Tax is imposed "on the privilege of operating motor vehicles upon the public highways, including toll roads, and recreational-type watercraft upon the waters of this State".*

1) *Motor fuel used in such motor vehicles upon public highways and in such recreational watercraft on such waters is taxed according to the following rate schedule:*

Tax Period	*Rate*
Until August 1, 1983	*7½¢ per gallon*
From August 1, 1983 through June 30, 1984	*11¢ per gallon*
From July 1, 1984 through June 30, 1985	*12¢ per gallon*
From July 1, 1985 through June 30, 1989	*13¢ per gallon*
From August 1, 1989 through December 31, 1989	*16¢ per gallon*
From January 1, 1990 and thereafter	*19¢ per gallon*

2) *The tax on the privilege of operating motor vehicles which use diesel fuel shall be the rate according to subsection (a) plus an additional 2½~~2 1/2~~ cents per gallon. This rate is as follows:*

Tax Period	*Rate*
Until August 1, 1983	*7½¢ per gallon*
From August 1, 1983 through June 30, 1984	*13½¢ per gallon*

From July 1, 1984 through June 30, 1985	*14½¢ per gallon*
From July 1, 1985 through July 31, 1989	*15½¢ per gallon*
From August 1, 1989 through December 31,1989	*18½¢ per gallon*
From January 1, 1990 and thereafter	*21½¢ per gallon*

b) *The Motor Fuel Use Tax is imposed "upon the use of motor fuel upon highways (including toll ways of this State) by commercial motor vehicles". The tax on such motor fuel shall be comprised of two parts:*

1) *A tax at the rate established in subsections (a)(1) and (a)(2)~~ above~~; and*

2) *A rate ~~"~~established by the Department as of January 1 of each year using the average "selling price", as defined in the Retailers' Occupation Tax Act, per gallon of motor fuel sold in this State during the previous 12 months and multiplying it by 6.25% to determine the cents per gallon rate.~~"~~.* (Section 13a(2) of the ~~Motor Fuel Tax~~ Law ~~[35 ILCS 505]~~). The Department may use data derived from independent surveys conducted or accumulated by third parties to determine the average selling price per gallon of motor fuel. Third parties include, but are not limited to, commercial entities that collect data (available by contract or at no cost) regarding the selling price of motor fuel sold in this State on a per gallon basis.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.201 Licensure

a) *No person shall act as a distributor, supplier, or receiver in Illinois without first applying for and obtaining a license from the Department. The application shall be signed and verified by the applicant, and shall contain information required by the Department.* Applications must be signed by, and contain the home address of, each officer, partner or owner of the entity seeking licensure. In the case of a corporate applicant, the application shall be signed by at least one corporate officer and shall contain the home address and Social Security Number of all corporate officers. In the case of a Limited Liability Company, the application shall be signed by at least one member or manager and shall contain the home address and Social Security Number of all managers and members.~~In the case of corporate applicants, the application shall be signed by a corporate officer or~~

~~officers.~~ Applications may not be signed by reporting services or other persons responsible for reporting a licensee's tax obligations under a power of attorney, notwithstanding a properly executed power of attorney. The application shall also contain an acceptance of responsibility signed by the person or persons who will be responsible for filing returns and payment of taxes due under the law. No license shall be granted unless the application contains the name and home address of the person or persons who will be responsible for filing returns and payment of taxes due under the Law. *An applicant shall also file with the Department a bond on a form to be approved by and with a surety or sureties satisfactory to the Department.*

b) *A license shall not be granted, nor shall any license be maintained, for any supplier or distributor whose principal place of business is in a state other than Illinois, unless such person is licensed for motor fuel distribution or export in the state in which the principal place of business is located and such person is not in default to that state for any monies due for the sale, distribution, export or use of motor fuel.* (Section 3, 3a, 3b and 3c of the Law) Applicants whose principal place of business is outside of Illinois and who are not required to be licensed by the state in which their principal place of business is located shall not be granted any license, nor shall any license be maintained, if they are in default to that state for any monies due for the use of motor fuel.

c) *A license shall not be issued to any person who fails to file a return, or to pay the tax, penalty or interest for a filed return, or to pay any final assessment of tax, penalty or interest, as required by the Law, or as required by any other tax Act administered by the Department.* [20 ILCS 2505/39b47]

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.202 Basis and Rate of Tax Payable by Receivers

a) *Except as hereinafter provided, on and after January 1, 1990 and before January 1, 2025~~2013~~, a tax of three-tenths of a cent per gallon is imposed upon the privilege of being a receiver in this State of fuel for sale or use.*

b) *The tax shall be paid by the receiver in this State who first sells or uses fuel. In the case of a sale, the tax shall be stated as a separate item on the invoice.*

c) *For the purpose of the tax imposed by this Section, being a receiver of "motor*

fuel" as defined by Section 1.1 of the Act, and aviation fuels, home heating oil and kerosene, but excluding liquified petroleum gases, is subject to tax without regard to whether the fuel is intended to be used for operation of motor vehicles on the public highways and waters. However, no such tax shall be imposed upon the importation or receipt of aviation fuels and kerosene at airports with over 300,000 operations per year, for years prior to 1991, and over 170,000 operations per year beginning in 1991, located in a city of more than 1,000,000 inhabitants for sale to or use by holders of Certificates of Public Convenience and Necessity or foreign air carrier permits, issued by the United States Department of Transportation, and their air carrier affiliates, or upon the importation or receipt of aviation fuels and kerosene at facilities owned or leased by those certificate or permit holders and used in their activities at an airport described above. In addition, no such tax shall be imposed upon the importation or receipt of diesel fuel sold to or used by a rail carrier, registered pursuant to Section 18c-7201 of the Illinois Vehicle Code or otherwise recognized by the Illinois Commerce Commission as a rail carrier, to the extent used directly in railroad operations. In addition, no such tax shall be imposed when the sale is made with delivery to a purchaser outside the State or when the sale is made to a person holding a valid license as a receiver. In addition, no tax shall be imposed upon diesel fuel consumed or used in the operation of ships, barges, or vessels, that are used primarily in or for the transportation of property in interstate commerce for hire on rivers bordering on this State, if the diesel fuel is delivered by a licensed receiver to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river. A specific notation thereof shall be made on the invoices or sales slips covering each sale. (Section 2a of the Law)

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.204 Report of Loss of Motor Fuel

a) All licensed suppliers, distributors, and receivers are required to report all losses of motor fuel sustained by them on account of fire, theft, spillage, spoilage, leakage or any other provable cause when filing the return for the period during which the~~such~~ loss occurred in order that the Department may make such investigation as it may deem necessary.

b) The mere making of such a report does not assure the allowance of the~~such~~ loss as a credit on account of tax liability with respect to the~~such~~ loss, but failure to report the~~such~~ losses promptly may result in the refusal of the Department to

allow credit on account of tax liability with respect to ~~such~~ a loss.

~~e)~~ ~~Before July 1, 2001, *losses of fuel as the result of evaporation or shrinkage due to temperature variations may not exceed one percent of the total gallons in storage at the beginning of the month, plus the receipts of gallonage during the month, minus the gallonage remaining in storage at the end of the month. Any loss reported that is in excess of one percent shall be subject to the tax imposed by* Section 2 or Section 2a of the Law and the fee imposed by Section 310 of the Environmental Impact Fee Law. (Sections 2b, 5, and 5a of the Law)~~

c~~d~~) *On and after July 1, 2001, for each 6-month period January through June, net losses of fuel (for each category of fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each January, plus the receipts of gallonage each January through June, minus the gallonage remaining in storage at the end of each June. On and after July 1, 2001, for each 6-month period July through December, net losses of fuel (for each category of fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each July, plus the receipts of gallonage each July through December, minus the gallonage remaining in storage at the end of each December. Any net loss reported that is in excess of this amount shall be subject to the tax imposed by Section 2 or 2a of the Law and the fee imposed by Section 310 of the Environmental Impact Fee Law. "Net loss" means the number of gallons gained through temperature variations minus the number of gallons lost through temperature variations or evaporation for each of the respective 6-month periods.* (Sections 2b, 5, and 5a of the Law)

d) Distributors or suppliers reporting loss due to fire or theft must include fire department or police department reports with their returns.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.210 Documentation of Tax-free Sales of Motor Fuel Made by Licensed Distributors and Suppliers

a) A distributor or supplier may make tax free sales of motor fuel, with respect to which he or she is otherwise required to collect tax, only as specified in subsections (b) through (i).~~Sales of motor fuel made to licensed distributors or~~

~~suppliers. A specific notation of the nature of the exemption must be made on the invoice for these sales. Also, the seller must retain the invoice number and date, name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination, purchaser's license number, and invoiced gallons sold.~~

b) Sales of motor fuel delivered to points outside Illinois. The seller must retain the invoice date and number, name of carrier, bill of lading/manifest number, purchaser's name and address, Illinois origin, destination location, and invoiced gallons.

c) Sales of motor fuel to the Federal government or its instrumentalities. The seller shall retain the invoice number and date, name of carrier, bill of lading/manifest number, name of purchaser, Illinois origin, Illinois destination, and invoiced gallons.

d) Sales of motor fuel to a municipal corporation owning and operating a local transportation system for public service in Illinois. The seller shall retain the invoice date and number, name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination and invoiced gallons. In addition, the seller shall include with his or her return a Certificate of Exemption, in the form required by Section 500.280 of this Part, for each ~~such~~ sale.

e) Sales of motor fuel to a privately owned public utility owning and operating 2-axle vehicles designed and used for transporting more than 7 passengers, for the operation of vehicles that~~which~~ are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or any group of municipalities or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission. The seller shall retain the invoice date and number, name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination and invoiced gallons. In addition, the seller shall include with his or her return a Certificate of Exemption, in the form required by Section 500.285 of this Part, for each ~~such~~ sale.

f) Sales of gasoline for aviation purposes. A Seller shall retain the invoice date and number, name of carrier, bill of lading/manifest number, name of purchaser,

Illinois origin, Illinois destination, and invoiced gallons. He or she must also include a "Certificate of Gas Sold For Propulsion of Aircraft" with his or her return to document this type of exemption.

g) Sales to persons other than licensed distributors or suppliers

1) Sales of dyed~~special~~ fuel sold to persons other than licensed distributors or licensed suppliers for non-highway purposes only when:

A) *The fuel is delivered from a vehicle designed for the specific purpose of such sales and delivered directly into a stationary bulk storage tank that displays the notice required by Section 4f of the Act;*

B) *The fuel is delivered from a vehicle designed for the specific purpose of such sales and delivered directly into the fuel supply tanks of non-highway vehicles that are not required to be registered for highway use; or*

C) *The fuel is dispensed from a dyed diesel fuel dispensing facility that has withdrawal facilities that are not readily accessible to and are not capable of dispensing dyed diesel fuel into the fuel supply tank of a motor vehicle.*

2) *For purposes of this subsection (g), a dyed diesel fuel dispensing facility is considered to have withdrawal facilities that are "not readily accessible to, and not capable of dispensing dyed diesel fuel into, the fuel supply tank of a motor vehicle" only when the dyed diesel fuel is delivered from:*

A) *A dispenser hose that is short enough that it will not reach the fuel supply tank of a motor vehicle; or*

B) *A dispenser that is enclosed by a fence or other physical barrier so that a vehicle cannot pull alongside the dispenser to permit fueling.* (Section 6 of the Law)

3) For each sale of dyed diesel fuel described in this subsection (g), a~~A~~ specific notation of the nature of the exemption must be made on the invoice for these sales. The seller must retain the invoice number and date,

name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination, and invoiced gallons sold (see 86 Ill. Adm. Code 130.815). A legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable Use Only, Penalty For Taxable Use" must appear on all shipping papers (including delivery tickets or manifests and excluding material safety data sheets), bills of lading, and invoices accompanying any sale of dyed diesel fuel.

h) Sales of 1-K kerosene delivered into a storage tank located at a facility that has withdrawal facilities that~~which~~ are readily accessible to, and are capable of dispensing 1-K kerosene into the fuel supply tanks of, motor vehicles are taxable. *For purposes of the exemption described in this subsection (h), a facility is considered to have withdrawal facilities that are not "readily accessible to and capable of dispensing 1-K kerosene into the fuel supply tanks of motor vehicles" only when the 1-K kerosene is delivered from:*

1) *a dispenser hose that is short enough that it will not reach the fuel supply tank of a motor vehicle; or*

2) *a dispenser that is enclosed by a fence or other physical barrier so that a vehicle cannot pull alongside the dispenser to permit fueling.* (Section 2 of the Law)

i) Sales of motor fuel made to licensed distributors or suppliers. A specific notation of the nature of the exemption must be made on the invoice for these sales. Also, the seller must retain the invoice number and date, name of carrier, bill of lading/manifest number, name and address of purchaser, Illinois origin, Illinois destination, purchaser's license number, and invoiced gallons sold.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.230 Motor Fuel Consumed by Distributors, Special Fuel Consumed by Suppliers and Fuel Consumed by Receivers

a) Distributors are required to pay the tax on all motor fuel (of the type they are required by the second paragraph of Section 5 of the Motor Fuel Tax Law to report to the Department when filing a return), except dyed diesel fuel used by ~~such~~ distributors for non-highway purposes, used or consumed by them, whether for taxable or nontaxable purposes. If the motor fuel is consumed for statutory

nontaxable purposes, a claim for credit or refund may thereafter be filed as provided by the Motor Fuel Tax Law and on the form prescribed by the Department for that purpose.

b) Suppliers are required to pay the tax on all special fuel, except dyed diesel fuel used by the~~such~~ suppliers for non-highway purposes, used or consumed by them, whether for taxable or nontaxable purposes. If the special fuel is consumed for statutory nontaxable purposes, a claim for credit or refund may thereafter be filed as provided by the Motor Fuel Tax Law and on the form prescribed by the Department for that purpose.

c) Receivers are required to pay tax on all fuel, as defined by Section 1.19 of the Motor Fuel Tax Law, used or consumed by them.

d) In addition to the daily gallonage requirements of Section 500.205, distributors, suppliers~~,~~ and receivers~~, and bulk users~~ are required to keep detailed records of all motor fuel and fuel withdrawn from storage facilities for highway and nonhighway use by the distributor, supplier~~,~~ and receiver~~ and bulk user~~. This information must contain the following information:

1) Date of withdrawal.

2) Number of gallons by fuel type.

3) Description of vehicle or equipment into which the fuel or motor fuel was delivered.

4) Unit number, license plate number, or vehicle identification number (VIN) of the vehicle or equipment.

5) Detailed description of the purpose for which the fuel or motor fuel was used.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.235 Claims for Refund of Taxes and Motor Fuel Use Tax Decal Fees – Invoices

a) Claims for the refund of Motor Fuel Tax imposed by Section 2 of the Law, by persons other than a distributor or supplier, shall be made to the Department of

Revenue, duly verified by the claimant, upon forms prescribed by the Department. The Department of Revenue will not approve claims for refund of Motor Fuel Tax unless the~~such~~ claims can be directly supported by invoices, sales slips, statements of account, or monthly statements (herein referred to as "purchase documentation"). Reproductions may be submitted in lieu of originals, provided they are legible. However, the Department may require original purchase documentation to verify purchases. Purchase documentation may be electronically generated by the claimant's fuel supplier. Electronically generated purchase documentation shall meet all applicable electronic storage requirements of Sections 130.805 and 130.825 of the Retailers' Occupation Tax regulations (86 Ill. Adm. Code 130). Manifests will not be treated as purchase documentation.

b) All purchase documentation must contain the following information:

1) Date of delivery;

2) name and address of purchaser (which must be the name of the claimant);

3) name and address of seller;

4) number of gallons purchased and price per gallon;

5) Illinois Motor Fuel Tax as separate item if the purchase documentation is from other than a retail outlet; ~~and~~

6) receipt of payment. (Only paid purchase documentation is acceptable in connection with claims for refund.) Refunds will only be issued when payment of tax is exactly correlated to the purchase documentation for which the claim is being filed; and~~.~~

7) *persons making claims based upon the loss of motor fuel due to fire or theft must include fire department or police department reports with their claim.* (Section 13 of the Law) Failure to include these reports will result in automatic denial of the claim.

c) Claimants must retain purchase documentation in conjunction with claims based upon motor fuel used for a nontaxable purpose. In making a claim, claimants must show total purchases, deducting the gallonage used upon public highways or waters, the difference being the net amount upon which the claim is based.

Claimants must retain among their books and records documentation of all purchases, payments, bulk storage withdrawals and proof of usage for a period equivalent to that during which an assessment can be issued under the Law, from the date of issuance of the claim or refund. This information must be made available to Department employees upon request. Failure to keep or provide the~~such~~ records will result in denial of claims and recovery of any claims paid. In addition, the Department may recover any claims erroneously paid.

d) When~~Where~~ the claimant has lost purchase documentation through inadvertence or an act of God, the Department will permit the claimant to submit an affidavit in lieu of ~~such~~ purchase documentation in support of the claim, if the affidavit contains the same information that~~which~~ the purchase documentation was required to contain, plus a statement of facts explaining the loss of the purchase documentation and justifying the substitution of an affidavit for the purchase documentation.

e) ~~Claims for full reimbursement for taxes paid on or before December 31, 1999 on motor fuel must be filed not later than one year after the date on which the tax was paid by the claimant. If, however, a claim for such reimbursement otherwise meeting the requirements of the Law is filed more than one year but less than 2 years after that date, the claimant shall be reimbursed at the rate of 80% of the amount to which he would have been entitled if his claim had been timely filed.~~ Claims for ~~full~~ reimbursement for taxes paid ~~on or after January 1, 2000~~ must be filed not later than 2 years after the date on which the tax was paid by the claimant.

f) Claims accompanied by purchase documentation that demonstrates~~which demonstrate~~ evidence of change of name, date or gallonage or other evidence of fraud, or that~~which~~ is illegible, will be disallowed in their entirety.

g) *Any person who purchases motor fuel in Illinois and uses that motor fuel in another state and that other state imposes a tax on the use of such motor fuel shall be reimbursed and repaid the amount of Illinois tax paid on the motor fuel used in such other state. Reimbursement and repayment shall be made by the Department upon receipt of adequate proof of taxes directly paid to another state and the amount of motor fuel used in that state. Evidence supporting the claim must include both a certified copy of the tax return filed with such other state by the claimant and a copy of either the cancelled check paying the tax due on such return, or a receipt acknowledging payment of the tax due on such tax return.*

The provisions of this subsection (g) *shall not apply to taxes paid on returns under Section 13a.3 of the Law.* (Section 13 of the Law) ~~Any person who purchases motor fuel in Illinois and uses that motor fuel in another state and that other state imposes a tax on the use of such motor fuel shall be reimbursed and repaid the amount of Illinois tax paid on the motor fuel used in such other state. Reimbursement and repayment shall be made by the Department upon receipt of adequate proof of taxes paid to another state and the amount of motor fuel used in that state. Evidence supporting the claim must include both a copy of the tax return filed with such other state and a copy of the cancelled check or a receipt acknowledging payment of the tax due on said tax return.~~

h) *Claims for refunds for the motor fuel tax imposed by Section 2 of the Law approved by the Department shall be paid within 90 days after receipt of a complete and correct application for such a refund. If refunds are paid after the expiration of the 90 day period, the Department shall also pay from the Motor Fuel Tax Fund to the taxpayer interest at the rate and in the manner set by the Uniform Penalty and Interest Act* [35 ILCS 753]~~[35 ILCS 505/15.1]~~. (Section 15.1 of the Law) Refunds paid after the expiration of the 90 day period shall bear interest from the date that a properly completed claim for refund was filed with the Department.

i) The Department will approve claims for refund only when the ~~such~~ claims are based upon a showing that the~~such~~ motor fuel was used for a nontaxable purpose, and that the part for which refund is claimed can, as a practical matter, be calculated and itemized. When the~~such~~ claims are estimated or calculated, they must be supported by verifiable documentation retained in the claimant's books and records. Only claims that can be supported by proof of the amount of motor fuel not used for a taxable purpose will be approved.

~~j)~~ ~~*For claims based upon taxes paid on or before December 31, 2000, no claim based upon the use of undyed diesel fuel shall be allowed except for:*~~

~~1)~~ ~~*Undyed diesel fuel used in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use or for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing*~~

~~*takes place on private property.*~~

~~2)~~ ~~*Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29, of machinery or equipment intended for manufacture.*~~

~~3)~~ ~~*Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.*~~

~~4)~~ ~~*Undyed diesel fuel used by a commercial motor vehicle, as defined in Section 500.100 of this Part, for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to the nonhighway portion of the fuel used.*~~ ~~For instance, such claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and on landfills in landfill operations. This subsection (j)(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim is described in subsection (j)(7).~~

~~5)~~ ~~*Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.*~~

~~6)~~ ~~*Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units.*~~

~~7)~~ ~~*Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of the Law.*~~ ~~Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amount of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of this amount. Such approved studies shall be valid~~

~~for 2 years after the date of approval.~~

~~8)~~ ~~*Undyed diesel fuel used by unlicensed commercial vehicles, as defined in Section 1-111.8 of the Illinois Vehicle Code, operating exclusively on private property*. (Section 13 of the Law) Such claims are subject to a maximum of 100% of the fuel consumed by such commercial vehicles.~~

~~9)~~ ~~*Undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-111.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highway. Claims shall be limited to commercial vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways*. (Section 13 of the Law) Such claims must be based upon actual consumption of undyed diesel fuel. The following are identified uses subject to refund and are the maximum amounts of undyed diesel fuel that may be claimed for refund by commercial vehicles operating in such a dual capacity:~~

~~Use~~	~~Maximum~~
~~Application of dry fertilizer, liquid fertilizer, pesticides, or herbicides by a commercial vehicle that is either licensed for highway use or is not required to be licensed under Section 3-809(c) of the Illinois Vehicle Code and is designed or adapted and used for the bulk spreading of agricultural chemicals~~	~~Limestone .20 gallon per ton applied~~ ~~Phosphate 1 gallon per ton applied~~ ~~Dry fertilizer 2 gallons per ton applied~~ ~~Liquid mixed fertilizer 1 gallon per ton applied~~ ~~Liquid nitrate fertilizer 1 gallon per ton applied~~ ~~Anhydrous ammonia 2 gallons per acre of application~~ ~~NH_3 liquid/dry fertilizer 1 gallon per acre of application~~ ~~Pesticides/herbicides .13 gallon per acre of application~~
~~Commercial vehicles utilizing power take-off equipment (including concrete mixing vehicles and solid waste compacting vehicles)~~	~~25% of the fuel consumed~~
~~Commercial vehicle with~~	~~100% of the fuel consumed by the~~

~~permanently mounted refrigeration units that refrigerate cargo and have a dedicated fuel supply system separate from the commercial vehicle's fuel supply tank~~	~~refrigeration units~~
~~Custom work maintenance by commercial vehicles~~	~~Moldboard plowing 8 gallons per acre~~ ~~Chisel plowing 6 gallons per acre~~ ~~Discing 3 gallons per acre~~ ~~Chopping stalks 3 gallons per acre~~ ~~Pasture reseeding 3 gallons per acre~~ ~~Bluegrass sowing 3 gallons per acre~~ ~~Combining 5 gallons per acre Bushhogging 5 gallons per acre Planting 2 gallons per acre Replanting 2 gallons per acre Mowing 1 gallon per acre~~
~~Cultivation maintenance by commercial vehicles~~	~~Corn 12 gallons per acre cultivated~~ ~~Soybeans 10 gallons per acre cultivated~~ ~~Small grain 3 gallons per acre cultivated~~ ~~Hay 10 gallons per acre cultivated~~ ~~Corn silage 20 gallons per acre cultivated~~
~~Livestock maintenance by commercial vehicles~~	~~Swine .3 gallon per animal raised to market~~ ~~Sheep .45 gallon per animal raised to market~~ ~~Beef cattle 1.3 gallons per animal raised to market~~ ~~Dairy cattle 1 gallon per animal raised to market~~ ~~Poultry .054 gallon per bird raised to market~~

~~A claimant who has a commercial vehicle that is operated for both highway purposes and any purposes other than operating such vehicles upon the public highways that is not included in the above table shall submit a specific study that has been conducted by such claimant and approved by the Department prior to submission of the claim. The above amounts are the maximum amounts allowed unless the claimant submits a~~

~~specific study conducted by the claimant and approved by the Department for claims in excess of these amounts. Such approved studies shall be valid for 2 years from the date of approval.~~

j~~k~~) *No ~~For claims based upon taxes paid on or after January 1, 2001, no~~ claim based upon the use of undyed diesel fuel shall be allowed except for claims for the following:*

1) *Undyed diesel fuel used: in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use; or for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.*

2) *Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29 of the Law, of machinery or equipment intended for manufacture.*

3) *Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.*

4) *Undyed diesel fuel used by a commercial motor vehicle, as defined in Section 500.100 of this Part, for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to the nonhighway portion of the fuel used.* For instance, the~~such~~ claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and also on landfills in landfill operations. This subsection (j~~k~~)(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim is described in subsection (j~~k~~)(7).

5) *Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.*

6) *Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units.*

7) *Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of the Law.* Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amount of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of this amount. Approved~~Such approved~~ studies shall be valid for 2 years after the date of approval.

8) Claims for taxes paid on and after January 1, 2001 are not~~no longer~~ authorized for commercial vehicles unless the commercial vehicle falls within the definition of a "commercial motor vehicle", as provided in Section 500.100 of this Part and the claim is eligible for refund under subsection (j~~k~~)(4), or the claim is eligible for refund under any of the other provisions of this subsection (j~~k~~).

9) *Beginning on August 22, 2005, undyed diesel fuel used by tugs and spotter equipment to shift vehicles or parcels on both private and airport property. Any claim under this* subsection (j)*(9) may be made only by a claimant that owns tugs and spotter equipment and operates that equipment on both private and airport property. The aggregate of all credits or refunds resulting from claims filed under this* subsection (j)*(9) by a claimant in any calendar year may not exceed $100,000. A claim may not be made under this* subsection (j)*(9) by the same claimant more often than once each quarter. For purposes of this* subsection (j)*(9), "tug" means a vehicle designed for use on airport property that shifts custom-designed containers of parcels from loading docks to aircraft, and "spotter equipment" means a vehicle designed for use on both private and airport property that shifts trailers containing parcels between staging areas and loading docks.* (Section 13 of the Law) ~~Claims for taxes paid on~~

~~and after January 1, 2001 are no longer authorized for undyed diesel fuel used by unlicensed commercial vehicles operating exclusively on private property, unless such vehicles are eligible for refund under any of the provisions of this subsection (k).~~

k~~l~~) Effective July 1, 2001, *any person who has paid the tax imposed by Section 2 of the Law upon undyed diesel fuel that is unintentionally mixed with dyed diesel fuel and who owns or controls the mixture of undyed diesel fuel and dyed diesel fuel may file a claim for refund to recover the amount paid. The amount of undyed diesel fuel unintentionally mixed must equal 500 gallons or more. Any claim for refund of unintentionally mixed undyed diesel fuel and dyed diesel fuel shall be supported by documentation showing the date and location of the unintentional mixing, the number of gallons involved, the disposition of the mixed diesel fuel, and any other information that the Department may reasonably require. Any unintentional mixture of undyed diesel fuel and dyed diesel fuel shall be sold or used only for nonhighway purposes.* (Section 13 of the Law)

l) *Any person who purchases motor fuel use tax decals as required by Section 13a.4 of the Law and pays an amount of fees for such decals that exceeds the amount due shall be reimbursed and repaid the amount of the decal fees that are deemed by the Department to be in excess of the amount due. Claims for reimbursement of decal fees are subject to the following procedures and restrictions:*

1) *Claims for reimbursement shall be made upon forms prescribed by the Department and be duly verified by the claimant (or by the claimant's legal representative if the claimant has died or become a person under legal disability);*

2) *Claims shall state facts relating to the overpayment of decal fees;*

3) *Claims for reimbursement of overpayment of decal fees paid on or after January 1, 2011 must be filed not later than one year after the date on which the fees were paid by the claimant;*

4) *If it is determined that the Department should reimburse a claimant for overpayment of decal fees, the Department shall first apply the amount of such refund against any tax or penalty or interest due by the claimant under Section 13a of the Law.* (Section 13 of the Law)

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.265 Distributors' and Suppliers' Claims for Credit or Refund

a) Filing of Claims. Any distributor or supplier who shall have paid Motor Fuel Tax upon motor fuel used by the~~such~~ distributor or supplier for any purpose other than operating a motor vehicle upon the public highways or waters, may file a claim for credit or refund to recover the amount so paid. The~~Such~~ claims shall be filed on forms prescribed by the Department. The~~Such~~ claims shall be made to the Department, duly verified by the claimant (or by the claimant's legal representative if the claimant shall have died or become a person under legal disability). The claim shall state such facts relating to the purchase, importation, manufacture or production of the motor fuel by the claimant as the Department may deem necessary and shall state when the nontaxable use occurred and shall specify the purpose for which the~~such~~ motor fuel was used by the claimant, together with such other information as the Department may reasonably require. Claims for credit or refund for tax paid on motor fuel purchased on or after July 1, 1965, must be filed not later than one year after the date on which tax was paid by the claimant. In case the distributor or supplier requests and the Department determines that the claimant is entitled to a refund, the~~such~~ refund shall be made only from such appropriation as may be available for that purpose. If it appears unlikely that the amount appropriated would permit everyone having a claim allowed during the period covered by the~~such~~ appropriation to elect to receive a cash refund, the Department shall provide for the payment of refunds in hardship cases as provided in 86 Ill. Adm. Code 130.1510.

b) The Department will approve claims for refund only when the~~such~~ claims are based upon a showing that the~~such~~ motor fuel was used for a nontaxable purpose, and that the part for which refund is claimed can, as a practical matter, be calculated and itemized. When the~~such~~ claims are estimated or calculated, they must be supported by verifiable documentation retained in the claimant's books and records. Only claims that can be supported by proof of the amount of motor fuel not used for a taxable purpose will be approved.

~~c)~~ ~~*For claims based upon taxes paid on or before December 31, 2000, no claim based upon the use of undyed diesel fuel shall be allowed except for claims for the following:*~~

~~1)~~ ~~*Undyed diesel fuel used: in a manufacturing process, as defined in Section*~~

~~*2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use; or for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.*~~

~~2)~~ ~~*Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29 of the Law, of machinery or equipment intended for manufacture.*~~

~~3)~~ ~~*Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.*~~

~~4)~~ ~~*Undyed diesel fuel used by a commercial motor vehicle, as defined in Section 500.100 of this Part, for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to the nonhighway portion of the fuel used.* For instance, such claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and on landfills in landfill operations. This subsection (c)(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim is described in subsection (c)(7).~~

~~5)~~ ~~*Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.*~~

~~6)~~ ~~*Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units.*~~

~~7)~~ ~~*Undyed diesel fuel used by power take-off equipment as defined in Section*~~

~~*1.27 of the Law*. Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amount of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of this amount. Such approved studies shall be valid for 2 years from the date of approval.~~

~~8) *Undyed diesel fuel used by unlicensed commercial vehicles operating exclusively on private property*. Such claims are subject to a maximum of 100% of the fuel consumed by such commercial vehicles.~~

~~9) *Undyed diesel fuel used by a commercial vehicle, as that term is defined in Section 1-111.8 of the Illinois Vehicle Code, for any purpose other than operating the commercial vehicle upon the public highway. Claims shall be limited to commercial vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways.* (Section 13 of the Law) Such claims must be based upon actual consumption of undyed diesel fuel. The following are identified uses subject to refund and are the maximum amounts of undyed diesel fuel that may be claimed for refund by commercial vehicles operating in such a dual capacity:~~

~~Use~~	~~Maximum~~
~~Application of dry fertilizer, liquid fertilizer, pesticides, or herbicides by a commercial vehicle that is either licensed for highway use or is not required to be licensed under Section 3-809(c) of the Illinois Vehicle Code and is designed or adapted and used for the bulk spreading of agricultural chemicals~~	~~Limestone .20 gallon per ton applied~~ ~~Phosphate 1 gallon per ton applied~~ ~~Dry fertilizer 2 gallons per ton applied~~ ~~Liquid mixed fertilizer 1 gallon per ton applied~~ ~~Liquid nitrate fertilizer 1 gallon per ton applied~~ ~~Anhydrous ammonia 2 gallons per acre of application~~ ~~NH_3 liquid/dry fertilizer 1 gallon per acre of application~~ ~~Pesticides/herbicides .13 gallon per acre of application~~
~~Commercial vehicles utilizing power take-off equipment (including~~	~~25% of the fuel consumed~~

~~concrete mixing vehicles and solid waste compacting vehicles)~~	
~~Commercial vehicle with permanently mounted refrigeration units that refrigerate cargo and have a dedicated fuel supply system separate from the commercial vehicle's fuel supply tank~~	~~100% of the fuel consumed by the refrigeration units~~
~~Custom work maintenance by commercial vehicles~~	~~Moldboard plowing 8 gallons per acre~~ ~~Chisel plowing 6 gallons per acre~~ ~~Discing 3 gallons per acre~~ ~~Chopping stalks 3 gallons per acre~~ ~~Pasture reseeding 3 gallons per acre~~ ~~Bluegrass sowing 3 gallons per acre~~ ~~Combining 5 gallons per acre~~ ~~Bushhogging 5 gallons per acre~~ ~~Planting 2 gallons per acre~~ ~~Replanting 2 gallons per acre~~ ~~Mowing 1 gallon per acre~~
~~Cultivation maintenance by commercial vehicles~~	~~Corn 12 gallons per acre cultivated~~ ~~Soybeans 10 gallons per acre cultivated~~ ~~Small grain 3 gallons per acre cultivated~~ ~~Hay 10 gallons per acre cultivated~~ ~~Corn silage 20 gallons per acre cultivated~~
~~Livestock maintenance by commercial vehicles~~	~~Swine .3 gallon per animal raised to market~~ ~~Sheep .45 gallon per animal raised to market~~ ~~Beef cattle 1.3 gallons per animal raised to market~~ ~~Dairy cattle 1 gallon per animal raised to market~~ ~~Poultry .054 gallon per bird raised to~~

~~market~~

~~A claimant who has a commercial vehicle that is operated for both highway purposes and any purpose other than operating such vehicles upon the public highways that is not included in the above table shall submit a specific study that has been conducted by such claimant and approved by the Department prior to submission of the claim. The above amounts are the maximum amounts allowed unless the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of these amounts. Such approved studies shall be valid for 2 years from the date of approval.~~

c~~d~~) *For claims based upon taxes paid on or after January 1, 2001, no claim based upon the use of undyed diesel fuel shall be allowed except for claims for the following:*

1) *Undyed diesel fuel used: in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the undyed diesel fuel becomes a component part of a product or byproduct, other than fuel or motor fuel, when the use of dyed diesel fuel in that manufacturing process results in a product that is unsuitable for its intended use; or for testing machinery and equipment in a manufacturing process, as defined in Section 2-45 of the Retailers' Occupation Tax Act, wherein the testing takes place on private property.*

2) *Undyed diesel fuel used by a manufacturer on private property in the research and development, as defined in Section 1.29 of the Law, of machinery or equipment intended for manufacture.*

3) *Undyed diesel fuel used by a single unit self-propelled agricultural fertilizer implement, designed for on and off road use, equipped with flotation tires and specially adapted for the application of plant food materials or agricultural chemicals.*

4) *Undyed diesel fuel used by a commercial motor vehicle for any purpose other than operating the commercial motor vehicle upon the public highways. Claims shall be limited to commercial motor vehicles that are operated for both highway purposes and any purposes other than operating such vehicles upon the public highways and shall be limited to*

the nonhighway portion of the fuel used. For instance, such claims include, but are not limited to, commercial motor vehicles such as 3-axle dump trucks operated both on public highways and on landfills in landfill operations. This subsection (c~~d~~)(4) does not include claims filed for undyed diesel fuel used by power take-off equipment. This type of claim is described in subsection (c~~d~~)(7).

5) *Undyed diesel fuel used by a unit of local government in its operation of an airport if the undyed diesel fuel is used directly in airport operations on airport property.*

6) *Undyed diesel fuel used by refrigeration units that are permanently mounted to a semitrailer, as defined in Section 1.28 of the Law, wherein the refrigeration units have a fuel supply system dedicated solely for the operation of the refrigeration units.* Claims may be made for 100% of the fuel consumed by the refrigeration units.

7) *Undyed diesel fuel used by power take-off equipment as defined in Section 1.27 of the Law.* (Section 13 of the Law) Claims shall be based upon actual consumption of undyed diesel fuel. The maximum amounts of undyed diesel fuel that may be claimed for refund under this Section, however, is 25% of the fuel consumed, unless prior to submission of the claim the claimant submits a specific study conducted by the claimant and approved by the Department for claims in excess of this amount. Approved~~Such approved~~ studies shall be valid for 2 years after the date of approval.

8) *Beginning on August 22, 2005, undyed diesel fuel used by tugs and spotter equipment to shift vehicles or parcels on both private and airport property. Any claim under* this subsection (c)(8) *may be made only by a claimant that owns tugs and spotter equipment and operates that equipment on both private and airport property. The aggregate of all credits or refunds resulting from claims filed under this* subsection (c)(8) *by a claimant in any calendar year may not exceed $100,000. A claim may not be made under this* subsection (c)(8) *by the same claimant more often than once each quarter. For purposes of this* subsection (c)(8), *"tug" means a vehicle designed for use on airport property that shifts custom-designed containers of parcels from loading docks to aircraft, and "spotter equipment" means a vehicle designed for use on both private and*

airport property that shifts trailers containing parcels between staging areas and loading docks. (Section 13 of the Law)

9~~8~~) Claims for taxes paid on and after January 1, 2001 are not~~no longer~~ authorized for commercial vehicles unless the commercial vehicle falls within the definition of a "commercial motor vehicle" as provided in Section 500.100 of this Part and the claim is eligible for refund under subsection (c~~d~~)(4), or the claim is eligible for refund under any of the other provisions of this subsection (c~~d~~).

10~~9~~) Claims for taxes paid on and after January 1, 2001 are not~~no longer~~ authorized for undyed diesel fuel used by unlicensed commercial vehicles operating exclusively on private property, unless the~~such~~ vehicles are eligible for refund under any of the provisions of this subsection (c~~d~~).

d~~e~~) *Effective July 1, 2001, any person who has paid the tax imposed by Section 2 of the Law upon undyed diesel fuel that is unintentionally mixed with dyed diesel fuel and who owns or controls the mixture of undyed diesel fuel and dyed diesel fuel may file a claim for refund to recover the amount paid. The amount of undyed diesel fuel unintentionally mixed must equal 500 gallons or more. Any claim for refund of unintentionally mixed undyed diesel fuel and dyed diesel fuel shall be supported by documentation showing the date and location of the unintentional mixing, the number of gallons involved, the disposition of the mixed diesel fuel, and any other information that the Department may reasonably require. Any unintentional mixture of undyed diesel fuel and dyed diesel fuel shall be sold or used only for nonhighway purposes.* (Section 13 of the Law)

e~~f~~) Issuance of Credit Memoranda – Use Thereof to Satisfy Prior Rights of Department. The Department may make such investigation of the correctness of the facts stated in the~~such~~ claims for credit or refund as it deems necessary. When the Department approves a claim for credit or refund the Department shall issue a refund or credit memorandum to the distributor or supplier who made the payment for which the refund or credit is being given or, in the event that the~~such~~ distributors or suppliers shall have died or become incompetent, to the~~such~~ distributor's or supplier's legal representative, as such. The amount of the~~such~~ refund or credit memorandum shall first be credited against any tax due or to become due under the Law from the distributor or supplier who made the payment for which credit has been given. This means that if there is an established or admitted unpaid Motor Fuel Tax liability on the part of the

claimant, the amount of the credit or refund will be credited against the tax that is due. If the credit or refund is in an amount less than that of the unpaid liability, the credit or refund shall be applied against the~~such~~ liability. If the amount of the credit or refund exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out the~~such~~ unpaid liability, the Department will issue a new credit memorandum or refund representing the difference between that of the original credit or refund found to be due and that of the liability liquidated or paid as aforesaid, and such new credit memorandum or refund will be delivered to the person entitled to receive the delivery, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Law. If a proceeding to establish such an unpaid liability is pending, the credit memorandum or refund will be held by the Department until the~~such~~ proceeding is concluded; and if the~~such~~ proceeding results in a determination that Motor Fuel Tax is due from the claimant, the credit memorandum or refund will be applied by the Department, to the extent that~~which~~ may be necessary, in liquidation of the~~such~~ liability, and the balance of the credit memorandum or refund, if any (after cancellation of the credit memorandum or refund applied in liquidation of said liability), will be issued in the form of a new credit memorandum or refund and delivered to the person entitled to receive the delivery~~ thereof~~.

f~~g~~) Disposition of Credit Memoranda by Holder Thereof

1) Assignment of Credit Memoranda. Credit memoranda may be assigned or transferred only after a request for that purpose is filed with the Department upon forms prescribed and furnished by it, and subject to the following conditions:

A) That the assignment is made to a person who is licensed as a distributor of motor fuel or a supplier of special fuel under the Law;

B) that there is no proceeding pending to establish an unpaid Motor Fuel Tax liability against the assignor; and

C) that there is no established or admitted unpaid Motor Fuel Tax liability against the assignor; provided, that if the amount of the credit memorandum must first be applied, in whole or in part, against an unpaid liability of the claimant-assignor, notice to this effect will be given the claimant-assignor by the Department. If

any balance is due the~~such~~ claimant-assignor, after application of the credit memorandum in the manner and to the purposes aforesaid, the~~such~~ balance may be assigned upon receipt by the Department of instructions to that effect. If there is no unpaid liability and no proceedings pending to determine a liability as aforesaid, and if the assignee is a licensed distributor of motor fuel, the request for leave to assign will be approved. The original credit memorandum will be cancelled, and a new credit memorandum will be issued to the assignee in the amount shown on the cancelled memorandum. However, before a credit memorandum is issued to the assignee, the amount of the~~such~~ credit will be applied, to the extent that may be necessary, in liquidation of any unpaid Motor Fuel Tax liability of the assignee, and a credit memorandum for the balance, if any, will be issued to the assignee, provided that there is no proceeding pending against the assignee to establish an unpaid Motor Fuel Tax liability against him or her. If a proceeding to establish such an unpaid liability is pending, the credit memorandum will be held by the Department until the~~such~~ proceeding is concluded; and if the~~such~~ proceeding results in a determination that Motor Fuel Tax is due from the assignee, the credit will be applied by the Department, to the extent that~~which~~ may be necessary in liquidation of the~~such~~ liability, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of said liability), will be issued in the form of a new credit memorandum and delivered to the person entitled to receive the delivery~~ thereof~~.

2) Submission of Credit Memoranda With Monthly Returns. Credit memoranda, in the hands either of the original claimant or of his or her assignee, may be submitted to the Department, along with monthly tax returns, in payment of Motor Fuel Tax due from the holder of the~~such~~ credit memoranda. If, after applying any such credit memorandum against the amount of tax shown to be due by the tax return with which the credit memorandum is submitted, the Department finds that there is a balance of the credit memorandum in favor of the distributor or supplier submitting the credit memorandum, the Department will cancel the credit memorandum that has been submitted and will issue and deliver to the~~such~~ distributor or supplier a new credit memorandum for the~~such~~ balance. This process will be followed until the credit, to which the~~such~~

distributor or supplier is entitled, is exhausted. However, any new credit memorandum, which is issued as provided in this subsection (f)(2)~~paragraph~~ for a balance of credit due the distributor or supplier after applying the amount of a credit memorandum to the payment of current taxes, is subject to the prior rights of the Department to the same extent that such prior rights take precedence when a credit memorandum is first issued (see subsection (e~~f~~) of this Section) or when leave to assign a credit memorandum is requested (see subsection (f~~g~~)(1) of this Section).

g~~h~~) Refunds to Distributors and Suppliers. If any distributor or supplier ceases to be licensed as a distributor or supplier while still holding an unused credit memorandum, the~~such~~ distributor or supplier may, at his or her election (instead of assigning the credit memorandum to another licensed distributor or supplier under the Law), surrender the~~such~~ unused credit memorandum to the Department and receive a refund in lieu of the credit~~thereof~~.

h~~i~~) *Claims filed under this Section for overpayment of the Motor Fuel Tax imposed by Section 2 of the Law shall bear interest at the rate and in the manner specified in the Uniform Penalty and Interest Act. Claims made under this Section that are based upon motor fuel used for any purpose other than operating a motor vehicle upon the public highways or waters shall be paid within 90 days after receipt of a complete and correct application for credit. If credits based upon motor fuel used for any purpose other than operating a motor vehicle upon the public highways or waters are issued after expiration of the 90 day period, the Department shall include interest at the rate and in the manner set by the Uniform Penalty and Interest Act* [35 ILCS 735]. (Section 13 of the Law) Refunds paid after the expiration of the 90 day period shall bear interest from the date that a properly completed claim for refund was filed with the Department.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.280 Sales of Motor Fuel to Municipal Corporations Owning and Operating Local Transportation Systems

A distributor of motor fuel or a supplier of special fuel may make tax-free sales of the special fuel~~thereof~~ to a municipal corporation owning and operating a local transportation system for public service in the State for use in operating vehicles used for public transportation as part of the local transportation system, provided that the distributor or supplier obtains an official Certificate of Exemption in lieu of the tax. The ~~Such~~ Certificate of Exemption shall accompany

the distributor's or supplier's monthly Motor Fuel Tax return to the Department to support his or her claim to exemption from the tax. The ~~Such~~ Certificate of Exemption shall be in substantially the following form:

"This is to certify that _____(Name of Municipal Corporation)_____ of _____, Illinois, a municipal corporation which owns and operates a local transportation system for public service in Illinois, purchased _____ gallons of motor fuel, Illinois Motor Fuel Tax exempt, from _____(Name of Distributor Supplier)_____ whose address is _____ on Invoice No _____ dated _____, and said motor fuel is for use in operating vehicles used for public transportation as part of the ~~said~~ local transportation system.

_____
Name of Municipal Corporation

_____
Name of Authorized Representative

_____
Title of Authorized Representative

Dated: _____, 20~~19~~ _____"

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.285 Sales of Motor Fuel to Certain Privately-Owned Public Utilities Owning and Operating Transportation Systems in Metropolitan Areas

a) A distributor of motor fuel or a supplier of special fuel may make tax-free sales of the special fuel~~thereof~~ to a privately-owned public utility that~~which~~ owns and operates 2 axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities, or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission, provided that the distributor or supplier obtains an official Certificate of Exemption in lieu of the tax. Motor fuel may be sold tax-free only for the purpose

of operating the 2-axle vehicles as common carriers in general transportation of passengers entirely within the territorial limits of a single municipality, any group of contiguous municipalities, or a close radius of either.

b) The ~~Such~~ Certificate of Exemption shall accompany the distributor's or supplier's monthly Motor Fuel Tax return to the Department to support his or her claim to exemption from the tax.

c) The ~~Such~~ Certificate of Exemption shall be in substantially the following form:

"This is to certify that _____(Purchasing Bus Company)_____ of _____, Illinois, a privately owned public utility which owns and operates 2 axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities, or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission, purchased ____ gallons of motor fuel, Illinois Motor Fuel Tax exempt, from ____(Name of Distributor or Supplier)_____ whose address is _____ on Invoice No _____ dated _____, and said motor fuel is for use in operating such local transportation system under the limitations specified hereinabove.

_____
Name of Purchasing Bus Company

_____
Name of Authorized Representative

_____
Title of Authorized Representative

Dated: _____ , 20~~19~~ ___"

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.298 Civil Penalties for Dyed Diesel Fuel Violations

a) Definitions. For purposes of this Section, the following definitions apply:

"Inspection" means the periodic examination by duly authorized agents of the Department of places at which motor fuel is or may be produced or stored. Such places may include, but are not limited to, any terminal, any fuel storage facility that is not a terminal, any retail fuel facility, and any State highway inspection station, weigh station, agricultural inspection station, mobile station, or other location designated by the Department to be used as a fuel inspection site. Inspection of multiple locations may be conducted as part of one inspection. When one inspection spans multiple sites, the inspection may occur over a period of up to 15 days.

"Occurrence" means each event that results in a violation. As noted in subsections (c) and (d), an occurrence may encompass a series of similar violations occurring during an inspection (e.g., multiple violations of notice requirements). However, a separate occurrence results each time a violation of subsection (b) ~~or (e)~~ is found. For purposes of the penalty imposed under subsection (e), a first occurrence results for any amount of sales or attempted sales made to a specific customer during the course of a single day. A second and subsequent occurrence results for each day subsequent to the first occurrence in which any amount of sales or attempted sales are made to that same customer.

"Operator" means the person who has physical control over a motor vehicle. For purposes of this Section, the driver of a vehicle is considered the operator of that vehicle irrespective of any ownership or lease agreements. When a motor vehicle is not under the control of a driver, the operator will be the person that has physical control over that vehicle. For instance, if a truck parked on company property is found to have dyed diesel fuel in its tanks, a penalty will be issued to the company. If, however, the company has leased that truck to a lessee and the lease remains in effect at the time an inspection occurs on the company property, the lessee will be the operator to whom a penalty is issued. In the latter case, the lessee is the party having physical control over the leased vehicle, until such time as the lease has terminated.

b) From January 1, 2000 through June 30, 2001*, if a licensed motor vehicle is found to have dyed diesel fuel within the ordinary fuel tanks attached to the motor vehicle, the operator shall pay a penalty of $2500 for the first occurrence and $5000 for the second occurrence and each occurrence thereafter*. On and after

July 1, 2001, ~~*these penalties will be imposed*~~ *when a motor vehicle required to be registered for highway purposes is found to have dyed diesel fuel within the ordinary fuel tanks attached to the motor vehicle*, *the operator shall pay a penalty of $2500 for the first occurrence and $5000 for the second occurrence and each occurrence thereafter*. On~~In addition, on~~ and after August 2, 2001, *if a recreational-type watercraft is found to have dyed diesel fuel within the ordinary fuel tanks attached to the watercraft, the operator shall pay a penalty of $2500 for the first occurrence and $5000 for the second occurrence and each occurrence thereafter*. (Section 15 of the Law)~~[35 ILCS 505/15]~~. The first occurrence penalty imposed by this subsection (b) on and after July 29, 2010 shall be $1,000. Each licensed motor vehicle or recreational-type watercraft found to have dyed diesel fuel in its tanks constitutes a separate occurrence.

EXAMPLE 1: A truck is inspected at a designated inspection site and dyed diesel fuel is found in the ordinary fuel tank of the truck (owned by the ABC Company). The truck driver tells Department agents that his or her boss, Mr. ABC, tells employees to fill ABC Company trucks with dyed diesel fuel. The truck driver tells the agents that there are other trucks located at the ABC Company with dyed diesel fuel in the ordinary fuel tanks attached to the~~such~~ trucks. Department agents then go to the ABC Company and conduct an inspection. Agents find 2 vehicles registered to the ABC Company with dyed diesel fuel in the ordinary fuel tanks of the vehicles.

In this example, there are 3 separate occurrences. The truck driver is assessed a ~~$2500~~ first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the truck. The driver is the operator who had physical control over the truck when dyed diesel fuel was found in the tanks. The ABC Company is assessed a ~~$2500~~ first occurrence penalty for the first licensed motor vehicle inspected at the business found with dyed diesel fuel in the ordinary fuel tank attached to the motor vehicle. The company is also assessed a $5000 second~~$2500 first~~ occurrence penalty for the second licensed motor vehicle inspected at the business found with dyed diesel fuel in the ordinary tank attached to the motor vehicle. The ABC Company is the person who has physical control over the trucks at the time of inspection.

EXAMPLE 2: Truck driver #1 was previously issued a ~~$2500~~ first occurrence penalty when he or she was found operating an ABC Company

truck with dyed diesel in its tanks. Truck driver #1 returns this truck to the ABC Company. Several months later, agents inspect the ABC Company. The same truck previously driven by truck driver #1 is found to have dyed diesel fuel in its tanks. At a later inspection, truck driver #2 is found to be operating the same truck with dyed diesel in its tanks. In addition, truck driver #1 was found to be operating a truck with dyed diesel in its tanks. Six months after its first inspection, ABC Company acquires 5 new trucks. During the course of an inspection, all 5 of the new trucks are found to have dyed diesel in their tanks.

The ABC Company is issued a ~~$2500~~ first occurrence penalty for the truck discovered during the agent's first inspection at ABC Company. The ABC Company is the person who has physical control over the truck at the time of inspection. ~~Truck driver #2 subsequently is found operating the same truck with diesel in its tanks~~. Truck driver #2 is issued a ~~$2500~~ first occurrence penalty. Truck driver #2 is the person who has physical control over the truck at the time of inspection. Truck driver #1 is issued a $5000 second occurrence penalty because he or she has physical control over the truck at the time of inspection and it is the second time he or she has committed a violation of subsection (b) of this Section.~~Company ABC acquires 5 new trucks a year later. During the course of an inspection, all 5 of the new trucks are found to have dyed diesel in their tanks.~~ Company ABC is issued a separate $5000 second occurrence penalty for each of the 5 new trucks because the company has physical control over each of these trucks, and each truck represents a second and subsequent violation of subsection (b) of this Section.

EXAMPLE 3: The owner of XYZ Company is driving a truck that is inspected and found to have dyed diesel fuel in the ordinary fuel tank attached to the truck. Several hours later, a second truck owned by XYZ Company and driven by an employee is inspected. It, too, is found to have dyed diesel fuel in the ordinary tank attached to the truck.

In this example, there are 2 separate occurrences. The owner of Company XYZ driving the truck is assessed a ~~$2500~~ first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the truck, and the employee of Company XYZ driving the second truck is assessed a ~~$2500~~ first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the truck. The owner and employee are each persons

who have physical control over the trucks, and as such, are operators subject to first occurrence penalties.

EXAMPLE 4: Robert Andrew takes his family water skiing on Fox Lake. The boat is stopped for a routine inspection and dyed diesel fuel is found in the boat's fuel tanks.

Mr. Andrew is assessed a ~~$2500~~ first occurrence penalty for dyed diesel fuel found in the ordinary fuel tank attached to the watercraft. Mr. Andrew's ski boat is a recreational-type watercraft required to use clear diesel fuel. Dyed diesel fuel may be placed in the tanks of commercial watercraft, however, without penalty. For example, tugboats or commercial fishing boats found to have dyed diesel fuel in their tanks will not be subject to the penalty imposed in this subsection (b).

c) *Any person who owns, operates, or controls any container, storage tank, or facility used to store or distribute dyed diesel fuel without the notice required by Section 4f of the Motor Fuel Tax Law shall pay a penalty of $500 for the first occurrence and $1000 for the second occurrence and each occurrence thereafter.* [35 ILCS 505/15] Section 4f requires that a legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable Use Only" appear on all containers, storage tanks, or facilities used to store or distribute dyed diesel fuel. For purposes of this penalty, a series of similar violations occurring during the course of one inspection constitutes a single occurrence.

EXAMPLE 1: A licensed motor fuel distributor has 5 bulk storage tanks of dyed diesel fuel. During an inspection, agents find that none of the 5 tanks are marked with the required dyed diesel fuel notice.

In this example, the distributor is assessed a first occurrence penalty of $500 for all 5 storage tanks found without the required notice. This series of similar violations results in one first occurrence penalty.

EXAMPLE 2: In the course of an inspection of a licensed motor fuel distributor with multiple locations, a motor fuel distributor is found to have 5 unmarked tanks at the first location, 3 unmarked tanks at the second location, and one unmarked tank at the third location. For purposes of this penalty, the violations found at the first, second and third location are considered a single occurrence spanning multiple locations during one

inspection. However, if a subsequent inspection revealed that his or her storage tanks did not contain the required notice, the distributor would be assessed a second occurrence penalty of $1000. These violations would be considered to have occurred during a separate inspection.

d) *Any person who sells or transports dyed diesel fuel without the notice required by Section 4e shall pay a penalty of $500 for the first occurrence and $1000 for the second occurrence and each occurrence thereafter.* (Section 15 of the Law) ~~[35 ILCS 505/15]~~ *A legible and conspicuous notice stating "Dyed Diesel Fuel, Non-taxable Use Only, Penalty for Taxable Use" must appear on all bills of lading and invoices accompanying any sale of dyed diesel fuel.* (Section 4e of the Law) ~~[35 ILCS 505/4e]~~

EXAMPLE 1: A licensed motor fuel distributor is inspected at one of its 3 locations. Three dyed diesel fuel sales invoices are found without the required dyed diesel fuel notice. During the course of a week-long inspection, agents examine invoices at the other 2 bulk plants of this distributor. At the second location, no violations are found, and at the third location, none of the diesel fuel sales invoices contain the required dyed diesel fuel notice.

In this~~the above~~ example, the licensed motor fuel distributor is assessed a first occurrence penalty of $500 for all invoices found at the first and third locations without the required notice. The unmarked invoices found at these locations constitute a single occurrence spanning multiple locations during one inspection. However, if a subsequent inspection revealed that his or her invoices did not contain the required notice, the licensed motor fuel distributor would be assessed a second occurrence penalty of $1000.

e) *Any licensed motor fuel distributor or licensed supplier who sells or attempts to sell dyed diesel fuel for highway use shall pay a penalty of $5000 for the first occurrence and a $10,000 penalty for the second occurrence and each occurrence thereafter. In addition, on and after August 2, 2001, any licensed motor fuel distributor or licensed supplier who sells or attempts to sell dyed diesel fuel for use by recreational-type watercraft on the waters of this State shall pay a penalty of $5000 for the first occurrence and a $10,000 penalty for the second occurrence and each occurrence thereafter. The penalties imposed under* this subsection (e) *on and after July 29, 2010 shall be $1000 for the first occurrence and $5000 for the second occurrence and each occurrence thereafter.* (Section 15 of the Law)

~~[35 ILCS 505/15]. Each separate sale or attempted sale made by a licensed motor fuel distributor or licensed supplier that is discovered as part of an investigation constitutes a separate first occurrence. Each sale or attempted sale made after the issuance of a citation for a violation of this subsection (e) constitutes a separate second or subsequent occurrence subject to a $10,000 penalty.~~

f) *Any person subject to the penalties described in this Section may protest the penalty by making a written request for a hearing within 60 days after notice of the penalty from the Department. If the hearing is not requested in writing within 60 days, the penalty assessment becomes final.* (Section 15 of the Law) ~~[35 ILCS 505/15]~~

g) The penalties imposed by subsections (b) and (e) of this Section will be imposed only when the special fuel contains the dye Solvent Red 164 in quantities greater than .1 part per million.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

SUBPART C: MOTOR FUEL USE TAX

Section 500.300 Licensure – Temporary Waiver upon Determination of Disaster

a) Except as provided in Section 500.320 or as otherwise provided in subsection (f) of this Section, no motor carrier shall operate commercial motor vehicles, as defined in Section 500.100, in Illinois without first securing a motor fuel use tax license and decals issued by the Department under the IFTA program or by any member jurisdiction.

b) Illinois IFTA credentials may be obtained from the Department by Illinois based carriers who operate one or more commercial motor vehicles in at least one other IFTA-member jurisdiction. Illinois based carriers are those carriers whose operational control and records for their vehicles are maintained or can be made available in Illinois and whose commercial motor vehicles accrue miles in Illinois. Carriers who are based in a non-IFTA jurisdiction~~state~~ will not be issued IFTA credentials by the Department, unless issuance is granted for fleet consolidation purposes. An Illinois carrier registered under the IFTA must consolidate all vehicles in its fleet. Fleet consolidation must include commercial motor vehicles based in other IFTA jurisdictions and non-IFTA jurisdictions and may include motor vehicles that~~which~~ travel exclusively intrastate, regardless of jurisdiction.

c) Motor carriers operating commercial motor vehicles that are based in a jurisdictionstate that has not joined IFTA, and who wish to operate in Illinois, may apply for an Illinois IFTA license and decals. If such carriers do not wish to obtain these credentials, they must obtain single trip permits before operating in Illinois.

d) Motor vehicles operated by the State of Illinois or the United States government, recreational vehicles and school buses (with school bus license plates) are not required to register as provided in subsection (a). However, if these carriers will travel in other jurisdictions, they may wish to obtain a motor fuel use tax license and decals under the provisions of the International Fuel Tax Agreement. This will allow the carrier, when in an IFTA jurisdiction that does not consider it exempt, to avoid receiving citations or being required to obtain the proper credentials (e.g., single trip permits). If the carrier is travelling in a non-IFTA jurisdiction and is not considered to be exempt from fuel tax reporting requirements, it must purchase single trip permits or otherwise obtain the proper motor fuel use tax credentials required by the laws of that particular jurisdiction.

e) In order to establish and maintain the concept of one license and administrative base jurisdiction for each licensee, the Department shall issue only one license to each person.

f) *The Director of the Department of Revenue, or his or her designee, may, upon determining that a disaster exists in Illinois or in any other state, temporarily waive the licensing requirements of this Section for commercial motor vehicles that travel through Illinois for the purpose of assisting in disaster relief efforts. Temporary waiver of the licensing requirements imposed in this Section shall not exceed a period of 30 days from the date the Director temporarily waives the licensing requirements of this Section. For purposes of this Section, a disaster includes flood, tornado, hurricane, fire, earthquake, or any other disaster that causes or threatens loss of life or destruction or damage to property of such a magnitude as to endanger the public health, safety and welfare. The licensing requirements of this Section shall be temporarily waived only if the operator of the commercial motor vehicle can provide proof by manifest that the commercial motor vehicle is traveling through Illinois or returning to Illinois from a point outside Illinois for purposes of assisting in disaster relief efforts.* (Section 13a.4 of the Law)

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.305 Licenses and Decals

a) Applications for motor fuel use tax licenses and decals shall be made under oath and on forms provided by the Department. On and after October 1, 2012, all applications shall be filed electronically. Information provided to the Department shall include:

1) a carrier's Federal Employer Identification Number (in the case of a sole proprietorship, the Social Security number of the owner), and the United States Department of Transportation (USDOT) numbers issued to the applicant;

2) owner, partnership or corporate name;

3) name, title and social security number of all officers, partners or owners;

4) legal business name (if different from subsection (a)(2));

5) physical location of the business;

6) mailing address of the business;

7) signature of the applicant. All applications must be signed by an officer, partner, or owner of the entity seeking licensure~~, or an employee~~ who has the control, supervision or responsibility of filing returns and making payment of the tax. Applications filed electronically must contain electronic signatures and meet all requirements and procedures outlined in the Department's regulation governing electronic signatures (see 86 Ill. Adm. Code 760.230);~~Reporting services or other persons responsible for reporting a licensee's tax obligations under a power of attorney are permitted to sign an application on behalf of any applicant provided that a properly executed power of attorney accompanies each application;~~

8) type of fuel ~~fuel(s)~~ used by applicant;

9) number of decals required by the licensee;

10) decal fee. On and after October 1, 2012, decal fees must be paid electronically by ACH debit in accordance with regulations at 86 Ill. Adm. Code 750 (for claims for reimbursement of overpayment of decal fees, see Section 500.235);

11) for IFTA applicants, a statement of the existence of bulk storage facilities in any~~all~~ member jurisdictions;

12) a statement that the applicant agrees to comply with reporting, payment, recordkeeping, and license display requirements, and all applicable regulations. IFTA applicants must agree that the base jurisdiction may withhold any refunds due if the applicant is delinquent on payment of motor fuel use taxes due any member jurisdiction or taxes owed to the Department; and

13) Such other information as the Department deems necessary.

b) Bonds are not required for first-time applicants. However, bond may be required for just cause, as determined by the Department. Bonds may be required when a licensee fails to file timely reports, when he or she fails to remit the proper tax, when the Department has twice received a Non-Sufficient Funds check as payment, or when an audit indicates problems severe enough that, in the Director's discretion, a bond is required to protect the interests of the Department. If a bond is required, it shall be equal to at least twice the estimated average quarterly tax liability. The average tax liability upon which the bond is based shall be determined by taking into consideration the amount of motor fuel expected to be used in all jurisdictions by the~~such~~ applicant. The *penalty fixed by the Department shall be such as, in its opinion, will protect the State of Illinois against failure to pay the amount hereinafter provided on motor fuel used* (Section 13a.4 of the Law).

c) *Neither a license or decals shall be issued to any person who fails to file a return, or to pay the tax, penalty or interest for a filed return, or to pay any final assessment of tax, penalty or interest, as required by the Law, or as required by any other tax Act administered by the Department* [20 ILCS 2505/39b47].

d) Persons required to file bonds with the Department must make payments by certified check.

e) Upon receipt of a complete application for a license and decals, including payment for decals, any required reinstatement fees and provision of an approved bond, if applicable, the Department will issue each applicant one license. In addition to the license, a minimum of two decals per commercial motor vehicle will also be issued. A license and decals will only be sent to the licensee. A license and decals are valid for a period of one calendar year.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.310 Display of License and Decals

a) Motor fuel use tax licenses, or copies of the licenses~~thereof~~, shall be carried in the cab of each commercial motor vehicle operating in Illinois. Failure to carry a copy of the license in the commercial motor vehicle may subject the operator to the purchase of a single trip permit and/or a citation.

b) The Department will not issue multiple licenses to an applicant. If the applicant requires multiple licenses, he or she may make legible copies of his or her license and carry them in his or her vehicles.

c) One decal must be placed on the exterior portion of each side of the cab of the commercial motor vehicle. In the case of transporters, manufacturers, dealers, or driveaway operations, the decals need not be permanently affixed, but may be temporarily displayed in a visible manner on both sides of the cab. Failure to display decals in the required manner may subject the vehicle operator to the purchase of a single trip permit and/or a citation.

d) Decals are not vehicle specific. Licensees may purchase additional decals at a cost of $3.75 per set throughout the license year. If decals are destroyed, lost or stolen, replacements may be obtained from the Department at a cost of $2 per set. Licensees shall provide the Department with the serial number of the decals being replaced under this subsection (d).~~Additional decals must be ordered on forms provided by the Department.~~

e) Decals are valid only for the vehicle of the person to whom they are issued. The transfer of decals between commercial motor vehicles or from one motor carrier to another is prohibited.

f) All IFTA carriers shall be allowed a two-month grace period to display the

current year IFTA license and decals. They may display a decal and license from the previous year issued by any member jurisdiction until March 1. Carriers from new member jurisdictions shall be allowed a two-month grace period from the date of the new member's IFTA program implementation to display the IFTA license and decals. However, to operate in Illinois, these carriers must either display a decal and license issued by Illinois for the previous year, a single trip permit, or the current year IFTA license issued by their base state.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.315 Renewal of Decals and Licenses

a) Motor fuel use tax licenses and decals must be renewed annually on forms provided by the Department. On and after October 1, 2012, all licenses and decals must be renewed electronically.~~The Department shall mail renewal applications to all currently registered licensees in good standing. Failure to receive a license renewal application does not excuse a licensee's failure to renew his credentials.~~

b) The Department may deny a renewal application if the applicant's decal or license ~~applicant~~ is currently revoked or the applicant has failed to file a return or~~,~~ pay any outstanding motor fuel use tax liabilities or other liabilities owed to the Department, or has failed to comply with a request for bond~~or is currently revoked~~.

c) The Department shall provide renewal reminders as a courtesy to all currently registered licensees in good standing. The Department may provide this notice by posting a general renewal reminder on its internet website or by other electronic notification methods.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.320 Single Trip Permits

a) If a commercial motor vehicle does not have motor fuel use tax credentials under IFTA, a single trip permit to operate in Illinois must be obtained. A single trip permit may be obtained upon proper application from the Department or its agents.

b) A single trip permit authorizes operation of a commercial motor vehicle for a

single trip into the State of Illinois, through the State of Illinois, or from a point on the border of this State to a point within and return to the border.

c) The fee for each single trip permit shall be $40~~20~~ and the ~~such~~ single trip permit is valid for a period of 96 ~~seventy-two~~ hours. This fee is in lieu of the tax and all reports required by Section 13a.3 of the Law, as well as the registration, decal display and furnishing of bond required by Section 13a.4 of the Law. On and after January 1, 2013, prepurchased single trip permits shall be applied for and the permit fees shall be paid electronically by ACH debit in accordance with 86 Ill. Adm. Code 750.

d) *The Director of the Department of Revenue, or his or her designee, may, upon determining that a disaster exists in Illinois or in any other state, temporarily waive the licensing requirements of this Section for commercial motor vehicles that travel through Illinois for the purpose of assisting in disaster relief efforts. Temporary waiver of the licensing requirements imposed in this Section shall not exceed a period of 30 days from the date the Director temporarily waives the licensing requirements of this Section. For purposes of this Section, a disaster includes flood, tornado, hurricane, fire, earthquake, or any other disaster that causes or threatens loss of life or destruction or damage to property of such a magnitude as to endanger the public health, safety and welfare. The licensing requirements of this Section shall be temporarily waived only if the operator of the commercial motor vehicle can provide proof by manifest that the commercial motor vehicle is traveling through Illinois or returning to Illinois from a point outside Illinois for purposes of assisting in disaster relief efforts.* (Section 13a.4 of the Law)

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.325 Licensure of Lessors and Lessees

a) A lessor regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation to licensees or other lessees may be deemed to be the licensee, and the~~such~~ lessor may be issued a license if an application has been properly filed and approved by the base jurisdiction.

b) In the case of a carrier using independent contractors under long-term leases (more than 30 days), the lessor and lessee will be given the option of designating which party will report and pay fuel use tax. In the absence of a written agreement

or contract, or if the document is silent regarding responsibility for reporting and paying fuel use tax, the lessee will be responsible for reporting and paying fuel use tax. If the lessee (carrier), through a written agreement or contract, assumes responsibility for reporting and paying fuel use taxes, the base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessee, regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes by the lessor.

c) For motor vehicle leases of 30 days or less, the lessor of the motor vehicles under lease will be liable for all requirements of the motor fuel use tax program.

d) In the case of a household goods carrier using independent contractors, agents, or service representatives, under intermittent leases, the party liable for motor fuel tax shall be:

1) The lessee (carrier) when the commercial motor vehicle is being operated under the lessee's jurisdictional operating authority. The base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessee (carrier), regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes by the lessor or lessee.

2) The lessor (independent contractor, agent, or service representative) when the qualified motor vehicle is being operated under the lessor's jurisdictional operating authority. The base jurisdiction for purposes of this Part shall be the base jurisdiction of the lessor, regardless of the jurisdiction in which the commercial motor vehicle is registered for vehicle registration purposes.

e) For licensees registered under the IFTA, leases shall be made available upon request of the Department or request of any member jurisdiction.

f) Any agreement between lessors and lessees does not prevent the Department from fulfilling its obligation to collect any tax due by proceeding against either party.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.330 Cancellation of License

a) The Department may, at the request of a~~A~~ licensee or on its own initiative, cancel a license if the licensee has complied with all applicable provisions of the IFTA agreement, including the satisfaction of ~~may request that its license be cancelled. A license will only be cancelled if~~ all reporting requirements and tax liabilities ~~have been met and the account is clear of any unapplied payments or credits~~. A licensee shall make a request for cancellation by making a notation on its electronic return and indicating its final date of operations~~must request cancellation either by checking the cancellation box on the quarterly tax return and noting the date of the end of operations, or by submitting a written request for cancellation to the Department~~.

b) Upon cancellation, the carrier must destroy its original license and all copies, and decals.

c) A final audit may be conducted by the Department, or ~~for IFTA licensees,~~ by any IFTA jurisdiction, upon cancellation of the license. When a license is cancelled, a~~A~~ carrier ~~cancelling a license~~ must retain all records for a period of four years from the due date of the final quarterly tax return.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.335 Quarterly Payment and Reporting

a) Every person holding a valid unrevoked motor fuel use tax license issued by the Department under the provisions of the IFTA shall file a quarterly motor fuel use tax return, along with full payment of taxes, with the Department. Returns are due, even if no operations were conducted during the reporting period. The due date for the return and full payment of taxes is the last day of the month immediately following the close of the quarter for which the return is being filed. Returns and full payment of taxes are due on or before the following dates:

Reporting Quarter	Due Date
January - March	April 30
April - June	July 31
July - September	October 31
October - December	January 31

If the due date is a Saturday, Sunday, or legal holiday, the next business day is

considered the due date. Each motor fuel use tax return should be mailed in a separate envelope. On and after January 1, 2013, returns and payment of tax, including amended returns, must be made electronically. Electronic returns shall be made in accordance with 86 Ill. Adm. Code 760. Electronic payments shall be made by ACH debit in accordance with 86 Ill. Adm. Code 750.

b) The taxable event is the consumption of motor fuel, as defined in Section 500.100 of this Part, used to operate commercial motor vehicles. For tax payment and reporting purposes, all motor fuels placed in supply tanks of commercial motor vehicles, and all miles travelled, are taxable. Carriers must utilize the procedures in Section 500.235 for refunds for off-road or non-highway use.

c) For IFTA licensees: The IFTA provides that member jurisdictions may determine what type of motor fuels and miles travelled are exempt from tax, and are therefore not reportable. Carriers should contact member jurisdictions to determine what types of fuel and miles travelled are exempt from taxation. For IFTA carriers, claims for refunds for fuel used for any purpose other than propelling a commercial motor vehicle upon public highways must be made directly to the respective jurisdiction.

d) The quarterly return shall include a statement of the total number of miles travelled, as well as total miles travelled in each jurisdiction and in Illinois during the previous calendar quarter; the total number of gallons and type of reportable motor fuel consumed on the highways of all jurisdictions, as well as in each jurisdiction and in Illinois, and the total number of gallons and types of tax paid fuel purchased within each jurisdiction during the previous calendar quarter; and the total (net) of tax due the base jurisdiction on behalf of all jurisdictions. Licensees shall report all required information, and may not include miles operated and gallons of fuel purchased that were unavailable during any prior quarters. If a licensee does not include all required information, and that information is subsequently available, he or she must file an amended return, which will include penalty and interest.

e) Fuel and distance must be reported in gallons and miles. The conversion rates are:

One liter	=	0.2642 gallons
One gallon	=	3.785 liters
One mile	=	1.6093 kilometers
One kilometer	=	0.62137 mile

f) For carriers registered under the IFTA that~~which~~ consume compressed natural gas and other fuels that cannot be measured in gallons, the fuels must be converted to gallons using the conversion factor used by the jurisdiction in which the fuel was consumed. The conversion rate for compressed natural gas is 14.7 pounds per square inch for 1 gallon or 1.24 therms of compressed natural gas for 1 gallon.

g) In order for a licensee to obtain credit for tax-paid retail purchases, a receipt or invoice, a credit card receipt, or microfilm/microfiche of the receipt or invoice must be retained by the licensee showing evidence of the~~such~~ purchases and tax having been paid by the licensee directly to the applicable jurisdiction or at the pump. The receipt must contain the following information:

1) date of purchase;

2) seller's name and address;

3) number of gallons purchased;

4) fuel type;

5) price per gallon or total amount of sale;

6) unit numbers; and

7) purchaser's name (in the case of a lessee/lessor agreement, receipts will be accepted in either name, provided a legal connection can be made to reporting party).

h) In the case of withdrawals from licensee-owned, tax-paid bulk storage, credit may be obtained only if the following records are maintained:

1) date of withdrawal;

2) number of gallons;

3) fuel type;

4) unit number (upon application by a licensee, the Department may waive

the requirement of unit numbers for fuel withdrawn from the licensee's own bulk storage and placed in its commercial motor vehicles. The licensee must show that adequate records are maintained to distinguish fuel placed in commercial vs. non-commercial motor vehicles for all member jurisdictions); and

5) purchase and inventory records to substantiate that tax was paid on all bulk purchases.

i) Carriers registered under the IFTA must pay all taxes due to all member jurisdictions with one check, to be made payable to the Department. Payment by certified check is required of licensees who are required to post a bond. On and after January 1, 2013, payment shall be made electronically by ACH debit in accordance with 86 Ill. Adm. Code 750.

j) Through December 31, 2012, returns~~Returns~~ shall be filed on forms provided by the Department. However, with written approval from the Department, a licensee may submit a computer-generated tax return instead of the Department-supplied return. Computer-generated tax returns will be approved only if they contain all the same information, are in the same format and are on the same size paper, as the Department's return. On and after January 1, 2013, returns shall be filed electronically in accordance with 86 Ill. Adm. Code 760.

k) If a licensee uses a reporting service for his or her motor fuel use taxes, the licensee must maintain a power of attorney in its books and records~~a power of attorney must be placed on file annually at the time of renewal~~. Use of a~~Filing a~~ power of attorney does not relieve the licensee of the legal obligations associated with the license. The licensee is responsible for the payment of taxes as well as all acts and omissions of the reporting service. ~~If a power of attorney is on file, the Illinois Department of Revenue will mail the quarterly tax return to the reporting service.~~ Decal and renewal applications~~, however,~~ will always be mailed directly to the licensee.

l) Reports not filed or full payment of taxes not made by the due date shall be considered late and any taxes due considered delinquent. The licensee shall be assessed a penalty of $50 or 10 percent of the delinquent taxes, whichever is greater, for failure to file a report, for filing a late report, or for underpayment of taxes due. Tax shall bear interest at the rate of 1 percent per month or fraction of month until paid. For reasonable cause shown, the Department may waive a

penalty. For IFTA licensees, the Department may waive interest for another jurisdiction only with that jurisdiction's approval.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

Section 500.355 IFTA Protest Procedures

a) An IFTA~~A~~ licensee or applicant may protest license denials or revocations, or any action of the Department for which a notice of tax liability, notice of tentative denial of claim, or penalty assessment under Section 13a.6 of the Law has been issued. Department actions may be protested~~an action or audit finding made~~ by ~~the Department by~~ submitting a written request for a hearing within 30 days after notification of the license denial or revocation, or notification of tax liability, denial of claim or penalty assessment~~notice of the original action or finding~~. If the hearing is not requested within 30 days, the Department's action becomes final. Notices of additional tax due as provided in Section 4 of the Retailers' Occupation Tax Act [35 ILCS 120], or admitted liabilities, are not protestable. Abatement of penalties based upon reasonable cause shall be governed by Section 3-8 of the Uniform Penalty and Interest Act [35 ILCS 735/3-8].

b) In the case of an audit, if the licensee is in disagreement with the original audit finding of the Department, it may request any or every jurisdiction to audit the licensee's records. Each jurisdiction to which a request is made may elect to accept or deny the request. Each jurisdiction electing to audit the licensee's records will audit only for its own portion of the licensee's operations. The licensee shall make records available at the office of the jurisdiction or at a place designated by the jurisdiction or pay reasonable per diem and travel expenses associated with conducting an audit at the licensee's place of business.

c) Hearings that have been timely requested will be scheduled by the Department. The Department will provide written notice of the date, time, and place of the hearing at least 20 days prior to the hearing date.

d) Hearings shall be conducted in accordance with the provisions of the Illinois Administrative Procedure Act [5 ILCS 100] and regulations promulgated thereunder found at 86 Ill. Adm. Code 200.101 through 200.225.

e) The Department shall notify the licensee of the findings of fact and ruling on the hearing. If, within 35 days from the date the licensee receives notice of the~~such~~

decision, proceedings for review thereof are not instituted in the manner provided by the Administrative Review Law [735 ILCS 5/Art. III], the decision shall become final.

f) For IFTA licensees only, the Department shall participate in the hearing on behalf of all member jurisdictions.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

SUBPART D: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section 500.400 General Information

a) Any report, claim, tax return, statement or other document required or authorized to be filed with or any payment made to the Department of Revenue, which document or payment is transmitted through the United States mail, will be deemed to have been filed with and received by the Department on the date shown by the post office cancellation mark stamped upon the envelope or other appropriate wrapper containing it. If mailed but not received by the Department, or if received, but the cancellation mark is illegible, erroneous or omitted, the document or payment will be deemed to have been filed on the date it was mailed if the sender establishes by competent evidence that the document or payment was deposited, properly addressed, in the United States mail on or before the date on which it was required or authorized to be filed or was due. In the event of the Department's failure to receive a document or payment required or authorized by law to be filed, the~~such~~ document or payment will be deemed to have been received by the Department on time if the sender files with the Department a duplicate within 30 days after written notification is given to the sender by the Department of its failure to receive the~~such~~ document or payment, provided proof is furnished that the original of the document was deposited in the United States mail on or before the date due for filing.

b) If any report, claim, tax return, statement, remittance or other document is sent by United States registered mail, certified mail or certificate of mailing, a record authenticated by the United States Post Office of the~~such~~ registration, certification or certificate shall be considered competent evidence that the report, claim, tax return, statement, remittance or other document was mailed, and the date of registration, certification or certificate shall be deemed to be the postmarked date.

c) Reports, claims, tax returns, statements, remittances, applications or other documents delivered by non-electronic means other than the United States mail (e.g., paid courier or other delivery services) are considered to be filed on the date they are received by the Department.

d) The timeliness of reports, claims, tax returns, statements, remittances, applications or other documents required to be filed or paid by electronic means shall be determined in accordance with 86 Ill. Adm. Code 760.240.

(Source: Amended at 36 Ill. Reg. 6677, effective April 12, 2012)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Environmental Impact Fee

2) Code Citation: 86 Ill. Adm. Code 501

3) Section Number: 501.200 — Adopted Action: Amendment

4) Statutory Authority: 415 ILCS 125, 20 ILCS 2505/2505-20 and Public Act 96-161

5) Effective Date of Amendment: April 12, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 19123; November 18, 2011

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The only changes made were grammar and punctuation or technical in nature. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This rulemaking implements the provisions of Public Act 96-161, which extended the sunset date for the Leaking Underground Storage Tank Tax and the Environmental Impact Fee to January 1, 2025.

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

Jerilynn T. Gorden
Illinois Department of Revenue
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 501
ENVIRONMENTAL IMPACT FEE

Section
501.100 Definitions
501.200 Basis and Rate of the Environmental Impact Fee Law
501.300 Motor Fuel Tax Regulations Applied

AUTHORITY: Implementing the Environmental Impact Fee Law [415 ILCS 125] and authorized by Section 39b19 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b19].

SOURCE: Adopted at 22 Ill. Reg. 2230, effective January 9, 1998; amended at 26 Ill. Reg. 9939, effective June 24, 2002; amended at 36 Ill. Reg. 6738, effective April 12, 2012.

Section 501.200 Basis and Rate of the Environmental Impact Fee Law

a) *Beginning January 1, 1996 and before January 1, 2025~~2013~~, all receivers of fuel are subject to an environmental impact fee of $60 per 7,500 gallons of fuel, or an equivalent amount per fraction thereof, that is sold or used in Illinois. The fee shall be paid by the receiver in this State who first sells or uses the fuel.* (Section 310 of the Law)

b) *A receiver of fuels is subject to the fee without regard to whether the fuel is intended to be used for operation of motor vehicles on the public highways and waters. However, no fee shall be imposed upon the importation or receipt of aviation fuels and kerosene at airports with over 170,000 operations per year, located in a city of more than 1,000,000 inhabitants, for sale to or use by holders of certificates of public convenience and necessity or foreign air carrier permits, issued by the United States Department of Transportation, and their air carrier affiliates, or upon the importation or receipt of aviation fuels and kerosene at facilities owned or leased by those certificate or permit holders and used in their activities at an airport described above. In addition, no fee may be imposed upon the importation or receipt of diesel fuel sold to or used by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code or otherwise recognized by the Illinois Commerce Commission as a rail carrier, to the extent used directly in railroad operations. In addition, no fee may be imposed when the sale is made*

with delivery to a purchaser outside this State or when the sale is made to a person holding a valid license as a receiver. In addition, no fee shall be imposed upon diesel fuel consumed or used in the operation of ships, barges, or vessels, that are used primarily in or for the transportation of property in interstate commerce for hire on rivers bordering on this State, if the diesel fuel is delivered by a licensed receiver to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river. A specific notation thereof shall be made on the invoices or sales slips covering each sale. (Section 310 of the Law)

(Source: Amended at 36 Ill. Reg. 6738, effective April 12, 2012)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Electronic Filing of Returns or Other Documents

2) Code Citation: 86 Ill. Adm. Code 760

3) Section Number: 760.100 — Adopted Action: Amendment

4) Statutory Authority: 35 ILCS 120/3 and 20 ILCS 2505/2505-795

5) Effective Date of Amendment: April 12, 2012

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 19452; December 2, 2011

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between proposal and final version: The only changes made were grammar and punctuation or technical in nature. No substantive changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace any emergency rulemaking currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendment: This rulemaking provides that persons who sell alcoholic liquor, and are required to file a monthly statement of liquor purchases as provided in Section 3 of the Retailers' Occupation Tax Act and 86 Ill. Adm. Code 130.552, must file the monthly statement on an ST-1 Return that is filed by electronic means in accordance with the provisions of Part 760. This rulemaking is part of an effort to repeal the Department's telefile program for liquor retailers. These amendments provide that electronic filing is required for returns due on and after February 1, 2012.

The rules provide, however, that a taxpayer may petition the Department for a waiver of the electronic filing requirement. The Department has made this accommodation for taxpayers that demonstrate they do not have access to the Internet.

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

Jerilynn T. Gorden
Deputy General Counsel – Sales and Excise Taxes
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 760
ELECTRONIC FILING OF RETURNS OR OTHER DOCUMENTS

Section

760.100 Electronic Returns
760.110 Exclusions from Electronic Filing
760.120 Where to Send Electronic Returns (Repealed)
760.200 Ways to Participate in Electronic Filing
760.210 Enrollment in the Electronic Filing Program
760.220 Electronic Payment Required
760.230 Electronic Signatures
760.240 Due Dates and Date Received
760.300 Responsibilities of Electronic Filers
760.310 Filing Acknowledgments
760.320 Electronic Payment Acknowledgments
760.330 Termination of Voluntary Participants

AUTHORITY: Implementing and authorized by Section 2505-200 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-200].

SOURCE: Adopted at 22 Ill. Reg. 14905, effective August 3, 1998; amended at 27 Ill. Reg. 14636, effective August 26, 2003; amended at 30 Ill. Reg. 11590, effective June 26, 2006; amended at 35 Ill. Reg. 529, effective December 21, 2010; amended at 35 Ill. Reg. 16737, effective September 29, 2011; amended at 36 Ill. Reg. 1769, effective January 19, 2012; amended at 36 Ill. Reg. 6742, effective April 12, 2012.

Section 760.100 Electronic Returns

a) The Department has mandatory electronic filing programs and voluntary programs for certain returns and other documents that are required to be filed with the Department. Upon acceptance into the program, the returns, schedules, and other documents listed in this Section may be electronically filed with the Department.

b) An electronic return or other document consists of data transmitted to the Department electronically, and may include paper documents that contain

information that cannot be electronically transmitted or are requested for verification. In total, electronic returns must contain the same information as traditionally filed paper documents.

c) Mandatory Programs

1) Beginning January 1, 2003, telecommunications providers who have average monthly tax billings for the immediately preceding calendar year that exceed $1000 must file their tax returns and supporting schedules electronically. Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. The following circumstances require paper documentation:

A) When a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).

B) When a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.

C) When the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

2) Beginning January 1, 2003, cigarette distributors with 30 or more invoice transactions per month and who are not voluntarily filing returns and schedules by electronic means are required to file supporting schedule data with the Department on computer-generated magnetic media in a format prescribed by the Department.

3) Beginning with calendar year 2011, each income tax return preparer who is required during the calendar year to file by electronic means any federal income tax return for any individual or individuals and who prepared more than 100 Illinois income tax returns for individuals during the preceding calendar year is required during the calendar year to file by electronic means any Illinois income tax returns he or she prepares for the same

individual or individuals for the same taxable year for which the preparer filed a federal income tax return during that calendar year. This subsection (c)(3) does not require electronic filing of amended returns or of returns of trusts or estates, or of any return the Department has announced cannot be filed by electronic means.

4) Beginning with returns required to be filed for taxable years ending on or after December 31, 2011, any taxpayer required to file its federal income tax return by electronic means is required to file its equivalent Illinois income tax return for the same taxable year by electronic means. This subsection (c)(4) does not require electronic filing of amended returns or of returns of individuals or estates, or to any return the Department has announced cannot be filed by electronic means.

5) Beginning with returns due on and after February 1, 2012, any person who is engaged in the business of selling alcoholic liquor at retail through a liquor store, tavern or restaurant and is required to file the monthly statement required by Section 3 of the Retailers' Occupation Tax [35 ILCS 120/3] and 86 Ill. Adm. Code 130.552, shall file that statement on a Form ST-1 Return by electronic means in accordance with the provisions of this Part. Upon petition by a taxpayer, the Department may waive the electronic filing requirement if the taxpayer demonstrates that it does not have access to the Internet.

d) Voluntary Programs

1) Taxpayers may volunteer to participate in any electronic filing program currently in effect for mandatory electronic filers.

2) Form ST-1, Sales and Use Tax Return, and Form ST-2, Multiple Site attachment for Form ST-1, can be transmitted electronically under the provisions of this Part.

3) Beginning January 1, 2003, original or amended liquor tax returns and schedules for Liquor Tax participants may be filed electronically under the provisions of this Part.

A) Paper documents that contain information that cannot be electronically provided or are requested for verification must be mailed to the Department. They include:

i) Copies of schedules, invoices or bills of lading requested for verification in accordance with Section 8-2 of the Liquor Control Act of 1934 [235 ILCS 5/8-2].

ii) Non-Beverage User permits.

B) Beginning January 1, 2003, persons filing liquor tax returns and schedules electronically must also make payments by means of electronic funds transfer. See Section 760.220 of this Part. By doing so, the taxpayer is entitled to a discount of 1.75% of the tax due, or $1,250, whichever is less, provided that the electronic return and payment are made timely in accordance with this Part.

C) Liquor tax participants may file their returns and schedules using magnetic media in a format prescribed by the Department. Liquor tax participants that file returns and schedules on magnetic media are not entitled to the discount provided for in subsection (d)(3)(B) of this Section.

4) Beginning January 1, 2003, original or amended cigarette tax returns and schedules for Cigarette Tax participants may be filed electronically under the provisions of this Part.

5) Illustrations of When Paper Documents Must Be Filed

A) In the event a final return is electronically filed, the taxpayer must also mail a statement explaining the reasons for a final return (e.g., business sold or discontinued).

B) In the event a return and payment are made in protest in accordance with Section 2a.1 of the State Officers and Employees Money Disposition Act [30 ILCS 230/2a.1], the corresponding notice must be mailed to the Department.

C) In the event the taxpayer wishes to notify the Department of a change of address, the taxpayer must notify the Department by telephone or by mailing such change to the Department.

(Source: Amended at 36 Ill. Reg. 6742, effective April 12, 2012)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: TeleFile Program

2) Code Citation: 86 Ill. Adm. Code 770

3)

Section Numbers:	Proposed Action:
770.100	Repeal
770.105	Repeal
770.110	Repeal
770.120	Repeal
770.130	Repeal
770.140	Repeal
770.150	Repeal

4) Statutory Authority: 20 ILCS 2505/2505-200 and 35 ILCS 120/3

5) Effective Date of Repealer: April 12, 2012

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 repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 35 Ill. Reg. 19459; December 2, 2011

10) Has JCAR issued a Statement of Objection to this Repealer? No

11) Differences between proposal and final version: No changes were made.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were requested by JCAR.

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 Repealer: This rulemaking repeals both the Department's mandatory and voluntary sales tax TeleFile Program.

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED REPEALER

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

Jerilynn T. Gorden
Deputy General Counsel – Sales & Excise Taxes
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Specialized Health Care Delivery Systems

2) Code Citation: 89 Ill. Adm. Code 146

3) Section Number: 146.225 Emergency Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date: April 13, 2012

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment will expire at the end of the 150-day period or upon adoption of permanent rules, whichever comes first.

7) Date Filed with the Index Department: April 12, 2012

8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: This emergency rule is necessary because the lack thereof would constitute a threat to the public interest, safety, or welfare to current recipients of the Department's medical assistance programs and, thus, adoption is required upon fewer days' notice than is required by Section 5-40 of the Administrative Procedure Act. The SLF reimbursement in administrative rules is tied to the nursing home rates. SLFs, however, were never intended by the legislature to benefit from the nursing home assessment-related increase under P.A. 96-1530, which was self-funded through a tax on the nursing home industry that is currently being promulgated in administrative rule and will be implemented in May 2012 retroactive to May 2011. Hence, an emergency rule is necessary to implement the legislative intent that SLF reimbursement is to be de-linked from this increase and maintained at the level in effect on April 30, 2011. If such clarification is not swiftly adopted and if SLF reimbursement is linked to the increase in nursing home rates implemented in May 2012, the potential budgetary increase of approximately $20 million in SLF reimbursements would result in the Department being 1) unable to fund current SLF providers, thereby resulting in loss of certain providers and the inability to provide services to current recipients; 2) delay in payment to current SLF providers, thereby resulting in SLF providers' inability to provide services to current recipients and dropping out of the medical assistance program; and 3) inability to fund

other medical assistance programs upon which the current recipients rely as essential to their health and welfare.

10) Complete Description of the Subject and Issues Involved: The purpose of the proposed amendment is to maintain supportive living facility (SLF) rates at the level in effect on April 30, 2011. Further, the proposed amendment separates the rate setting process for SLFs from the nursing facility rate increase effective May 1, 2011, which is tied to the long term care assessment tax paid by nursing facilities. SLFs were never intended to benefit from the nursing home assessment-related increase that is self-funded.

11) Are there any other rulemakings pending on this Part? No

12) Statement of Statewide Policy Objectives: These emergency amendments neither create nor expand any State mandate affecting units of local government.

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

Jeanette Badrov
General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 146
SPECIALIZED HEALTH CARE DELIVERY SYSTEMS

SUBPART A: AMBULATORY SURGICAL TREATMENT CENTERS

Section
146.100 General Description
146.105 Definitions
146.110 Participation Requirements
146.115 Records and Data Reporting Requirements
146.125 Covered Ambulatory Surgical Treatment Center Services
146.130 Reimbursement for Services

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section
146.200 General Description
146.205 Definitions
146.210 Structural Requirements
146.215 SLF Participation Requirements
146.220 Resident Participation Requirements
146.225 Reimbursement for Medicaid Residents
EMERGENCY
146.230 Services
146.235 Staffing
146.240 Resident Contract
146.245 Assessment and Service Plan and Quarterly Evaluation
146.250 Resident Rights
146.255 Discharge
146.260 Grievance Procedure
146.265 Records and Reporting Requirements
146.270 Quality Assurance Plan
146.275 Monitoring
146.280 Non-Compliance Action
146.285 Voluntary Surrender of Certification

146.290 Geographic Groups
146.295 Emergency Contingency Plan
146.300 Waivers
146.305 Reporting of Suspected Abuse, Neglect and Financial Exploitation
146.310 Facility Management of Resident Funds

SUBPART C: STATE HEMOPHILIA PROGRAM

Section
146.400 Definitions
146.410 Patient Eligibility
146.420 Hemophilia Treatment Centers
146.430 Comprehensive Care Evaluation
146.440 Home Transfusion Arrangements
146.450 Obligations of the Department

SUBPART D: CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTERS

Section
146.500 General Description
146.510 Definitions
146.520 Participation Requirements
146.530 Records and Data Reporting Requirements
146.540 Covered Children's Community-Based Health Care Center Services
146.550 Reimbursement for Services
146.560 Individuals Eligible for Services Provided in a Children's Community-Based Health Care Center
146.570 Prior and Post Approval of Services

SUBPART E: SUPPORTIVE LIVING FACILITIES WITH DEMENTIA CARE UNITS

Section
146.600 General Description
146.610 Structural Requirements
146.620 Participation Requirements
146.630 Resident Participation Requirements
146.640 Services
146.650 Reimbursement for Medicaid Residents
146.660 Staffing

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

146.670 Assessment and Service Plan and Quarterly Evaluation
146.680 Monitoring
140.690 Reporting Requirements
146.700 Resident Rights
146.710 Discharge

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Old Part repealed at 14 Ill. Reg. 13800, effective August 15, 1990; new Part adopted at 20 Ill. Reg. 4419, effective February 29, 1996; emergency amendment at 21 Ill. Reg. 13875, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4430, effective February 27, 1998; emergency amendment at 22 Ill. Reg. 13146, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19914, effective October 30, 1998; amended at 23 Ill. Reg. 5819, effective April 30, 1999; emergency amendment at 23 Ill. Reg. 8256, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13663, effective November 1, 1999; amended at 24 Ill. Reg. 8353, effective June 1, 2000; emergency amendment at 26 Ill. Reg. 14882, effective October 1, 2002, for a maximum of 150 days; amended at 27 Ill. Reg. 2176, effective February 1, 2003; emergency amendment at 27 Ill. Reg. 10854, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18671, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 12218, effective August 11, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 14214, effective October 18, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 852, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2014, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 4360, effective March 7, 2005; expedited correction at 29 Ill. Reg. 14127, effective March 7, 2005; amended at 29 Ill. Reg. 6967, effective May 1, 2005; amended at 29 Ill. Reg. 14987, effective September 30, 2005; amended at 30 Ill. Reg. 8845, effective May 1, 2006; amended at 31 Ill. Reg. 5589, effective April 1, 2007; emergency amendment at 31 Ill. Reg. 5876, effective April 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11681, effective August 1, 2007; amended at 33 Ill. Reg. 11803, effective August 1, 2009; emergency amendment at 36 Ill. Reg. 6751, effective April 13, 2012, for a maximum of 150 days.

SUBPART B: SUPPORTIVE LIVING FACILITIES

Section 146.225 Reimbursement for Medicaid Residents
EMERGENCY

SLFs shall accept the reimbursement provided in this Section as payment in full for all services provided to Medicaid residents.

a) The Department shall establish its portion of the reimbursement for Medicaid residents by calculating 60 percent of the weighted average (weighted by Medicaid patient days) nursing facility rates for the geographic grouping as defined in Section 146.290. Each SLF shall be paid 60 percent of the weighted average nursing facility geographic group rate, based upon the nursing facility geographic group in which it is located. The rates paid to SLFs shall be updated semi-annually on April 1 and on October 1 to assure that the rates coincide with 60 percent of weighted average nursing facility geographic group rates. Notwithstanding the provisions of this subsection, supportive living facility rates shall remain at the level in effect on April 30, 2011.~~Effective October 1, 2002, SLF rates shall remain at a minimum of the rate in effect as of September 30, 2002.~~

b) The payment rate received by the SLF from the Department for services, with the exception of meals, provided in accordance with Section 146.230 shall constitute the full and complete charge for services rendered. Additional payment, other than patient credits authorized by the Department, may not be accepted. Meals are included in the room and board amount paid by the resident.

c) Single Occupancy: Each Medicaid resident of an SLF shall be allotted a minimum of $90 per month as a deduction from his or her income as a protected amount for personal use. The SLF may charge each Medicaid resident no more than the current SSI rate for a single individual less a minimum of $90 for room and board charges. Any income remaining after deduction of the protected minimum of $90 and room and board charges shall be applied first towards medical expenses not covered under the Department's Medical Assistance Program. Any income remaining after that shall be applied to the charges for SLF services paid by the Department.

d) Double Occupancy: In the event a Medicaid eligible resident chooses to share an apartment, the Medicaid resident of an SLF shall be allotted a minimum of $90 per month as a deduction from his or her income as a protected amount for personal use. The SLF may charge each Medicaid resident no more than the resident's share of the current SSI rate for a couple less a minimum of $90 for room and board charges. The room and board rate for two Medicaid eligible individuals sharing an apartment cannot exceed the SSI rate for a married couple even if the two individuals sharing an apartment are unrelated. Any income of an individual remaining after deduction of the protected minimum of $90 and room

and board charges shall be applied first towards that individual's medical expenses not covered under the Department's Medical Assistance Program. Any income of an individual remaining after that shall be applied to that individual's charges for SLF services paid by the Department. If one, or both, of the individuals sharing an apartment is not Medicaid eligible, the SLF may negotiate its own rate with the non-Medicaid individual or individuals.

e) The room and board charge for Medicaid residents shall only be increased when the SSI amount is increased. Any room and board charge increase shall not exceed the amount of the SSI increase.

f) Payment shall be made by the Department for up to 30 days per State fiscal year during a Medicaid resident's temporary absence from the SLF when the absence is due to situations such as hospitalizations or vacations. The resident shall continue to be responsible for room and board charges during any absence. Involuntary discharge criteria relating to temporary absence are found at Section 146.255(b) and (d)(7). Nursing facilities that have a distinct part certified as an SLF shall consider converted beds in the nursing facility's licensed capacity when calculating the 93 percent occupancy level for bed reserve payments pursuant to 89 Ill. Adm. Code 140.523.

1) The day a resident is transferred to the hospital is the first day of the temporary absence.

2) For all other temporary absences, except a long-term care admission, the day after resident leaves the SLF is the first day of the temporary absence.

3) The day before resident returns to the SLF is the last day of the temporary absence.

4) The Department does not pay for temporary absence due to admission to a long-term care facility. In this instance, an SLF shall discharge the resident from the Department's database. An SLF may choose to hold an apartment while a resident is in a long-term care facility.

5) By agreement between the SLF and a resident, an SLF may continue to hold an apartment when a resident has exceeded the 30 days payable by the Department.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

(Source: Amended by emergency rulemaking at 36 Ill. Reg. 6751, effective April 13, 2012, for a maximum of 150 days)

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 April 10, 2012 through April 16, 2012 and have been scheduled for review by the Committee at its May 15, 2012 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.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
5/23/12	Illinois Racing Board, Board Meetings (11 Ill. Adm. Code 206)	2/17/12 36 Ill. Reg. 2481	5/15/12
5/24/12	Department of Central Management Services, Solicitation for Charitable Payroll Deductions (80 Ill. Adm. Code 2650)	2/24/12 36 Ill. Reg. 2602	5/15/12

PROCLAMATIONS

2012-119
National Transportation Week and National Transportation Day

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

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

WHEREAS, the first National Transportation Week was observed in 1953 with the help of the Women's Transportation Club of Houston. This group originally set up a scholarship program benefiting transportation degree students at the University of Houston; and,

WHEREAS, seeing that the students and the public were virtually unaware and uninterested in the transportation industry, attempts were then made to sway past Presidents of the United States to proclaim National Transportation Week as a way of promoting the transportation industry; and,

WHEREAS, in Illinois, not only has our Department of Transportation been expanding the road system and supporting public transportation, but they have also been successful in reducing highway fatalities, improving opportunities for small, women, and minority owned businesses and upgrading process management throughout the organization; and,

WHEREAS, the observance of National Transportation Week, including National Transportation Day, provides an opportunity for the transportation community to join together for greater awareness about the importance of transportation and also focuses on making youth aware of transportation-related careers; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 12 - 19, 2012 as **NATIONAL TRANSPORTATION WEEK and May 18, 2012 as NATIONAL TRANSPORTATION DAY** in Illinois, in recognition of the dedicated transportation professionals and military service members for their tireless efforts to make America's transportation network the best in the world.

Issued by the Governor March 19, 2012
Filed by the Secretary of State April 11, 2012

2012-120

PROCLAMATIONS

Occupational Therapy Month

WHEREAS, the American Occupational Therapy Association has declared the month of April to be known as Occupational Therapy Month; and,

WHEREAS, occupational therapy helps people "live life to the fullest" through a holistic perspective in which the focus is on adapting the environment to fit the needs of the individual as an integral part of the therapy process; and,

WHEREAS, occupational therapy services typically include an individualized evaluation of a client during which the client, family and occupational therapists determine the person's goals, customize intervention methods to aid in improving the person's ability to reach their target goals and outcome evaluation to ensure that the goals are being met or make necessary changes to the intervention plan ; and,

WHEREAS, the services of occupational therapy are available to citizens of Illinois through hospitals, home health agencies, schools, clinics, nursing homes and other organizations; and,

WHEREAS, the Chicago Lighthouse, founded in 1906, is a social service agency primarily focused on the needs of the blind and visually impaired and has been a strong supporter of occupational therapy by providing occupational therapy services to individuals receiving low vision rehabilitation treatments from agency clinics; and,

WHEREAS, the health and productivity of our citizens depend upon the effective use of health care resources, including the important services of occupational therapists and occupational therapy assistants; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 2012 as **OCCUPATIONAL THERAPY MONTH** and call upon all citizens to recognize the achievements and contributions of these valued health professionals.

Issued by the Governor March 19, 2012
Filed by the Secretary of State April 11, 2012

2012-121
Illinois Innovation Day

WHEREAS, American innovations in science and technology, fueled by public and private research investments, have created economic prosperity, improved our quality-of-life, and aided those who bravely provide our nation with safety and security; and,

WHEREAS, the Illinois Innovation Council was created in 2011 to identify and foster strategies for innovation and economic growth, including the formation of an open data initiative to provide open access to state data and improve transparency in Illinois; and,

WHEREAS, legislation and programs such as the Angel Investment Tax Credit, Technology Development Account II, Research and Development Tax Credit, and Advantage Illinois' Invest Illinois Venture Fund support small, start-up businesses and their research and development activities by providing access to capital, connecting entrepreneurs to mentors and customers and increasing innovation-driven activities in the State; and,

WHEREAS, the Illinois Science & Technology Coalition, Chicago Innovation Awards and TechAmerica all support innovation and technology-based economic development in Illinois; and,

WHEREAS, Illinois economic vitality is enhanced by the ability to successfully execute research, development and innovation initiatives that support and enhance our industries, helping them reach new levels of achievement; and

WHEREAS, Illinois' higher education and research institution community maintains preeminent faculties of capable and world renowned scientists, engineers and technological experts; and,

WHEREAS, sustained discovery, invention and innovation requires direct investment of state resources to support industries, universities and national labs, allowing them to address issues in high-priority areas such as energy storage; health and health innovation; and advanced manufacturing; and,

WHEREAS, on Wednesday, March 21, 2012, the Illinois Science & Technology Coalition, Chicago Innovation Awards and TechAmerica have organized Illinois Innovation Day to showcase the exceptional work being done by Illinois' world class companies and research institutions to contribute to our state's economic growth through innovation; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim March 21, 2012 as **ILLINOIS INNOVATION DAY** in Illinois, and encourage everyone in the Land of Lincoln to recognize the important role that innovation plays in the future of our state.

Issued by the Governor March 20, 2012
Filed by the Secretary of State April 11, 2012

2012-122
America's Blood Centers Day

WHEREAS, America's Blood Centers (ABC) was founded in 1962 in Scottsdale, Arizona by a group of independent not-for-profit community blood centers with the mission of helping its member blood centers serve their communities; and,

WHEREAS, ABC is North America's largest network of community-based, independent not-for-profit blood centers, which collectively supply one-half of the blood supply for the United States and one-fourth of the Canadian blood supply; and,

WHEREAS, ABC members serve more than 150 million patients by providing blood products and services to more than 3500 hospitals and healthcare facilities throughout North America; and,

WHEREAS, putting into practice its core values of Innovation, Data Integration, Education and Advocacy, ABC developed the Appropriate Inventory Management system, which includes the first and only national database of individualized laboratory, donor and patient information; and,

WHEREAS, ABC also established the collaborative hub-and-spoke blood distribution system that serves our nation and our military in times of emergency shortages or disasters, and

WHEREAS, affiliates of America's Blood Centers include the six members of the Illinois Coalition of Community Blood Centers, serving most hospitals in the State: Central Illinois Community Blood Center, Community Blood Services of Illinois, Heartland Blood Centers, LifeSource, Mississippi Valley Regional Blood Center, and Rock River Valley Blood Center; and

THEREFORE, I, Pat Quinn, Governor of the State of Illinois do hereby proclaim March 26, 2012 as **AMERICA'S BLOOD CENTERS DAY** in recognition of its half-century of helping Community Blood Centers save lives throughout North America by ensuring the safety of the blood supply, promoting regular donations and coordinating disaster preparedness and response with federal and state agencies.

Issued by the Governor March 21, 2012
Filed by the Secretary of State April 11, 2012

2012-123
Arts Education Day

WHEREAS, the arts are the embodiment of beauty throughout the world and help to preserve our cultural heritage; and,

WHEREAS, it has been shown that arts education positively impacts developmental growth and levels the educational playing field across socio-economic boundaries; and,

WHEREAS, according to Americans for the Arts, arts education stimulates and develops the imagination and critical thinking and refines cognitive and creative skill. Arts education adds to overall academic achievement and school success; and,

WHEREAS, arts education, which includes dance, drama, music and visual arts is an essential part of basic instruction for all students, providing them with a balanced education that will aid in developing their full potential. A balanced and complete curriculum should include arts education because it improves attendance, increases graduation rates and sharpens critical and creative thinking, which will be important skills in our shifting global economy; and,

WHEREAS, the Chicago Children's Choir was founded in 1956 as a multiracial, multicultural organization dedicated to shaping the future by making a difference in the lives of children through musical excellence; and,

WHEREAS, the Chicago Children's Concert Choir is world-renowned and has performed in countries all over the world and for various world leaders and heads of state, including former South African President Nelson Mandela, the Dalai Lama, Archbishop Desmond Tutu and Secretary of State Clinton; and,

WHEREAS, the Chicago Children's Concert Choir released its first studio-recording Open Up Your Heart in 2004, followed by SitaRam in 2006, and the Emmy-award winning documentary Songs on the Road to Freedom in 2008; and,

WHEREAS the Chicago Children's Choir now serves 3,000 children in 51 schools and 8 after school programs throughout Chicagoland, uniting children of all backgrounds through music education and inspiring them through musical excellence; and,

WHEREAS, this excellence is symbolized by the Chicago Children's Choir signature red uniforms; and,

WHEREAS, Paint the Town Red is an annual event that features all members of the 3,000-member choir who come together to perform songs from around the world through a concert in Chicago's Millennium Park; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 16, 2012 as **ARTS EDUCATION DAY** in Illinois, in order to raise awareness about the benefits of arts education in the schools and do hereby commend the Chicago Children's Choir on achieving musical excellence.

Issued by the Governor March 21, 2012
Filed by the Secretary of State April 11, 2012

2012-124

PROCLAMATIONS

Fair Housing Month

WHEREAS, April 11, 2012 marks the 44th anniversary of the passage of the U.S. Fair Housing Act, which enunciated a national policy of fair housing and today bars discrimination based on race, color, religion, national origin, sex, familial status or disability; and,

WHEREAS, this year also marks the 33rd anniversary of the Illinois Human Rights Act, which bars discrimination in housing based on race, color, religion, national origin, sex (including sexual harassment), physical or mental disability, familial status, age (40 and over), ancestry, marital status, disability, military status, unfavorable discharge from military service, sexual orientation (including gender-related identity), or order of protection status; and,

WHEREAS, decent, safe and affordable housing is part of the American dream and a right of all Illinois residents. Acts of housing discrimination and barriers to equal housing opportunity should be eliminated in order to create a decent and fair society; and,

WHEREAS, economic stability, community health and human relations in all communities of the State of Illinois are improved by diversity and integration; and,

WHEREAS, stable, integrated and balanced residential patterns can be threatened by discriminatory acts and unlawful housing practices, which can result in segregation of residents and opportunities in Illinois communities; and,

WHEREAS, the talents of grassroots and non-profit organizations, housing service providers, financial institutions, elected officials, state agencies and others must be combined to promote and preserve integration, fair housing and equal opportunity; and,

WHEREAS, Illinois residents are encouraged to embrace diversity, recognize the importance of equal opportunity in housing, and to promote appropriate activities by private and public entities intended to provide or advocate for integration and equal housing opportunities for all residents and prospective residents of the State of Illinois; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 2012 as **FAIR HOUSING MONTH** in Illinois, in commemoration of the signing of the U.S. Fair Housing Act and the Illinois Human Rights Act, as well as to promote integration and equal housing opportunities for everyone.

Issued by the Governor March 22, 2012
Filed by the Secretary of State April 11, 2012

2012-125

PROCLAMATIONS

Better Hearing and Speech Month

WHEREAS, founded in 1960, the Illinois Speech-Language-Hearing Association (ISHA) is a non-profit organization representing over 4000 licensed speech-language pathologists and audiologists; and,

WHEREAS, speech-language pathologists are specialists trained to identify, evaluate, and remediate communication or swallowing problems, and determine the best treatment solutions; and,

WHEREAS, audiologists specialize in the prevention, identification, and evaluation of hearing and balance disorders and the habilitation/rehabilitation of individuals with hearing impairment; and,

WHEREAS, ISHA has three main goals: to make the public aware of services available to persons with speech, language and hearing disorders; to advocate for quality hearing services throughout the state; and to support the scientific study of human communication and its disorders; and,

WHEREAS, approximately 46 million Americans are affected by communicative disorders, including 28 million individuals with hearing loss and 16 million individuals with speech, voice or language disorders; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2012 as **BETTER HEARING AND SPEECH MONTH** in Illinois, to raise awareness of the contributions of speech-language pathologists and audiologists and the help that is available to those individuals with a speech, language or hearing problem.

Issued by the Governor March 22, 2012
Filed by the Secretary of State April 11, 2012

2012-126
National Bullying Prevention Week

WHEREAS, bullying is physical, verbal, sexual, or emotional harm or intimidation directed at a person or group of people; and,

WHEREAS, bullying occurs in neighborhoods, playgrounds, schools, and increasingly through technology such as the Internet; and,

WHEREAS, various researchers have concluded that bullying is the most common form of violence, affecting millions of American children and adolescents annually; and,

WHEREAS, thousands of Illinois children and adolescents are targets of bullying annually; and,

WHEREAS, targets of bullying are more likely to acquire physical, emotional, and learning problems and students who are repeatedly bullied often fear such activities as riding the bus, going to school, and attending community activities; and,

WHEREAS, children who bully are at greater risk of engaging in more serious violent behaviors; and,

WHEREAS, a large percentage of children who are bullied believe that adult help is infrequent and ineffective; and,

WHEREAS, there is a continued need to raise increased awareness of the detrimental effects of bullying, as well as to make teachers, parents, students, and community members aware of the resources available to prevent bullying and assist bullied kids; and,

WHEREAS, no child deserves to be the victim of bullying; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim November 12 – 17, 2012 as **NATIONAL BULLYING PREVENTION WEEK** in Illinois, and encourage schools, parents, recreation programs, religious institutions, and community organizations to engage in a variety of awareness and prevention activities designed to make our communities safer for all children and adolescents.

Issued by the Governor March 27, 2012
Filed by the Secretary of State April 11, 2012

2012-127
Municipal Clerks Week

WHEREAS, the Office of the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and,

WHEREAS, the Office of the Municipal Clerk is the oldest among public servants, and,

WHEREAS, the Office of the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and,

WHEREAS, Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and,

WHEREAS, the Municipal Clerk serves as the information center on functions of local government and community; and,

WHEREAS, Municipal Clerks continually strive to improve the administration of the affairs of the Office of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their regional, state and international professional organizations; and,

WHEREAS, it is most appropriate that we recognize the accomplishments of the Office of the Municipal Clerk; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 29 – May 5, 2012 as **MUNICIPAL CLERKS WEEK** in Illinois, and further extend appreciation to our Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Issued by the Governor March 27, 2012
Filed by the Secretary of State April 11, 2012

2012-128
Constitution Week

WHEREAS, September 17, 2012, marks the 225th anniversary of the signing of the Constitution of the United States of America at the Constitutional Convention, providing a historic opportunity for all Americans to remember the achievements of our Founding Fathers and to reflect on the actions of Americans who for the past 225 years have defined the words of the Constitution by exercising their rights and responsibilities as citizens; and,

WHEREAS, the Constitution is fundamentally predicated on governance by "We the People," making citizens' understanding of the Constitution and its framework an essential element of the future of our country and the civic health of its populace; and,

WHEREAS, it is fitting and proper to officially recognize this remarkable document and the milestone anniversary of its creation, and the additions to it in the form of 27 amendments; and,

WHEREAS, the National Constitution Center, America's first and only nonpartisan, nonprofit institution, devoted to the Constitution, located in Philadelphia across from Independence Hall

where the Constitution was drafted and signed, is the home of the 225th anniversary celebration of the Constitution; and,

WHEREAS, August 26, 1818 marks the anniversary of Illinois's statehood and ratification of the Constitution; and,

WHEREAS, in recognition of the signing of the Constitution and of Americans who strive to fulfill the duties and responsibilities of citizenship, the Congress, by joint resolution of February 29, 1952 (36 U.S.C. 106 as amended), designated September 17 as Constitution Day and by joint resolution of August 2, 1956 (36 U.S.C. 108, as amended), requested that the President proclaim the week beginning September 17 and ending September 23 of each year as "Constitution Week"; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim September 17-23, 2012 as **CONSTITUTION WEEK** in Illinois and encourage all citizens to recognize and appreciate the importance of this enduring document to our nation and reaffirm our commitment to the rights and responsibilities of citizenship organizations that bring citizens together to celebrate and reflect upon the Constitution and conduct ceremonies and programs in honor of our founding document's 225th anniversary.

Issued by the Governor April 2, 2012
Filed by the Secretary of State April 11, 2012

2012-129
Fibromyalgia Awareness Day

WHEREAS, fibromyalgia is a debilitating disorder in which people experience long-term, body-wide pain and tender points in joints, muscles, tendons, and other soft tissues. Fibromyalgia has also been linked to fatigue, sleep problems, headaches, depression, anxiety, and other symptoms; and,

WHEREAS, an estimated 10 million people in the United States, have been diagnosed with fibromyalgia, a disorder for which there is no known cause or cure; and,

WHEREAS, fibromyalgia is a chronic pain disorder that interferes with even the simplest of daily activities – taking a toll emotionally, financially and socially on patients, their family, friends, and co-workers; and,

WHEREAS, fibromyalgia prevents patients from contributing to society at the level they once did because of a myriad of symptoms that can come and go unpredictably and vary in severity; and,

WHEREAS, people with fibromyalgia are never completely symptom-free, they are always in pain, and this pain impacts every area of their lives; and,

WHEREAS, increased awareness and expanded knowledge of the realities of life with fibromyalgia will allow the community at large to better support those who struggle with the challenges of this chronic pain disorder; and,

WHEREAS, Fibromites Unite, the National Fibromyalgia Association, the Fibromyalgia Network, and other groups around the country will join together on May 12 to observe Fibromyalgia Awareness Day – a day to promote fibromyalgia awareness and support – including improved education, diagnosis, research, and treatment; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 12, 2012 as **FIBROMYALGIA AWARENESS DAY** in Illinois, and encourage all citizens to support the search for a cure and assist those individuals and families who deal with this devastating disorder every day.

Issued by the Governor April 2, 2012
Filed by the Secretary of State April 11, 2012

2012-130
Illinois Equal Pay Day

WHEREAS, according to most recent data from the Bureau of Labor Statistics, Illinois women earned 75 percent of every dollar earned by Illinois men in 2009 based on median weekly earnings, a decline from 78 percent in 2008; and,

WHEREAS, equal pay for equal work strengthens the security of families today and eases future retirement costs while enhancing Illinois' economy; and,

WHEREAS, the Illinois Equal Pay Act prohibits employers from paying unequal wages to men and women for doing the same or substantially similar work; and,

WHEREAS, the Illinois Department of Labor is a state agency that promotes and protects the rights, wages, welfare, working conditions and safety and health of Illinois workers through enforcement of state labor laws; and,

WHEREAS, the Illinois Department of Labor is dedicated to advancing pay equality in the workplace and protecting workers from gender-based wage discrimination through its enforcement of the Illinois Equal Pay Act; and,

WHEREAS, Tuesday, April 17 symbolizes the time in the new year in which wages paid to American women catch up to wages paid to men from the previous year and raises awareness of the wage gap between men and women:

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 17, 2012 as **ILLINOIS EQUAL PAY DAY**, in recognition of the value of women's skills and contributions to the labor force, and I call on all employers to provide equal pay for equal work, both as a matter of fairness and as a matter of good business.

Issued by the Governor April 2, 2012
Filed by the Secretary of State April 11, 2012

2012-131
Public Works Week

WHEREAS, public works infrastructure, facilities and services are of vital importance to the health, safety and well-being of the people of Illinois; and,

WHEREAS, such facilities and services would not be possible without the dedicated efforts of public works professionals, engineers and administrators- representing state and local units of government, who are responsible for and must design, build, operate and maintain the transportation, water supply, sewage and refuse disposal systems, public buildings and other structures and facilities essential to serving our citizens; and,

WHEREAS, it is in the public interest for the citizens and civic leaders of this country to gain knowledge of, and to maintain a progressive interest in the public works needs and programs of their respective communities; and,

WHEREAS, this year marks the 52nd Anniversary of National Public Works Week, sponsored by the American Public Works Association; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 20-26, 2012 as **PUBLIC WORKS WEEK** in Illinois, and encourage all citizens to join with representatives of governmental agencies and the American Public Works Association in activities and ceremonies designed to pay tribute to public works professionals, engineers and administrators, and to recognize the substantial contributions they have made to our national health and welfare.

Issued by the Governor April 2, 2012
Filed by the Secretary of State April 11, 2012

2012-132
National Water Safety Month

WHEREAS, citizens of Illinois recognize the vital role that swimming and aquatic-related activities play in good physical and mental health, and that they enhance the quality of life for all people; and,

WHERAS, water safety education prevents drowning and recreational water-related injuries and death; and,

WHEREAS, members of the recreational water industry, as represented by the organizations involved in the National Water Safety Month Coalition, have developed safe swimming facilities, aquatic programs, home pools and spas, and related activities which provides healthy places to recreate, learn, grow, and build self-esteem, confidence and a sense of self-worth, contributing to the quality of life in a community; and,

WHEREAS, trained and certified aquatics professionals who develop water-safety rules allow for water recreation activities to be both fun and safe at the same time; and,

WHEREAS, members of the National Water Safety Month Coalition are dedicated to educating the public on pool and spa safety issues and initiatives by the pool, spa, waterpark, recreation and parks industries; and,

WHEREAS, the communication of water safety rules and programs to families and individuals of all ages, whether owners of private pools, users of public swimming facilities, or visitors to waterparks, is of vital importance; and,

WHEREAS, effective water-safety programs are one of the best ways to prevent water-related injuries and deaths; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2012 as **NATIONAL WATER SAFETY MONTH** in Illinois, and encourage all citizens to support and promote the importance of practicing safety in water recreation.

Issued by the Governor April 2, 2012
Filed by the Secretary of State April 11, 2012

2012-133
World Lupus Day

WHEREAS, lupus is an autoimmune disease that can cause severe damage to tissue and organs in the body and, in some cases, death; and,

WHEREAS, more than five million people worldwide suffer the devastating effects of this disease and each year over a hundred thousand young women, men and children are newly diagnosed with lupus, the great majority of whom are women of childbearing age; and,

WHEREAS, medical research efforts into lupus for the discovery of safer, more effective treatments for lupus patients are under-funded in comparison with diseases of comparable magnitude and severity; and,

WHEREAS, many physicians worldwide are unaware of symptoms and health effects of lupus, causing people with lupus to suffer for many years before they obtain a correct diagnosis and medical treatment; and,

WHEREAS, there is an urgent need to increase awareness in communities worldwide of the debilitating impact of lupus and to educate and support individuals and families affected by lupus; and,

WHEREAS, since 2004, May 10th has been designated as World Lupus Day on which lupus organizations around the globe call for increases in public and private sector funding for medical research on lupus, targeted education programs for health professionals, patients and the public, and worldwide recognition of lupus as a significant public health issue; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 10, 2012 as **WORLD LUPUS DAY** in Illinois, in order to increase awareness of this devastating and debilitating chronic disease.

Issued by the Governor April 3, 2012
Filed by the Secretary of State April 11, 2012

2012-134
Invasive Species Awareness Month

WHEREAS, millions of dollars, both public and private, are spent each year for the control of invasive plant and animal species in Illinois' waters, wildlands and agricultural lands; and,

WHEREAS, invasive plants and animals threaten Illinois' waters and wildlands by competing with and destroying native plants and animals, and by disrupting complex food webs and habitat systems; and,

WHEREAS, invasive species threaten the productivity and economic viability of Illinois' agricultural lands and waterways by creating unnatural competition; and,

WHEREAS, Illinois' waters and wildlands draw hundreds of thousands of tourists and recreational users each year; and,

WHEREAS, Illinois' agricultural lands and waterway are vital to the economic livelihood and health of the state's citizens; and,

WHEREAS, Illinois' citizens experience losses in revenue due to reduced production in crops and forests, reduction in tourism, commercial fishing and agricultural lands due to invasive species; and,

WHEREAS, awareness of invasive species is an important first step towards behavioral change, which can prevent the introduction and spread of invasive species; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2012 as **INVASIVE SPECIES AWARENESS MONTH** in Illinois, and encourage all individuals and public and private groups to sponsor and participate in activities to help all Illinois residents and visitors gain a better understanding of the impact of invasive species on Illinois' waterways, wildlands and agricultural lands.

Issued by the Governor April 3, 2012
Filed by the Secretary of State April 11, 2012

2012-135
Turkish National Sovereignty and Children's Day

WHEREAS, every year on April 23, over half a million Turkish-Americans celebrate Turkish National Sovereignty and Children's Day; and,

WHEREAS, on this day, 92 years ago, the Turkish Grand National Assembly was established to lead the Turkish people toward freedom, justice and peace; and,

WHEREAS, marked in 1921 as Turkish National Day, April 23 has also been celebrated since 1927 as Children's Day to signify the role of future generations in the realization of Turkish progress and prosperity; and

WHEREAS, since its establishment, the Turkish Republic has demonstrated its commitment to the universal values of liberty, justice, and democracy along with its long-term strategic alliance with the United States ; and,

WHEREAS, modern Turkey stands as the world's most predominantly Muslim secular parliamentary democracy. It boasts the fastest growing emerging market and remains an important U.S and NATO ally in a vast region stretching from Eastern Europe and North Africa to the Middle East and Central Asia ; and,

WHEREAS, in less than a century of immigration, Turkish-Americans have had a unique impact on the diverse cultural spectrum of our nation, significantly contributing to America's advancement in the fields of business, sciences, medicine, technology and arts; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 23, 2012 as **TURKISH NATIONAL SOVEREIGNTY AND CHILDREN'S DAY** in Illinois.

Issued by the Governor April 3, 2012
Filed by the Secretary of State April 11, 2012

2012-136
Food Allergy Awareness Week

WHEREAS, a food allergy occurs when the immune system mistakenly believes that a food is harmful, thereby causing a person to have a severe allergic reaction, or an anaphylaxis – a sudden, severe allergic reaction involving major organs in the body simultaneously. In severely allergic individuals it can cause death in a matter of minutes if untreated; and,

WHEREAS, research shows that the prevalence of food allergy is increasing among children. Approximately 12 million Americans suffer from food allergies, 3 million of them children under the age of 18; and,

WHEREAS, eight foods cause 90 percent of all food allergy reactions in the U.S.: shellfish, fish, milk, eggs, tree nuts, peanuts, soy, and wheat; and,

WHEREAS, symptoms of a food-allergic reaction may include one or more of the following: a tingling sensation in the mouth, swelling of the tongue and the throat, difficulty breathing, hives, vomiting, abdominal cramps, diarrhea, drop in blood pressure, and loss of consciousness; and,

WHEREAS, symptoms typically appear within minutes to two hours after the person has eaten the food to which he or she is allergic; and,

WHEREAS, according to the Centers for Disease Control and Prevention, food allergy results in more than 300,000 ambulatory care visits a year involving children under 18. Reactions typically

occur when an individual unknowingly eats food containing an ingredient to which they are allergic; and,

WHEREAS, the Food Allergy & Anaphylaxis Network (FAAN) is a national, nonprofit organization dedicated to raising awareness about food allergy and anaphylaxis; and,

WHEREAS, there is no cure for food allergies. Strict avoidance of the allergy-causing food is the only way to avoid a reaction; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 13-19, 2012 as **FOOD ALLERGY AWARENESS WEEK** in Illinois, to raise awareness of food allergies and to educate the public about the associated health risks.

Issued by the Governor April 3, 2012
Filed by the Secretary of State April 11, 2012

2012-137
Groundwater Awareness Week

WHEREAS, almost half of Illinois citizens, a significant number of Illinois industries and nearly one hundred percent of farms rely on groundwater; and,

WHERAS, private water wells in Illinois provide drinking water to approximately 1.3 million people; and,

WHEREAS, thousands of the wells in Illinois have fallen into disrepair and represent safety hazards, especially to children, but are also present a water-quality threat by potentially routing contaminants directly to groundwater; and,

WHEREAS, landowners threaten their own or their neighbors' water supplies and maintain hazards by failing to properly seal abandoned wells on their property; and,

WHEREAS, state and local governments need to encourage and enforce requirements for sealing abandoned wells in accordance with the Illinois Water Well Construction Code (77 Ill. Admin. Code I, 920.120r); and,

WHEREAS, Illinois citizens, businesses, industries, and local and state governments all have roles in protecting the public safety and groundwater resources; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 22-28, 2012 as **GROUNDWATER AWARNESS WEEK** in Illinois, and encourage all citizen,

businesses, industries and municipalities to consider and take appropriate actions to protect and manage Illinois groundwater resources.

Issued by the Governor April 3, 2012
Filed by the Secretary of State April 11, 2012

2012-138
American Humane Association Hero Dog Day

WHEREAS, throughout the course of history, America has been defined in part by its heroes; and,

WHEREAS, America's human heroes and first responders have been well-served by search and rescue dogs, law enforcement and arson-detection dogs, and military dogs that risk their own lives to save human ones by detecting bombs and other explosives; and,

WHEREAS, service dogs trained to help the blind, the hearing impaired, individuals in wheelchairs or people requiring alerts to other medical conditions that could create medical emergencies have worked tirelessly and obediently to support their owners; and,

WHEREAS, some of America's pet dogs – though untrained in special skills – have performed extraordinary acts of kindness, comfort, or service, in innovative roles including comforting children hospitalized with cancer, the elderly in nursing homes, and veterans suffering PTSD; and,

WHEREAS, on October 6, 2012 these canine heroes will be honored for their brave and loyal service by the American Humane Association at a star-studded gala; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim October 6, 2012 as **AMERICAN HUMANE ASSOCIATION HERO DOG DAY** in Illinois, in recognition of the contributions made by America's dogs and in honor of the human-animal bond that creates a more caring, compassionate society.

Issued by the Governor April 4, 2012
Filed by the Secretary of State April 11, 2012

2012-139
Take our Daughters and Sons to Work Day

WHEREAS, the growth and development of school-age children is of paramount importance in Illinois, and across the country; and

WHEREAS, Illinois values its children and recognizes the importance of providing them with the best education possible so that they may realize their fullest potential and experience success in their future endeavors; and

WHEREAS, Gloria Steinem and the Ms. Foundation for Women launched "Take Our Daughters To Work Day" in 1992 to help our nation's children reach their full potential in school, in family life, in the community, and in their future work lives; and

WHEREAS, boys were added to the program in 2003 and the name was changed to "Take Our Daughters and Sons To Work Day" so that boys who also faced challenges such as school drop-out rates and low self-esteem could participate and benefit from the program as well; and,

WHEREAS, the "Take Our Daughters and Sons To Work Day" program is dedicated to developing innovative strategies that empower girls and boys to overcome societal barriers to reach their full potential; and,

WHEREAS, the "Take Our Daughters and Sons To Work Day" program designs and promotes activities that encourage girls and boys to think about how their dreams for the future, both for their work and family lives, can be realized; and

WHEREAS, through this educational experience, girls and boys begin to see how studied subjects like math, English, and science are applied in "real" world settings. As a result, girls and boys are given the opportunity to explore the workplace and apply the experience to their everyday studies; and

WHEREAS, the "Take Our Daughters and Sons To Work Day" program offers girls and boys a chance to observe a wealth of job possibilities and future opportunities, while also maintaining its commitment to ensuring that all our nation's daughters and sons have a chance to participate in the program. They will see the faces of engineers, doctors, professors, and executives that could be of any gender, race, or background; and

WHEREAS, the "Take Our Daughters and Sons To Work Day" program amplifies the voices of girls and boys, shares the vision of our nation's daughters and sons for a better future, and works to help girls and boys make their vision of today their reality of tomorrow; and,

WHEREAS, the "Take Our Daughters and Sons To Work Day" program will be observed this year on Thursday, April 26th with the theme of: ""Build Opportunity: 20 Years of Education, Empowerment, Experience." and will celebrate its 20th anniversary; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 26, 2012 as **TAKE OUR DAUGHTERS AND SONS TO WORK® DAY** in Illinois, and encourage all citizens to recognize this wonderful opportunity to teach our nation's sons and daughters the value of work through a hands-on experience.

Issued by the Governor April 5, 2012
Filed by the Secretary of State April 11, 2012

2012-140
Congenital Diaphragmatic Hernia Awareness Day

WHEREAS, a congenital diaphragmatic hernia is an opening in the diaphragm that allows the abdominal organs to push into the chest cavity. This birth defect is often life-threatening because it limits the growth of the lungs; and,

WHEREAS, congenital diaphragmatic hernias occur in 1 of every 2,500 live births in the United States, affecting a total of 1600 babies nationwide with an average of 70 born in Illinois each year; and,

WHEREAS, with a 50% survival rate, 800 of the 1600 babies born every year with Congenial Diaphragmatic Hernia will die; and,

WHEREAS, since 2000, it is estimated that over 250,000 babies born with CDH have died; and,

WHEREAS, those with CDH often endure multiple surgeries and possible medical complications beyond their diagnosis that include heart defects, pulmonary complications, gastric and intestinal problems, developmental delays, and may require respiratory and medicinal support for years; and,

WHEREAS, early diagnosis and appropriate management of fetuses with congenital diaphragmatic hernias can minimize the incidence of emergency situations and dramatically improve survival rates. However, there is a need for increased public awareness of the condition; and,

WHEREAS, many organizations are working to promote public awareness and encourage research efforts to one day prevent or successfully treat all those diagnosed with congenital diaphragmatic hernias; and,

WHEREAS, on April 19, families and friends whose lives have been affected by CDH will have an opportunity to celebrate life and remember the loved ones they have lost to congenital

diaphragmatic hernias, and to honor dedicated health professionals; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 19, 2012 as **CONGENITAL DIAPHRAGMATIC HERNIA AWARENESS DAY** in Illinois, in order to raise public awareness of this condition, and to encourage all citizens to learn more about congenital diaphragmatic hernias and support those who are affected.

Issued by the Governor April 6, 2012
Filed by the Secretary of State April 11, 2012

2012-141
Childhood Drowning Prevention Month

WHEREAS, drowning is the leading cause of accidental death for children ages 1-4, as well as the second leading cause of death for children under the age of 14; and,

WHEREAS, childhood drowning can occur in pools, bathtubs, hot tubs, decorative garden ponds and even buckets that contain as little as 2 inches of water, and,

WHEREAS, the state's annual "Get Water Wise…SUPERVISE!" campaign was developed in response to a recommendation from the Illinois Child Death Review Team, after it determined that all childhood drowning deaths were preventable if proper adult supervision was provided; and,

WHEREAS, the "Get Water Wise…SUPERVISE!" campaign is a collaborative effort of the Illinois Department of Children and Family Services (DCFS), Prevent Child Abuse Illinois (PCA Illinois), the American Red Cross Illinois Capital Area Chapter, the American Academy of Pediatrics Illinois Chapter, the Illinois Department of Public Health (DPH), and other community partners who wish to remind the public to help prevent child drowning tragedies by providing adult supervision when children are in or near water; and,

WHEREAS, it is important to recognize that constant adult supervision is needed when children are in or near water; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim May 2012 as **CHILDHOOD DROWNING PREVENTION MONTH** in Illinois.

Issued by the Governor April 9, 2012
Filed by the Secretary of State April 11, 2012

2012-142

PROCLAMATIONS

Tai Chi and Qigong Day

WHEREAS, Tai Chi, a traditional Chinese exercise, is a series of mindful relaxed movements, increasingly found to have many health benefits for people of all different fitness levels; and,

WHEREAS, a study by the Emory University School of Medicine in Atlanta has pointed to the benefits of Tai Chi as relieving stress and improving balance and coordination among the elderly, while another study conducted by the University of Miami School of Medicine showed improved behavior in adolescents with Attention Deficit and Hyperactivity Disorder who practiced Tai Chi; and,

WHEREAS, Tai Chi and Qigong are also being used as helpful stress managers and behavior modifiers for drug abusers and prison inmates in some penal institutions in the United States; and,

WHEREAS, World Tai Chi and Qigong Day is now celebrated in 70 nations annually; and,

WHEREAS, World Tai Chi and Qigong Day is meant to bring practitioners together and to allow people to learn more about Tai Chi and Qigong through this day of celebration and practice that will be observed around the world on April 28; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 28, 2012 as **TAI CHI AND QIGONG DAY** in Illinois.

Issued by the Governor April 9, 2012
Filed by the Secretary of State April 11, 2012

2012-143
Oral, Head and Neck Cancer Awareness Week

WHEREAS, over 50,000 Americans are diagnosed with cancer of the head and neck each year, making it the sixth leading manifestation of cancer in the United States; and,

WHEREAS, less than sixty percent of all oral, head and neck cancer patients surviving more than five years after diagnosis with over 12,000 deaths annually; and,

WHEREAS, a significant number of individuals treated for this disease encounter disabilities due to breathing, swallowing, speaking, physical, and/or visual difficulties; and,

WHEREAS, over eighty-five percent of cases of oral, head and neck cancer are preventable if diagnosed and treated, but there is a need for greater understanding of oral, head and neck cancer, its causes and its treatments; and,

WHEREAS, increased awareness of the risk factors for these disease processes could result in earlier diagnoses, lower functional disabilities and higher survival rates; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby proclaim April 22-28, 2012 as **ORAL, HEAD AND NECK CANCER AWARENESS WEEK** in Illinois, and encourage all residents to participate in screening for oral, head and neck cancer.

Issued by the Governor April 9, 2012
Filed by the Secretary of State April 11, 2012

2012-144
Cpl. Martinez

WHEREAS, on Thursday, April 5, 2012, U.S. Marine CPL. Alex Martinez of Elgin, Illinois died at age 21 while serving in support of Operation Enduring Freedom; and,

WHEREAS, CPL. Martinez was assigned to the 1st Combat Engineer Battalion, 1st Marine Division, I Marine Expeditionary Force, based at Camp Pendleton, California; and,

WHEREAS, CPL. Martinez was an admired student at Larkin High School in Elgin, Illinois where he graduated in 2009; and,

WHEREAS, CPL. Martinez married his high school sweetheart and enlisted in the Marine Corps in 2009; and,

WHEREAS, CPL. Martinez was a dedicated Marine who had already served 3 years and was preparing for a career in law enforcement or firefighting upon his return; and,

WHEREAS, a funeral will be held on April 14, 2012 for CPL. Martinez, who is survived by his parents, his wife, three brothers and three sisters; and,

THEREFORE, I, Pat Quinn, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff from sunrise on April 12, 2012 until sunset on April 14, 2012 in honor and remembrance of CPL. Martinez, whose selfless service and sacrifice is an inspiration.

Issued by the Governor April 10, 2012

Filed by the Secretary of State April 11, 2012

ILLINOIS ADMINISTRATIVE CODE
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