



**TABLE OF CONTENTS**

**April 17, 2015 Volume 39, Issue 16**

**PROPOSED RULES**

ATTORNEY GENERAL, OFFICE OF THE  
Hospital Financial Assistance under the Fair Patient Billing Act  
77 Ill. Adm. Code 4500.....5536

HEALTH FACILITIES AND SERVICES REVIEW BOARD  
Processing, Classification Policies and Review Criteria  
77 Ill. Adm. Code 1110.....5540

SECRETARY OF STATE  
Secretary of State Standard Procurement  
44 Ill. Adm. Code 2000.....5565

**ADOPTED RULES**

COMMERCE COMMISSION, ILLINOIS  
Governmental Electric Aggregation  
83 Ill. Adm. Code 470.....5577

GAMING BOARD, ILLINOIS  
Video Gaming (General)  
11 Ill. Adm. Code 1800.....5593

HUMAN RIGHTS, DEPARTMENT OF  
Procedures of the Department of Human Rights  
56 Ill. Adm. Code 2520.....5601

INSURANCE, DEPARTMENT OF  
Americans With Disabilities Act Grievance Procedure  
4 Ill. Adm. Code 250.....5618

**NOTICE OF MODIFICATION TO MEET THE OBJECTION OF  
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES**

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS  
The Administration and Operation of the  
State Employees' Retirement System of Illinois  
80 Ill. Adm. Code 1540.....5626

**SECOND NOTICES RECEIVED**

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
Second Notices Received.....5632

## **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 2015**

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 22, 2014	January 2, 2015
2	December 29, 2014	January 9, 2015
3	January 5, 2015	January 16, 2015
4	January 12, 2015	January 23, 2015
5	January 20, 2015	January 30, 2015
6	January 26, 2015	February 6, 2015
7	February 2, 2015	February 13, 2015
8	February 9, 2015	February 20, 2015
9	February 17, 2015	February 27, 2015
10	February 23, 2015	March 6, 2015
11	March 2, 2015	March 13, 2015
12	March 9, 2015	March 20, 2015
13	March 16, 2015	March 27, 2015
14	March 23, 2015	April 3, 2015
15	March 30, 2015	April 10, 2015
16	April 6, 2015	April 17, 2015
17	April 13, 2015	April 24, 2015
18	April 20, 2015	May 1, 2015
19	April 27, 2015	May 8, 2015
20	May 4, 2015	May 15, 2015
21	May 11, 2015	May 22, 2015

22	May 18, 2015	May 29, 2015
23	May 26, 2015	June 5, 2015
24	June 1, 2015	June 12, 2015
25	June 8, 2015	June 19, 2015
26	June 15, 2015	June 26, 2015
27	June 22, 2015	July 6, 2015
28	June 29, 2015	July 10, 2015
29	July 6, 2015	July 17, 2015
30	July 13, 2015	July 24, 2015
31	July 20, 2015	July 31, 2015
32	July 27, 2015	August 7, 2015
33	August 3, 2015	August 14, 2015
34	August 10, 2015	August 21, 2015
35	August 17, 2015	August 28, 2015
36	August 24, 2015	September 4, 2015
37	August 31, 2015	September 11, 2015
38	September 8, 2015	September 18, 2015
39	September 14, 2015	September 25, 2015
40	September 21, 2015	October 2, 2015
41	September 28, 2015	October 9, 2015
42	October 5, 2015	October 16, 2015
43	October 13, 2015	October 23, 2015
44	October 19, 2015	October 30, 2015
45	October 26, 2015	November 6, 2015
46	November 2, 2015	November 13, 2015
47	November 9, 2015	November 20, 2015
48	November 16, 2015	November 30, 2015
49	November 23, 2015	December 4, 2015
50	November 30, 2015	December 11, 2015
51	December 7, 2015	December 18, 2015
52	December 14, 2015	December 28, 2015

## OFFICE OF THE ATTORNEY GENERAL

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Financial Assistance under the Fair Patient Billing Act
- 2) Code Citation: 77 Ill. Adm. Code 4500
- 3) Section Number: 4500.APPENDIX A      Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88/27]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment will update Appendix A to reflect the 2015 poverty guidelines published by the United States Department of Health and Human Services (DHHS) in the Federal Register on January 22, 2015.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No studies or reports were used to compose this rulemaking.
- 7) Will this rulemaking replace any emergency rule 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 affect or create or expand a State mandate under the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Lynn Patton  
Rules Coordinator  
Office of the Attorney General  
500 South Second Street  
Springfield IL 62706

217/524-1504

David F. Buysse  
Deputy Chief, Public Interest Division  
Office of the Attorney General  
100 West Randolph Street, 12th Floor  
Chicago IL 60601

312/814-7236

## OFFICE OF THE ATTORNEY GENERAL

## NOTICE OF PROPOSED AMENDMENT

All written comments filed within 45 days after the date of publication of this Notice will be considered.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect small businesses, small municipalities and not-for-profit corporations that operate hospitals in Illinois by requiring the modification of their forms to reflect the updated federal poverty income guideline information.
- B) Reporting, bookkeeping or other procedures required for compliance: None beyond those already required by hospitals.
- C) Types of professional skills necessary for compliance: None beyond those already required for personnel engaged in hospital billing operations.

14) Regulatory Agenda on which this rulemaking was summarized: January 2015

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

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH  
CHAPTER XVIII: OFFICE OF THE ATTORNEY GENERAL

PART 4500  
HOSPITAL FINANCIAL ASSISTANCE  
UNDER THE FAIR PATIENT BILLING ACT

Section

- 4500.10 Definitions
- 4500.20 Referenced Materials
- 4500.30 Hospital Financial Assistance Application Requirements
- 4500.40 Presumptive Eligibility Criteria
- 4500.50 Hospital Financial Assistance Electronic and Information Technology
- 4500.60 Hospital Financial Assistance Reporting Requirements

4500.APPENDIX A [20152014](#) Poverty Income Guidelines

AUTHORITY: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88/27].

SOURCE: Adopted at 37 Ill. Reg. 12536, effective July 22, 2013; amended at 38 Ill. Reg. 20263, effective October 10, 2014; amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## OFFICE OF THE ATTORNEY GENERAL

## NOTICE OF PROPOSED AMENDMENT

**Section 4500.APPENDIX A ~~2015~~2014 Poverty Income Guidelines**2015~~2014~~ HEALTH AND HUMAN SERVICES POVERTY GUIDELINES

Persons in Family	Poverty Guideline
1	\$ <del>11,770</del> <u>11,670</u>
2	\$ <del>15,930</del> <u>15,730</u>
3	\$ <del>20,090</del> <u>19,790</u>
4	\$ <del>24,250</del> <u>23,850</u>
5	\$ <del>28,410</del> <u>27,910</u>
6	\$ <del>32,570</del> <u>31,970</u>
7	\$ <del>36,730</del> <u>36,030</u>
8	\$ <del>40,890</del> <u>40,090</u>
For additional persons, add	\$ <u>4,160</u> <del>4,060</del>

NOTE: See ~~8079~~ Fed. Reg. ~~3236 through 3237 (January 22, 2015)~~3593 through 3594 (January 22, 2014).

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Processing, Classification Policies and Review Criteria
- 2) Code Citation: 77 Ill. Adm. Code 1110
- 3) Section Number: 1110.1540                      Proposed Action: Amendment
- 4) Statutory Authority: 20 ILCS 3960/12
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking further clarifies that Ambulatory Surgical Treatment Centers (ASTCs) involving abortion and abortion-related services are not subject to the Certificate of Need rules for establishment or expansion of ASTC services.
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: HFSRB shall conduct public hearings on proposed rules, if requested in writing within 14 business days following the publication of the proposed rules in the *Illinois Register*. Notice of public hearings will be posted on the HFSRB website (<http://hfsrb.illinois.gov>).

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 Coordinator

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

Health Facilities and Services Review Board  
69 W. Washington Street, Suite 3500  
Chicago IL 60602

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: Hospitals; long-term care facilities; Ambulatory Surgical Treatment Centers; ESRD facilities; institutions, places, buildings or rooms used for provisions of a health care category of service as defined by the Board, including, but not limited to cardiac catheterization and open heart surgery; and institutions, places, buildings or rooms used for the 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 either of the two most recent agendas because: the need for the rulemaking was not apparent when the Regulatory Agenda was prepared.

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

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

## TITLE 77: PUBLIC HEALTH

## CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD

## SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

## PART 1110

## PROCESSING, CLASSIFICATION POLICIES AND REVIEW CRITERIA

## SUBPART A: GENERAL APPLICABILITY AND PROJECT CLASSIFICATION

## Section

- 1110.10 Introduction and Applicability
- 1110.20 Projects Required to Obtain a Permit (Repealed)
- 1110.30 Processing and Reviewing Applications (Repealed)
- 1110.40 Classification of Projects
- 1110.50 Recognition of Services which Existed Prior to Permit Requirements (Repealed)
- 1110.55 Recognition of Non-hospital Based Ambulatory Surgery Category of Service (Repealed)
- 1110.60 Master Design Projects (Repealed)
- 1110.65 Master Plan or Capital Budget Projects (Repealed)

## SUBPART B: REVIEW CRITERIA – DISCONTINUATION

## Section

- 1110.110 Introduction (Repealed)
- 1110.120 Discontinuation – Definition (Repealed)
- 1110.130 Discontinuation – Review Criteria

SUBPART C: GENERAL PURPOSE AND FACILITY CONVERSION –  
INFORMATION REQUIREMENTS AND REVIEW CRITERIA

## Section

- 1110.210 Introduction
- 1110.220 Definitions – General Review Criteria (Repealed)
- 1110.230 Purpose of Project, Safety Net Impact Statement and Alternatives – Information Requirements
- 1110.234 Project Scope and Size, Utilization and Unfinished/Shell Space – Review Criteria
- 1110.235 Additional General Review Criteria for Master Design and Related Projects Only
- 1110.240 Changes of Ownership, Mergers and Consolidations

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENT

SUBPART D: REVIEW CRITERIA RELATING TO ALL PROJECTS  
INVOLVING ESTABLISHMENT OF ADDITIONAL BEDS  
OR SUBSTANTIAL CHANGE IN BED CAPACITY

Section

- 1110.310 Introduction (Repealed)
- 1110.320 Bed Related Review Criteria (Repealed)

SUBPART E: MODERNIZATION REVIEW CRITERIA

Section

- 1110.410 Introduction (Repealed)
- 1110.420 Modernization Review Criteria (Repealed)

SUBPART F: CATEGORY OF SERVICE REVIEW CRITERIA –  
MEDICAL/SURGICAL, OBSTETRIC, PEDIATRIC AND INTENSIVE CARE

Section

- 1110.510 Introduction (Repealed)
- 1110.520 Medical/Surgical, Obstetric, Pediatric and Intensive Care – Definitions (Repealed)
- 1110.530 Medical/Surgical, Obstetric, Pediatric and Intensive Care – Review Criteria

SUBPART G: CATEGORY OF SERVICE REVIEW CRITERIA –  
COMPREHENSIVE PHYSICAL REHABILITATION

Section

- 1110.610 Introduction (Repealed)
- 1110.620 Comprehensive Physical Rehabilitation – Definitions (Repealed)
- 1110.630 Comprehensive Physical Rehabilitation – Review Criteria

SUBPART H: CATEGORY OF SERVICE REVIEW CRITERIA –  
ACUTE MENTAL ILLNESS AND CHRONIC MENTAL ILLNESS

Section

- 1110.710 Introduction (Repealed)
- 1110.720 Acute Mental Illness – Definitions (Repealed)
- 1110.730 Acute Mental Illness and Chronic Mental Illness – Review Criteria

SUBPART I: CATEGORY OF SERVICE REVIEW CRITERIA –

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

## SUBSTANCE ABUSE/ADDICTION TREATMENT

## Section

- 1110.810 Introduction (Repealed)
- 1110.820 Substance Abuse/Addiction Treatment – Definitions (Repealed)
- 1110.830 Substance Abuse/Addiction Treatment – Review Criteria (Repealed)

SUBPART J: CATEGORY OF SERVICE REVIEW CRITERIA –  
NEONATAL INTENSIVE CARE

## Section

- 1110.910 Introduction
- 1110.920 Neonatal Intensive Care – Definitions
- 1110.930 Neonatal Intensive Care – Review Criterion

SUBPART K: CATEGORY OF SERVICE REVIEW CRITERIA –  
BURN TREATMENT

## Section

- 1110.1010 Introduction (Repealed)
- 1110.1020 Burn Treatment – Definitions (Repealed)
- 1110.1030 Burn Treatment – Review Criteria (Repealed)

SUBPART L: CATEGORY OF SERVICE REVIEW CRITERIA –  
THERAPEUTIC RADIOLOGY

## Section

- 1110.1110 Introduction (Repealed)
- 1110.1120 Therapeutic Radiology – Definitions (Repealed)
- 1110.1130 Therapeutic Radiology – Review Criteria (Repealed)

SUBPART M: CATEGORY OF SERVICE REVIEW CRITERIA –  
OPEN HEART SURGERY

## Section

- 1110.1210 Introduction
- 1110.1220 Open Heart Surgery – Definitions
- 1110.1230 Open Heart Surgery – Review Criteria

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

SUBPART N: CATEGORY OF SERVICE REVIEW CRITERIA –  
CARDIAC CATHETERIZATION

## Section

- 1110.1310 Introduction
- 1110.1320 Cardiac Catheterization – Definitions
- 1110.1330 Cardiac Catheterization – Review Criteria

SUBPART O: CATEGORY OF SERVICE REVIEW CRITERIA –  
IN-CENTER HEMODIALYSIS

## Section

- 1110.1410 Introduction (Repealed)
- 1110.1420 Chronic Renal Dialysis – Definitions (Repealed)
- 1110.1430 In-Center Hemodialysis Projects – Review Criteria

SUBPART P: CATEGORY OF SERVICE REVIEW CRITERIA –  
NON-HOSPITAL BASED AMBULATORY SURGICAL TREATMENT CENTER SERVICES

## Section

- 1110.1510 Introduction (Repealed)
- 1110.1520 Non-Hospital Based Ambulatory Surgery – Definitions (Repealed)
- 1110.1530 Non-Hospital Based Ambulatory Surgical Treatment Center Services – Projects  
Not Subject to This Part
- 1110.1535 Recognition of Non-Hospital Based Ambulatory Surgical Treatment Center  
(ASTC) Services
- 1110.1540 Non-Hospital Based Ambulatory Surgical Treatment Center Services – Review  
Criteria

SUBPART Q: CATEGORY OF SERVICE REVIEW CRITERIA –  
COMPUTER SYSTEMS

## Section

- 1110.1610 Introduction (Repealed)
- 1110.1620 Computer Systems – Definitions (Repealed)
- 1110.1630 Computer Systems – Review Criteria (Repealed)

SUBPART R: CATEGORY OF SERVICE REVIEW CRITERIA –  
GENERAL LONG TERM CARE

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

## Section

- 1110.1710 Introduction (Repealed)
- 1110.1720 General Long Term Care – Definitions (Repealed)
- 1110.1730 General Long Term Care – Review Criteria (Repealed)

SUBPART S: CATEGORY OF SERVICE REVIEW CRITERIA –  
SPECIALIZED LONG-TERM CARE

## Section

- 1110.1810 Introduction (Repealed)
- 1110.1820 Specialized Long-Term Care – Definitions (Repealed)
- 1110.1830 Specialized Long-Term Care – Review Criteria (Repealed)

SUBPART T: CATEGORY OF SERVICE REVIEW CRITERIA –  
INTRAOPERATIVE MAGNETIC RESONANCE IMAGING

## Section

- 1110.1910 Introduction (Repealed)
- 1110.1920 Intraoperative Magnetic Resonance Imaging – Definitions (Repealed)
- 1110.1930 Intraoperative Magnetic Resonance Imaging – Review Criteria (Repealed)

SUBPART U: CATEGORY OF SERVICE REVIEW CRITERIA –  
HIGH LINEAR ENERGY TRANSFER (L.E.T.)

## Section

- 1110.2010 Introduction (Repealed)
- 1110.2020 High Linear Energy Transfer (L.E.T.) – Definitions (Repealed)
- 1110.2030 High Linear Energy Transfer (L.E.T.) – Review Criteria (Repealed)

SUBPART V: CATEGORY OF SERVICE REVIEW CRITERIA –  
POSITRON EMISSION TOMOGRAPHIC SCANNING (P.E.T.)

## Section

- 1110.2110 Introduction (Repealed)
- 1110.2120 Positron Emission Tomographic Scanning (P.E.T.) – Definitions (Repealed)
- 1110.2130 Positron Emission Tomographic Scanning (P.E.T.) – Review Criteria (Repealed)

## SUBPART W: CATEGORY OF SERVICE REVIEW CRITERIA –

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

## EXTRACORPOREAL SHOCK WAVE LITHOTRIPSY

## Section

- 1110.2210 Introduction (Repealed)
- 1110.2220 Extracorporeal Shock Wave Lithotripsy – Definitions (Repealed)
- 1110.2230 Extracorporeal Shock Wave Lithotripsy – Review Criteria (Repealed)

SUBPART X: CATEGORY OF SERVICE REVIEW CRITERIA –  
SELECTED ORGAN TRANSPLANTATION

## Section

- 1110.2310 Introduction (Repealed)
- 1110.2320 Selected Organ Transplantation – Definitions (Repealed)
- 1110.2330 Selected Organ Transplantation – Review Criteria

SUBPART Y: CATEGORY OF SERVICE REVIEW CRITERIA –  
KIDNEY TRANSPLANTATION

## Section

- 1110.2410 Introduction (Repealed)
- 1110.2420 Kidney Transplantation – Definitions (Repealed)
- 1110.2430 Kidney Transplantation – Review Criteria

SUBPART Z: CATEGORY OF SERVICE REVIEW CRITERIA –  
SUBACUTE CARE HOSPITAL MODEL

## Section

- 1110.2510 Introduction
- 1110.2520 Subacute Care Hospital Model – Definitions (Repealed)
- 1110.2530 Subacute Care Hospital Model – Review Criteria
- 1110.2540 Subacute Care Hospital Model – HFSRB Review
- 1110.2550 Subacute Care Hospital Model – Project Completion

SUBPART AA: CATEGORY OF SERVICE REVIEW CRITERIA –  
POSTSURGICAL RECOVERY CARE CENTER ALTERNATIVE HEALTH CARE MODEL

## Section

- 1110.2610 Introduction
- 1110.2620 Postsurgical Recovery Care Center Alternative Health Care Model – Definitions

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- (Repealed)
- 1110.2630 Postsurgical Recovery Care Center Alternative Health Care Model – Review Criteria
- 1110.2640 Postsurgical Recovery Care Center Alternative Health Care Model – HFSRB Review
- 1110.2650 Postsurgical Recovery Care Center Alternative Health Care Model – Project Completion

SUBPART AB: CATEGORY OF SERVICE REVIEW CRITERIA –  
CHILDREN'S COMMUNITY-BASED HEALTH CARE  
CENTER ALTERNATIVE HEALTH CARE MODEL

## Section

- 1110.2710 Introduction (Repealed)
- 1110.2720 Children's Respite Care Center Alternative Health Care Model – Definitions (Repealed)
- 1110.2730 Children's Community-Based Health Care Center Alternative Health Care Model – Review Criteria (Repealed)
- 1110.2740 Children's Community-Based Health Care Center Alternative Health Care Model – HFPB Review (Repealed)
- 1110.2750 Children's Community-Based Health Care Center Alternative Health Care Model – Project Completion (Repealed)

SUBPART AC: CATEGORY OF SERVICE REVIEW CRITERIA –  
COMMUNITY-BASED RESIDENTIAL REHABILITATION CENTER  
ALTERNATIVE HEALTH CARE MODEL

## Section

- 1110.2810 Introduction
- 1110.2820 Community-Based Residential Rehabilitation Center Alternative Health Care Model - Definitions (Repealed)
- 1110.2830 Community-Based Residential Rehabilitation Center Alternative Health Care Model – Review Criteria
- 1110.2840 Community-Based Residential Rehabilitation Center Alternative Health Care Model – State Board Review
- 1110.2850 Community-Based Residential Rehabilitation Center Alternative Health Care Model – Project Completion

## SUBPART AD: CATEGORY OF SERVICE REVIEW

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

## CRITERIA – LONG TERM ACUTE CARE HOSPITAL BED PROJECTS

## Section

1110.2930 Long Term Acute Care Hospital Bed Projects – Review Criteria

SUBPART AE: CLINICAL SERVICE AREAS OTHER THAN  
CATEGORIES OF SERVICE – REVIEW CRITERIA

## Section

1110.3030 Clinical Service Areas Other Than Categories of Service – Review Criteria

SUBPART AF: CATEGORY OF SERVICE REVIEW CRITERIA –  
BIRTH CENTER – ALTERNATIVE HEALTH CARE MODEL

## Section

1110.3110 Introduction

1110.3130 Birth Center – Alternative Health Care Model – Review Criteria

SUBPART AG: CATEGORY OF SERVICE REVIEW CRITERIA –

## Section

1110.3210 Introduction

1110.3230 Freestanding Emergency Center Medical Services – Review Criteria

1110.APPENDIX A ASTC Services

1110.APPENDIX B State Guidelines – Square Footage and Utilization

1110.APPENDIX C Statutory Citations for All State and Federal Laws and Regulations  
Referenced in Chapter 3

**AUTHORITY:** Authorized by Section 12 of, and implementing, the Illinois Health Facilities Planning Act [20 ILCS 3960].

**SOURCE:** Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 18498; amended at 9 Ill. Reg. 3734, effective

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

March 6, 1985; amended at 11 Ill. Reg. 7333, effective April 1, 1987; amended at 12 Ill. Reg. 16099, effective September 21, 1988; amended at 13 Ill. Reg. 16078, effective September 29, 1989; emergency amendments at 16 Ill. Reg. 13159, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 16 Ill. Reg. 16108, effective October 2, 1992; amended at 17 Ill. Reg. 4453, effective March 24, 1993; amended at 18 Ill. Reg. 2993, effective February 10, 1994; amended at 18 Ill. Reg. 8455, effective July 1, 1994; amended at 19 Ill. Reg. 2991, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 7981, effective May 31, 1995, for a maximum of 150 days; emergency expired October 27, 1995; emergency amendment at 19 Ill. Reg. 15273, effective October 20, 1995, for a maximum of 150 days; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2600; amended at 20 Ill. Reg. 4734, effective March 22, 1996; amended at 20 Ill. Reg. 14785, effective November 15, 1996; amended at 23 Ill. Reg. 2987, effective March 15, 1999; amended at 24 Ill. Reg. 6075, effective April 7, 2000; amended at 25 Ill. Reg. 10806, effective August 24, 2001; amended at 27 Ill. Reg. 2916, effective February 21, 2003; amended at 32 Ill. Reg. 12332, effective July 18, 2008; amended at 33 Ill. Reg. 3312, effective February 6, 2009; amended at 34 Ill. Reg. 6121, effective April 13, 2010; amended at 35 Ill. Reg. 16989, effective October 7, 2011; amended at 36 Ill. Reg. 2569, effective January 31, 2012; amended at 38 Ill. Reg. 8861, effective April 15, 2014; amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART P: CATEGORY OF SERVICE REVIEW CRITERIA –  
NON-HOSPITAL BASED AMBULATORY SURGICAL TREATMENT CENTER SERVICES

**Section 1110.1540 Non-Hospital Based Ambulatory Surgical Treatment Center Services –  
Review Criteria**

- a) Introduction
  - 1) *Ambulatory Surgical Treatment Centers required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act [210 ILCS 5] are defined as healthcare facilities subject to the requirements of the Health Facilities Planning Act [20 ILCS 3960/3] and HFSRB rules (77 Ill. Adm. Code 1100, 1110, 1120 and 1130). Facilities devoted to abortion and related care, including those licensed as PSTCs under the ASTC Act are not subject to HFSRB rules related to Non-Hospital Based ASTCs. The addition of any other ASTC services (other than abortion-related services) will require a CON permit.*
  - 2) A permit is required for:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- A) the establishment of a new non-hospital based ambulatory surgical treatment center (ASTC); or
- B) the addition or establishment of a new ASTC service to an existing non-hospital based ASTC; or
- C) the increase or expansion of the number of surgical/treatment rooms for an existing ASTC service in a non-hospital based ASTC, if the total estimated project cost exceeds the capital expenditures minimum. The current threshold is posted on HFSRB's website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)); or
- D) any action with a total estimated project cost that exceeds the capital expenditures minimum. The current threshold is determined under 77 Ill. Adm. Code 1130. Appendix A and posted on HFSRB's website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)).
- 3) Applicants proposing to establish an ASTC or add or expand an ASTC service in an existing ASTC facility shall describe how the proposed project will address the following indicators of need, as presented in the following table:

PROJECT TYPE	REQUIRED REVIEW CRITERIA		
Establishment of ASTC Facility or Additional ASTC Service	(a)(5)(A) & (B)	–	Introduction – Identification of ASTC Service and # of Surgical/Treatment Rooms
	(b)(1) through (4)	–	Background of the Applicant
	(c)(2)(A) & (B)	–	Service to GSA Residents
	(d)(1) & (2) or (3)	–	Service Demand – Establishment
	(f) (1) & (2)	–	Treatment Room Need Assessment
	(g)	–	Service Accessibility

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENT

	(h)(1) through (3)	–	Unnecessary Duplication/Maldistribution
	(i)(1) & (2)	–	Staffing
	(j)	–	Charge Commitment
	(k)(1) & (2)	–	Assurances
Expansion of Existing ASTC Service	(a)(5)(A) & (B)	–	Introduction – Identification of ASTC Service and # of Surgical/Treatment Rooms
	(b)(1) through (4)	–	Background of the Applicant
	(c)(2)(A) & (B)	–	Service to GSA Residents
	(e)(1) through (3)	–	Service Demand – Expansion
	(f) (1) & (2)	–	Treatment Room Need Assessment
	(i)(1) & (2)	–	Staffing
	(j)	–	Charge Commitment
	(k)(1) & (2)	–	Assurances

- 4) In addition to addressing the applicable criteria listed in the chart in subsection (a)(4), the applicant shall indicate:
  - A) The existing and the proposed ASTC services as specified in Appendix A;
  - B) The existing and the proposed number of surgical/treatment rooms for each ASTC service as specified in Appendix A;
  - C) If an ASTC service is not specified in Appendix A, the applicant shall indicate the existing and proposed ASTC services, the existing and proposed number of surgical/treatment rooms, and the professional standards applicable to the proposed ASTC services.
  
- 5) Transition Period for Meeting Section 1110.1540 Requirements
  - A) Multi-specialty ASTCs that provided at least three of the ASTC services listed in appendix A prior to April 15, 2014, except those

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

ASTCs described in subsection (a)(5)(C), shall be exempt from this Section's CON application requirements for adding additional ASTC services until January 1, 2018.

- B) Effective April 15, 2014, multi-specialty ASTCs adding new services shall notify HFSRB of what services are being added and the effective date of those services. The notification of each new service added shall be submitted to HFSRB within 30 days after the service addition. Beginning January 1, 2018, multi-specialty ASTCs seeking to add additional ASTC services shall apply for a CON permit pursuant to the provisions of this Section.
  - C) Multi-specialty ASTCs that, as a condition of CON permit issuance, agreed to apply for CON permits when adding services shall continue to apply for CON permits when adding new services.
- 6) Sanctions and Penalties  
Noncompliance with the requirements of Sections 1110.1535 through 1110.1540 shall be considered a violation and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and in 77 Ill. Adm. Code 1130.790.
- b) Background of the Applicant – Review Criterion  
The information requirements contained in this Section are applicable to all projects except projects that are solely for discontinuation. An applicant shall document the *qualifications, background, character and financial resources to adequately provide a proper service for the community* and also demonstrate that the project promotes the *orderly and economic development of health care facilities in the State of Illinois that avoids unnecessary duplication of facilities or service*. [20 ILCS 3960/2]
- 1) An applicant shall demonstrate that it is fit, willing and able, and *has the qualifications, background and character to adequately provide a proper standard of health care service for the community with particular regard to the qualification, background and character of the applicant* [20 ILCS 3960/6(d)]. In evaluating the qualifications, background and character of the applicant, HFSRB shall consider whether adverse action has been taken against the applicant, including corporate officers or directors, LLC

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

members, partners, and owners of at least 5% of the proposed healthcare facility, or against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application. A health care facility is considered "owned or operated" by every person or entity that owns, directly or indirectly, an ownership interest. If any person or entity owns any option to acquire stock, the stock shall be considered to be owned by that person or entity (see 77 Ill. Adm. Code 1100 and 1130 for definitions of terms such as "adverse action", "ownership interest" and "principal shareholder").

- 2) Examples of facilities owned or operated by an applicant include:
  - A) The applicant, Partnership ABC, owns 60% of the shares of Corporation XYZ, which manages the Good Care Nursing Home under a management agreement. The applicant, Partnership ABC, owns or operates Good Care Nursing Home.
  - B) The applicant, Healthy Hospital, a corporation, is a subsidiary of Universal Health, the parent corporation of Healthcenter Ambulatory Surgical Treatment Center (ASTC), its wholly-owned subsidiary. The applicant, Healthy Hospital, owns and operates Healthcenter ASTC.
  - C) Dr. Wellcare is the applicant. His wife is the director of a corporation that owns a hospital. The applicant, Dr. Wellcare, owns or operates the hospital.
  - D) Drs. Faith, Hope and Charity own 40%, 35% and 10%, respectively, of the shares of Healthfair, Inc., a corporation, that is the applicant. Dr. Charity owns 45% and Drs. Well and Care each own 25% of the shares of XYZ Nursing Home, Inc. The applicant, Healthfair, Inc., owns and operates XYZ Nursing Home, Inc.
- 3) The applicant shall submit the following information:
  - A) A listing of all health care facilities currently owned and/or operated by the applicant in Illinois or elsewhere, including licensing, certification and accreditation identification numbers, as applicable;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- B) A listing of all health care facilities currently owned and/or operated in Illinois, by any corporate officers or directors, LLC members, partners, or owners of at least 5% of the proposed health care facility;
- C) A certified listing from the applicant of any adverse action taken against any facility owned and/or operated by the applicant during the three years prior to the filing of the application;
- D) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility, identifying those individuals that have been cited, arrested, taken into custody, charged with, indicted, convicted or tried for, or pled guilty to:
  - i) the commission of any felony or misdemeanor or violation of the law, except for minor parking violations; or
  - ii) has been the subject of any juvenile delinquency or youthful offender proceeding;
- E) Unless convictions have been expunged, all convictions shall be detailed in writing and any police or court records regarding any matters disclosed shall be submitted for HFSRB's consideration;
- F) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility who has been charged with fraudulent conduct or any act involving moral turpitude. Any such matter shall be disclosed in detail;
- G) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility who has any unsatisfied judgments against him or her;
- H) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility. Any matter shall be discussed in detail;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- I) A certified listing of each applicant, corporate officer or director, LLC member, partner and owner of at least 5% of the proposed facility who is in default in the performance or discharge of any duty or obligation imposed by a judgment, decree, order, or directive of any court or governmental agency. Any matter shall be discussed in detail;
  - J) Authorization permitting HFSRB and IDPH-access to any documents necessary to verify the information submitted, including, but not limited to: official records of IDPH or other State agencies; the licensing or certification records of other states, when applicable; and the records of nationally recognized accreditation organizations. Failure to provide the authorization shall constitute an abandonment or withdrawal of the application without any further action by HFSRB.
- 4) If, during a given calendar year, an applicant submits more than one application for permit, the documentation provided with the prior applications may be utilized to fulfill the information requirements of this subsection (b). In these instances, the applicant shall attest that the information has been previously provided, cite the project number of the prior application, and certify that no changes have occurred regarding the information that has been previously provided. The applicant is able to submit amendments to previously submitted information, as needed to update and/or clarify data.
- 5) The documentation for the "Background of the Applicant" is required one time per application, regardless of the number of categories of service involved in a proposed project.
- c) Geographic Service Area Need – Review Criterion  
The applicant shall document that the ASTC services and the number of surgical/treatment rooms to be established, added or expanded are necessary to serve the planning area's population, based on the following:
- 1) 77 Ill. Adm. Code 1100 (Formula Calculation)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

As stated in 77 Ill. Adm. Code 1100, "No formula need determination for the number of ASTCs and the number of surgical/treatment rooms in a geographic service area has been established. Need shall be established pursuant to the applicable review criteria of 77 Ill. Adm. Code 1110."

## 2) Service to Geographic Service Area Residents

The applicant shall document that the primary purpose of the project will be to provide necessary health care to the residents of the geographic service area (GSA) in which the proposed project will be physically located.

A) The applicant shall provide a list of zip code areas (in total or in part) that comprise the GSA. The GSA is the area consisting of all zip code areas that are located within 45 minutes multi-directional travel time (under normal driving conditions) of the project's site.

B) The applicant shall provide patient origin information by zip code for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the GSA. Patient origin information shall be based upon the patient's legal residence (other than a health care facility) for the last six months immediately prior to admission.

## d) Service Demand – Establishment of an ASTC Facility or Additional ASTC Service

The applicant shall document that the proposed project is necessary to accommodate the service demand experienced annually by the applicant, over the latest two-year period, as evidenced by historical and projected referrals. The applicant shall document the information required by subsection (d)(1) and either subsection (d)(2) or (3):

## 1) Historical Referrals

The applicant shall provide physician referral letters that attest to the physician's total number of treatments (for each ASTC service that has been referred to existing IDPH-licensed ASTCs or hospitals located in the GSA during the 12-month period prior to submission of the application. The documentation of physician referrals shall include the following information:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- A) patient origin by zip code of residence;
  - B) name and specialty of referring physician;
  - C) name and location of the recipient hospital or ASTC; and
  - D) number of referrals to other facilities for each proposed ASTC service for each of the latest two years.
- 2) Projected Service Demand  
The applicant shall provide the following documentation:
- A) Physician referral letters that attest to the physician's total number of patients (by zip code of residence) who have received care at existing IDPH-licensed ASTCs or hospitals located in the GSA during the 12-month period prior to submission of the application;
  - B) Documentation demonstrating that the projected patient volume, as evidenced by the physician referral letters, is from within the GSA defined under subsection (c)(2);
  - C) An estimated number of treatments the physician will refer annually to the applicant facility within a 24-month period after project completion. The anticipated number of referrals cannot exceed the physician's experienced caseload. The percentage of projected referrals used to justify the proposed establishment cannot exceed the historical percentage of applicant market share within a 24-month period after project completion;
  - D) Referrals to health care providers other than IDPH-licensed ASTCs or hospitals will not be included in determining projected patient volume;
  - E) Each physician referral letter shall contain the notarized signature, the typed or printed name, the office address, and the specialty of the physician; and

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- F) Verification by the physician that the patient referrals have not been used to support another pending or approved CON application for the subject services.
- 3) Projected Service Demand – Rapid Population Growth  
If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually within the latest 24-month period), the projected service demand shall be determined as follows:
- A) The applicant shall define the facility's market area based upon historical patient origin data by zip code or census tract;
- B) Population projections shall be produced, using, as a base, the population census or estimate for the most recent year, for county, incorporated place, township or community area, by the U.S. Census Bureau or IDPH;
- C) Projections shall be for a maximum period of five years from the date the application is submitted;
- D) Historical data used to calculate projections shall be for a number of years no less than the number of years projected;
- E) Projections shall contain documentation of population changes in terms of births, deaths and net migration for a period of time equal to, or in excess of, the projection horizon;
- F) Projections shall be for total population and specified age groups or the applicant's market area, as defined by HFSRB, for each specialty in the application;
- G) Documentation on projection methodology, data sources, assumptions and special adjustments shall be submitted; and
- H) The applicant shall estimate the future demand for the number of treatments or procedures based upon population growth and no change in the facility's market share.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- e) Service Demand – Expansion of Existing ASTC Service  
The number of surgical/treatment rooms to be added at an existing facility is necessary to reduce the facility's experienced high utilization and to meet a projected demand for service. The applicant shall document the information required by subsections (e)(1)(A) and (B) and either subsections (e)(2)(A) and (B) or (e)(3):
- 1) Historical Service Demand
    - A) The applicant shall document an average utilization rate that has equaled or exceeded the standards specified in 77 Ill. Adm. Code 1100 for existing surgical/treatment rooms for each of the latest two years.
    - B) If patients have been referred to other IDPH-licensed facilities in order to receive the subject services, the applicant shall provide documentation of the referrals, including: patient origin by zip code of residence; name and specialty of referring physician; and the name and location of the recipient hospital or ASTC, for each of the latest two years.
  - 2) Projected Service Demand – Projected Referrals
    - A) The applicant shall provide physician referral letters that attest to the physician's total number of patients (by zip code of residence) that have received treatments at existing IDPH-licensed facilities located in the GSA during the 12-month period prior to submission of the application, and an estimate of the number of patients that will be referred by the physician to the applicant's facility.
    - B) Each physician referral letter shall contain the notarized signature, the typed or printed name, the office address and the specialty of the physician. The anticipated number of referrals cannot exceed the physician's experienced caseload.
  - 3) Projected Service Demand – Rapid Population Growth  
If a projected demand for service is based upon rapid population growth in the applicant facility's existing market area (as experienced annually

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

within the latest 24-month period), the projected service demand shall be determined as described in subsection (d)(3).

- f) Treatment Room Need Assessment – Review Criterion
- 1) The applicant shall document that the proposed number of surgical/treatment rooms for each ASTC service is necessary to service the projected patient volume. The number of rooms shall be justified based upon an annual minimum utilization of 1,500 hours of use per room, as established in 77 Ill. Adm. Code 1100.
  - 2) For each ASTC service, the applicant shall provide the number of patient treatments/sessions, the average time (including setup and cleanup time) per patient treatment/session, and the methodology used to establish the average time per patient treatment/session (e.g., experienced historical caseload data, industry norms or special studies).
- g) Service Accessibility
- The proposed ASTC services being established or added are necessary to improve access for residents of the GSA. The applicant shall document that at least one of the following conditions exists in the GSA:
- 1) There are no other IDPH-licensed ASTCs within the identified GSA of the proposed project;
  - 2) The other IDPH-licensed ASTC and hospital surgical/treatment rooms used for those ASTC services proposed by the project within the identified GSA are utilized at or above the utilization level specified in 77 Ill. Adm. Code 1100;
  - 3) The ASTC services or specific types of procedures or operations that are components of an ASTC service are not currently available in the GSA or that existing underutilized services in the GSA have restrictive admission policies;
  - 4) The proposed project is a cooperative venture sponsored by two or more persons, at least one of which operates an existing hospital. Documentation shall provide evidence that:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- A) The existing hospital is currently providing outpatient services to the population of the subject GSA;
  - B) The existing hospital has sufficient historical workload to justify the number of surgical/treatment rooms at the existing hospital and at the proposed ASTC, based upon the treatment room utilization standard specified in 77 Ill. Adm. Code 1100;
  - C) The existing hospital agrees not to increase its surgical/treatment room capacity until the proposed project's surgical/treatment rooms are operating at or above the utilization rate specified in 77 Ill. Adm. Code 1100 for a period of at least 12 consecutive months; and
  - D) The proposed charges for comparable procedures at the ASTC will be lower than those of the existing hospital.
- h) Unnecessary Duplication/Maldistribution – Review Criterion
- 1) The applicant shall document that the project will not result in an unnecessary duplication. The applicant shall provide the following information for the proposed GSA zip code areas identified in subsection (c)(2)(A):
    - A) the total population of the GSA (based upon the most recent population numbers available for the State of Illinois); and
    - B) the names and locations of all existing or approved health care facilities located within the GSA that provide the ASTC services that are proposed by the project.
  - 2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the GSA has an excess supply of facilities and ASTC services characterized by such factors as, but not limited to:
    - A) a ratio of surgical/treatment rooms to population that exceeds one and one-half times the State average;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

- B) historical utilization (for the latest 12-month period prior to submission of the application) for existing surgical/treatment rooms for the ASTC services proposed by the project that are below the utilization standard specified in 77 Ill. Adm. Code 1100; or
  - C) insufficient population to provide the volume or caseload necessary to utilize the surgical/treatment rooms proposed by the project at or above utilization standards specified in 77 Ill. Adm. Code 1100.
- 3) The applicant shall document that, within 24 months after project completion, the proposed project:
- A) will not lower the utilization of other area providers below the utilization standards specified in 77 Ill. Adm. Code 1100; and
  - B) will not lower, to a further extent, the utilization of other GSA facilities that are currently (during the latest 12-month period) operating below the utilization standards.
- i) Staffing
- 1) Staffing Availability  
The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that the staffing requirements of licensure and the Joint Commission or other nationally recognized accrediting bodies can be met. In addition, the applicant shall document that necessary staffing is available by providing letters of interest from prospective staff members, completed applications for employment, or a narrative explanation of how the proposed staffing will be achieved.
  - 2) Medical Director  
It is recommended that the procedures to be performed for each ASTC service are under the direction of a physician who is board certified or board eligible by the appropriate professional standards organization or entity that credentials or certifies the health care worker for competency in that category of service.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENT

## j) Charge Commitment

In order to meet the objectives of the Act, which are *to improve the financial ability of the public to obtain necessary health services; and to establish an orderly and comprehensive health care delivery system that will guarantee the availability of quality health care to the general public; and cost containment and support for safety net services must continue to be central tenets of the Certificate of Need process* [20 ILCS 3960/2], the applicant shall submit the following:

- 1) a statement of all charges, except for any professional fee (physician charge); and
- 2) a commitment that these charges will not be increased, at a minimum, for the first two years of operation unless a permit is first obtained pursuant to 77 Ill. Adm. Code 1130.310(a).

## k) Assurances

- 1) The applicant shall attest that a peer review program exists or will be implemented that evaluates whether patient outcomes are consistent with quality standards established by professional organizations for the ASTC services, and if outcomes do not meet or exceed those standards, that a quality improvement plan will be initiated.
- 2) The applicant shall document that, in the second year of operation after the project completion date, the annual utilization of the surgical/treatment rooms will meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100. Documentation shall include, but not be limited to, historical utilization trends, population growth, expansion of professional staff or programs (demonstrated by signed contracts with additional physicians) and the provision of new procedures that would increase utilization.

(Source: Amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Secretary of State Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 2000
- 3) Section Number: 2000.5039                      Proposed Action:  
New Section
- 4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]
- 5) Complete Description of the Subjects and Issues Involved: The proposed new Section sets out requirements for reporting of procurement communications by employees of the Secretary of State in order to comply with The Illinois Procurement Code.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Illinois Procurement Code [30 ILCS 500]
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: The proposed amendment does not require expenditures by units of local government.
- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Texts of the proposed amendment are posted on Secretary of State's web site, <http://www.cyberdriveillinois.com/departments/index/register/home.html>, as part of the *Illinois Register*.

Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Amy N. Williams  
Office of the General Counsel  
298 Howlett Building  
Springfield IL 62756

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

awilliams3@ilsos.net

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].

This 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: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None. The reporting requirements set forth in the amendment only affect employees of the Secretary of State.
  - 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 most recent regulatory agendas because the Department did not anticipate this rulemaking at the time the agendas were filed.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT  
AND PROPERTY MANAGEMENT  
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES  
CHAPTER XXV: SECRETARY OF STATE

PART 2000  
SECRETARY OF STATE STANDARD PROCUREMENT

SUBPART A: GENERAL

Section	
2000.01	Title
2000.05	Policy
2000.08	Illinois Procurement Code
2000.10	Application
2000.15	Definition of Terms Used in This Part
2000.25	Property Rights

SUBPART B: PROCUREMENT RULES

Section	
2000.525	Rules

SUBPART C: PROCUREMENT AUTHORITY

Section	
2000.1005	Conduct and Oversight of Procurements

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	
2000.1510	Illinois Procurement Bulletin
2000.1560	Supplemental Notice
2000.1570	Error in Notice
2000.1580	Direct Solicitation

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section	
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## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

2000.2005	General Provisions
2000.2010	Competitive Sealed Bidding
2000.2012	Multi-Step Sealed Bidding
2000.2015	Competitive Sealed Proposals
2000.2020	Small Purchases
2000.2025	Sole Economically Feasible Source Procurement
2000.2030	Emergency Procurements
2000.2035	Competitive Selection Procedures for Professional and Artistic Services
2000.2036	Other Methods of Source Selection
2000.2037	Tie Bids and Proposals
2000.2038	Mistakes
2000.2040	Cancellation of Solicitations; Rejection of Bids or Proposals

## SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section	
2000.2043	Suppliers
2000.2044	Vendor List/Required Use
2000.2045	Prequalification
2000.2046	Responsibility

## SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section	
2000.2047	Security Requirements

## SUBPART H: SPECIFICATIONS AND SAMPLES

Section	
2000.2050	Specifications and Samples

## SUBPART I: CONTRACT TYPE

Section	
2000.2055	Types of Contracts

## SUBPART J: DURATION OF CONTRACTS

Section	
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## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

2000.2060 Duration of Contracts – General

## SUBPART K: CONTRACT MATTERS

## Section

2000.2560 Prevailing Wage  
2000.2570 Equal Employment Opportunity; Affirmative Action  
2000.2580 Subcontractors

## SUBPART L: CONTRACT PRICING

## Section

2000.2800 All Costs Included

SUBPART M: CONSTRUCTION AND  
CONSTRUCTION RELATED PROFESSIONAL SERVICES

## Section

2000.3005 Construction and Construction Related Professional Services

## SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

## Section

2000.4000 Applicability  
2000.4005 Requests for Space/Department Responsibilities  
2000.4010 General Acquisition Procedures  
2000.4015 Acquisition of Leases by RFI  
2000.4020 Leases Acquired by Other Methods  
2000.4025 Renewal or Extension of Lease in Effect Prior to July 1, 1998  
2000.4030 Renewal of Leases Entered into After July 1, 1998  
2000.4035 Purchase Options  
2000.4040 Lease Administration  
2000.4045 Emergency Lease Procurement

## SUBPART O: PREFERENCES

## Section

2000.4505 Procurement Preferences  
2000.4510 Resident Bidder Preference

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 2000.4530 Correctional Industries
- 2000.4535 Sheltered Workshops for the Disabled
- 2000.4540 Gas Mileage
- 2000.4545 Small Business
- 2000.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

SUBPART P: ETHICS

- Section
- 2000.5013 Conflicts of Interest
- 2000.5015 Negotiations for Future Employment
- 2000.5020 Exemptions
- 2000.5030 Revolving Door
- 2000.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
- 2000.5037 Vendor Registration, Certification and Prohibition on Political Contributions
- [2000.5039 Procurement Communication Reporting Requirement](#)

SUBPART Q: CONCESSIONS

- Section
- 2000.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section
- 2000.5510 Complaints Against Vendors or Subcontractors
- 2000.5520 Suspension
- 2000.5530 Resolution of Contract Controversies
- 2000.5540 Violation of Statute or Rule
- 2000.5550 Protests
- 2000.5555 Hearings and Decisions

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

- Section
- 2000.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

## Section

- 2000.6500 General  
2000.6510 No Agency Relationship

## SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

## Section

- 2000.7000 Severability  
2000.7010 Government Furnished Property  
2000.7015 Inspections  
2000.7020 Records and Audits  
2000.7025 Written Determinations  
2000.7030 No Waiver of Sovereign Immunity

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].

SOURCE: Emergency rule adopted at 22 Ill. Reg. 12208, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20306, effective November 9, 1998; emergency amendment at 23 Ill. Reg. 5911, effective April 30, 1999, for a maximum of 150 days; emergency expired September 26, 1999; amended at 23 Ill. Reg. 13953, effective November 8, 1999; amended at 35 Ill. Reg. 4629, effective March 3, 2011; amended at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART P: ETHICS

**Section 2000.5039 Procurement Communication Reporting Requirement**

- a) Unless otherwise specified in this Section, any written or oral communication received by a Secretary of State *employee who, by the nature of his or her duties, has the authority to participate personally or substantially in the decision to award a State contract and that imparts or requests material information or makes a material argument regarding potential action concerning an active procurement matter, including, but not limited to, an application, a contract or a project, shall be reported to the SOS Procurement Policy Board.* [30 ILCS 500/50-39(a)]
- 1) As soon as practicable, but in no event more than 30 days after receipt of the communication or the first in a series of related communications

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

described in subsection (b), the Secretary of State employee shall report the communication to the SOS Procurement Policy Board.

2) No trade secrets or other proprietary or confidential information shall be included in any communication reported to the SOS Procurement Policy Board. [30 ILCS 500/50-39(b)]

b) A communication must be reported if it is material, regarding a potential action, relating to an active procurement matter, and not otherwise excluded from reporting.

1) Materiality

A) "Material information" is information that a reasonable person would deem important in determining his or her course of action. It is information pertaining to significant issues, including, but not limited to, price, quantity, and terms of payment or performance.

B) A "material argument" is a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. It does not include general information about products, services or industry best practices, or a response to a communication initiated by an SOS employee for the purpose of providing information to evaluate new products, trends, services, or technologies. [30 ILCS 500/50-39(g)]

C) In determining whether a communication is material, the SOS employee must consider:

i) whether the information conveyed is new or already known to the SOS (or repeated or restated privately) and other participants in the communication; and

ii) the likelihood that the information would influence a pending procurement matter.

2) A "potential action" is one that a reasonable person would believe could affect the initiation, development or outcome of a procurement matter.

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

- 3) "Active procurement matter" means a procurement process beginning with the requisition or determination of need by an agency and continuing through the publication of an award notice or other completion of a final procurement action, the resolution of any protests, and the expiration of any protest or SOS Procurement Policy Board review period, if applicable. The Chief Procurement Officer may designate a document for an agency to use in documenting a determination of need. "Active procurement matter" also includes communications relating to change orders, renewals or extensions. [30 ILCS 500/50-39(g)] "Procurement processes" includes the processes of procuring specific goods, supplies, services, professional or artistic services, construction, leases of real property (whether the State is the lessor or lessee), or capital improvements, and includes master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders. Active procurement matters include:
- A) drafting, reviewing or preparing specifications, plans or requirements, including determining the method of source selection;
  - B) drafting, reviewing or preparing any Invitations for Bid, Requests for Information, Requests for Proposals, sole source procurement justifications, emergency procurement justifications or selection information;
  - C) evaluating bids, responses and offers, and other communications among an evaluation team and any technical advisors to the team relating to the evaluation of a procurement not yet awarded;
  - D) letting or awarding a contract;
  - E) resolving protests;
  - F) determining inclusion on prequalification lists or prequalification in general;

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

- G) identifying potential conflicts of interest or voiding or allowing a contract, bid, offer or subcontract for a conflict of interest;
  - H) allowing a conflict or subcontract pursuant to Section 50-60 of the Code; and
  - D) determining, drafting, preparing, executing, denying or approving change orders or the renewal or extension of an existing contract.
- c) This Section does not apply to the following communications:
- 1) Statements by a person publicly made in a public forum. However, communications made in a public forum, if made again privately, must be reported;
  - 2) Statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter;
  - 3) Communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of an existing contract;
  - 4) Statements made by an SOS employee to:
    - A) the employee's department head;
    - B) other SOS employees;
    - C) employees of the Executive Ethics Commission;
    - D) the Office of the Executive Inspector General for the Secretary of State; or
    - E) an employee of another State agency who, through the communication, is either:
      - i) exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

of business, for official purposes, and at the initiation of the purchasing agency or the appropriate State Purchasing Officer; or

- ii) exercising oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities;
  - 5) Unsolicited communications providing general information about products, services or industry best practices, before those products or services become involved in a procurement matter;
  - 6) Communications received in response to procurement solicitations pursuant to the Illinois Procurement Code, including, but not limited to, vendor responses to a Request for Information, Request for Proposal, Request for Qualifications, Invitation for Bid or a small purchase, sole source or emergency solicitation, or questions and answers posted to the Procurement Bulletin to supplement the procurement action, provided that the communications are made in accordance with the instructions contained in the procurement solicitation, procedures or guidelines;
  - 7) Communications that are privileged, protected or confidential under law;
  - 8) Communications that are part of a formal procurement process as set out by statute, rule or the solicitation, guidance or procedures, including, but not limited to, the posting of procurement opportunities, the processes for approving a procurement business case or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement processes.  
[30 ILCS 500/50-39(a)]
- d) Notwithstanding any exemption provided in subsection (c), an SOS employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning an active procurement matter if that communication attempts to influence through duress, coercion or the direct or indirect offer or promise of anything of value to any person or entity in consideration for any benefit or preference in the procurement process.

## SECRETARY OF STATE

## NOTICE OF PROPOSED AMENDMENT

- e) Notwithstanding any exemption provided in subsection (c), an SOS employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning an active procurement matter if the employee reasonably believes the communication was made for any improper purpose, including, but not limited to, providing an improper benefit, monetary or nonmonetary, to any person or entity.
- f) This Section does not apply to communications concerning procurements that are exempt from the Illinois Procurement Code.
- g) For purposes of this Section, "Secretary of State employee" or "SOS employee" means:
- 1) any person employed full-time, part-time or pursuant to a personal services contract and whose employment duties are subject to the direction and control of the SOS with regard to the material details of how the work is to be performed;
  - 2) any appointed or elected commissioner, trustee, director or board member of a board of the SOS; or
  - 3) any other person appointed to a position in or with the SOS, regardless of whether the position is compensated.
- h) For purposes of this Section, "public forum" includes any meeting that satisfies the notice requirements contained in Section 2.02 of the Open Meetings Act [5 ILCS 120], but also includes other public events that are advertised and generally open to the public. A meeting may be a public forum even if a reasonable fee is required, such as educational seminars and conferences.

(Source: Added at 39 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Governmental Electric Aggregation
- 2) Code Citation: 83 Ill. Adm. Code 470
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
470.10	New Section
470.20	New Section
470.100	New Section
470.110	New Section
470.200	New Section
470.210	New Section
470.220	New Section
470.230	New Section
470.240	New Section
470.250	New Section
470.260	New Section
- 4) Statutory Authority: Implementing Sections 16-104(b) and 16-115A of the Public Utilities Act [220 ILCS 5/16-104(b) and 16-115A] and Section 1-92 of the Illinois Power Agency Act [20 ILCS 3855/1-92] and authorized by Sections 10-101, 8-501, 20-110, 20-120 and 20-130 of the Public Utilities Act [220 ILCS 5/10-101, 8-501, 20-110, 20-120 and 20-130]
- 5) Effective Date of Rules: April 1, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does these rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: December 27, 2013; 37 Ill. Reg. 20544
- 10) Has JCAR issued a Statement of Objection to this rulemakings? Yes
  - A) Statement of Objection: October 14, 2014; 38 Ill. Reg. 20839
  - B) Agency Response: March 23, 2015; 39 Ill. Reg. 5273

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

C) Date Agency Response Submitted for Approval to JCAR: January 6, 2015

- 11) Differences between Proposal and Final Version: A number of changes have been made. The definitions of the terms "Governmental Aggregator" and "Opt-out Aggregation Program" have been reworded, and a definition of "Public Utilities Act" has been added. In Section 470.20, an effective date has been added. Provisions in Section 470.110(a)(3) have been reworded, and Section 470.110(a)(5) has been added. In Section 470.240, what now appear as subsections (a)(5), (b), (c), (d), and (e) have been added, and what formerly appeared as subsections (b), (c), and (d) have been redesignated as (f), (g), and (h), with changes made to (f) and (h). Finally, Sections 470.250(b) and (c) have been reworded.
- 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 an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The rulemaking addresses the duties of entities under the Commission's jurisdiction—electric utilities and alternative retail electric suppliers—with respect to governmental electric aggregation. Provisions of the Public Utilities Act and the Illinois Power Agency Act allow municipalities, townships, and counties to aggregate the electric load of their residents in an effort to obtain more advantageous terms of service for their residents. The provisions of this rulemaking specify requirements that entities subject to the Commission's jurisdiction must comply with when an area in which an entity's customers live pursues governmental aggregation, or when an entity seeks to provide electric service to residents of an area that has chosen to pursue governmental aggregation. The requirements imposed by the rulemaking concern an electric utility's release of customer information to a unit of government that has chosen to undertake aggregation, the protection of customer information, the notifications that aggregation suppliers must make to the Commission, and disclosures that aggregation suppliers must ensure are provided to various categories of customers in an area offering an aggregation program. Finally, the rulemaking provides that jurisdictional entities are subject to fines and penalties under the Public Utilities Act for violations of the provisions of the Part.
- 16) Questions or requests for information about this adopted rule shall be directed to:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Brian W. Allen  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield IL 62701

217/558-2387

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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: ELECTRIC UTILITIESPART 470  
GOVERNMENTAL ELECTRIC AGGREGATION

## SUBPART A: GENERAL

Section	
470.10	Definitions
470.20	Construction of this Part

## SUBPART B: CUSTOMER INFORMATION

Section	
470.100	Transfer of Customer Information
470.110	Protection of Customer Information

## SUBPART C: OBLIGATIONS OF AGGREGATION SUPPLIERS

Section	
470.200	Notification to the Commission
470.210	Customer Disclosures
470.220	Opt-out Aggregation Provisions
470.230	Opt-in Aggregation Provisions
470.240	RES Customers
470.250	Customers on Utility Hourly Service
470.260	Failure to Comply

AUTHORITY: Implementing Sections 16-104(b) and 16-115A of the Public Utilities Act [220 ILCS 5/16-104(b) and 16-115A] and Section 1-92 of the Illinois Power Agency Act [20 ILCS 3855/1-92] and authorized by Sections 10-101, 8-501, 20-110, 20-120 and 20-130 of the Public Utilities Act [220 ILCS 5/10-101, 8-501, 20-110, 20-120 and 20-130].

SOURCE: Adopted at 39 Ill. Reg. 5577, effective April 1, 2015.

## SUBPART A: GENERAL

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

**Section 470.10 Definitions**

"Aggregate Area" means the area within the geographic boundaries of a municipality, a township or the unincorporated areas of a county that has adopted an ordinance to aggregate residential and/or small commercial retail electric loads.

"Aggregation Customer" means a residential or small commercial retail customer receiving retail electric supplier (RES) service pursuant to an Aggregation Program.

"Aggregation Program" means a program offered by a municipality, township or county, individually or collectively, pursuant to Section 1-92 of the Illinois Power Agency Act and Section 16-104(b) of the PUA.

"Aggregation Supplier" means the retail electric supplier chosen by the Governmental Aggregator that provides electric supply service to the aggregated residential and small commercial retail electrical loads located within the Aggregate Area.

"Commission" means the Illinois Commerce Commission.

"Electric Utility" means an electric utility, as defined in Section 16-102 of the PUA.

"Governmental Aggregator" means the corporate authorities of a municipality, a township board, or a county board in the Aggregate Area *that individually or collectively procure electricity to serve residential retail electrical loads located within its or their jurisdiction* (Section 1-10 of the IPA Act). "Governmental Aggregator" shall have the same meaning as "aggregated entity" as used in Section 1-92 of the Illinois Power Agency Act.

"Incumbent Aggregation Supplier" means the Aggregation Supplier currently providing retail electric supply service pursuant to an Aggregation Program.

"IPA Act" means the Illinois Power Agency Act [20 ILCS 3855].

"Office of Retail Market Development" or "ORMD" has the meaning ascribed in Section 20-110 of the PUA.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

"Opt-in Aggregation Program" means an Aggregation Program offered in accordance with Section 1-92 of the IPA Act and Section 16-104(b) of the PUA, whereby the corporate authorities of a municipality, township board, or county board adopt an ordinance to aggregate the electric loads of residential and small commercial retail customers, provided, however, that only those residential and small commercial retail customers that affirmatively elect to participate in the Opt-in Aggregation Program will have their electric load included in the Opt-in Aggregation Program.

"Opt-out Aggregation Program" means an Aggregation Program offered in accordance with Section 1-92 of the IPA Act and Section 16-104(b) of the PUA, whereby the corporate authorities of a municipality, township board, or county board adopt an ordinance to aggregate the electric loads of residential and small commercial retail customers, when the voters of the municipality, township or county previously passed, by a majority of electors voting on the question, a referendum granting the municipality, township or county the authority to arrange for the supply of electricity for its residential and small commercial retail customers, except for those customers who take no action and thus remain RES customers or customers on hourly service, or customers who affirmatively elect not to participate in the Opt-out Aggregation Program.

"PUA" means the Public Utilities Act [220 ILCS 5].

"Retail Electric Supplier" or "RES" means either:

an alternative retail electric supplier (ARES) as defined in Section 16-102 of the PUA and certified by the Commission pursuant to Section 16-115 of the PUA, meeting all obligations of an ARES pursuant to Section 16-115A of the PUA, and authorized to provide electric power and energy supply services in an Illinois electric utility's service territory; or

an Illinois electric utility as defined in Section 16-102 of the PUA providing service pursuant to Section 16-116 of the PUA and meeting all obligations provided in Sections 16-115A and 16-116 of the PUA.

"RES Customer" means a retail customer receiving RES service who is not an Aggregation Customer.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

"RES Service" means electric supply service provided by a RES to retail electric customers.

"Retail Customer" shall have the meaning ascribed in Section 16-102 of the PUA.

"Small Commercial Retail Customer" shall have the meaning ascribed in Section 16-102 of the PUA.

"Utility Fixed-Price Service" means electric supply service provided by the electric utility to retail customers under fixed-price service tariffs.

"Utility Hourly Service" means electric supply service provided by the electric utility to retail customers, pursuant to tariff, that is not under fixed-price service tariffs.

**Section 470.20 Construction of this Part**

In the event of any conflict between this Part and the requirements provided in electric utility tariffs on file with the Commission as of April 1, 2015, this Part shall control.

## SUBPART B: CUSTOMER INFORMATION

**Section 470.100 Transfer of Customer Information**

- a) Upon request of a Governmental Aggregator and receipt of a verification from the Governmental Aggregator that either an ordinance has been adopted authorizing an Opt-in Aggregation Program, pursuant to Section 1-92 of the IPA Act, or an ordinance has been adopted and a referendum passed authorizing an Opt-out Aggregation Program, pursuant to Section 1-92 of the IPA Act, the electric utility shall provide the information required in this subsection. If, however, the Governmental Aggregator is a township board, then the electric utility's obligation to provide customer account numbers is contingent upon the township board first providing an accurate customer list to the electric utility. The electric utility shall provide to the Governmental Aggregator, in electronic format, the following:
  - 1) the account numbers, names and addresses of all residential and small commercial retail customers on utility fixed price service in the Aggregate Area that are reflected in the electric utility's records at the time of the request;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 2) the account numbers, names and addresses of all residential and small commercial retail customers that receive, or have applied to receive, RES Service in the Aggregate Area that are reflected in the electric utility's records at the time of the request. The identification of customers that receive RES service, or have applied to receive RES service, shall not include the name of the RES providing those services; and
  - 3) the account numbers, names and addresses of all residential and small commercial retail customers that receive utility hourly service in the Aggregate Area that are reflected in the electric utility's records at the time of the request.
- b) If requested by the Governmental Aggregator, the Incumbent Aggregation Supplier shall provide the Governmental Aggregator with information that allows the Governmental Aggregator to identify Aggregation Customers. Unless otherwise agreed upon between the Governmental Aggregator and the Incumbent Aggregation Supplier, the identifying information shall be provided within 10 business days after the request.

**Section 470.110 Protection of Customer Information**

- a) To protect the customer-specific information described in Section 470.100 and to ensure compliance with Section 1-92 of the IPA Act, the Aggregation Supplier shall establish and follow appropriate protocols to preserve the confidentiality of customer-specific information and limit the use of customer-specific information strictly and only to effectuate the provisions of Section 1-92 of the IPA Act. The Aggregation Supplier shall ensure that these protocols:
- 1) provide that the Aggregation Supplier shall not disclose, use, sell or provide customer-specific information to any person, firm or entity for any purpose outside of the Aggregation Program;
  - 2) provide that the Aggregation Supplier shall not use the customer-specific information to market products other than the service the Aggregation Supplier has contracted to provide the Governmental Aggregator under the applicable Aggregation Program consistent with Section 1-92 of the IPA Act;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 3) provide that if the Aggregation Supplier receives the account numbers of customers receiving or pending to receive RES service who have not opted into the Aggregation Program, the Aggregation Supplier shall destroy the customer numbers or return them to the Governmental Aggregator;
  - 4) except as otherwise required by record retention obligations imposed by applicable law, within 30 days following: a customer's opt-out of the Aggregation Program, a customer's exit from the Aggregation Program, or the end of the term during which the Aggregation Supplier is providing service to the Aggregation Program, the Aggregation Supplier must dispose of, delete, and/or destroy all customer-specific information in whatever format that is in its possession as a result of having been the Aggregation Supplier to an Aggregation Program. The Aggregation Supplier may not use customer-specific information retained due to record retention obligations to market to customers; and
  - 5) provide for the usage restrictions and additional records retention requirements set forth in Section 470.240.
- b) Breaches of these confidentiality provisions by the Aggregation Supplier will be subject to the imposition of financial penalties by the Commission as described in Section 16-115B(b) of the PUA.

## SUBPART C: OBLIGATIONS OF AGGREGATION SUPPLIERS

**Section 470.200 Notification to the Commission**

- a) Aggregation Suppliers shall provide the following Aggregation Program information to the Commission's ORMD for posting on the Commission's public website:
  - 1) the end date (expressed in month/year) of the aggregation contract and, if different, the end date (expressed in month/year) of the aggregation rate or rates;
  - 2) the aggregation rate or rates (expressed in cents per kWh);
  - 3) any fees for early termination of the contract by the customer;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 4) whether the Aggregation Supplier is providing a green or clean energy product and a description of the product, and the clean energy or renewable requirement set by the Governmental Aggregator, if any;
  - 5) whether the Aggregation Supplier is providing energy efficiency or demand response products and a description of the products, and the energy efficiency or demand response requirement set by the Governmental Aggregator, if any; and
  - 6) a copy of the Aggregation Supplier's disclosure required by Section 1-92(f) of the IPA Act, if applicable, and any payments, inducements or donations, including civic contributions and consulting fees made by the Aggregation Supplier, either directly or indirectly, to the Governmental Aggregator.
- b) The information required in subsection (a) shall be provided within three business days after the Governmental Aggregator and the Aggregation Supplier have determined this information to be final and this information has been made public, but no later than three business days after the customer disclosures required under Section 470.210 are sent.
- c) No penalties shall be levied against an Aggregation Supplier pursuant to Section 16-115B(b) of the PUA for failure to comply with this Section unless:
- 1) Commission Staff has provided a notice to the Aggregation Supplier regarding its failure to comply with this Section and informing the Aggregation Supplier that it has one business day to remedy the failure, and the Aggregation Supplier fails to provide the information within one business day; or
  - 2) the Aggregation Supplier has failed to provide the information to ORMD within the timeframe specified in subsection (b) three or more times in a calendar year.

**Section 470.210 Customer Disclosures**

- a) Prior to enrolling or re-enrolling retail customers in an Opt-in or Opt-out Aggregation Program, or whenever there is a change in the rates, end date or

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

choice of Aggregation Supplier of the Aggregation Program, the Aggregation Supplier shall verify that retail customers have been sent disclosures as required by Section 1-92 of the IPA Act evidenced by:

- 1) a written verification from the Governmental Aggregator that the required disclosure has been sent; or
  - 2) the Aggregation Supplier has sent the required disclosures in compliance with subsection (b) of this Section, Section 470.220, Section 470.230 and Section 470.240.
- b) If the Aggregation Supplier sends the required disclosure to retail customers, the disclosure shall state:
- 1) the legal name of the Aggregation Supplier, the name under which the Aggregation Supplier will market its products, if different, and its business address;
  - 2) the Governmental Aggregator's name and, if available, the Governmental Aggregator's logo to be included on the envelope and first page of any disclosures, and the statement "Important Electricity Aggregation Information Enclosed" must be printed conspicuously on the envelope;
  - 3) that customers may purchase their electricity supply from a RES (without providing a price comparison) or the electric utility (either utility fixed-price or hourly service) and the PlugInIllinois.org Internet address;
  - 4) that customers may request from the Illinois Power Agency, without charge, a list of all supply options available to them in a format that allows comparison of prices and products;
  - 5) the cost to obtain service pursuant to Section 16-103 of the PUA, how to access it, and the fact that it is available to customers without penalty if the customer is currently receiving service under that Section; the disclosure shall not contain a comparison of the proposed aggregation rate to the electric utility's fixed-price service rate;
  - 6) the Aggregation Supplier's toll-free telephone number for billing questions, disputes and complaints;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 7) a local or toll-free telephone number, with the available calling hours, that customers may call with any questions regarding the Aggregation Program; this number shall be provided by the Aggregation Supplier unless otherwise agreed to with the Government Aggregator and shall not be an electric utility number;
- 8) the prices, terms and conditions of the products and services being offered to the customer;
- 9) the presence or absence of early termination fees or penalties and applicable amounts or the formula pursuant to which they are calculated; and
- 10) that net metering customers, pursuant to Section 16-107.5(d)(3) and (e)(3) of the PUA, may forfeit credits for electric supply service and delivery service, or both, if they switch to the Aggregation Supplier.

**Section 470.220 Opt-out Aggregation Provisions**

If the Aggregation Supplier sends the disclosures required by Section 1-92 of the IPA Act:

- a) the customer disclosure sent for Opt-out Aggregation Programs shall also:
  - 1) describe the method to opt out and the opt-out due date expressed as month, day and year;
  - 2) include a statement that those customers who do not opt out of the Opt-out Aggregation Program will have been deemed to have authorized and agreed to being enrolled in the Opt-out Aggregation Program and to having their electric supply service switched to the Aggregation Supplier under the terms and conditions applicable to the opt-out aggregation program;
- b) the opt-out due date shall be a minimum of 21 calendar days after the date of the disclosure postmark;
- c) the Aggregation Supplier shall allow customers to opt out by the following methods:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 1) by returning a postage paid postcard or similar notice supplied by the Aggregation Supplier; and
- 2) by at least one of the following additional methods:
  - A) telephone;
  - B) e-mail; or
  - C) Aggregation Supplier or Governmental Aggregator website.

**Section 470.230 Opt-in Aggregation Provisions**

- a) If the Aggregation Supplier sends the required disclosures, the disclosure shall describe the affirmative actions needed to join the Aggregation Program.
- b) The Aggregation Supplier shall verify a customer's request to join the Opt-in Aggregation Program in the same manner as an electric service provider confirms a change in a customer's selection of a provider of electric service under Section 2EE(a) through (c) of the Consumer Fraud and Deceptive Business Practices Act [815 ILCS 505].

**Section 470.240 RES Customers**

- a) The Aggregation Supplier shall verify that residential and small commercial retail customers receiving, or pending to receive, non-aggregation RES service have been sent the disclosures identified in this subsection (a), as evidenced by a written verification from the Governmental Aggregator, or by the Aggregation Supplier having sent the disclosures. The disclosures to customers receiving or pending to receive non-aggregation RES service shall contain the following information:
  - 1) Notification that an Aggregation Program is currently on-going in their municipality, township or unincorporated area;
  - 2) A disclosure that adequately describes, in plain language, the prices, terms and conditions of the products and services being offered to the customer;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 3) If the Aggregation Program contains a fee for the early termination from the program by the customer, the amount of that fee;
- 4) A description of the affirmative action necessary for the customer to join the Aggregation Program;
- 5) In addition, the body of the notice shall contain, in type size no smaller than the largest type size used in the body of the notice, the following statement:

"This notice is informational only. Your electric utility has informed us that you are currently served or have chosen to be served by a competitive retail electric supplier. If you want to continue to receive service from your chosen supplier, you do not need to take any additional action. Consult your contract or contact your chosen supplier for further details if you have questions about your contract, including whether you have a cancellation fee for early termination."

- b) In the event the Aggregation Supplier sends the disclosures identified in subsection (a), the Aggregation Supplier shall send the required disclosure notice only one time during the term of the contract between the Governmental Aggregator and the Aggregation Supplier. The Aggregation Supplier shall send no additional disclosure notices to residential and small commercial retail customers receiving, or pending to receive, non-aggregation RES service during the remainder of the term of the contract between the Governmental Aggregator and the Aggregation Supplier.
- c) Within 45 calendar days after the Aggregation Supplier sends the disclosure notice required by subsection (a), the Aggregation Supplier shall destroy all customer-specific information provided to it by the Governmental Aggregator or the utility regarding those customers.
- d) The customer-specific information of customers receiving or pending to receive non-aggregation RES service that is provided to the Aggregation Supplier for purposes of providing the notices required by subsection (a) shall not be utilized by the Aggregation Supplier for marketing purposes.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- e) If the Aggregation Supplier receives the account numbers of customers receiving, or pending to receive, non-aggregation RES service in the Aggregate Area as part of a list of account numbers created by the electric utility and supplied to the Aggregation Supplier by the Governmental Aggregator, the Aggregation Supplier shall not utilize those customer account numbers for any purpose and shall immediately destroy the customer account numbers or return them to the Governmental Aggregator.
- f) Disclosures sent to customers receiving, or pending to receive, non-aggregation RES service shall not contain a comparison of the proposed aggregation rate to the customer's current RES rate, but may include the information contained in Section 470.210(b)(4).
- g) If an Aggregation Supplier receives a request from a RES customer to join the Aggregation Program, the Aggregation Supplier shall inform the RES customer that he/she may be subject to fees for early termination pursuant to his/her current RES contract.
- h) In the case of an Opt-out Aggregation Program, the Aggregation Supplier shall not switch RES customers to the Aggregation Program unless the RES customer elects to opt in. The Aggregation Supplier shall verify a RES customer's request to join the Aggregation Program in the same manner as an electric service provider confirms a change in a customer's selection of a provider of electric service under Section 2EE(a) through (c) of the Consumer Fraud and Deceptive Business Practices Act.

**Section 470.250 Customers on Utility Hourly Service**

- a) Unless otherwise agreed to with the Governmental Aggregator, if the Aggregation Supplier sends the required disclosures, the disclosures shall be sent to customers on Utility Hourly Service and shall contain the following information:
  - 1) that a customer may be denied his/her/its request to join the Aggregation Program based on the terms and conditions of the electric utility's applicable hourly service tariff;
  - 2) that potential savings depend on the customer's actual hourly use patterns, that savings may vary, and that the disclosure shall contain no comparison of rates; and

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 3) a description of the affirmative action necessary for the customer to join the Aggregation Program.
- b) Disclosures sent to customers on Utility Hourly Service shall not contain a comparison of the proposed aggregation rate to the electric utility's fixed-price service rate, but may include the information contained in Section 470.210(b)(4).
- c) In the case of an Opt-out Aggregation Program, the Aggregation Supplier shall verify a Utility Hourly Service customer's request to join the Aggregation Program in the same manner as an electric service provider confirms a change in a customer's selection of a provider of electric service under Section 2EE(a) through (c) of the Consumer Fraud and Deceptive Business Practices Act.

**Section 470.260 Failure to Comply**

Unless otherwise noted, a violation of this Part shall be subject to the fines and penalties set forth in the PUA, including Section 16-115B(b), applicable to RES, and Sections 5-202 and 5-203, applicable to public utilities, including electric delivery utilities.

## ILLINOIS GAMING BOARD

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.1610                      Proposed Action:  
New Section
- 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) Effective Date of Rule: April 1, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted rule, 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*: 38 Ill. Reg. 19901; October 17, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The final version deletes language stating that the new Section is a clarification of existing law. In addition, the Illinois Gaming Board has agreed that, during the next 6-12 months, it will initiate a rulemaking setting out its proposed standards for ensuring equal treatment of licensees, as required under language added to Section 15 of the Video Gaming Act [230 ILCS 40/15] by PA 98-31.
- 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 rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

## ILLINOIS GAMING BOARD

## NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Rulemaking: PA 98-31 (Senate Bill 1738-98th General Assembly), effective June 24, 2013, authorized the vendor of the Central Communications System (CCS) to be licensed as a manufacturer or distributor. This authorization has made possible the acquisition by the current CCS vendor, Scientific Games Corp., of two previously licensed manufacturers and distributors-WMS Gaming Inc. and Bally Gaming Inc.

To ensure that manufacturers and distributors owned by the CCS vendor did not gain an unfair competitive advantage, PA 98-31 inserted the following new language into Section 15 of the Video Gaming Act:

The Board shall not permit the development of information or the use by any licensee of gaming device or individual game performance data. Nothing in this Act shall inhibit or prohibit the Board from the use of gaming device or individual game performance data in its regulatory duties. The Board shall adopt rules to ensure that all licensees are treated and all licensees act in a non-discriminatory manner and develop processes and penalties to enforce those rules.

A question arising under this statutory language is whether the prohibition against the sharing of gaming device and game performance data applies to internal data acquired by a licensee. Although such an interpretation arguably conforms to the literal statutory language, prohibiting a licensee from developing or using information that it acquires about its own operations appears a far-fetched, indeed absurd, result. The statutory language quoted above is manifestly intended to prevent manufacturers and distributors owned by the CCS vendor to obtain proprietary data developed by their competitors, and thereby acquire an unfair advantage in the marketplace.

As stated by the Illinois Supreme Court in the recent case of *People v. Hunter*, 986 N.E. 2d 1185, 1189, 369 Ill. Dec. 549, 553 (2013):

The primary objective in construing a statute is to ascertain and give effect to the intent of the legislature. The most reliable indicator of legislative intent is the language of the statute given its plain and ordinary meaning. A court must view the statute as a whole, construing words and phrases in light of other relevant statutory provisions and not in isolation. Each word, clause, and sentence of a statute must be given a reasonable meaning, if possible, and should not be rendered superfluous. *The court may consider the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or*

## ILLINOIS GAMING BOARD

## NOTICE OF ADOPTED AMENDMENT

*another. Also, a court presumes that the legislature did not intend to create absurd, inconvenient or unjust results. [Italics added.]*

Similarly, the First District Appellate Court in *Austin Bank of Chicago v. Barrington Hills*, 396 Ill. App. 3d 1, 8-9 (1st Dist 2009) cautioned that:

[R]eviewing courts should guard against a statutory interpretation that conflicts with the spirit of a statute. Where "a literal interpretation of a particular clause would defeat the [legislature's] obvious intent, it does not control."

Illinois courts have recognized that an agency's construction of a statute which it administers is entitled to substantial weight and deference, "...[stemming] from the fact that agencies make informed judgments on the issues based upon their experience and expertise and are also an informed source for ascertaining the legislature's intent." *Metropolitan Water Reclamation District of Greater Chicago v. Illinois Department of Revenue*, 313 Ill. App. 3d 469, 474-75 (1st Dist. 2000).

Based on its experience and expertise in regulating the CCS vendor and licensed manufacturers and distributors, as well as its careful reading of the statutory language, the Illinois Gaming Board has concluded that the provisions of PA 98-31 were never intended to restrict the use or analysis by licensees of their internal data. Accordingly, the Illinois Gaming Board is adopting the present rulemaking to make this point explicit and eliminate any uncertainties in statutory interpretation.

16) Information and Questions regarding this adopted rule may be addressed to:

Emily Mattison  
General Counsel  
Illinois Gaming Board  
160 North LaSalle Street  
Chicago IL 60601

312/814-7137  
fax: 312/814-7253

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

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

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 and Licensed Terminal Handlers
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 ADOPTED AMENDMENT

## 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
1800.590	Death and Change of Ownership of Video Gaming Licensee

## 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

## ILLINOIS GAMING BOARD

## NOTICE OF ADOPTED AMENDMENT

1800.730	Appointment of Administrative Law Judge
1800.735	Discovery
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
1800.820	Measurement of Distances from Locations
1800.830	Waivers of Location Restrictions

## 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, REGISTRATION,  
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
1800.1065	Registration of Video Gaming Terminals
1800.1070	Disposal of Video Gaming Terminals

ILLINOIS GAMING BOARD

NOTICE OF ADOPTED AMENDMENT

SUBPART K: STATE-LOCAL RELATIONS

Section  
1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section  
1800.1210 Definitions  
1800.1220 Entities Authorized to Perform Fingerprinting  
1800.1230 Qualification as a Livescan Vendor  
1800.1240 Fingerprinting Requirements  
1800.1250 Fees for Fingerprinting  
1800.1260 Grounds for Revocation, Suspension and Denial of Contract

SUBPART M: PUBLIC ACCESS TO INFORMATION

Section  
1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

Section  
1800.1410 Ticket Payout Devices  
1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices

SUBPART O: NON-PAYMENT OF TAXES

Section  
1800.1510 Non-Payment of Taxes

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM

Section  
1800.1610 Use of Gaming Device or Individual Game Performance Data

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

## ILLINOIS GAMING BOARD

## NOTICE OF ADOPTED AMENDMENT

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. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014; amended at 39 Ill. Reg. 5401, effective March 27, 2015; amended at 39 Ill. Reg. 5593, effective April 1, 2015.

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM**Section 1800.1610 Use of Gaming Device or Individual Game Performance Data**

*The Board shall not permit the development of information or the use by any licensee of gaming device or individual game performance data of another licensee. Nothing in the Act shall inhibit or prohibit the Board from the use of gaming device or individual game performance data in its regulatory duties. The Board shall adopt rules to ensure that all licensees are treated, and all licensees act, in a non-discriminatory manner and shall develop processes and penalties to enforce those rules. (Section 15 of the Act)*

(Source: Added at 39 Ill. Reg. 5593, effective April 1, 2015)

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Procedures of the Department of Human Rights
- 2) Code Citation: 56 Ill. Adm. Code 2520
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2520.560	Amendment
2520.APPENDIX A	Amendment
2520.APPENDIX D	Amendment
- 4) Statutory Authority: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)]
- 5) Effective Date of Rule: April 6, 2015
- 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 rule, 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*: December 26, 2014; 38 Ill. Reg. 23904
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: There have not been any changes.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The adopted rules make technical changes to the regions of the State for affirmative action and the time periods for Requests for Review.

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

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

David T. Rothal  
Staff Attorney  
Illinois Department of Human Rights – Legal Division  
100 W. Randolph St., Ste. 10-100  
Chicago IL 60601

312/814-6257 or  
TTY: 866/740-3953

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

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER II: DEPARTMENT OF HUMAN RIGHTS

## PART 2520

## PROCEDURES OF THE DEPARTMENT OF HUMAN RIGHTS

## SUBPART A: INTERPRETATIONS

Section	
2520.10	Definition of Terms
2520.20	Computation of Time
2520.30	Service of Documents
2520.40	Filing with the Department
2520.50	Separability
2520.110	Preservation of Records by Employers, Labor Organizations, Employment Agencies and Respondents

## SUBPART B: CHARGE

Section	
2520.310	Time of Filing (Repealed)
2520.320	Form (Repealed)
2520.330	Contents
2520.340	Requirements for Charge (Repealed)
2520.350	Unperfected Charge
2520.360	Amendment
2520.370	Substitution and Addition of Parties (Repealed)
2520.380	Withdrawal of Charge

## SUBPART C: PROCEDURE UPON CHARGE

Section	
2520.405	Verified Response to Charge
2520.410	Docketing and Service of Charge (Repealed)
2520.415	Mediation
2520.420	Maintenance of Records (Repealed)
2520.430	Investigation
2520.440	Fact-Finding Conference
2520.450	Administrative Closure (Repealed)

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

- 2520.460 Determination After Investigation (Repealed)
- 2520.470 Conciliation (Repealed)
- 2520.480 Complaint (Repealed)
- 2520.490 EEOC Dual Filed Charges

## SUBPART D: SETTLEMENTS

## Section

- 2520.510 Settlement
- 2520.520 Non-Disclosure (Repealed)
- 2520.530 Dismissal for Refusal to Accept Settlement Offer (Repealed)
- 2520.540 Non-Compliance with Settlement Terms (Repealed)

## SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

## Section

- 2520.550 Administrative Closure
- 2520.560 Dismissal
- 2520.570 Default

## SUBPART F: REQUESTS FOR REVIEW

## Section

- 2520.573 Filing with Chief Legal Counsel
- 2520.575 Contents of Request for Review
- 2520.577 Notice by the Chief Legal Counsel
- 2520.580 Extensions of Time
- 2520.583 Reply to Request for Review and Surreply
- 2520.585 Additional Investigation
- 2520.587 Decision

## SUBPART G: RELATIONS WITH LOCAL HUMAN RIGHTS AGENCIES

## Section

- 2520.610 Scope and Purpose (Repealed)
- 2520.620 Definitions (Repealed)
- 2520.630 Cooperative Agreements
- 2520.640 Nature of Cooperative Agreements
- 2520.650 Training and Technical Assistance

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

2520.660 Promotion of Communication and Goodwill

SUBPART H: EQUAL EMPLOYMENT OPPORTUNITY AND  
AFFIRMATIVE ACTION BY STATE EXECUTIVE AGENCIES

## Section

2520.700 Definitions  
2520.710 Scope and Purpose  
2520.720 Affirmative Action Groups  
2520.730 Consideration of Additional Groups  
2520.740 Definitions (Renumbered)  
2520.750 Nondiscrimination (Repealed)  
2520.760 Plans  
2520.770 Reporting and Record-Keeping  
2520.780 Equal Employment Opportunity Officers  
2520.790 Complaint Process  
2520.795 EEO/AA Performance Reviews  
2520.797 Sanctions for Noncompliance

SUBPART I: SEXUAL HARASSMENT IN HIGHER EDUCATION POLICIES

## Section

2520.810 Posting of Sexual Harassment Policies  
2520.820 Notice to Show Cause

2520.APPENDIX A Contents of Affirmative Action Plans  
2520.APPENDIX B Value Weight Assignment Chart (Repealed)  
2520.APPENDIX C Contents of Layoff Reports  
2520.APPENDIX D Illinois Counties by Region

AUTHORITY: Implementing Articles 1 through 7B of the Illinois Human Rights Act [775 ILCS 5/Arts. 1 through 7B] and the Intergovernmental Cooperation Act [5 ILCS 220], and authorized by Sections 7-101(A) and 7-105(A) of the Illinois Human Rights Act [775 ILCS 5/7-101(A) and 7-105(A)].

SOURCE: Adopted November 20, 1972 by the Fair Employment Practices Commission; transferred to the Department of Human Rights by P.A. 81-1216, effective July 1, 1980; emergency amendments at 4 Ill. Reg. 39, p. 335, effective September 17, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 1627, effective February 9, 1981; amended at 6 Ill. Reg.

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

2125, effective February 8, 1982; amended at 6 Ill. Reg. 3076, effective March 15, 1982; amended at 6 Ill. Reg. 8090, effective July 1, 1982; codified at 8 Ill. Reg. 17884; amended at 17 Ill. Reg. 15556, effective September 13, 1993; amended at 18 Ill. Reg. 16829, effective November 4, 1994; emergency amendment at 20 Ill. Reg. 445, effective January 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 5084, effective March 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6291, effective April 18, 1996; amended at 20 Ill. Reg. 10631, effective July 24, 1996; amended at 21 Ill. Reg. 14081, effective October 10, 1997; amended at 26 Ill. Reg. 17217, effective November 18, 2002; amended at 29 Ill. Reg. 804, effective December 28, 2004; amended at 30 Ill. Reg. 1343, effective January 13, 2006; amended at 30 Ill. Reg. 13403, effective July 31, 2006; amended at 30 Ill. Reg. 18715, effective November 20, 2006; amended at 31 Ill. Reg. 12319, effective August 8, 2007; amended at 31 Ill. Reg. 14815, effective October 19, 2007; amended at 32 Ill. Reg. 13482, effective August 1, 2008; amended at 33 Ill. Reg. 11311, effective July 20, 2009; amended at 33 Ill. Reg. 17086, effective December 4, 2009; amended at 34 Ill. Reg. 11413, effective July 20, 2010; amended at 36 Ill. Reg. 8699, effective June 1, 2012; amended at 38 Ill. Reg. 9481, effective April 21, 2014; amended at 39 Ill. Reg. 5601, effective April 6, 2015.

## SUBPART E: ADMINISTRATIVE CLOSURE, DISMISSAL AND DEFAULT

**Section 2520.560 Dismissal**

- a) The Department shall serve upon the parties a written notice of dismissal of all or part of a charge. For charges filed before January 1, 1996, or on or after January 1, 2008, the notice will state the grounds for dismissal and that the complainant may obtain review by the Commission by filing a request for review ~~within 30 days after receipt of the notice~~. For charges filed on or after January 1, 1996 and before January 1, 2008, Subpart F of this Part shall apply and the notice shall state the grounds for the dismissal and that the complainant may obtain review by the Chief Legal Counsel by filing a request for review ~~within 30 days after receipt of the notice~~. For charges filed prior to February 2, 2010, complainant has 30 days to file a request for review. For charges filed on or after February 2, 2010, complainant has 90 days to file a request for review.
- b) The dismissal may be based upon:
  - 1) lack of substantial evidence of discrimination or lack of jurisdiction. An investigation report discussing the reasons for the dismissal shall accompany the notice of dismissal;

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

- 2) complainant's failure to proceed, as provided in Section 2520.430(c) of this Part. The notice of dismissal in such cases shall specify the manner in which the complainant has failed to proceed and shall be addressed to the complainant at the last known address; or
- 3) complainant's failure to accept a settlement offer, pursuant to Section 7A-103(D) of the Act ~~[775 ILCS 5/7A-103(D)]~~. The notice in [thesesuch](#) cases shall specify the reasons for the Department's dismissal.

(Source: Amended at 39 Ill. Reg. 5601, effective April 6, 2015)

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

**Section 2520.APPENDIX A Contents of Affirmative Action Plans**

## Part I

- a) A completed Equal Employment Opportunity/Affirmative Action Certification Form;
- b) An agency EEO/AA policy statement signed by the Chief Executive Officer;
- c) An agency profile statement, describing the mission of the agency and its specific EEO/AA problems and needs;
- d) Identification of the agency's primary EEO Officer and his/her work location and telephone number;
- e) An organizational chart depicting the agency personnel at all levels responsible for implementing and monitoring the agency's affirmative action plan; and
- f) A description of the methods to be used in accomplishing both internal and external dissemination of the agency's affirmative action policy and plan.

## Part II

- a) Workforce Transactions Report: an assessment of the agency's personnel transactions for the previous fiscal year, including, but not limited to, a breakdown of new hires, promotions, demotions, transfers and separations by affirmative action groups.
- b) Workforce Analysis: an analysis, as of June 30 of the previous fiscal year, of the distribution of present employees by affirmative action group among the 8 EEO job categories in the 10 regions.

## Part III

- a) Availability Analysis for Women and Minorities:
  - 1) Numerical goals must be determined when there are 10 or more employees in an EEO job category within a region where the labor market availability rate for a specific affirmative action group is greater than 2

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

percent. The following factors must be considered in determining availability for each affirmative action group in each of the EEO job categories in each region of the State:

- A) Those having requisite skills in the region; and
  - B) Those promotable, trainable and transferable, as these terms are defined in Section 2520.700.
- 2) The availability of members of each affirmative action group is determined by using the following methodology:
- A) Each factor is assigned a value weight by the agency on a scale of 0 percent to 100 percent. The value weight indicates the applicability of each factor to the agency/facility in recruiting employees for that EEO job category. The sum of all value weights must be 100 percent, representing all persons available to work in a job category.
  - B) Each value weight is multiplied by the percentage of the affirmative action group in each of the factors. The result is a weighted factor for each of the categories.
  - C) The sum of the weighted factors is the availability percentage or ratio for that affirmative action group for that category for that region. This availability percentage or ratio is applied to the total number of positions in the agency's EEO job category to determine the numerical availability of the affirmative action group in each EEO job category.
- b) Goals and Timetables: Agencies shall set numerical goals equal to the underutilization of affirmative action group members resulting from the process set forth in Part III(a)(2). No such goals shall be set when the labor force availability of an affirmative action group is less than 2 percent in the DHR region in which it occurs. Program goals must be developed in conjunction with the problems identified as the result of the agency's internal and external workforce analyses. Each numerical or program goal should include a brief description of the area of concern, objectives that delineate specific intentions, action items outlining steps to be taken to achieve the objectives, the individual responsible for

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

carrying out the action item, the target date for completion, and the procedure for monitoring the progress toward meeting the goal.

## Part IV

**Discrimination Complaint Process:** A description of the procedures established by the agency to address charges of employment discrimination. This Part should include a statement that employees will be advised of their rights to file charges of discrimination with the Department, the U.S. Equal Employment Opportunity Commission, or any other appropriate government agency.

## Part V

## Affirmative Action for Disabled Persons

- a) Methodology for Disabled Persons:
  - 1) Factors: A numerical goal must be determined on an agency-wide basis, considering the proportion of people with disabilities in the Illinois labor force, as reflected in the most recent data provided by the U.S. Census Bureau American Community Survey.
  - 2) Survey: Employees working after June 1, 2012 shall be surveyed to determine the State's utilization of people with disabilities, as defined in Section 2520.700. Subsequently hired employees shall be surveyed at the time of hire.
  - 3) Availability: Availability must be determined by using the following methodology:
    - A) The total number of agency employees is multiplied by the percentage of employees with disabilities in the Illinois labor force (as supplied by the Department);
    - B) The agency will enter the number of employees identifying themselves as having disabilities through the disability survey process;

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

- C) The number of employees in subsection (a)(3)(B) is subtracted from the result of subsection (a)(3)(A);
  - D) If the result of subsection (a)(3)(C) is a positive number, the agency must adopt that number as its goal for employing persons with disabilities. If the result of subsection (a)(3)(C) is "0" or a negative number, the agency is considered to be at parity with the external labor force; and
  - E) If there is underutilization, a numerical goal must be developed and should include a brief description of the area of concern, objectives that delineate specific intentions, action items outlining steps to be taken to achieve the objectives, the individual responsible for carrying out the action item, the target date for completion, and the procedure for monitoring progress toward meeting the goal.
- b) Recruitment Procedures: Identification of sources used to recruit applicants with disabilities when persons with disabilities are underutilized.
  - c) Application Process Procedures
    - 1) A review of employment criteria to assure they have no adverse impact on disabled persons;
    - 2) Pre-employment inquiries – a statement regarding the inadmissibility of inquiries regarding an applicant's disability during the interview process;
    - 3) Employment testing (for agencies conducting their own tests) – a statement that the tests do not have an adverse impact on disabled applicants and that reasonable accommodation will be provided in the administration of the tests, as required;
    - 4) The prohibition of pre-employment medical examinations before an offer of employment;
    - 5) The prohibition of pre-employment medical examinations after an offer of employment, unless the examinations are job related and required of all applicants for that position.

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

- d) Reasonable Accommodation
- 1) Agency policy committing the agency to providing reasonable accommodations to disabled employees, signed by the Chief Executive Officer of the agency.
  - 2) A description of the procedure to determine reasonable accommodation.
- e) Physical Accessibility for Employment:
- 1) Of personnel offices;
  - 2) Of the worksite;
  - 3) For evacuation of disabled persons in emergency situations.

## Part VI

Applicable EEO Laws: This Part should set forth the relevant text of any federal law that mandates the agency to adhere to additional EEO/AA requirements.

## Part VII

This Part should have an appendix to the affirmative action plan that contains all supporting data, including the Hiring and Promotion Monitors and the exit questionnaire.

~~These regions will be effective July 1, 2015.~~

**REGION 1**

Cook  
 DeKalb  
 DuPage  
 Grundy  
 Kane  
 Kankakee  
 Kendall  
 Lake  
 McHenry

**REGION 2**

Boone  
 Ogle  
 Stephenson  
 Winnebago

**REGION 3**

Bureau  
 Carroll  
 Henry  
 Jo-Daviess  
 LaSalle  
 Lee  
 Mercer  
 Putnam  
 Rock Island

**REGION 4**

Adams  
 Brown  
 Hancock  
 Henderson  
 Knox  
 McDonough  
 Pike  
 Schuyler  
 Warren

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

Will

Whiteside

**REGION 5**

DeWitt  
Fulton  
Livingston  
Marshall  
Mason  
McLean  
Peoria  
Stark  
Tazewell  
Woodford

**REGION 6**

Champaign  
Douglas  
Ford  
Iroquois  
Piatt  
Vermilion

**REGION 7**

Christian  
Cass  
Greene  
Logan  
Macon  
Macoupin  
Menard  
Montgomery  
Morgan  
Sangamon  
Scott  
Shelby

**REGION 8**

Bond  
Calhoun  
Clinton  
Jersey  
Madison  
Monroe  
Randolph  
St. Clair  
Washington

**REGION 9**

Clark  
Clay  
Coles  
Crawford  
Cumberland  
Edgar  
Effingham  
Fayette  
Jasper  
Lawrence  
Marion  
Moultrie  
Richland

**REGION 10**

Alexander  
Edwards  
Franklin  
Gallatin  
Hamilton  
Hardin  
Jackson  
Jefferson  
Johnson  
Massac

Perry  
Pope  
Pulaski  
Saline  
Union  
Wabash  
Wayne  
White  
Williamson

These regions are effective until June 30, 2015.

**REGION 1**

Cook  
DuPage  
Grundy  
Kane

**REGION 2**

Boone  
Carroll  
DeKalb  
Jo-Daviess

**REGION 3**

Bureau  
Henderson  
Henry  
Knox

**REGION 4**

Fulton  
Mason  
Peoria  
Tazewell

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

Kendall  
Lake  
McHenry  
Will

Lee  
Ogle  
Stephenson  
Whiteside  
Winnebago

Mercer  
Rock Island  
Stark  
Warren

Woodford

**REGION 5**

Kankakee  
LaSalle  
Livingston  
Marshall  
McLean  
Putnam

**REGION 6**

Champaign  
Douglas  
Ford  
Iroquois  
Vermilion

**REGION 7**

Christian  
DeWitt  
Logan  
Macon  
Macoupin  
Menard  
Montgomery  
Piatt  
Sangamon

**REGION 8**

Adams  
Brown  
Calhoun  
Cass  
Greene  
Hancock  
Jersey  
McDonough  
Morgan  
Pike  
Schuyler  
Scott

**REGION 9**

Bond  
Clinton  
Madison  
Monroe  
St. Clair  
Washington

**REGION 10**

Clark  
Clay  
Coles  
Crawford  
Cumberland  
Edgar  
Effingham  
Fayette  
Jasper  
Lawrence

Marion  
Moultrie  
Richland  
Shelby

Alexander  
Edwards  
Franklin  
Gallatin  
Hamilton  
Hardin  
Jackson  
Jefferson  
Johnson  
Massac

**REGION 11**

Perry  
Pope  
Pulaski  
Randolph  
Saline  
Union  
Wabash  
Wayne  
White  
Williamson

(Source: Amended at 39 Ill. Reg. 5601, effective April 6, 2015)

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

**Section 2520.APPENDIX D Illinois Counties by Region**

These regions will be effective July 1, 2015.

**REGION 1**

Cook  
Dekalb  
DuPage  
Grundy  
Kane  
Kankakee  
Kendall  
Lake  
McHenry  
Will

**REGION 2**

Boone  
Ogle  
Stephenson  
Winnebago

**REGION 3**

Bureau  
Carroll  
Henry  
Jo Daviess  
LaSalle  
Lee  
Mercer  
Putnam  
Rock Island  
Whiteside

**REGION 4**

Adams  
Brown  
Hancock  
Henderson  
Knox  
McDonough  
Pike  
Schuyler  
Warren

**REGION 5**

DeWitt  
Fulton  
Livingston  
Marshall  
Mason  
McLean  
Peoria  
Stark  
Tazewell  
Woodford

**REGION 6**

Champaign  
Douglas  
Ford  
Iroquois  
Piatt  
Vermilion

**REGION 7**

Christian  
Cass  
Greene  
Logan  
Macon  
Macoupin  
Menard  
Montgomery  
Morgan  
Sangamon  
Scott  
Shelby

**REGION 8**

Bond  
Calhoun  
Clinton  
Jersey  
Madison  
Monroe  
Randolph  
St. Clair  
Washington

**REGION 9**

Clark  
Clay  
Coles  
Crawford  
Cumberland  
Edgar  
Effingham  
Fayette

**REGION 10**

Alexander  
Edwards  
Franklin  
Gallatin  
Hamilton  
Hardin  
Jackson  
Jefferson  
Perry  
Pope  
Pulaski  
Saline  
Union  
Wabash  
Wayne  
White

## DEPARTMENT OF HUMAN RIGHTS

## NOTICE OF ADOPTED AMENDMENTS

[Jasper](#)  
[Lawrence](#)  
[Marion](#)  
[Moultrie](#)  
[Richland](#)

[Johnson](#)  
[Massac](#)

[Williamson](#)

[These regions are effective through June 30, 2015.](#)

**REGION 1**

Cook  
 DuPage  
 Grundy  
 Kane  
 Kendall  
 Lake  
 McHenry  
 Will

**REGION 2**

Boone  
 Carroll  
 DeKalb  
 Jo Daviess  
 Lee  
 Ogle  
 Stephenson  
 Whiteside  
 Winnebago

**REGION 3**

Bureau  
 Henderson  
 Henry  
 Knox  
 Mercer  
 Rock Island  
 Stark  
 Warren

**REGION 4**

Fulton  
 Mason  
 Peoria  
 Tazewell  
 Woodford

**REGION 5**

Kankakee  
 LaSalle  
 Livingston  
 Marshall  
 McLean  
 Putnam

**REGION 6**

Champaign  
 Douglas  
 Ford  
 Iroquois  
 Vermilion

**REGION 7**

Christian  
 DeWitt  
 Logan  
 Macon  
 Macoupin  
 Menard  
 Montgomery  
 Piatt  
 Sangamon

**REGION 8**

Adams  
 Brown  
 Calhoun  
 Cass  
 Greene  
 Hancock  
 Jersey  
 McDonough  
 Morgan  
 Pike  
 Schuyler  
 Scott

**REGION 9**

Bond  
 Clinton  
 Madison  
 Monroe  
 St. Clair

**REGION 10**

Clark  
 Clay  
 Coles  
 Crawford  
 Cumberland  
 Marion  
 Moultrie  
 Richland  
 Shelby

**REGION 11**

Alexander  
 Edwards  
 Franklin  
 Gallatin  
 Hamilton  
 Perry  
 Pope  
 Pulaski  
 Randolph  
 Saline

DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

Washington	Edgar	Hardin	Union
	Effingham	Jackson	Wabash
	Fayette	Jefferson	Wayne
	Jasper	Johnson	White
	Lawrence	Massac	Williamson

(Source: Amended at 39 Ill. Reg. 5601, effective April 6, 2015)

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENT

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

<u>Section Numbers:</u>	<u>Adopted Action:</u>
250.10	Amendment
250.20	Amendment
250.EXHIBIT A	Amendment
- 4) Statutory Authority: Implementing Title II, Subtitle A of the Americans With Disabilities Act of 1990 (42 USC 12131-12134), as specified in Title II regulations (28 CFR 35.107), and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]
- 5) Effective Date of Rule: March 30, 2015
- 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 rulemaking, including any material incorporated by reference, is on file in the Agency's principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 38 Ill. Reg. 21282; November 14, 2014
- 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? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Rulemaking: JCAR asked DOI to look at our Title 2 and 4 rules and make revisions as appropriate. 4 Ill. Adm. Code 250 had some housekeeping revisions that needed to be made.
- 16) Information and questions regarding this adopted rule shall be directed to:

Ryan Gillespie  
ADA Coordinator  
Department of Insurance  
320 West Washington Street  
Springfield IL 62767-0001

217/782-6369

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

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENT

TITLE 4: DISCRIMINATION PROCEDURES  
CHAPTER VII: DEPARTMENT OF INSURANCEPART 250  
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section	
250.10	Purpose
250.20	Definitions
250.30	Procedure
250.40	ADA Coordinator Level
250.50	Final Level
250.60	Accessibility
250.70	Case-by-Case Resolution

## 250.EXHIBIT A      Grievance Form

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

**SOURCE:** Adopted at 30 Ill. Reg. 2538, effective February 7, 2006; amended at 36 Ill. Reg. 860, effective January 3, 2012; amended at 39 Ill. Reg. 5618, effective March 30, 2015.

**Section 250.10 Purpose**

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

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENT

- c) It is the Department's intention to foster open communication with all individuals requesting readily accessible programs, services and activities. The Department encourages supervisors of programs, services and activities to respond to requests for reasonable ~~accommodations~~ accommodations before they become grievances.

(Source: Amended at 39 Ill. Reg. 5618, effective March 30, 2015)

**Section 250.20 Definitions**

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

"ADA Coordinator" means the person appointed by the Director who is responsible for the coordination of efforts of the Department to comply with and carry out its responsibilities under Title II of the Act, including investigation of grievances filed by complainants.

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

"Department" means the Illinois Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance of the State of Illinois or anyone to whom the Director's responsibilities and authority are lawfully delegated.

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

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

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

(Source: Amended at 39 Ill. Reg. 5618, effective March 30, 2015)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

**Section 250.EXHIBIT A Grievance Form**

**Grievance  
Discrimination Based on Disability**

It is the policy of the Illinois Department of Insurance to provide assistance in filling out this form. If assistance is needed, please ask:

ADA Coordinator – Department of Insurance  
320 West Washington Street  
Springfield IL 62767-0001  
( 217 )782-4515 (Voice); [\(866\)323-5321](tel:8663235321)~~(217) 524-4872~~ (TDD)

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

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

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

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

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

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

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

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

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

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

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

Complainant/Authorized Agent

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

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

For Office Use Only

Date Received: \_\_\_\_\_ By: \_\_\_\_\_

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENT

## (BACK OF FORM)

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

Reasonable modification requested:

The date the reasonable modification was requested:

The person to whom the request was made:

The reason for denial:

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

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

Alternative ~~accommodations~~accommodations that may provide accessibility:

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

(Source: Amended at 39 Ill. Reg. 5618, effective March 30, 2015)

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF MODIFICATION TO MEET THE OBJECTION OF  
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3) Section Number: 1540.380
- 4) Notice of the Emergency Amendment published in the *Illinois Register*: February 20, 2015; 39 Ill. Reg. 2792
- 5) Date JCAR Statement of Objection to the Emergency Amendment published in the *Illinois Register*: April 3, 2015; 39 Ill. Reg. 5276
- 6) Summary of Action Taken by the Agency: At its meeting on March 17, 2015, the Joint Committee on Administrative Rules objected to Section 1540.380(c) of the State Employees' Retirement System's emergency rule because that subsection is subjecting other State agencies to SERS rules, without any statutory authority to do so. The State Employees' Retirement System of Illinois agrees with the objection and will remove the subsection that caused the objection. The other Sections of the emergency rule were not modified and will remain in effect.

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

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF MODIFICATION TO MEET THE OBJECTION OF  
THE JOINT COMMITTEE ON ADMINISTRATIVE RULESTITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE D: RETIREMENT SYSTEMS  
CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## PART 1540

THE ADMINISTRATION AND OPERATION OF THE  
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## Section

1540.5	Introduction
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits
1540.80	Disability Claims
1540.90	Benefit Offset
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.200	Removal from the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions by the State (Repealed)
1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted
1540.255	Pick-up Option for Optional Service Contributions

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF MODIFICATION TO MEET THE OBJECTION OF  
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

- 1540.260 Contributions and Service Credit During Nonwork Periods  
1540.270 Written Appeals and Hearings  
1540.280 Availability for Public Inspection (Recodified)  
1540.290 Procedure for Submission, Consideration and Disposition of Petitions Seeking the  
Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)  
1540.300 Organization of the State Employees' Retirement System (Recodified)  
1540.310 Amendments  
1540.320 Optional Forms of Benefits – Basis of Computation  
1540.330 Board Elections  
1540.340 Excess Benefit Arrangement  
1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)  
1540.360 Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension  
Code  
1540.370 Americans With Disabilities Act  
[1540.380 Correction of Mistakes in Benefit Payments](#)

[EMERGENCY](#)

- 1540.APPENDIX A Grievance Form  
1540.TABLE A Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5/Art. 14].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990;

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF MODIFICATION TO MEET THE OBJECTION OF  
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; emergency expired November 15, 2009; amended at 34 Ill. Reg. 285, effective December 15, 2009; amended at 34 Ill. Reg. 8313, effective June 10, 2010; amended at 38 Ill. Reg. 4023, effective January 24, 2014; emergency amendment at 39 Ill. Reg. 2792, effective February 6, 2015, for a maximum of 150 days; emergency modified in response to a Joint Committee on Administrative Rules Objection at 39 Ill. Reg. 5626, for the remainder of the 150 days.

**Section 1540.380 Correction of Mistakes in Benefit Payments****EMERGENCY**

- a) As soon as reasonably practicable after discovery that the amount of a benefit being paid to a recipient is incorrect, the System shall notify the recipient in writing. The written communication shall indicate the correct amount of the benefit, when the corrected benefit amount will begin to be paid, and the procedure for appealing such action.
- b) Upon discovering that the System has been paying a benefit that is not correct, the System shall endeavor to determine whether the recipient has been underpaid or overpaid by the System.
  - 1) If the recipient has been underpaid, the System shall pay a lump sum amount of the recipient in the amount necessary to make the recipient

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF MODIFICATION TO MEET THE OBJECTION OF  
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

whole as to the amounts that should have been paid to the recipient by the System according to the terms of the Act.

- 2) If the System determines the recipient has been paid more than provided for by the Act the System shall determine when the overpayments began.
- A) If the overpayments have been made by the System for more than three years the recipient will not be required to reimburse the System for the amount of the overpayments unless the overpayments are the result of incorrect or inaccurate information provided by a member, beneficiary or their authorized representative. Incorrect information provided by another retirement system or a state agency will be considered as being provided by an authorized representative of the member or beneficiary.
- B) If the overpayments have been made for less than three years then the System shall make arrangements for collection of the amount of the overpayment. The overpayment can be repaid by reductions of the remaining payments due to the recipient, repayment of the overpayment by the recipient to the System, by such other arrangement as the System makes with the recipient or by any other means legally available to the System.
- C) No matter how long an overpayment has been made to a member or beneficiary if the overpayment is the result of incorrect or inaccurate information provided by a member, beneficiary or their authorized representative the System shall make arrangements for collection of the amount of the overpayment. The overpayment can be repaid by reductions of the remaining payments due to the recipient, repayment of the overpayment by the recipient to the System, by such other arrangement as the System makes with the recipient or by any other means legally available to the System.
- c) As used in this Section, "System" shall refer to the State Employees' Retirement System, Judges' Retirement System and General Assembly Retirement System.

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

NOTICE OF MODIFICATION TO MEET THE OBJECTION OF  
THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 2792, effective February 6, 2015, for a maximum of 150 days; emergency amendment modified in response to JCAR Objection at 39 Ill. Reg. 5626, for the remainder of the 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of March 31, 2015 through April 6, 2015. Rulemakings are scheduled for review at the Committee's May 12, 2015 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
5/13/15	<u>Department of Insurance</u> , Legal Reserve Life Bank (Repealer) (50 Ill. Adm. Code 2101)	1/23/15 39 Ill. Reg. 1509	5/12/15
5/13/15	<u>Department of Insurance</u> , Accident and Health Expense Reporting (Repealer) (50 Ill. Adm. Code 2043)	1/23/15 39 Ill. Reg. 1499	5/12/15
5/13/15	<u>Department of Insurance</u> , Standard Health Applications (Repealer) (50 Ill. Adm. Code 2030)	1/23/15 39 Ill. Reg. 1459	5/12/15
5/14/15	<u>Pollution Control Board</u> , Permits (35 Ill. Adm. Code 309)	10/3/14 38 Ill. Reg. 19416	5/12/15
5/14/15	<u>Pollution Control Board</u> , Water Use Designations and Site-Specific Water Quality Standards (35 Ill. Adm. Code 303)	10/3/14 38 Ill. Reg. 19401	5/12/15
5/14/15	<u>Pollution Control Board</u> , Water Quality Standards (35 Ill. Adm. Code 302)	10/3/14 38 Ill. Reg. 19366	5/12/15
5/15/15	<u>State Board of Elections</u> , Campaign Financing (26 Ill. Adm. Code 100)	2/6/15 39 Ill. Reg. 2056	5/12/15

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

5/15/15	<u>State Board of Elections</u> , Practice and Procedure (26 Ill. Adm. Code 125)	2/6/15 39 Ill. Reg. 2106	5/12/15
5/16/15	<u>Department of Natural Resources</u> , Conservation Stewardship Program (17 Ill. Adm. Code 2580)	2/13/15 39 Ill. Reg. 2235	5/12/15
5/16/15	<u>Department of Military Affairs</u> , Illinois Military Family Relief Fund Act (95 Ill. Adm. Code 200)	9/19/14 38 Ill. Reg. 18838	5/12/15

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 39, Issue 16 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

**PROPOSED RULES**

77 - 4500	.....	5536
77 - 1110	.....	5540
44 - 2000	.....	5565

**ADOPTED RULES**

83 - 470	4/1/2015 .....	5577
11 - 1800	4/1/2015 .....	5593
56 - 2520	4/6/2015 .....	5601
4 - 250	3/30/2015 .....	5618

**AGENCY MODIFICATION IN  
RESPONSE TO A STATEMENT OF  
OBJECTION**

80 - 1540	.....	5626
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