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Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2015 until January 4, 2016.

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 2016

Issue#	Rules Due Date	Date of Issue
1	December 21, 2015	January 4, 2016
2	December 28, 2015	January 8, 2016
3	January 4, 2016	January 15, 2016
4	January 11, 2016	January 22, 2016
5	January 19, 2016	January 29, 2016
6	January 25, 2016	February 5, 2016
7	February 1, 2016	February 16, 2016
8	February 8, 2016	February 19, 2016
9	February 16, 2016	February 26, 2016
10	February 22, 2016	March 4, 2016
11	February 29, 2016	March 11, 2016
12	March 7, 2016	March 18, 2016
13	March 14, 2016	March 25, 2016
14	March 21, 2016	April 1, 2016
15	March 28, 2016	April 8, 2016
16	April 4, 2016	April 15, 2016
17	April 11, 2016	April 22, 2016
18	April 18, 2016	April 29, 2016
19	April 25, 2016	May 6, 2016
20	May 2, 2016	May 13, 2016
21	May 9, 2016	May 20, 2016
22	May 16, 2016	May 27, 2016

23	May 23, 2016	June 3, 2016
24	May 31, 2016	June 10, 2016
25	June 6, 2016	June 17, 2016
26	June 13, 2016	June 24, 2016
27	June 20, 2016	July 1, 2016
28	June 27, 2016	July 8, 2016
29	July 5, 2016	July 15, 2016
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32	July 25, 2016	August 5, 2016
33	August 1, 2016	August 12, 2016
34	August 8, 2016	August 19, 2016
35	August 15, 2016	August 26, 2016
36	August 22, 2016	September 2, 2016
37	August 29, 2016	September 9, 2016
38	September 6, 2016	September 16, 2016
39	September 12, 2016	September 23, 2016
40	September 19, 2016	September 30, 2016
41	September 26, 2016	October 7, 2016
42	October 3, 2016	October 14, 2016
43	October 11, 2016	October 21, 2016
44	October 17, 2016	October 28, 2016
45	October 24, 2016	November 4, 2016
46	October 31, 2016	November 14, 2016
47	November 7, 2016	November 18, 2016
48	November 14, 2016	November 28, 2016
49	November 21, 2016	December 2, 2016
50	November 28, 2016	December 9, 2016
51	December 5, 2016	December 16, 2016
52	December 12, 2016	December 27, 2016
53	December 19, 2016	December 30, 2016

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Health Facilities and Services Review Operational Rules
- 2) Code Citation: 77 Ill. Adm. Code 1130
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1130.120	Amendment
1130.130	Amendment
1130.140	Amendment
1130.150	Amendment
1130.215	Amendment
1130.230	Amendment
1130.240	Amendment
1130.250	Amendment
1130.310	Amendment
1130.410	Amendment
1130.500	Amendment
1130.520	Amendment
1130.525	New Section
1130.550	Amendment
1130.560	Amendment
1130.570	Amendment
1130.580	Amendment
1130.590	Amendment
1130.610	Amendment
1130.620	Amendment
1130.635	Amendment
1130.640	Amendment
1130.650	Amendment
1130.655	Amendment
1130.660	Amendment
1130.670	Amendment
1130.680	Amendment
1130.710	Amendment
1130.720	Amendment
1130.730	Amendment
1130.740	Amendment
1130.750	Amendment
1130.760	Amendment
1130.770	Amendment

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NOTICE OF PROPOSED AMENDMENTS

1130.775	Amendment
1130.780	Amendment
1130.790	Amendment
1130.810	Amendment
1130.910	Amendment
1130.920	Amendment
1130.930	Amendment
1130.940	Amendment
1130.950	Amendment
1130.980	Amendment
1130.990	Amendment
1130.995	Amendment
1130.1020	Amendment
1130.1030	Amendment
1130.1040	Amendment
1130.1080	Amendment
1130.1130	Amendment
1130.APPENDIX A	Amendment

- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960/12]
- 5) A Complete Description of the Subjects and Issues Involved: HFSRB proposes changes to this Part to implement rules in response to the following legislative changes:
- Expansion of allowable exemptions to include applications to discontinue a category of service or health care facility that is not maintained by the State, a State agency or a State department;
 - Removing the requirement that applicants seeking a change of ownership have to submit a final transaction document when submitting their application for review. Instead, allowing these applicants the option to submit the key terms of the transaction. Also, making the exemption invalid if the change of ownership is not completed according to the key terms submitted in the application.
 - Changing the notice by publication period for change of ownership applications from three days to one, and requiring applicants to pay for the cost of the publication;

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- Granting the HFSRB Chair authority to grant an exemption for a change of ownership among related persons within 45 days and the discretion to refer such applications to the entire Board if there is a conflict of interest or for other good cause;
- The addition of the definition of State Board Staff Reports;
- The addition of specialized mental health rehabilitation facilities to the type facilities that are subject to the certificate-of-need process; and
- The addition of skilled and intermediate-care facilities licensed under the ID/DD Community Care Act or the MC/DD Act to the type of facilities that are subject to the certificate-of-need process.

Language related to permit acceptance agreements is removed. This change is because HFSRB will continue using permit letters to notify applicants that their applications were approved and of the applicants' obligations for maintaining valid permits.

The fees for exemption and permit applications increased. Exemption application fees increased from \$2,500 to \$5,000. Permit application fees increased to \$5,000 for applications with a project cost of less than \$1,700,000. For applications with a project cost of \$1,700,000 or more, the application-processing fee is increased to 0.30%. The maximum application-processing fee of \$100,000 did not change.

The fees for permit renewal applications increased from \$500 to \$1,000.

It removes the requirement that HFSRB staff notify applicants in writing if the applicants have not paid the full application-processing fee. HFSRB staff will continue to notify applicants of an outstanding balance, but staff will not be required to do so in writing.

In cases where HFSRB extended the financial commitment period, permit holders will be required to submit the financial commitment reports no later than the due date of the next annual report immediately following the new financial commitment date.

Language from the Health Facilities Planning Act regarding the fine amount and fine accrual for permit holders who fail to comply with post-permit and reporting requirements is repeated in this Part.

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The capital expenditure minimums that the Board uses to determine if a project requires a permit are updated to reflect project cost increases due to inflation.

The remaining amendments are to clarify existing language.

- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking:
 - A) RSMeans Building Construction Cost Data publication
 - B) Professional Services and Fees handbook for centralized fee negotiation published by Capital Development Board, Springfield
 - C) Moody's, Fitch, and Standard & Poor's Rating Agency Quarterly Report
 - D) American Institute of Architects B101-2007 Standard Form of Agreement Between Owner and Architect
- 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 Objective: This rulemaking may affect units of local government that own or operate health care facilities.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

Jeannie Mitchell
Assistant General Counsel
Health Facilities and Services Review Board
69 West Washington Street, Suite 3501
Chicago IL 60602

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

312/814-6226

e-mail: Jeannie.Mitchell@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking may affect units of small businesses, small municipalities and not-for-profit corporations that own or operate health care facilities, such as hospitals, ambulatory surgery treatment centers, long-term care centers, end stage renal dialysis centers, free standing emergency care centers, and freestanding birth centers.
 - 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 rule was not included on either of the two most recent Regulatory Agendas because it is motivated in large part by recent legislative changes.

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

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD

SUBCHAPTER b: OTHER BOARD RULES

PART 1130

HEALTH FACILITIES AND SERVICES REVIEW OPERATIONAL RULES

SUBPART A: AUTHORITY

Section

- 1130.110 Statutory Authority/Applicability
- 1130.120 Introduction
- 1130.130 Purpose
- 1130.140 Definitions
- 1130.150 Referenced and Incorporated Materials

SUBPART B: GENERAL REQUIREMENTS

Section

- 1130.210 Persons and Facilities Subject to the Act
- 1130.215 Health Care Facilities Subject to the Act
- 1130.220 Necessary Parties to the Application for Permit or Exemption
- 1130.230 Fees
- 1130.240 Reporting and Notification Requirements
- 1130.250 HFSRB Meetings

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

Section

- 1130.310 Projects or Transactions Subject to the Act

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR
EXEMPTION FROM PERMIT REQUIREMENTS

Section

- 1130.410 Projects or Transactions Exempt from Permit Requirement

SUBPART E: OPERATIONAL REQUIREMENTS FOR EXEMPTIONS

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Section	
1130.500	General Requirements for Exemptions
1130.510	Requirements for Exemptions Involving the Acquisition of Major Medical Equipment (Repealed)
1130.520	Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility
<u>1130.525</u>	<u>Requirements for Exemptions Involving the Discontinuation of a Health Care Facility or Category of Service</u>
1130.530	Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
1130.531	Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds (Repealed)
1130.539	Requirements for Exemptions Involving the Establishment of Positron Emission Tomography (P.E.T.) Service (Repealed)
1130.540	Requirements for Exemptions Involving Discontinuation (Repealed)
1130.541	Requirements for Exemptions for Combined Facility Licensure (Repealed)
1130.542	Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs (Repealed)
1130.543	Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility (Repealed)
1130.544	Requirements for Exemption for the Addition of Dialysis Stations (Repealed)
1130.550	Agency Processing of an Application for Exemption
1130.560	State Board Action
1130.570	Validity of an Exemption and Reporting Requirements
1130.580	Relinquishment of an Exemption
1130.590	Revocation of an Exemption

SUBPART F: OPERATIONAL REQUIREMENTS FOR THE REVIEW
AND PROCESSING OF APPLICATIONS FOR PERMIT

Section	
1130.610	Duration of the Review Period and Time Frames
1130.620	Technical Assistance, Classification, Completeness Review, and Review Procedures
1130.630	HFSRB Staff Actions During the Review Period
1130.635	Additional Information Provided During the Review Period
1130.640	Extension of the Review Period
1130.650	Modification of an Application
1130.655	HFSRB Consideration and Action

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- 1130.660 Approval of an Application
- 1130.670 Intent to Deny an Application
- 1130.680 Denial of an Application

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section

- 1130.710 Validity of Permits
- 1130.720 Financial ~~Commitment~~[Commitment](#)
- 1130.730 Extension of the Financial ~~Commitment~~[Commitment](#) Period
- 1130.740 Permit Renewal
- 1130.750 Alteration of Post-Permit Projects
- 1130.760 Annual Progress Reports
- 1130.770 Project Completion, Final Realized Costs and Cost Overruns
- 1130.775 Relinquishment of a Permit
- 1130.780 Revocation of a Permit
- 1130.790 Penalties, Fines and Sanctions [Mandated in the Illinois Health Facilities Planning Act](#) for Non-compliance with the Act and HFSRB Rules

SUBPART H: DECLARATORY RULINGS

Section

- 1130.810 Declaratory Rulings

SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

Section

- 1130.910 Applicability
- 1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit
- 1130.930 Notice of Public Hearing on Applications for Permit
- 1130.940 Procedures for Public Hearing on Applications for Permit
- 1130.950 Written Comments on Applications for Permit
- 1130.960 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)
- 1130.970 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)
- 1130.980 Procedures Concerning Public Hearing for Certificate of Exemption ~~for Change~~[of Ownership](#)

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- 1130.990 Procedures for Public Hearing and Comment on Proposed Rules
1130.995 Procedures for Written Public Comment on All Other Matters

SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

Section

- 1130.1010 The Right to an Administrative Hearing and Applicable Rules
1130.1020 Initiation of a Contested Case (Pleadings)
1130.1030 Waiver of Hearing
1130.1040 Parties to Hearings
1130.1050 Appearance – Right to Counsel
1130.1060 Prehearing Conferences
1130.1070 Intervention
1130.1080 Disqualification of Administrative Law Judge
1130.1090 Form of Papers
1130.1100 Service
1130.1110 Conduct of Hearings
1130.1120 Discovery
1130.1130 Motions
1130.1140 Subpoenas
1130.1150 Administrative Law Judge's Report and Recommendation
1130.1160 Proposal for Decision (Repealed)
1130.1170 Final Decision
1130.1180 Records of Proceedings
1130.1190 Miscellaneous
1130.1200 Copies of Pleadings to be Filed
1130.1210 Applicability

1130.APPENDIX A Capital Expenditure Minimums/Review Thresholds

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

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective

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March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998; amended at 23 Ill. Reg. 2911, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective April 7, 2000; amended at 25 Ill. Reg. 10786, effective August 24, 2001; amended at 27 Ill. Reg. 2976, effective February 21, 2003; amended at 30 Ill. Reg. 14852, effective September 1, 2006; amended at 31 Ill. Reg. 15270, effective November 1, 2007; amended at 32 Ill. Reg. 12355, effective July 18, 2008; amended at 37 Ill. Reg. 6227, effective June 1, 2013; amended at 38 Ill. Reg. 2869, effective February 1, 2014; amended at 39 Ill. Reg. 6347, effective June 1, 2015; amended at 40 Ill. Reg. _____, effective _____.

SUBPART A: AUTHORITY

Section 1130.120 Introduction

Part 1130 establishes the procedures and requirements for processing and ~~reviewing~~~~review of~~ applications for permit, applications for exemptions, and other matters that are subject to the Act and to determinations by the Illinois Health Facilities and Services Review Board (HFSRB). This Part pertains to, but is not limited to: persons and transactions subject to the Act; the requirements for ~~submitting~~~~submission of~~ applications for permit or exemption; the HFSRB review process, public hearing procedures for applications and proposed rules; requirements for maintaining valid permits; declaratory rulings; and administrative hearings.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.130 Purpose

- a) *The purpose of the Health Facilities Planning Act is to establish a procedure designed to reverse the trends of increasing costs of health care resulting from unnecessary construction of health care facilities. This program is established to:*
- 1) *improve the financial ability of the public to obtain necessary health services;*
 - 2) *establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public;*
 - 3) *maintain and improve the provision of essential health care services and*

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

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increase the accessibility of those services to the medically underserved and indigent;

- 4) *assure that the reduction and closure of health care services or facilities is performed in an orderly and timely manner, and that these actions are deemed to be in the best interests of the public; and*
 - 5) *assess the financial burden to patients caused by unnecessary health care construction and modification. [20 ILCS 3960/2].*
- b) Decisions regarding proposed new health services and facilities shall be made for reasons having to do with the community health needs in the various parts of the State. The burden of proof on all issues pertaining to an application shall be on the applicant.
- c) The health facilities and services review program shall be administered with the goal of maximizing the efficiency of capital investment and the objectives of:
- 1) Promoting development of more effective methods of delivering health care;
 - 2) Improving distribution of health care facilities and services and ensuring access to needed health care services for the general public, the medically indigent and similar underserved populations;
 - 3) Controlling the increase of health care costs;
 - 4) Promoting planning for health care services at the facility, regional and ~~state~~State levels;
 - 5) Maximizing the use of existing health care facilities and services that represent the least costly and most appropriate levels of care; and
 - 6) Minimizing the unnecessary duplication of health care facilities and services.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.140 Definitions

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

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"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Administrative Law Judge" means the person appointed to preside at administrative hearings under Subpart J ~~of this Part~~ and pursuant to the Act.

"Administrator" means the chief executive officer of HFSRB, responsible to the HFSRB Chairman and, through the Chairman, responsible to HFSRB for the execution of its policies and procedures.

"Adverse Action" means a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns or operates or owns and operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" and Type "AA" violations. As defined in Section 1-129 of the Nursing Home Care Act [210 ILCS 45], *"Type 'A' violation" means a violation of the Nursing Home Care Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that risk of death or serious mental or physical harm to a resident will result therefrom or has resulted in actual physical or mental harm to a resident.* As defined in Section 1-128.5 of the Nursing Home Care Act, *a "Type AA violation" means a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility that proximately caused a resident's death.* [210 ILCS 45/1-129]

"Affirmation" means a statement, declaration, proclamation, pronouncement or notice made by an applicant regarding the information requirements for an application for exemption, with the understanding that there are still consequences to any matters that are non-compliant with the terms of the exemption issued.

"Agency" or "IDPH" means the Illinois Department of Public Health.

"Alteration" means any revision or change to a project as detailed in the application that occurs after HFSRB ~~issued~~~~issuance of~~ the permit. A completed project cannot be altered. The site of the proposed project or the persons who are the permit holder cannot be altered.

"Applicant" means a person, as defined in the Act, who applies for a permit or

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exemption. See Section 1130.220 to determine what parties are necessary for an application.

"Audit" means the most recent formal examination, correction and official endorsement of financial reports by an independent certified public accountant.

"Authorized Representative" means a person who has authority to act on behalf of the legal entity or person that is the applicant or permit holder. Authorized representatives are: in the case of a corporation, any of its officers or members of its board of directors; in the case of a limited liability company, any of its managers or members (or the sole manager or member when two or more managers or members do not exist); in the case of a partnership, any of its general partners (or the sole general partner when two or more general partners do not exist); in the case of estates and trusts, any of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and in the case of a sole proprietor, the individual who is the proprietor.

"Capital Expenditure" *means an expenditure made by or on behalf of a health care facility (as such a facility is defined in the Act), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part and which exceeds the capital expenditure minimum. For purposes of this definition, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditure minimum. Unless otherwise interdependent or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review. [20 ILCS 3960/3]*

"Capital Expenditure Minimum" means the dollar amount or value which would

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require a permit for capital projects and major medical equipment. Capital expenditure minimums are adjusted annually to reflect the increase in construction costs due to inflation per Section 1130.310. Current capital expenditure minimums are posted on the HFSRB website (www.hfsrb.illinois.gov) and Appendix A.

"Censure" means a formal and public reprimand issued by HFSRB.

"CMMS" means the federal Centers for Medicare and Medicaid Services.

"Chairman" or "[Board Chair](#)" means the presiding officer of HFSRB.

"Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. *A permit or exemption shall be obtained prior to the construction or modification of a health care facility that: changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board in its Inventory of Health Care Facilities and Services and Need Determinations found on the Board's website at www.hfsrb.illinois.gov, whichever is less, over a 2-year period.* [20 ILCS 3960/5] The two-year period begins on the date the additional beds or stations become operational. (See Section 1130.240(f) for more detail.)

"Change of Ownership" means a change in the person who has operational control of an existing health care facility or *a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control.* [20 ILCS 3960/3] Examples of change of ownership include:

a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; or

the issuance of a license by IDPH to a person different from the current licensee; or

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for facilities not subject to licensing, the issuance of a provider number to a different person by certification agencies that administer Titles XVIII and XIX of the Social Security Act; or

a change in the membership or sponsorship of a not-for-profit corporation; or

a change of 50% or more of the voting members of a not-for-profit corporation's board of directors, during any consecutive 12-month period, that controls a health care facility's operations, license, certification (when the facility is not subject to licensing) or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed or certified (when the facility is not subject to licensing) to operate, or who owns the physical plant and capital assets of a governmental health care facility; or

any other transaction that results in a person obtaining control of a health care facility's operations or physical plant and capital assets, including leases.

"Change of Ownership Among Related Persons" means a transaction in which the parties to the transaction are under common control or ownership before and after the transaction is completed. [20 ILCS 3960/8.5(a)]

"Charity Care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third party payer. [20 ILCS 3960/3]

"Clinical Service Area" means a department or service that is directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility [20 ILCS 3960/3]. A clinical service area's physical space shall include those components required under the facility's licensure or Medicare or Medicaid Certification, and as outlined by documentation from the facility as to the physical space required for appropriate clinical practice.

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~~"Co-applicant" means a person, as defined in the Act, who, together with other persons, applies for a permit or exemption. (See Section 1130.220 to determine what parties are necessary for an application.)~~

"Combined Service Area Project" means a project that consists of both clinical service areas and non-clinical service areas.

"Completion Date" or "Project Completion Date" means the date the applicant established by the applicant for the completion of the project, when the permit was approved or renewed in the approval of the permit or subsequent renewal.

"Construction" or "Modification" *means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditures made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act or a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under the Act.*
[20 ILCS 3960/3]

"Contested Case" is defined in Section 1-30 of the IAPA [5 ILCS 100/1-30].

"Control" means that a person possesses any of the following discretionary and non-ministerial rights or powers:

In the case of an entity, the ability to direct the management and policies of the entity, whether through the voting of securities, corporate membership, contract, or otherwise. Examples of such control include, without limitation:

holding 50% or more of the outstanding voting securities of an issue;

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in the case of an entity that has no outstanding voting securities, having the right to 50% or more of the profits or, in the event of dissolution, the right to 50% or more of the assets of the entity;

having the power to appoint or remove 50% or more of the governing board members of an entity;

having the power to require or approve the use of funds or assets of the entity; or

having the power to approve, amend or modify the entity's bylaws or other governance documents.

In the case of capital assets or real property, the power to direct or cause the direction of the personal property, real property or capital assets that are components of the project (i.e., fixed equipment, mobile equipment, buildings and portions of buildings). Examples of such control include, without limitation:

ownership of 50% or more in the property or asset;

serving as lessee or sublessee.

"Conversion" means a change in the control of an existing health care facility's physical plant, assets, or operations by such methods as, but not limited to, a change in ownership, acquisition, merger, consolidation, lease, stock transfer, or change in sponsorship. Types of conversion include:

change of ownership;

consolidation by combining two or more existing health care facilities into a new health care facility, terminating the existence of the existing or original facilities ($A + B = C$). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensing or the loss of certification for facilities not subject to licensing;

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merger by the absorption of one or more existing health care facilities into another existing health care facility. The result of the absorption is that only one facility survives ($A + B = B$). Merger results in the modification (e.g., expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

"Date" means, for purposes of 77 Ill. Adm. Code 1130, a ~~time~~ period starting at 12:00:01 a.m. of a specified day and ending at 12:00:01 a.m. the following day.

"Director" means *the Director of the Department of Public Health*. [20 ILCS 3960/3]

"Discontinuation" means to cease operation of an entire health care facility or category of service on a voluntary or involuntary basis. A permit or exemption is required prior to a discontinuation. A facility or category of service that has ceased operation or has interrupted service on a temporary basis due to unanticipated or unforeseen circumstances (such as the lack of appropriate staff, or a natural or unnatural disaster) may be determined to not have discontinued, provided that the facility has exercised appropriate efforts to maintain operation, and has provided documentation of the circumstances and anticipated date of restoration to HFSRB within 30 days after the temporary interruption of the service. Discontinuation also includes a determination by HFSRB that:

a category of service approved after January 1, 1992 is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100 (Narrative and Planning Policies), for that category of service, by the end of the second year of operation after project completion and on average for any two-year period thereafter (based upon data reported by the facility to HFSRB staff pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service; or

an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to HFSRB staff pursuant to Section 13 of the Act), and that need no longer

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exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.

HFSRB NOTE: HFSRB may determine that a discontinuation has not occurred when a facility has complied with the requirements of this definition. Failure to obtain a permit or exemption prior to discontinuation may result in the imposition of sanctions or penalties as provided by the Act.

"Due Diligence" means to take such actions toward the completion of a project for which a permit has been issued with that diligence and foresight that persons of ordinary prudence and care commonly exercise under like circumstances. An accidental or unavoidable cause that cannot be avoided by the exercise of due diligence is a cause that reasonable prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

"Emergency Projects" means projects that are *emergent in nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined at 77 Ill. Adm. Code 1110.40(a)*. [20 ILCS 3960/12(9)]

"Entity" means any corporation, company, partnership, joint venture, association, trust, foundation, fund or other legally recognized organization, public body or municipality.

"Establish" or "Establishment" means the construction of a new health care facility, the licensing of unlicensed buildings or structures as a health care facility, the replacement of an existing health care facility on another site, or *the initiation of a category of service as defined by the Board*. [20 ILCS 3960/3]

"Estimated Project Cost" or "Project Costs" means the sum of all costs, including the fair market value of any equipment or other real property (whether acquired by lease, donation, or gift) necessary to complete a project, including:

preplanning costs;

site survey and soil investigation fees;

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site preparation costs;

off-site work;

construction contracts and contingencies (including demolition);

capital equipment included in construction contracts;

architectural and engineering fees;

consultants and other professional fees that are related to the project;

capital equipment not in construction contracts;

bond issuance expenses;

net interest expense during construction; and

all other costs that are to be capitalized.

"Exemption" means the classification of projects that are exempt from the Certificate of Need permit review process, but are reviewed under *the procedures and requirements of HFSRB regarding issuance of exemptions*. (See Subpart E.) *An exemption shall be approved when all information required by the Board, in accordance with Subpart E, is submitted.* [20 ILCS 3960/6(b)]

"Existing Health Care Facility" means any health care facility subject to the Act that:

has a license issued by IDPH and has provided services within the past 12 months, unless the failure to provide such service is the result of pending license revocation procedures, and has not surrendered or abandoned its license or had its license revoked or voided or otherwise deemed invalid by IDPH; or

is certified under Titles XVIII or XIX of the Social Security Act (42 USC 1395); or

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is a facility operated by the State of Illinois.

HFSRB NOTE: Projects approved by HFSRB for establishment of a health care facility that have not been deemed complete in accordance with the provisions of this Part shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the Inventory of Health Care Facilities and shall be counted against any applicable need estimate.

"Ex Parte Communication" means a communication between a person who is not a State Board member or employee that reflects on the substance of a formally filed State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of a pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. Technical Assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Once an application is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file. [20 ILCS 3960/4.2]

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would have been required for purchase, construction, or acquisition.

"Final Decision" or "Final Administrative Decision" or "Final Determination" means:

the decision by HFSRB to approve or deny an application for permit.
Action taken by HFSRB to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or

the decision by HFSRB on all matters other than the issuance of a permit.

HFSRB NOTE: The decision is final at the close of business of the HFSRB meeting at which the action is taken.

"Final Realized Costs" means all costs that are normally capitalized under

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generally accepted accounting principles that have been incurred to complete a project for which a permit or exemption was issued. These costs include all expenditures and the dollar or fair market value of any component of the project, whether acquired through lease, donation or gift.

"Financial Commitment" means the commitment of at least 33% of total funds assigned to cover total project cost, that occurs by:

The actual expenditure of 33% or more of the total project cost; or

The commitment to expend 33% or more of the total project cost by signed contracts or other legal means. (See Section 1130.760 (Annual Progress Reports).)

"Hearing Officer" means the person with authority to conduct public hearings and to take all necessary steps to assure the proper completion of public hearings and to assure compliance with requirements of the Act. Responsibilities include: determining the order and time allotment for public testimony; maintaining order; setting and announcing new hearing dates, times and places, as necessary; determining the conclusion of the hearing and assuring that all documents, exhibits and other written materials presented or requested at the hearing are in the hearing officer's custody; and preparing a report for submittal to HFSRB.

"HFSRB" or "State Board" or "Board" means the Illinois Health Facilities and Services Review Board.

"IAPA" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Intent to Deny" means the negative decision of HFSRB, following its initial consideration of an application for permit that failed to receive the number of affirmative votes required by the Act. (See Section 1130.670.)

"Interdependent Components" means components of construction or modification that are architecturally or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken. *Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project.*[20 ILCS 3960/3]

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"Inventory" means the HFSRB Inventory of Health Care Facilities and Need Determination created pursuant to Section 12(4) of the Act and found on the Board's website at www.hfsrb.illinois.gov.

"Major Construction Project" means:

Projects for the construction of new buildings;

Additions to existing facilities;

Modernization projects whose cost is in excess of \$1,000,000 or 10% of the facility's operating revenue, whichever is less; and

Such projects as the State Board shall define and prescribe (see Section 1130.310) pursuant to the Act. [20 ILCS 3960/5]

"Major Medical Equipment" means medical equipment that is used for the provision of medical and other health services and that costs in excess of the capital expenditure minimum, except that this term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 USCA 1395x) to meet the requirements of paragraphs (10) and (11) of section 1861(S) of the Social Security Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included. [20 ILCS 3906/3]

"Medicaid Certified" or "Medicare Certified" or "Medicaid Certification" or "Medicare Certification" means approval for a facility to receive reimbursement under Title XVIII (Medicare) and/or XIX (Medicaid) of the Social Security Act (42 USC 1395).

"Modification of an Application" or "Modification" means any change to an application during the review period (i.e., prior to a final HFSRB action). These changes include, but are not limited to: changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when

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the operating entity is not the applicant, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, proposed project completion date, the configuration of space within the building, or any change in the person who is the applicant, including the addition or deletion of one or more persons as co-applicants.

HFSRB NOTE: A change of site to a site outside the planning area originally identified in the application is not considered a modification and invalidates the application.

"Moral Turpitude" means conduct that has an inherent quality of baseness, vileness or depravity with respect to another person or society in general, contrary to the accepted and customary rule of right and duty. Examples include rape, forgery, robbery, arson, counterfeiting and wrongful solicitation.

"Newspaper of General Circulation" means newspapers other than those intended to serve a particular, defined population, such as the publications of professional and trade associations.

"Newspaper of Limited Circulation" is defined in Section 8.5(c) of the Act.

"Non-clinical Service Area" *means an area for the benefit of the patients, visitors, staff or employees of a health care facility and not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; ~~newsstands~~news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers. [20 ILCS 3960/3]*

"Non-substantive Projects" means certain projects that have been defined in 77 Ill. Adm. Code 1110.40, with a review period of 60 days.

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"Notification of HFSRB Action" means the transmittal of HFSRB decisions to the applicant or permit or exemption holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

"Operational" means that a permit holder is providing the services approved by HFSRB and, for a new health care facility or a new category of service, licensure or Medicare and/or Medicaid certification has been obtained, and residents/patients are utilizing the facility or equipment or are receiving service.

"Out-of-state Facility" means a person that is both licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility or its parent, or Illinois physicians licensed to practice medicine in all its branches, shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act. [20 ILCS 3960/3]

"Permit" means authorization to execute and complete a project related to a health care facility, as reviewed and approved by HFSRB and as specified in the Act.

~~"Permit Acceptance Agreement" means a written HFSRB communication to the permit holder, specifying and consolidating all post permit requirements necessary to maintain the permit.~~

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof. [20 ILCS 3960/3]

"Project Financial Commitment Date" means the date by which the permit holder is to expend or commit to expend by contract or other legal means at least 33% of the total project cost. (See Section 1130.760 (Annual Progress Reports).)

"Proposal" or "Project" means any proposed construction or modification of a

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health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means any person that:

is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility; or

owns, directly or indirectly, at least 50% of the health care facility; or [20 ILCS 3960/3]

is otherwise controlled or managed by one or more health care facilities or controls or manages the health care facility; or

otherwise controls or manages the health care facility; or

is otherwise, directly or indirectly, under common management or control with one or more health care facilities.

"Relinquishment of a Permit" means a voluntary and knowing abandonment of a permit or exemption, forsaking all rights associated with that permit or exemption. Once relinquishment is granted by HFSRB, a relinquished permit or exemption is considered null and void. The inventory will be modified, if affected by the permit relinquishment, to the same status as prior to the permit issuance.

"Review Period" means the time from the date an application for permit or exemption is deemed complete by HFSRB staff until HFSRB renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.

"Square Feet" or "SF" or "Square Footage" means a unit of measure of physical service areas or buildings considered by HFSRB. Departmental Gross Square Feet (DGSF) means the designation of physical areas for departments and services. It consists of the entire space dedicated to the use of that department or service, including walls, shafts and circulation. Building Gross Square Feet

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(BGSF) means the designation of physical area of an entire building. It includes all exterior walls and space within those walls.

"State Board Staff Report" means the document that sets forth the review and findings of State Board staff as prescribed by the State Board, regarding applications subject to the Board's jurisdiction. [20 ILCS 3960/3]

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" means:

the addition or discontinuation of a category of service as defined in 77 Ill. Adm. Code 1110.40(c) and Section 1130.140;

discontinuation as defined in this Part;

a change of a material representation made by the applicant in an application for permit or exemption subsequent to receipt of a permit that is relied upon by HFSRB in making its decision. Material representations are those that provide a factual basis for issuance of a permit or exemption and include:

withdrawal or non-participation in the Medicare and/or Medicaid programs;

charge information;

requirements of variances pursuant to 77 Ill. Adm. Code 1110;

other representations made to HFSRB as stipulated or agreed upon in the public record and specified in the application or the permit or exemption approval letter;

the addition of a specialty not previously approved by HFSRB for an ambulatory surgical treatment center (ASTC) that has not been classified as a multi-specialty ASTC by HFSRB in accordance with the provisions of 77 Ill. Adm. Code 1110.1540;

an increase of more than three dialysis stations or more than 10% of the facility's total number of dialysis stations, whichever is less, over a two-

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year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is issued for additional stations or for the establishment of an additional facility/service, the facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit; or

the acquisition, construction, or leasing of space, buildings, or structures for ~~the purpose of~~ providing outpatient surgical services on a site or location that is not within the licensed premises of the health care facility. Outpatient surgical services are those surgical procedures that are routinely performed in such settings as a hospital or ambulatory surgical treatment center, or in any room or area that is designed, equipped, and used for surgery, such as, but not limited to, a surgical suite or special procedures room. Outpatient surgical services do not include those procedures performed as part of a physician's private practice in examination or non-surgical treatment rooms.

"Substantially Complete" means that the application for permit has been determined ready for review, with the understanding that additional information may be needed for clarification during the course of the review period.

"Substantive Projects" means types of projects that are defined in the Act and classified as substantive. *Substantive projects shall include no more than the following:*

Projects to construct a new or replacement facility located on a new site; or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.

Projects proposing a new service or discontinuation of a service, which shall be reviewed by the Board within 60 days.

Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed

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capacity, as defined by the State Board in the Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/12]

"Technical Assistance" means help provided by an employee of HFSRB to a person, a health care facility or the HFSRB, and is not considered ex parte communication as defined in Section 4.2 of the Act. Technical Assistance may be provided to any person regarding pre-application conferences, the filing of an application, or other request to HFSRB provided that the communication is *not intended to influence any decision on the application*. Technical Assistance may be provided for the benefit of HFSRB to clarify issues relevant to an application or other business of HFSRB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. *Once an application or exemption is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file, within 10 business days after the assistance is provided. [20 ILCS 3960/4.2]*

"Temporary Suspension of Facility or Category of Service" means a facility that has ceased operation or that has ceased to provide a category of service (see 77 Ill. Adm. Code 1100.220 for category of service definition) for a period not to exceed one year, due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster). The time period may be extended upon finding that the resumption of facility operation or category of service has proceeded with due diligence and HFSRB approval of the requested extension. The facility administrator shall file notice to HFSRB of a temporary suspension of service, in compliance with the requirements described in Section 1130.240(d).

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.150 Referenced and Incorporated Materials

- a) The following rules, standards and statutes are referenced in this Part:
 - 1) Federal Statutes:
Public Health and Welfare (42 USC).

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- 2) State of Illinois Statutes:
 - A) Illinois Health Facilities Planning Act [20 ILCS 3960];
 - B) Hospital Licensing Act [210 ILCS 85];
 - C) Ambulatory Surgical Treatment Center Act [210 ILCS 5];
 - D) Nursing Home Care Act [210 ILCS 45];
 - E) Illinois Administrative Procedure Act [5 ILCS 100];
 - F) Alternative Health Care Delivery Act [210 ILCS 3];
 - G) End Stage Renal Disease Facility Act [210 ILCS 62];
 - H) Administrative Review Law [735 ILCS 5/Art. III];
 - I) Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420];
 - J) Code of Civil Procedure [735 ILCS 5];
 - K) Assisted Living and Shared Housing Act [210 ILCS 9];
 - L) Older Adult Services Act [320 ILCS 42];
 - M) Open Meetings Act [5 ILCS 120];
 - N) [ID/DD Community Care Act \[210 ILCS 47\];](#)
 - O) [MC/DD Act \[210 ILCS 46\];](#)
 - P) [Specialized Mental Health Rehabilitation Act of 2013 \[210 ILCS 49\].](#)
- 3) State of Illinois Rules:
 - A) Narrative and Planning Policies (77 Ill. Adm. Code 1100) (See

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Section 1100.220);

- B) Financial and Economic Feasibility Review (77 Ill. Adm. Code 1120);
- C) Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110);
- D) Illinois Health and Hazardous Substances Registry (77 Ill. Adm. Code 840).

4) Other referenced materials:

- A) Illinois Executive Order #2006-5;
- B) Rules of the Illinois Supreme Court.

b) Incorporations by Reference

The following materials are incorporated by reference in this Part. All incorporations are as of the date specified and no later editions or amendments are included.

American Institute of Architects
1735 New York Avenue, N.W.
Washington D.C. 20006

AIA Document G702, Application and Certificate for Payment
(1992)

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART B: GENERAL REQUIREMENTS

Section 1130.215 Health Care Facilities Subject to the Act

Health care facilities and organizations that are subject to the Act and HFSRB rules include:

- a) *An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;*

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- b) *An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;*
- c) *Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;*
- d) *Skilled and intermediate-care facilities licensed under the ID/DD Community Care Act or the MC/DD Act;*
- e) *Facilities licensed under the Specialized Mental Health Rehabilitation Act of 2013;*
- ~~f~~) *Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency thereof of this State;*
- ~~g~~) *Kidney disease treatment centers, including a free-standing hemodialysis unit required to be licensed under the End Stage Renal Disease Facility Act;*
- ~~h~~) *An institution, place, building, or room used for performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility;*
- ~~i~~) *An institution, place, building, or room used for provision of a health care category of service as defined by the Board at 77 Ill. Adm. Code 1100.220, including, but not limited to, cardiac catheterization and open heart surgery; and*
- ~~j~~) *An institution, place, building, or room used for provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum. [20 ILCS 3960/32]*

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.230 Fees

- a) HFSRB staff shall charge and collect an amount determined by HFSRB and its staff to be reasonable fees for processing of the applications by HFSRB. HFSRB

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shall set amounts by rule (see subsection (h)). Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act. All fees and fines collected under the Act shall be deposited into the Illinois Health Facilities Planning Fund to be used for the expenses of administering the Act. [20 ILCS 3960/12.2]

- b) A fee shall be assessed on all matters requiring an application-processing fee (as detailed in other Sections of this Part), except for the following:
 - 1) projects classified as emergency; or
 - 2) projects that are not subject to a fee in accordance with the provisions of Subpart E.
- c) Fee payment shall be by check or money order made payable to the Illinois Department of Public Health.
- d) Any matter requiring an application processing fee shall be declared null and void if payment of the total fee has not been received by HFSRB staff within 30 days after notice of the amount due has been received by an applicant or person requesting action from HFSRB.
- e) No action shall be taken by HFSRB on any matter requiring an application processing fee for which the total required fee has not been received.
- f) Fee payments are not refundable and may be recovered in full or in part only by petitioning the Illinois Court of Claims for recovery.
- g) Appeal of any required fee amount is to be made to HFSRB, pursuant to Section 1130.810.
- h) Types of Fees
 - 1) Exemption Application Processing Fee
The exemption application processing fee shall be ~~\$5,000~~2,500.
 - 2) CON Permit Application Processing Fee

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- A) All applicants, except those with projects that are not subject to a fee, are required to submit an application processing fee. An initial fee deposit of ~~\$5,000~~2,500 shall accompany each application for permit submitted to HFSRB. When an application is deemed complete, the full amount of the fee shall be determined.
- B) HFSRB staff *shall charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act.* [20 ILCS 3960/12.2]
- C) Following the determination of estimated total project costs, the CON application processing fees are calculated as follows. For each project having a total estimated project cost of:
- i) less than ~~\$1,700,000~~1,250,000, the application fee shall be \$5,000~~2,500~~;
 - ii) above ~~\$1,700,000~~1,250,000, the application fee shall be 0.30~~22~~% of the project costs.
- D) The maximum application fee shall not exceed \$100,000.
- E) Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of notice.
- 3) Modification of an Application for Permit
- A) If a modification of an application for permit results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project cost. This Section is applicable with respect to any additional fees required for a modified application.

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- B) If a modification results in the need for an additional notification of opportunity for public hearing, then an additional fee of \$2,000 will be assessed.
- 4) Request for Extension of Financial Commitment
- A) A request for extension shall be assessed a \$500 application-processing fee and is subject to the requirements of this subsection (h).
- B) A request for extension that ~~HFSRB receives~~ HFSRB receives less than 45 days prior to the permit financial commitment date shall be subject to an additional \$500 late ~~application~~ application processing fee.
- C) ~~HFSRB will not process an extension request until it receives the application-processing fee. If payment has not been received within 30 days after receipt of written notice for payment, the request for extension shall not be processed.~~
- 5) Permit Renewal
- A permit renewal request shall be assessed a ~~\$1,000~~ \$500 application-processing fee and is subject to the requirements of this subsection (h). Permit renewal requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional \$500 late ~~application~~ application-processing fee. ~~If HFSRB will not process a permit renewal request until it receives the application-processing fee, payment has not been received within 30 days after receipt of written notice from HFSRB, the request for renewal shall not be processed.~~ Any renewal request ~~HFSRB receives~~ received after the completion date is subject to the fines provided in the Act.
- 6) Post-Permit Alterations
- A) An alteration request shall be assessed an application processing fee of \$1,000 and is subject to the requirements of this Section.
- B) If HFSRB does not receive the alteration request at least 45 days before the permit expires, the application will be

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~~assessed~~Alteration requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional \$500 late application-processing fee.

- C) ~~An alteration request will not be processed until HFSRB receives the application-processing fee. If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for alteration shall not be processed.~~ Any alteration request received after the completion date is subject to the fines provided in the [Section 14.1 of the Act](#) and [Section 1130.790](#).

7) Relinquishment of a Permit or Exemption

- A) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act and in Section 1130.790.
- B) A request for relinquishment shall be assessed an application processing fee of \$1,000.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.240 Reporting and Notification Requirements

HFSRB shall require health care facilities to provide periodic reports, data, and information as needed to carry out the purposes and provisions of the Act [20 ILCS 3960/13]. Information required to be submitted to HFSRB includes, but is not limited to, reports on capital expenditures, facility and service utilization data, facility bed-capacity information, notices of hospital reductions in services, and any temporary ~~suspensions~~suspension of service.

- a) Annual Report of Capital Expenditures
Each health care facility shall submit an annual report of capital expenditures as part of the annual health care facility questionnaires issued by HFSRB. (See Section 5.3 of the Act.)
- b) Health Planning Information
HFSRB shall require all health care facilities operating in the State to provide information for the purpose of fulfilling the purposes, provisions and

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responsibilities specified in the Act. (See Section 13 of the Act.) These reports may be on an annual or other basis.

- c) **Notice of Hospital Reduction of 50% or More in Health Care Services**
Each hospital is required to notify *the State Board, the Illinois Department of Public Health, and the State Senator and 2 State Representatives representing the legislative district in which the hospital is located*, of a reduction in services of 50% or more, within 30 days after that reduction [20 ILCS 3960/12.4]. Reporting shall include the identification of the service, reasons for reduction and anticipated duration (permanent or temporary). Reduction of 50% or more is determined by the following:
- 1) If the reduction is in a bed category of service, reduction is determined by the number of physically available beds as compared to the authorized number of beds stated in the Inventory of Health Care Facilities as updated, or the number of staffed beds reported in the Annual Hospital Questionnaire;
 - 2) If the reduction is in a non-bed category of service (i.e., cardiac surgery, cardiac catheterization, organ transplantation, etc.), reduction is determined when the physical number of procedure rooms, stations or equipment necessary to provide that service is reduced by 50% or more, or the number of clinical staff and/or hours of operation is reduced by 50% or more.
 - A) If reduction does not reduce the number of procedures by 50% or more, the notification is required only to HFSRB, certifying that the reduction will not reduce the number of procedures performed by 50% or more.
 - B) If the reduction is temporary for the purpose of maintenance or equipment repair, notification is required to HFSRB only, with a timetable to restore the service.
- d) **Temporary Suspension of Facility or Category of Service**
A facility that ~~has~~ ceased operation or that ~~has~~ ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster) shall file notice to HFSRB of a temporary suspension of service that is anticipated to exceed 30 days. The notice

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shall be filed ~~no later than~~within 30 days after the suspension of the service, and shall include a detailed explanation of the reasons for the suspension, as well as the efforts being made to correct the circumstance and a timetable to reopen the service. Reports documenting the progress of corrections must be filed every 30 days thereafter until services ~~resume~~are reopened. Temporary suspensions shall not exceed one year unless otherwise approved by HFSRB.

- e) Failure to Provide Required or Requested Information
~~A health care facility or person violates the Act if he or she fails~~Health care facilities and persons that fail to timely or completely comply with the notice and information requirements ~~in the Act and this Section of HFSRB, including post-permit requirements, shall be considered in violation of the Act~~ (see 20 ILCS 3960/13 and 14.1). This person is subject to the sanctions provided in the Act and Section 1130.790~~This shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act and this Part.~~
- f) Changes in a Health Care Facility's Bed Capacity
- 1) "Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. *A permit or exemption shall be obtained prior to the construction or modification of a health care facility which changes the bed capacity of a health care facility by:*
 - A) *increasing the total number of beds; or*
 - B) *distributing beds among various categories of service; or*
 - C) *relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/5]*
 - 2) Projects proposing the establishment or discontinuation of a bed category of service are classified as substantive projects, with a 60-day review period. (See Section 1110.40(c).)

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- 3) A health care facility that reduces bed capacity, or adds bed capacity without a permit, as specified by the Act, shall notify HFSRB and IDPH of that change. Such a change is limited to once every two years beginning on the date when the additional beds become operational. If the facility has already changed its bed capacity through a permit process, then the facility may not add any more beds in those services affected by the permit for two years from the date that those beds established by permit become operational without obtaining an additional permit from HFSRB.
- 4) Emergency Preparedness Response Report
 - A) A health care facility that temporarily increases bed capacity to accommodate extraordinary needs in the service population due to pandemic events and other disasters shall submit written notification of the increase to HFSRB within 30 days after the bed increase decision. The notification shall include:
 - i) the number of beds increased;
 - ii) a detailed description of conditions necessitating the bed capacity increase;
 - iii) the impact on normal admission activity;
 - iv) the anticipated length of time the increase is needed, indicating the prospective date when beds will be taken out of circulation; and
 - v) the signature of a senior representative of the health care facility, verifying the information in the report.
 - B) The facility shall submit written notification to HFSRB, indicating the date that the temporary bed capacity has been taken out of circulation. This notification shall be received by HFSRB within 30 days after the date that the facility's normal bed capacity was resumed.
- g) Change in Name or Change in Legal Status

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A change in a facility's legal name or a facility's legal status (i.e., a corporate reorganization) that does not constitute a change of ownership, as defined in Section 1130.140, is to be reported to HFSRB within 90 days after occurrence.

- h) Notice of New Services Added to ~~Multi-Specialty~~Multi-specialty ASTCs
- 1) Multi-specialty ASTCs adding new services shall notify HFSRB of ~~the~~what services ~~are~~ being added and the effective date of those services. The notification of each new service added shall be submitted to HFSRB ~~no later than~~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 Section 1110.1540.
 - 2) 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.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.250 HFSRB Meetings

- a) General Guidelines
- 1) This Section pertains to formal HFSRB meetings and does not apply to other HFSRB-sponsored meetings, including public hearings or rules development meetings.
 - 2) HFSRB meetings can be held anywhere throughout Illinois, as determined by the HFSRB Chair or a majority of HFSRB members.
 - 3) Special HFSRB meetings that are not previously scheduled and are publically known can be held only if the HFSRB Chair or a majority of HFSRB members determines that a special HFSRB meeting should be scheduled.
 - 4) All HFSRB meetings shall comply with the Open Meetings Act and be conducted using Roberts Rules of Order.

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- 5) Only permit or exemption applicants and their staff, attorneys or consultants can testify at an HFSRB meeting during the time that their application is being considered by the Board. Other individuals attempting to be heard at an HFSRB meeting outside the public participation period will be declared out of order.
 - 6) All HFSRB meetings will be conducted as efficiently as possible. Extraneous or irrelevant discussions occurring during an HFSRB meeting will be avoided. The HFSRB Chair or a majority of Board members can designate time limits on any or all of HFSRB meeting agenda items.
 - 7) Applicants and their representatives are able to respond to all questions and statements made by Board members at the time of Board consideration of the applicant's project. The entire proceedings of every HFSRB meeting are transcribed by a court reporter and this transcript will serve as the administrative record of the HFSRB meeting.
- b) Validity of Comments
- 1) Written comments filed with HFSRB or oral statements made under oath to HFSRB under any HFSRB matter that are subsequently found to be false or inaccurate will serve as a basis for an HFSRB investigation of the matter.
 - 2) HFSRB may require the person who made the false or inaccurate comments or statements to appear before the Board. HFSRB may censure that person. Further, HFSRB may determine that person to be ineligible to provide written comments or oral statements concerning any future Board considerations.
- c) Presentation of New Information
- 1) HFSRB will not accept any new information presented by applicants or any of their representatives concerning an application during the HFSRB meeting at which the application is being considered by the Board.
 - 2) Submission of new information is acceptable under the following conditions:

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- A) An application is deferred by the applicant or HFSRB (see Section 1130.650).
 - B) An application receives an Intent to Deny following HFSRB consideration and action (see Section 1130.670).
 - C) An applicant is responding to statements made during the public participation period of the HFSRB meeting at which the applicant's project is being considered.
- 3) Any new information that is pertinent to an application and allowable shall be submitted in writing to HFSRB staff within the allowable time frames ~~established in this Part~~~~provided for additional information~~ (see Sections 1130.650 and 1130.670).
 - 4) ~~Applicants shall submit~~All allowable new information ~~shall be submitted~~ to HFSRB in writing, on 8½" by 11" paper.
 - 5) ~~Applicants shall only submit~~All new information ~~shall be submitted within the allowable time frames established in the rules, and shall be sent only~~ by ~~any~~ recognized overnight carrier or personal delivery service.
 - 6) New information submitted by email or fax will not be accepted.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

Section 1130.310 Projects or Transactions Subject to the Act

- a) Projects or Transactions that Require a Permit
A person must obtain a permit ~~shall be obtained~~ prior to establishing the establishment, constructing construction or modifying modification of a health care facility, and prior to acquiring the acquisition of major medical equipment, unless an exemption from the requirement to obtain a permit has been issued in accordance with the provisions of Subpart D and Subpart E. A project or transaction that is not exempt is subject to review and requires a permit if the project or transaction:

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- 1) requires a total capital expenditure in excess of the capital expenditure minimum. In determining the total capital expenditure, all costs (including the fair market value of assets acquired by lease or other means) that under generally accepted accounting principles are not properly chargeable as expenses of operation and maintenance, must be included even if any of such costs are not capitalized for reimbursement or other purposes. All capital expenditure minimums shall be annually adjusted upon the date established by the Act to reflect the increase in construction costs due to inflation. The basis for ~~the~~ adjustment ~~for major medical equipment~~ shall be the latest annual inflation rate as reflected in the Means Cost Data (RSMeans Company, Inc., 700 Longwater Drive, Norwell MA 02061). ~~The basis for the adjustment to capital expenditures other than major medical equipment shall be the latest annual inflation rate as reflected in the medical construction component of the Means Cost Data.~~ The revised minimums shall be published on HFSRB's internet site (www.hfsrb.illinois.gov);
 - 2) substantially changes the scope or changes the functional operation of the facility as defined in Section 1130.140;
 - 3) results in the establishment of a health care facility as defined in Section 1130.140;
 - 4) changes the bed capacity of a health care facility as specified in the Act and Section 1130.240(f);
 - 5) involves a change of ownership, unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E;
 - 6) results in the discontinuation of an entire health care facility or category of service (see Section 1130.140), unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E; or
 - 7) involves the acquisition of major medical equipment.
- b) Components of a Project or Transaction
In determining the elements of a transaction or a project subject to the Act, the following factors apply:

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- 1) Components of construction or modification that are interdependent must be grouped together. Interdependence occurs when components of construction or modification are architecturally and/or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken.
 - 2) *Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project.*
[20 ILCS 3960/3]
 - 3) Projects involving acquisition of equipment that are linked with construction for the provision of a service cannot be segmented. A health service linkage exists when all components must be present for a service to be operational, or when financing is obtained at one time for a series of related components.
 - 4) Components under an application for permit shall be for a single health care facility unless the components are interdependent among multiple facilities.
- c) Prohibition on Splitting or Separating Components of a Project or Transaction
- 1) No health care facility or other person proposing a project or transaction that is subject to the Act shall split what should properly be considered a single capital expenditure into discrete components undertaken during a fiscal year to evade the capital expenditure review threshold.
 - 2) No health care facility or other person proposing a project or transaction that is subject to the Act shall separate portions of a single project into components, including, but not limited to, site, facility, and equipment, to evade the capital expenditure review threshold or other requirements of the Act or HFSRB rules.
- d) Examples of Projects or Transactions Subject to the Act
Examples of projects that constitute construction or modification of a health care facility subject to the Act include:

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- 1) Projects located within a licensed or certified health care facility;
- 2) Projects that result in a health care facility:
 - A) Billing for services provided by the proposed project;
 - B) Capitalizing any portion of the proposed project;
 - C) Receiving reimbursement for services provided by the proposed project; or
 - D) Receiving recognition as the provider of the proposed service by third party payors;
- 3) Projects that are staffed or operated by the health care facility;
- 4) Projects that are otherwise of, by, through or on behalf of a health care facility;
- 5) Projects that provide a category of service as defined in 77 Ill. Adm. Code 1100 that are offered or made available on a regular basis to inpatients or outpatients of a health care facility.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR
EXEMPTION FROM PERMIT REQUIREMENTS

Section 1130.410 Projects or Transactions Exempt from Permit Requirement

The following proposed projects and transactions are not subject to the requirement to obtain a permit, provided that an application for exemption is submitted that meets the requirements of this Subpart D and Subpart E and an exemption is issued by HFSRB:

- a) the change of ownership of an existing health care facility. *This is not applicable to a healthcare facility that is licensed under the Nursing Home Care Act (with the exceptions of facilities operated by a county or Illinois Veterans Home) [20 ILCS 3960/3].*

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- b) ~~the discontinuation of an existing health care facility or of a category of service, *other than a health care facility maintained by the State or any agency or department thereof or a nursing home maintained by a county* [20 ILCS 3960/6], when that discontinuation is the result of:~~
- ~~1) revocation of or denial of license renewal by a State or local regulatory agency;~~
 - ~~2) for facilities not subject to licensure, the loss of Medicare and/or Medicaid certification;~~
 - ~~3) discontinuation action taken by HFSRB;~~
 - ~~4) the voluntary surrender of a suspended license.~~
- e) ~~the combination of two or more existing health care facilities into a single licensed health care facility, when:~~
- ~~1) the existing facilities are located on the same site or on sites adjacent to one another;~~
 - ~~2) the licensed person for the existing facilities is the same;~~
 - ~~3) the combination is for the sole purpose of operating the existing facilities under a single license; and~~
 - ~~4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.~~
- d) ~~a proposed project limited to the establishment or expansion of a neonatal intensive care service or beds as specified in Subpart E.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART E: OPERATIONAL REQUIREMENTS FOR EXEMPTIONS

Section 1130.500 General Requirements for Exemptions

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Only those projects specified in Section 1130.410 are eligible for exemption from permit requirements. Persons that have initiated or completed such projects without obtaining an exemption are in violation of the provisions of the Act and are subject to the penalties and sanctions of the Act [and Section 1130.790](#).

- a) **Application for Exemption**
Any persons proposing a project for an exemption to permit requirements shall submit to HFSRB an application for exemption containing the information required by this Subpart, submit an application fee (if a fee is required), and receive approval from HFSRB.
- b) **General Information Requirements**
The application for exemption shall include the following information and any additional information specified in this Subpart:
 - 1) the name and address of the ~~applicant or applicants~~[applicant and co-applicant](#) (see Section 1130.220);
 - 2) the name and address of the health care facility;
 - 3) a description of the project, e.g., change of ownership, [discontinuation](#), increase in dialysis stations;
 - 4) documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;
 - 5) a description of the applicant's organization structure, including a listing of controlling or subsidiary persons;
 - 6) the estimated project cost, including the fair market value of any component and the sources and uses of funds;
 - 7) the anticipated project completion date;
 - 8) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFSRB; and

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- 9) the ~~application-processing~~ application processing fee.
- e) ~~Completion Requirements~~
~~A project that has received an exemption shall be completed in accordance with all applicable requirements no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.~~

HFSRB NOTE: ~~Projects are eligible for exemptions to a full permit process providing that they can meet all of the requirements delineated in this Subpart. If~~ a person or project cannot meet the requirements of exemption, then an application for permit may be filed.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility

- a) Submission of Application for Exemption
Prior to ~~any person~~ acquiring or entering into a contract to acquire an existing health care facility, ~~at~~ the person shall submit an application for exemption to HFSRB, submit the required application-processing fee (see Section 1130.230) and receive approval from HFSRB.
- b) Application for Exemption
The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information:
- 1) Key terms of the transaction, including the:
 - A) names of the parties;
 - B) background of the parties, which shall include proof that the applicant is fit, willing, able, and has the qualifications, background and character to adequately provide a proper standard of health service for the community [20 ILCS 3960/6] by certifying that no adverse action has been taken against the applicant by the federal government, licensing or certifying bodies,

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or any other agency of the State of Illinois against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application;

- C) structure of the transaction;
- D) name of the person who will be the licensed or certified entity after the transaction;
- E) list of the ownership or membership interests in such licensed or certified entity both prior to and after the transaction including a description of the applicant's organizational structure with a listing of controlling or subsidiary persons;
- F) fair market value of assets to be transferred; and
- G) the purchase price or other forms of consideration to be provided for those assets. [20 ILCS 3960/8.5(a)]

HFSRB NOTE: If the transaction is not completed according to the key terms submitted in the exemption application, a new application is required.

- 1) ~~affirmation that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities will not substantially change for at least 12 months following the project's completion date;~~
- 2) ~~complete transaction documents that have been signed by both the applicant and the existing owner that contain a provision that execution is subject to HFSRB issuance of an exemption and that contain the conditions and terms of the change of ownership;~~
- 3) ~~proof that the applicant is fit, willing, and able and has the qualifications, background and character to adequately provide a proper standard of health service for the community [20 ILCS 3960/6] by certifying that no adverse action has been taken against the applicant by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of~~

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~~the application;~~

- ~~4)~~ ~~affirmation that the applicant intends to maintain ownership and control of the facility for a minimum of two years;~~
- ~~25)~~ affirmation that any projects for which permits have been issued have been completed or will be completed or altered in accordance with the provisions of this Section;
- ~~36)~~ if the ownership change is for a hospital, affirmation that the facility will not adopt a more restrictive charity care policy than the policy that was in effect one year prior to the transaction. The hospital must provide affirmation that the compliant charity care policy will remain in effect for a two-year period, following the change of ownership transaction; ~~and~~
- ~~7)~~ ~~affirmation that failure to complete the project in accordance with the applicable provisions of Section 1130.500(d) no later than 24 months from the date of exemption approval (or by a later date established by HFSRB upon a finding that the project has proceeded with due diligence) and failure to comply with the material change requirements of this Section will invalidate the exemption.~~
- ~~48)~~ a statement as to the anticipated benefits of the proposed changes in ownership to the community;
- ~~59)~~ the anticipated or potential cost savings, if any, that will result for the community and the facility ~~because as a result~~ of the change in ownership;
- ~~610)~~ a description of the facility's quality improvement program mechanism that will be utilized to assure quality control;
- ~~11)~~ ~~a description of the applicant's organizational structure, including a listing of controlling or subsidiary persons;~~
- ~~712)~~ a description of the selection process that the acquiring entity will use to select the facility's governing body;
- ~~813)~~ a statement that the applicant has prepared a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.240 and that the

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response is available for public review on the premises of the health care facility; and

914) a description or summary of any proposed changes to the scope of services or levels of care currently provided at the facility that are anticipated to occur within 24 months after acquisition.

c) Application for Exemption Among Related Persons

When a change of ownership is among related persons, and there are no other changes being proposed at the health care facility that would otherwise require a permit or exemption under the Act, the applicant shall submit an application consisting of a standard notice form in a form set forth by the Board briefly explaining the reasons for the proposed change of ownership. [20 ILCS 3960/8.5(a)]

d) Opportunity for Public Hearing

Upon a finding by HFSRB staff that an application for a change of ownership is complete, the State Board-HFSRB staff shall publish a legal notice on ~~one~~^{three} consecutive ~~day~~^{days} in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on ~~one day~~^{three consecutive days}. The applicant shall pay the cost incurred by the Board in publishing the change of ownership notice in the newspaper as required under this subsection. The legal notice shall also be posted on Health Facilities and Services Review Board-HFSRB's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. [20 ILCS 3960/8.5(a)] This legal notice shall provide the following:

- 1) Name of applicants and addresses;
- 2) Name of facility and address;
- 3) Description of the proposed project and estimated total cost;
- 4) Notice of request for public hearing;

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- 5) Notice of tentative HFSRB meeting and location; and
 - 6) Notice of tentative release of the State Board Staff Report and the time to comment on the State Board Staff Report. See HFSRB website (www.hfsrb.illinois.gov).
- ed) Completion of Projects with Outstanding Permits
- 1) A permit or exemption cannot be transferred.
 - 2) *In connection with a change of ownership, the State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been obligated, except for permits establishing a new facility or a new category of service. (see 20 ILCS 3960/6(b).)*
 - 3) If the requirements of this subsection (ed) are not met, any outstanding permit will be considered a transfer of the permit and results in the permit being null and void.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.525 Requirements for Exemptions Involving the Discontinuation of a Health Care Facility or Category of Service

- a) Submission of Application for Exemption
Prior to any person discontinuing a health care facility or category of service, the person shall submit an application for exemption to the HFSRB, submit the required application-processing fee (see Section 1130.230), and receive approval from HFSRB.
- b) Application for Exemption
The application for exemption is subject to approval under Section 1130.560, and shall include a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.130, the application shall be available for review on the premises of the health care facility.
- c) Opportunity for Public Hearing
Upon a finding that an application to close a health care facility is complete, the

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State Board shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on the Health Facilities and Services Review Board's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. [20 ILCS 3960/8.5(a-3)]

(Source: Added at 40 Ill. Reg. _____, effective _____)

Section 1130.550 Agency Processing of an Application for Exemption

- a) Application for Exemption Form
Applicants for an exemption are required to submit a completed exemption application form, which is available from the HFSRB website (www.hfsrb.illinois.gov). Once completed, the form shall be submitted to the HFSRB principal office, located at 525 W. Jefferson Street, 2nd Floor, Springfield IL 62761.
- b) Completeness
HFSRB staff shall review an application for exemption to determine whether all required information and ~~the required~~ application-processing ~~fees~~ ~~fee~~ have been submitted. Applications that do not contain the required information, documentation, or fee shall be deemed incomplete. If HFSRB staff ~~deems~~ ~~deem~~ the application incomplete, they shall notify the applicant of the reasons within 30 days after receipt. The ~~applicant shall submit the information or fee within 30 days after receiving the notice~~ ~~required information or fee must be received by HFSRB within 30 days after receipt of notification~~. Failure to submit the requested ~~additional~~ information ~~or fee~~ shall result in the application for exemption being voided with the loss of all fees paid.

HFSRB NOTE: Persons who have initiated or completed projects eligible for exemption without obtaining an exemption are in violation of the Act and are subject to the penalties and sanctions ~~provided in~~ the Act ~~and Section 1130.790~~.

- c) Submission to Chairman of HFSRB

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Following HFSRB staff review, applications (including related documentation) that comply with all HFSRB requirements and are unopposed shall be forwarded to the Chairman for review and action.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.560 HFSRB Action

a) Action by Chairman

The Chairman, acting on behalf of HFSRB, shall review all applications for exemption and approve, deny, or refer the application or material change to HFSRB for review and action. ~~The Chairman may approve any unopposed application that meets all of the review criteria or refer it to the full Board for review and action [20 ILCS 3960/12].~~

- 1) The chairman shall act on an exemption application for a change of ownership of a health care facility among related persons within 45 days after HFSRB staff deems the application complete, provided the application includes the requisite information. If the Board Chair has a conflict of interest or for other good cause, the Chair may request that the Board consider the application. [20 ILCS 3960/8.5(a)]~~An exemption application for a change of ownership of a health care facility between related persons shall be acted upon the Chairman no later than 60 days after being declared complete by HFSRB staff or 60 days after receipt of all public hearing comments and transcripts, whichever is later.~~
- 2) The Chair shall act upon an exemption application for the discontinuation of a health care facility, discontinuation of a category of service, or change of ownership that is not among related persons after Board staff finds that the application is complete and includes the requested information. The Chair may refer the application to the Board.

b) Action by HFSRB

- 1) HFSRB shall evaluate each application for exemption referred by the Chairman and either issue an exemption or advise the applicant or exemption holder in writing that the application is denied and is not in conformance with exemption requirements. The number of affirmative votes for approval of an application for exemption is specified in the Act.

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HFSRB shall approve an application for exemption that it determines to be in compliance with the requirements. Exemptions will not be issued for projects that have failed to meet the applicable requirements of this Subpart.

- 2) HFSRB will defer consideration of an application for exemption when the application is the subject of litigation, until all litigation related to the application has been completed.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.570 Validity of an Exemption and Reporting Requirements

- a) A project that has received an exemption shall be completed on or before the completion date approved by HFSRB or mandated by the Act and this Part. An exemption shall be valid through completion provided the requirements of this Section are met.
- b) For purposes of this Section, "completion" occurs on the following date:
 - 1) for change of ownership of a health care facility, the date that a new license has been issued (or, if licensing is not applicable, Medicare and/or Medicaid certification has been obtained), or a stock transfer has been accomplished, or a majority change in voting membership or sponsorship of a not-for-profit corporation has been accomplished, or the transfer of assets has occurred, or the merger or consolidation has been accomplished, whichever is applicable;
 - 2) for discontinuations, the date the entire health care facility or category of service ceases operation, such as when the facility stops providing services to patients or surrenders its license to the Department.~~all other projects, the date that construction has been completed and patients or residents are receiving service.~~
- c) The exemption holder shall provide written notice and related documentation to HFSRB of the following:
 - 1) for discontinuations, notice of~~Each exemption holder shall notify HFSRB~~ of project completion no later than 30 days following the project

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completion date; ~~and~~

- 2) for changes of ownership, certification that the transaction was or was not completed according to the key terms contained in the application. The Board must receive the certification within 90 days after the closing date of the transaction; and
- 3) for changes of ownership in which the applicant submitted the final transaction documents, notice of project completion, no later 90 days after the change of ownership. Where required under other Sections of this Part, a final cost report and all other required documentation shall be submitted to HFSRB no later than 90 days following the project completion date, as identified by the exemption holder.
- d) An exemption for a change of ownership of a health care facility shall be invalid if the health care facility ceases to be an existing health care facility.
- e) An exemption for a change of ownership of a health care facility shall be invalid if the exemption holder fails to submit a statement to the Board within 90 days after the closing date of the transaction, or such longer period as provided by the Board, certifying that the change of ownership has been completed in accordance with the key terms contained in the application. If such key terms of the transaction change, a new application is required. [20 ILCS 3960/8.5(a)]
- f) Other events causing an exemption to become invalid include:
 - 1) Change of permit (see Section 1130.710(c));
 - 2) Failure to submit the Expenditure Commitment or Financial Commitment~~Obligation~~ Report, which should be included with the annual progress reports;
 - 3) Failure to submit annual progress reports to HFSRB;
 - 4) Failure to submit Final Cost Reports to HFSRB;
 - 5) Implementation of a prohibited alteration (see Section 1130.750(c)); and
 - 6) Relinquishment of an exemption without Board approval.

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- gf)* The State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been obligated, except for permits establishing a new facility or a new category of service. [20 ILCS 3960/6(b)]
- hg)* Failure to comply with the requirements of this Section within the specified time frames shall subject the exemption holder to the sanctions and penalties provided by the Act (see 20 ILCS 3960/14.1) and Section 1130.790.

HFSRB NOTE: See Section 1130.520 regarding changes of ownership for facilities with outstanding permits.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.580 Relinquishment of an Exemption

The holder of an HFSRB exemption may request to withdraw ~~or abandon~~ that exemption. The relinquishment request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the exemption is considered null and void. Requests for relinquishment shall be considered only for exemptions that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the exemption.

- a) Relinquishment Procedure
The permit holder shall notify HFSRB in writing, prior to the execution of the withdrawal of a project. The notice shall include:
- 1) A description of the exemption and related costs;
 - 2) A detailed explanation of the reasons for relinquishment; and
 - 3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.
- b) HFSRB staff shall review the request for relinquishment and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve the request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.

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- c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.
- d) Decisions on requests for relinquishment shall be transmitted in writing to the exemption holder.
- e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.
- f) A request for relinquishment shall be assessed an application-processing fee of \$1,000 (see Section 1130.230(h)(8)(B)).

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.590 Revocation of an Exemption

- a) HFSRB shall revoke an exemption upon a determination that an exemption holder has failed to comply with the requirements of the Act and this Part. ~~The~~[This HFSRB](#) determination ~~to revoke an exemption~~ may be based upon, but not limited by, any of the following reasons:
 - 1) The project for which the exemption was granted has been altered without the required notice and approval of HFSRB;
 - 2) The exemption holder has failed to complete the project on or before the completion date;
 - 3) The exemption holder or applicant materially changed information or details submitted in the exemption application or in any written materials submitted to HFSRB;
 - 4) The permit holder or applicant submitted false information in the Application for Exemption or in any written materials submitted to HFSRB;
 - 5) The permit holder or applicant misrepresented information presented at an HFSRB meeting, at an HFSRB public hearing, or in response to HFSRB or HFSRB staff inquiries;

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- 6) The exemption holder or applicant has been convicted of any of the following crimes during the previous five years. The convictions shall be verified by a certified copy of the court of conviction.
 - A) A felony;
 - B) Two or more misdemeanors involving moral turpitude;
 - 7) The exemption holder, applicant, or health care facility representative has refused to allow an inspection or survey of the health care facility by HFSRB representatives (i.e., IDPH surveyors);
 - 8) The facility has insufficient financial or other resources to operate the facility in accordance with the exemption application or with any other information submitted to HFSRB;
 - 9) The facility's license has been revoked by IDPH.
- b) If HFSRB intends to revoke an exemption, the exemption holder shall be provided with written notification of the intent to revoke and notice of allegations. The exemption holder shall be afforded an opportunity for a hearing before an administrative law judge. HFSRB may also impose other sanctions or penalties mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790, including fines, in addition to the revocation determination.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART F: OPERATIONAL REQUIREMENTS FOR THE REVIEW
AND PROCESSING OF APPLICATIONS FOR PERMIT

Section 1130.610 Duration of the Review Period and Time Frames

- a) **Emergency Applications**
Initial application for emergency projects (as defined in 77 Ill. Adm. Code 1110.40) may be made verbally or in writing or by electronic means to the Administrator. The Administrator, upon receiving the concurrence of the Chairman (or in the absence of the Chairman, the Vice-Chairman) that the situation is emergent in nature in accordance with the provisions of 77 Ill. Adm.

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Code 1110.40, is authorized to give verbal approval. Any such communications shall be followed by a written application and written approval. *This procedure is exempt from the public hearing requirements of the Act [20 ILCS 3960/12].* The written application shall identify the applicant and shall summarize the nature of the problem the emergency project will correct and the anticipated cost of the project.

- b) **Substantive and Non-substantive Applications**
The review period for HFSRB staff shall be a minimum of 30 days following the application's completeness date and shall not exceed 60 days for non-substantive projects and 120 days for substantive projects, with the exception of projects proposing to establish or discontinue a category of service, *which shall be reviewed by the Board within 60 days [20 ILCS 3960/12], and applications for changes of ownership among related persons, which shall be acted upon by the Board Chair within 45 days. If the Board Chair has a conflict of interest or for other good cause, the Chair may request review by the Board. [20 ILCS 3960/8.5(a)].* The review period can be extended pursuant to the provisions of this Subpart. All applications other than emergency applications shall be acted upon by HFSRB at the next regularly scheduled meeting that is at least 10 business days following the completion of the HFSRB staff review.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.620 Technical Assistance, Classification, Completeness Review, and Review Procedures

- a) **Technical Assistance**
- 1) The application shall be completed in accordance with the requirements of this Part that are applicable to the individual project. An applicant may request technical assistance from or a pre-application conference ~~with~~from HFSRB staff regarding completion of the application and the applicability of the requirements of this Part.
 - 2) Technical assistance may be provided to any person regarding pre-application conferences, the filing of an application, or other request to HFSRB, provided that the communication is *not intended to influence any decision on the application. Once an application is filed and deemed complete, a written record of any communication between staff and an*

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applicant shall be prepared by staff and made part of the public record, using a prescribed format, and shall be included in the public record. [20 ILCS 3960/4.2]

- 3) *Nothing in the Act shall prohibit staff members from providing technical assistance to applicants. Nothing in the Act shall prohibit staff from verifying or clarifying an applicant's information as they prepare the Board's staff report. [20 ILCS 3960/4.2(a)]*
 - 4) Technical assistance may be provided for the benefit of HFSRB to clarify issues relevant to an application or other business of HFSRB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, or consultations with independent experts. HFSRB staff shall prepare a written record of any technical assistance provided after an application is deemed complete, for inclusion in the application file.
- b) **Classification of an Application**
An application for permit shall be classified as substantive, non-substantive or emergency, as discussed in 77 Ill. Adm. Code 1110.40.
- c) **Completeness Review**
- 1) Within 10 business days after ~~receiving receipt of~~ an application for permit, HFSRB staff shall determine whether the application is substantially complete and ready to be reviewed for compliance with applicable review criteria and standards. The completeness review shall be conducted with the understanding that additional information may be necessary during the staff review period for criteria compliance, to further clarify or explain statements or data in the application. An application for any project shall be deemed complete if all of the following have been met:
 - A) all review criteria applicable to the individual project have been addressed, including the Safety Net Impact Statement (for applicants other than ~~long-term~~ long term care providers);
 - B) the required fee (as outlined in ~~subsection (d) of this~~ Section 1130.230) has been submitted;

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- C) the number of copies, forms, and format as specified in the application have been submitted;
- D) all annual progress reports on previously approved projects for the facility and/or applicants have been submitted;
- E) all required information concerning completion of previously approved projects for the facility and/or applicants has been submitted;
- F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;
- G) all persons who are applicants have been identified and the applicants that hold the license and that will operate the facility have provided documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;
- H) all HFSRB requests and questionnaires for information or data for all Illinois facilities owned or operated by any applicant, such as but not limited to the Annual Hospital or Long-term Care Questionnaire (77 Ill. Adm. Code 1100.60 and 1100.70) or Cancer Registry (77 Ill. Adm. Code 840.110(d) and 840.115(i)) have been received and are complete;
- I) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFSRB;
- J) documentation of compliance with the Flood Plain Rule under Illinois Executive Order #2006-05;
- K) documentation of compliance with the requirements of the Illinois State Agency Historic Resources Preservation Act; and

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- L) identification of a site.
- 2) An application shall be incomplete if any of the elements described in subsection (c)(1) are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to the proposed project shall be a basis for deeming the application incomplete.
- 3) If an application fails to include any of the elements described in subsection (d)(1) or if additional information or documentation is required to clarify a response, the application shall not be scheduled for consideration by HFSRB until such time that the required information is submitted and accepted.
- 4) Applications received after 8:30 a.m. shall be deemed as being received the following business day.
- 5) Within the completeness review period, HFSRB shall notify the applicant in writing of whether the application is substantially complete, within the completeness review period, of its decision and, in the case of an incomplete application, the reasons the application is incomplete.
- 6) If the application is ~~deemed~~ complete, the ~~date of completion~~ date shall initiate the review period. If the application is ~~deemed~~ incomplete, the applicant shall be allowed 45 days ~~after from the date of receipt of the~~ notification to provide all necessary information to complete the application. Upon ~~receiving receipt of~~ all ~~requested additional~~ requested information, HFSRB staff shall again review the application for completeness and shall notify the applicant of its decision. If HFSRB staff find that the application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

HFSRB NOTE: The applicant is responsible for assuring~~It is the responsibility of the applicant to assure~~ that HFSRB receives the requested additional information within the prescribed time frame.

- d) Review Procedures

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- 1) All applications will be reviewed and evaluated for conformance with the applicable review criteria in effect at the time the application is deemed complete.
- 2) Each application will be reviewed and considered on an individual basis unless HFSRB has established review criteria or procedures that pertain or relate to comparative review or "batching" of applications.
- 3) Applications for permit shall be subject to the need figures set forth in the most recent update to the Inventory of Health Care Facilities and Services and Need Determinations, as adjusted by HFSRB decisions in effect prior to the date HFSRB takes action on the application. HFSRB action includes the approval, issuance of an intent to deny, or denial of an application.
- 4) All applications except emergency applications are subject to the public hearing requirements of the Act. All evidence submitted at a public hearing shall be taken into account in the determination of compliance or noncompliance of an application with applicable review criteria.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.635 Additional Information Provided During the Review Period

- a) Additional Information
 - 1) During the review period, HFSRB may request information or data from the applicant or from other persons to clarify the application and conduct the HFSRB staff review.
 - 2) The applicant may also submit information or data if the information is:
 - A) due to a modification of the project; or
 - B) in response to an Intent to Deny, or in response to a request from HFSRB.

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- 3) All additional information shall be submitted to HFSRB's staff in writing, on 8½" by 11" paper.
 - 4) All additional information shall be submitted within the required time frame established in subsections (b) and (c) and shall be sent only by any recognized overnight courier or personal delivery service.
 - 5) Additional information submitted by fax or email will not be accepted.
 - 6) All additional information shall be made part of and included in the project record.
- b) **Public Comment Information**
Public comment information from persons other than the applicant that ~~were~~^{has} ~~been~~ submitted in accordance with the public comment and public hearing provisions of this Part shall not be considered requested or additional information. The information shall be made part of and included in the project record.
- c) **Public Response to Staff Review and Findings**
The applicant and members of the public may submit, to the State Board, written responses regarding the facts set forth in the review or findings of the Board staff or reviewing organization. Members of the public shall submit any written response to the staff review and findings at least 10 days before the meeting of the State Board. The staff may revise any findings to address corrections of factual errors cited in the public response. At the meeting, the State Board may, in its discretion, permit the submission of other additional written materials. [20 ILCS 3960/6 (c-5)]
- d) **Ex Parte Information**
HFSRB will comply with the requirements of the Act pertaining to ex parte communications. [\(See 20 ILCS 3960/4.2.\)](#)

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.640 Extension of the Review Period

- a) **Extension by HFSRB of the Review of Information**
As required to complete its review, HFSRB staff may extend the review period for up to 120 days ~~to analyze for the analysis of~~ additional information. HFSRB

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will consider the application at the next regularly scheduled meeting that is at least 10 days following the completion of ~~the~~ HFSRB review of the additional information.

- b) **Extension Due to Deferral by Applicant**
The applicant may defer consideration of a project by HFSRB. A deferral extends from the HFSRB meeting at which the project has been scheduled to the next scheduled HFSRB meeting, subject to a review period of up to 60 days for ~~analyzing analysis of~~ additional information. A request for deferral, specifying the reasons for the request, shall be submitted to HFSRB, as follows:
- 1) Written Request – to be received by HFSRB staff no later than 5 business days prior to the scheduled HFSRB meeting; or
 - 2) Verbal Request – by issuing a formal request to HFSRB during the consideration of the project at the HFSRB meeting.
- c) An applicant may not defer:
- 1) initial consideration of the application by HFSRB to a meeting that is scheduled more than 6 months from the date the application was deemed complete; or
 - 2) HFSRB consideration of an application that has received an Intent to Deny beyond a meeting date that is more than 12 months from the date of HFSRB's decision of Intent to Deny.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.650 Modification of an Application

- a) Modifications to an application are allowed during the review period, prior to final HFSRB decision. Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of the Act. If requested, a hearing would occur within the time allocated for HFSRB staff review. Type A modifications consist of any of the following:
- 1) A change in the number of beds proposed in the project.

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- 2) A change in the ~~site of the~~ project site to a new location within the planning area. A change in site to a location outside the planning area originally identified in the application is not considered a modification. It ~~and~~ voids the application.
 - 3) A change in the cost of the project exceeding 10% of the original estimated project cost.
 - 4) A change in the total gross square footage (GSF) of the project exceeding 10% of the original GSF.
 - 5) An increase in the categories of service to be provided.
 - 6) A change in the person who is the applicant, including the addition of one or more co-applicants to the application.
 - 7) Any modification to a project, including modifications specified in subsections (a)(1) through (a)(6), that, by itself, would require a certificate of need (CON) permit or exemption.
- b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of HFSRB, are Type B modifications and are not subject to public hearing.
 - c) An applicant can modify a project only twice during the review period; provided, however, an applicant may modify a project at any time if the modification is in conformance with and limited to the comments, recommendations or objections of HFSRB.
 - d) If a modification is not in conformance with and limited to the comments, recommendations or objections of HFSRB, HFSRB staff shall:
 - 1) have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria;
 - 2) hold a public hearing if requested; and

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- 3) submit its findings to HFSRB at the next regularly scheduled meeting that is at least 10 days following the completion of the HFSRB staff review.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.655 HFSRB Consideration and Action

- a) Chairman Consideration and Action
 - ~~1)~~ Applications for permit that meet all of HFSRB's review criteria and are unopposed shall be:
 - 1A) reviewed for approval by the Chairman, acting on behalf of HFSRB [20 ILCS 3960/5]; or
 - 2B) referred by the Chairman to the full Board for review and action.
 - ~~2)~~ ~~The review and subsequent action by either the Chairman or the full Board shall take place prior to the next regularly scheduled HFSRB meeting that is at least 10 business days following the completion of the staff review of the applications.~~
- b) HFSRB Consideration and Action

HFSRB shall review each application for permit to determine compliance with all applicable review criteria. HFSRB shall consider the application material, additional information, public comment and public hearing testimony, HFSRB staff findings, and other information coming before it and take the following action:

 - 1) approve the application and issue a permit;
 - 2) issue an Intent to Deny (an initial denial of a project);
 - 3) issue an initial denial of a project and afford the applicant an opportunity for an administrative hearing;
 - 4) issue a final denial of a project subsequent to an administrative hearing or waiver of a hearing; or

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- 5) defer ~~the decision to consideration on~~ an application to a subsequent meeting. HFSRB deferral of an application shall extend the review period, if it were to otherwise expire, until the date of the subsequent HFSRB meeting. HFSRB may defer consideration of an application for permit when the application is the subject of litigation, until all litigation related to the application ~~is complete~~~~has been completed~~.
- c) HFSRB Written Decisions
HFSRB shall *issue written decisions, upon request of the applicant or an adversely affected party, to the Board within 30 days after the meeting in which the final decision has been made.* [20 ILCS 3960/12]

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.660 Approval of an Application

- a) The number of affirmative votes required for approval of an application and issuance of a permit by HFSRB is specified in the Act. HFSRB shall consider the application and any additional information or modification submitted by the applicant, HFSRB staff reports, the public hearing testimony and written comments, if any, and other information coming before it in making its determination whether to approve the project. Applications are reviewed to determine compliance with review criteria contained in 77 Ill. Adm. Code 1110 and 1120. The failure of a project to meet one or more of the applicable review criteria shall not prohibit the issuance of a permit. A permit is effective on the date of HFSRB authorization.
- b) HFSRB may propose conditions to be placed upon any application for permit. Projects that are approved with conditions or stipulations shall contain the following:
- 1) Specified conditions that are expressly agreed to by the applicant;
 - 2) Establishment of time frames for compliance with conditions;
 - 3) Establishment of reporting requirements; and

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- 4) Assurance that any change to the application for permit does not constitute a Type A modification as delineated in Section 1130.650(a) that would require a public hearing.
- c) ~~A permit holder's failure to comply with any conditions within the prescribed time frames, without a previously authorized extension, shall provide a basis for HFSRB to invalidate the permit, or issue conditions, fines or other penalties or sanctions mandated in the Act and Section 1130.790. Following issuance of a permit, HFSRB shall send a permit acceptance agreement to the permit holder, specifying and consolidating all post permit requirements necessary to maintain compliance with the permit.~~
- d) ~~Failure to comply with any conditions within the prescribed time frames shall provide a basis to invalidate the permit, or issue conditions, fines or other penalties or sanctions mandated in the Act and Section 1130.790.~~

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.670 Intent to Deny an Application

- a) Issuance of Intent to Deny
Failure of an application for permit to receive the number of affirmative votes required by the Act upon initial consideration by HFSRB shall constitute an Intent to Deny the application. ~~After issuing~~ ~~Subsequent to the issuance of~~ an Intent to Deny, HFSRB will give the applicant ~~will be given an opportunity to appear before HFSRB and present such information as may be relevant to the approval of the permit~~ [20 ILCS 3960/10]. The date of the Intent to Deny is the date of the HFSRB meeting when the action occurred.
- b) Applicant's Response
The applicant shall notify HFSRB in writing within 14 calendar days after ~~the issuance of an~~ Intent to Deny ~~to and~~ indicate whether the applicant intends to appear before HFSRB and/or submit additional information. The applicant is responsible for assuring ~~It is the responsibility of the applicant to assure that HFSRB receives~~ ~~is in receipt of~~ the response within 14 days ~~after issuance of the~~ Intent to Deny.
- c) Action Following Notice of Intent to Deny

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- 1) If the applicant waives the right to appear before HFSRB or if a written response is not received within 14 days after ~~the issuance of an~~ Intent to Deny, then the application shall be considered withdrawn.
 - 2) If the applicant indicates that no additional information will be submitted, HFSRB shall take action on the application at its next meeting.
 - 3) If the applicant indicates that additional information will be submitted, the applicant shall be afforded ~~a period of~~ 60 days from the date ~~of issuance~~ of the Intent to Deny to submit the material. Upon receipt of additional information, HFSRB staff shall commence a review and submit its findings to HFSRB in accordance with the provisions of this Subpart. HFSRB staff shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report.
- d) Deferrals by Applicant
A project that has received an Intent to Deny and has been scheduled for HFSRB consideration can be deferred by the applicant. A notice of deferral may be provided in writing prior to the scheduled HFSRB meeting or be provided verbally at the HFSRB meeting. An applicant may not defer HFSRB consideration beyond an HFSRB meeting date that is more than 12 months from the date ~~of issuance~~ of the Intent to Deny.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.680 Denial of an Application

- a) If, ~~after subsequent to an issuance of~~ an Intent to Deny, an application for permit fails to receive the required number of affirmative votes for approval as specified in the Act, the HFSRB vote shall constitute a denial of the application for permit.
- b) If HFSRB denies an application for permit, the decision and notice of opportunity for administrative hearing shall be transmitted to the applicant by certified mail.
- c) At the conclusion of such administrative hearing, or upon default of the applicant, HFSRB shall make its final administrative decision, specifying its findings of fact and conclusions of law. The Administrator shall transmit the decision to the applicant by certified mail.

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(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section 1130.710 Validity of Permits

A permit is effective on the date of HFSRB authorization.

- a) A permit shall be valid until the project has been completed, provided that:
 - 1) financial commitment of the project occurs within the time frames specified in the Act, unless HFSRB extends the financial commitment period ~~is extended by HFSRB~~ (as defined in Section 1130.730); and
 - 2) the project commences and proceeds to completion with due diligence. The financial commitment period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The financial commitment period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit.

- b) Projects shall proceed with due diligence and shall be completed (see Section 1130.140) no later than the completion date approved by HFSRB. A permit holder shall be subjected to sanctions provided in the Act and Section 1130.790 if the project is not completed by the completion date provided in the original permit or renewal letter.~~All permits for projects that are not completed in the time frames specified shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart, unless renewed by HFSRB pursuant to Section 1130.740.~~

- c) A permit is valid only for the defined construction or modification, equipment, site, amount, time period and persons named in the application for the permit and shall not be transferable or assignable. A permit is invalidated by:
 - 1) a change in the person who is the permit holder;
 - 2) a change in the membership or sponsorship of a not-for-profit corporation that is the permit holder; or

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- 3) the transfer or assignment of a controlling interest in, or voting rights of, a for-profit corporation that is the permit holder.
- d) A permit shall not be bought, sold, or transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment.
- e) Other events causing a permit to become invalid include:
 - 1) Change of permit (see Section 1130.710(c));
 - 2) Failure to submit the Expenditure Commitment or Financial Commitment~~Obligation~~ Report, which should be included with the annual progress reports;
 - 3) Failure to submit annual progress reports to HFSRB;
 - 4) Failure to submit Final Cost Reports to HFSRB;
 - 5) Implementation of a prohibited alteration (see Section 1130.750(c));
 - 6) Relinquishment of a permit without Board approval; and
 - 7) Failure to comply with the requirements of Section 1130.660(d).

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.720 Financial Commitment

- a) A permit holder shall financially commit projects~~Projects~~ for construction, establishment or modification ~~shall be financially committed~~ by expending or committing to expend at least 33% of the total project cost no later than:
 - 1) 24 months for major construction projects; or
 - 2) 12 months for all projects that do not include major construction; or
 - 3) The HFSRB completion date of the permit, if it occurs before the deadlines in subsections (a)(1) and (a)(2).

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- b) Projects that have no cost shall be considered financially committed upon HFSRB issuance of a permit.
- c) Permits for projects that have a cost and that have not been financially committed as stated in this Section shall be considered expired and the project abandoned. A permit holder who fails~~Failure~~ to meet the financial commitment requirements as stated shall be subject the permit holder to fines under the Act and pursuant to Section 1130.790~~(d)(1)~~.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.730 Extension of the Financial Commitment Period

- a) HFSRB may grant the permit holder a single extension ~~of time~~ to financially commit at least 33% of the total project costs. An extension shall be for a period of up to one year ~~from and shall commence on~~ the previously defined financial commitment date.
- b) The permit holder shall submit a written request for extension, along with an application ~~processing~~ fee.
- c) A request for extension must be in writing and received by HFSRB at least 45 days prior to the defined financial commitment date or the permit expiration date if, based on the 12-month or 24-month requirement for financial commitment, the permit expiration date comes before the defined financial commitment date. A request for extension shall be assessed a \$500 application processing fee and is subject to the requirements of Section 1130.230. A request for extension that is received less than 45 days prior to the permit financial commitment date shall be subject to an additional \$500 late ~~application processing~~ ~~application processing~~ fee. If HFSRB does not receive payment ~~has not been received within 30 days after receipt of written notice for payment~~, the request for extension ~~will~~shall not be processed.
- d) HFSRB staff shall review the request for extension and prepare a report of its findings. If the findings are that the request is in conformance with all HFSRB criteria, HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve or deny the request, or refer the request to HFSRB for action. If HFSRB staff find that not all

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~~criteria are all criteria are not~~ positive, or if the Chairman refers this to the full Board for action, then the matter shall be sent by HFSRB staff to HFSRB members. HFSRB shall evaluate the information submitted in making its determination whether to grant the extension. Projects that continue to comply with the provisions of 77 Ill. Adm. Code 1110 and 1120 and that have shown good cause by submitting the required information for an extension request specified in subsection (b) of this Section, and for which the causes for delays are beyond the permit holder's control, shall be approved for extension. Denial by HFSRB of an extension request shall constitute the final HFSRB decision and is not subject to administrative appeal.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.740 Permit Renewal

A permit holder may request a completion date that is later than an approved project completion date by submitting to HFSRB a request for permit renewal.

- a) Permit renewal by HFSRB must be requested prior to the required project completion date.
- b) A permit renewal shall commence on the expiration date of the original permit.
- c) The request for permit renewal shall be in writing and shall be received by HFSRB at least 45 days prior to the expiration date of the permit, and shall include the following information:
 - 1) the requested completion date;
 - 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date;
 - 3) a statement as to the reasons why the project has not been completed; and
 - 4) confirmatory evidence by the permit holder's authorized representative that the project's costs and scope ~~complyare in compliance~~ with ~~the application~~ ~~what~~ HFSRB approved and that sufficient financial resources are available to complete the project.

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- d) HFSRB staff shall review the request and prepare a report of its findings. If the findings are that the request is in conformance with all HFSRB criteria, and if this is the first request for this project, then the request, HFSRB staff findings, and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve or deny the request or refer the request to the full Board for action. If HFSRB staff find that all criteria are not positive, if this is not the first request for this project or, if the Chairman refers this to the full Board for action, then HFSRB will evaluate the information submitted to determine if the project has proceeded with due diligence (as defined in Section 1130.140). The number of affirmative votes required to approve a renewal request is specified in the Act. If a request for renewal of permit is denied, HFSRB may issue a Notice of Intent to Revoke a Permit if the project is not completed by the HFSRB-approved completion date. The permit holder shall be afforded an opportunity for an administrative hearing pursuant to Subpart J.

HFSRB NOTE: Permit revocation procedures are explained in Section 1130.780.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.750 Alteration of Post-Permit Projects

- a) Applicability
~~The cumulative effect of alterations to a project shall not exceed the following:~~
- 1) ~~Permit holders shall report all~~Alterations ~~shall be reported~~ to HFSRB before ~~executing the alteration~~~~any alteration is executed~~. Some proposed alterations require HFSRB approval and some are prohibited. Proposed alterations that are not cited under these two categories require only written notification to HFSRB prior to execution ~~of the alteration~~.
 - 2) Any change after ~~the issuance of a~~ permit is issued may ~~constitute~~~~constitute~~ an alteration. Permit holders shall report allAlterations ~~shall be reported~~ to HFSRB before the alteration is~~any alteration is~~ executed.
 - 3) The alteration requirements are applicable only to projects with open permits (approved projects that are not yet completed).

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- 4) Alteration provisions are valid only for the projects defined and approved in the permit.
 - 5) A project with a permit can be altered any time between the date of permit issuance and ~~the project completion date~~.
 - 6) All alterations requiring HFSRB action shall be reviewed and approved on a cumulative basis. More than one alteration can be reviewed and approved during the life of a project; however, the limits on alterations shall be applied cumulatively for a single permit.
- b) Limits on Allowable Alterations Requiring HFSRB Approval
The cumulative effect of alterations to a project shall not exceed the following:
- 1) a change in the approved number of beds or stations, provided that the change would not independently require a permit or exemption from HFSRB;
 - 2) abandonment of an approved category of service established under the permit;
 - 3) any increase in the square footage of the project up to 5% of the approved gross square footage;
 - 4) any decrease in square footage greater than 5% of the project;
 - 5) any increase in the cost of the project not to exceed 7% of the total project cost. This alteration may exceed the capital expenditure minimum in place when the permit was issued, provided that it does not exceed 7% of the total project cost;
 - 6) any increase in the amount of funds to be borrowed for those permit holders that have not documented a bond rating of "A-" or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application).
- c) Prohibited Alterations
Notwithstanding the provisions of subsection (b), the following alterations are not

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allowed and, if incurred, invalidate the permit:

- 1) an increase in the total project ~~costeosts~~ that exceeds 7% of the permit amount;
- 2) an increase in the project's gross square footage that exceeds 5% of the project's approved gross square footage, unless that increase is required or mandated by local, State or federal building or life safety requirements that were not in effect at the time of permit issuance;
- 3) any other change in the project's scope or funding that would independently require a CON permit or exemption.

d) Alteration Procedures

- 1) Written Notification
 - A) The permit holder shall notify HFSRB in writing of any alteration to a project. The notice shall include a description of the alteration and related costs (if any) and shall address all applicable review criteria related to the alteration if the alteration requires HFSRB approval. HFSRB staff shall review the alteration request for compliance with the review criteria and submit its findings to HFSRB. If additional information is needed by HFSRB staff to perform a review of the request, the permit holder shall be notified.
 - B) All alteration requests shall be submitted to the State Board in writing on 8½" by 11" paper.
 - C) All alteration requests shall be submitted within the allowable time frames established in subsection (a)(1) and shall be sent only by any recognized overnight courier or personal delivery service.
 - D) Alteration requests submitted by email or fax will not be accepted.
- 2) Compliance with 77 Ill. Adm. Code 1110 and 1120
A request for alteration reviewed by HFSRB is subject to the provisions of 77 Ill. Adm. Code 1110 and 1120 that are applicable to the individual project. The components and any other proposed alterations to a project

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that would, when taken as a separate component, require a permit under the Act shall not be subject to review under this Section but shall require a new application for a permit.

- 3) **HFSRB Staff Review**
HFSRB staff shall review the alteration request for compliance with the review criteria, and prepare a report of its findings for HFSRB review. HFSRB will notify the permit holder if additional information is needed to review the request, ~~the permit holder will be notified.~~
- 4) **Board Review and Action**
 - A) The alteration request, HFSRB staff findings, and all related documentation shall be sent to the Chairman if:
 - i) staff review determines that the alteration request is in conformance with all HFSRB criteria; and
 - ii) this is the first alteration request for the project.
 - B) The Chairman, acting on behalf of HFSRB, shall approve or deny the request or refer the request to the full Board for consideration and action. Other conditions under which the alteration request shall be referred to the full Board for consideration and action are as follows:
 - i) the request is not in conformance with all HFSRB criteria;
or
 - ii) the request is not the first one for an alteration concerning the project in question.
 - C) The number of affirmative votes required for approval of an alteration request is specified in the Act. The approval or denial of a request for alteration constitutes HFSRB's final administrative decision.
- 5) **Inventory and Permit Amount Adjustments**
Upon approving~~approval of~~ a request for alteration, HFSRB will revise the

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permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.

- 6) Notification of Decision to Applicant
HFSRB staff shall submit to the permit holder that submitted a request for an alteration a written notice of HFSRB's decision.~~Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by HFSRB staff.~~
- 7) Applicable Penalties
Any alteration undertaken without prior HFSRB notice or notice and approval (when required) shall be considered a violation of the Act and/or subsection (a)(1) of this Section and shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.760 Annual Progress Reports

- a) Each permit holder shall submit annual progress reports to HFSRB staff every 12 months from the permit issuance date until the project is completed. *A permit holder must submit annual progress reports no earlier than 30 days before and no later than 30 days after each anniversary date of the Board's approval of the permit until the project is completed.*
- b) Permit holders shall limit post-permit reports to annual progress reports and the final completion and cost report.~~To maintain a valid permit and to monitor progress toward project commencement and completion, routine post permit reports shall be limited to annual progress reports and the final completion and cost report.~~
- c) *Annual progress reports shall include information regarding the committed funds expended toward the approved project.*
- d) *If the project is not completed in one year, then, by the second annual report, the permit holder shall expend 33% or more of the total project cost or shall make a commitment to expend 33% or more of the total project cost by signed contracts*

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or other legal means, and the report shall contain information regarding those expenditures or commitments.

- e) *If the project is to be completed in one year, then the first annual report shall contain the financial expenditure commitment information for the total project cost.*
- f) *The State Board may extend the financial expenditure commitment period after considering a permit holder's showing of good cause and request for additional time to complete the project. [20 ILCS 3960/5] The financial commitment period may be extended once for a maximum of one year. (See Section 1130.730.) If the financial commitment period is extended, the financial commitment information shall be submitted no later than the due date of the next annual report that immediately follows the new financial commitment date.*
- g) *If a permit holder fails to provide the required annual reports, the permit holder's future applications will be considered incomplete until HFSRB staff receives the required reports. Failure to provide the required annual progress reports will result in future applications being considered incomplete by HFSRB staff until the required reports are received.*
- h) *A permit holder's failure Failure to timely submit process the required annual progress reports shall be considered a violation of the Act and shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.*
- i) All information submitted to HFSRB regarding annual progress reports shall be submitted on 8½" by 11" paper.
- j) All information regarding annual progress reports shall be submitted within the allowable time frames established in subsection (a) and shall be sent only by any recognized overnight courier or personal delivery service.
- k) Annual reports submitted by email or fax will not be accepted.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns

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- a) Written Notification
- 1) Each permit and exemption holder shall notify HFSRB upon its project completion.
 - 2) All information concerning project completion shall be submitted on 8½" by 11" paper.
 - 3) All information regarding project completion shall be submitted within the allowable time frames established in subsection (a)(5) and shall be sent only by any recognized overnight courier or personal delivery service.
 - 4) Notices of project completion and final realized costs will not be accepted by email or fax.
 - 5) The report of project completion and final realized costs, including supporting documentation listed in subsections (c) and (d), shall be submitted within 90 days following the project completion date.
 - 6) The permit holder may request an extension of the deadline for submission of the final project cost report by meeting the requirements stated in Section 1130.740 (Project Renewal).
- b) For projects with no cost, the permit holder shall submit a written notice to HFSRB of the project's conclusion (e.g., initiation of a new service, discontinuation, certification of additional dialysis stations).
- c) For a project with a cost below the capital expenditure minimum, the permit holder shall submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:
- 1) a detailed itemization of all project costs and sources of funds;
 - 2) a certification that the final realized costs, as itemized, are the total costs required to complete the project and that there are no additional ~~or~~ associated costs or capital expenditures related to the project;
 - 3) certification attesting to compliance with the requirements of this Section shall be in the form of a notarized statement signed by an authorized

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representative of the permit holder; and

- 4) for major construction projects, the final Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects or equivalent.
- d) For a project with a cost above the capital expenditure minimum in place at the time of permit approval, the permit holder shall submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:
- 1) itemization of all project costs;
 - 2) certification that the final realized costs, as itemized, are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project;
 - 3) certification of compliance with all terms of the permit to date, including project cost, square footage, services, etc.; certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized representative of the permit holder;
 - 4) the final Application and Certification for Payment for the construction contract, as per the American Institute of Architects form G702 or equivalent; and
 - 5) for permits with a project cost equal to or greater than three times the capital expenditure minimum in place at the time of permit approval, an audited financial report of all project costs and sources of funds. The audited financial report, when required, shall be completed by an independent certified public accountant. A financial report completed by a permit holder's internal auditor will not be accepted.
- e) Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete by HFSRB staff until the required report is filed. In addition, the permit holder will be subject to fines, penalties and sanctions as mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.

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- f) Failure to timely file the project's report of project completion and final realized costs, all necessary supporting documentation following the project completion, or any project cost overrun information shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.
- g) Any amount of the final realized cost that exceeds the approval permit amount shall be considered a cost overrun without a permit unless the amount is subsequently approved by HFSRB. *Projects may deviate from the costs, fees, and expenses provided in their project cost information for the project's cost components, provided that the final total project cost does not exceed the approved permit amount [20 ILCS 3960/5].*
- h) Any project with a cost overrun shall not be complete until HFSRB determines that the project has complied with all project completion requirements, as determined by HFSRB.
- i) Any project that is compliant with the conditions of its permit shall not be complete until HFSRB determines that the project completion requirements have been met.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.775 Relinquishment of a Permit

A permit holder~~The holder of an HFSRB permit~~ may request to withdraw ~~its~~~~or abandon that~~ permit. The request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the permit is considered null and void. Requests for relinquishment shall be considered only for permits that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the permit. HFSRB will not process a request for relinquishment until it receives the application-processing fee.

- a) Relinquishment Procedure
The permit holder shall notify HFSRB in writing, prior to the abandonment or withdrawal of a project. The notice shall include:
 - 1) A description of the permit and related costs;

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- 2) A detailed explanation of the reasons for abandonment; and
 - 3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.
- b) HFSRB staff shall review the request for withdrawal and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The ~~Chairman~~Chairman, acting on behalf of HFSRB, shall approve the request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.
 - c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.
 - d) Decisions on requests for relinquishment shall be transmitted in writing to the permit holder.
 - e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and ~~in~~Section 1130.790.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.780 Revocation of a Permit

- a) HFSRB shall revoke a permit upon a determination that a permit holder has failed to comply with the requirements of the Act and this Section. ~~The~~~~This~~ HFSRB determination ~~to revoke a permit~~ may be based upon, but not limited by, any of the following:
 - 1) the project for which the permit was granted has been altered without the required notice and/or approval of HFSRB;
 - 2) the permit holder has failed to complete the project on or before the completion date;
 - 3) The permit holder or applicant materially changed information or details submitted in the CON application or in any written materials submitted to HFSRB;

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- 4) The permit holder or applicant submitted false information in the CON application or in any written materials submitted to HFSRB;
 - 5) The permit holder or applicant misrepresented information presented at a Board meeting, at an HFSRB public hearing, or in response to HFSRB or HFSRB staff inquiries;
 - 6) The permit holder or applicant has been convicted of any of the following crimes during the previous five years. The convictions shall be verified by a certified copy of the court of conviction:
 - A) A felony;
 - B) Two or more misdemeanors involving moral turpitude;
 - 7) The permit holder, applicant, or health care facility representative has refused to allow an inspection or survey of the health care facility by Board representatives (i.e., IDPH surveyors);
 - 8) The facility has insufficient financial or other resources to operate the facility in accordance with the CON application or with any other information submitted to the Board;
 - 9) The facility's license has been revoked by IDPH.
- b) If HFSRB intends to revoke a permit, the permit holder shall be provided with written notification of the intent to revoke and notice of allegations. The permit holder shall be afforded an opportunity for a hearing before an administrative law judge, and may request to appear before HFSRB prior to the start of an administrative hearing. HFSRB may also impose other sanctions or penalties mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790, including fines, ~~in addition to the revocation determination~~ (see 20 ILCS 3960/14.1(c)).

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.790 Penalties, Fines and Sanctions ~~Mandated in the Illinois Health Facilities Planning Act~~ for Non-compliance with the Act and HFSRB Rules

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- a) *Any person establishing, constructing, or modifying a health care facility or portion thereof without obtaining a required permit, or in violation of the terms of the required permit, shall not be eligible to apply for any necessary operating licenses or be eligible for payment by any State agency for services rendered in that facility or portion thereof until the required permit is obtained. [20 ILCS 3960/13.1]*
- b) *Any person acquiring major medical equipment or establishing, constructing or modifying a health care facility without a permit issued under the Act or in violation of the terms of such a permit is guilty of a business offense and may be fined up to \$25,000. [20 ILCS 3960/14]*
- c) *HFSRB may deny an application for permit or may revoke or take other action as permitted by the Act with regard to a permit as HFSRB deems necessary, including the imposition of fines. [20 ILCS 3960/14.1(a)]*
- d) *HFSRB may impose fines as specified below for the enumerated violations:*
- 1) *A permit holder who fails to comply with the requirements for maintaining a valid permit shall be fined an amount not to exceed 1% of the approved permit amount, plus an additional 1% of the approved permit amount for each 30-day period, or fraction thereof, that the violation continues. [20 ILCS 3960/14.1(b)(1)]*
- 2) *A permit holder who alters the scope and size of an approved project or whose project costs exceed the allowable permit amount without first obtaining HFSRB approval shall be fined an amount not to exceed the sum of:*
- A) *The lesser of \$25,000 or 2% of the approved permit amount; and*
- B) *In those cases where the approved permit amount is exceeded by more than \$1,000,000, an additional \$20,000 for each \$1,000,000, or fraction thereof, in excess of the approved permit amount. [20 ILCS 3960/14.1(b)(2)]*
- 3) *A permit holder who fails to comply with the post-permit and reporting requirements set forth in Section 5 shall be fined an amount not to exceed \$10,000 plus an additional \$10,000 for each 30-day period, or fraction*

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thereof, that the violation continues. This fine shall continue to accrue until the date that the post-permit requirements are met and the post-permit reports are received by the State Board, or until the matter is referred by the State Board to the State Board's legal counsel. The accrued fine is not waived by the permit holder submitting the required information and reports. Prior to any fine beginning to accrue, the Board shall notify, in writing, a permit holder of the due date for the post-permit and reporting requirements no later than 30 days before the due date for the requirements. [20 ILCS 3960/14.1(b)(2.5)]

- ~~43~~) *A person who acquires major medical equipment, or who establishes a category of service without first obtaining a permit or exemption, as the case might be, shall be fined an amount not to exceed \$10,000 for each such acquisition or category of service established plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues. [20 ILCS 3960/14.1(b)(3)]*
- ~~54~~) *A person who constructs, modifies, ~~or~~ establishes, or changes ownership of a health care facility without first obtaining a permit or exemption shall be fined an amount not to exceed \$25,000 plus an additional \$25,000 for each 30-day period, or fraction thereof, that the violation continues. [20 ILCS 3960/14.1(b)(4)]*
- ~~65~~) *A person who discontinues a health care facility or category of service without first obtaining a permit or exemption shall be fined an amount not to exceed \$10,000 plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues. Facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act, with exception of facilities operated by a county or Illinois Veterans Homes, are exempt from this permit requirement. However, facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act must comply with Section 3-423 of the Nursing Home Care Act or Section 3-423 of the MR/DD Community Care Act and must provide the Board with 30-days' written notice of its intent to close. [20 ILCS 3960/14.1(b)(5)]-*
- ~~76~~) *A person subject to the Act who fails to provide information requested by HFSRB or its staff within 30 days after a formal written request shall be fined an amount not to exceed \$1,000, plus an additional \$1,000 for each*

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30-day period, or fraction thereof, that the information is not received by HFSRB or its staff. [20 ILCS 3960/14.1(b)(6)]

- e) If an individual or entity has failed to comply with the Act or HFSRB rules and has been notified by HFSRB about an allegation of noncompliance, this shall provide a basis for HFSRB to defer consideration of any and all applications, rulings, or advisory opinions filed before HFSRB until the noncompliant matter is resolved.
- f) Failure to pay any fine imposed under this Section within 30 days after its imposition, or by a specified date if the default of payment extends past 30 days, shall subject the person to other sanctions permitted by the Act as HFSRB deems appropriate.
- g) If an individual, entity or person who has failed to comply with the Act or HFSRB rules, waives his or her right to an administrative hearing regarding the noncompliance and waives an opportunity to appear before HFSRB to respond to the noncompliance matters, HFSRB is authorized to use in-kind services to reduce the fines in the negotiation of settlements.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART H: DECLARATORY RULINGS

Section 1130.810 Declaratory Rulings

HFSRB shall render determinations on various matters relating to permits and the applicability of the statute and regulations. Requests for ~~determinations~~determination shall be made in writing. Pursuant to Section 5-150 of the Illinois Administrative Procedure Act, these determinations are declaratory rulings and are not subject to appeal. ~~Matters~~ ~~The following matters shall be~~ subject to declaratory rulings by HFSRB ~~include, including~~, but are not limited to:

- a) whether a proposed project requires a permit or exemption;
- b) corrections to the facility inventories utilized by HFSRB;
- c) recognition that a particular service was in existence prior to permit requirements;

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- d) amount of fees required;
- e) project classification as substantive or non-substantive; and
- f) applicability of rules.

HFSRB NOTE: Declaratory ruling requests pertaining to an application for permit or exemption during the review period may be submitted only by the applicant and by HFSRB staff.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

Section 1130.910 Applicability

- a) Public Hearing on Certificates of Exemption ~~for Change of Ownership~~
The Act requires that HFSRB staff afford an opportunity for public hearing when an exemption application for a change of ownership, discontinuation of a health care facility, or discontinuation of a category of service ~~exemption~~ is declared complete (see 20 ILCS 3960/8.5).
- b) Public Hearing on Proposed Rules
In addition to the requirements of the IAPA, HFSRB shall adopt procedures concerning public notice and hearing on proposed rules (see 20 ILCS 3960/12).

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit

- a) Notice of Review and Opportunity for Public Hearing and Comment
After HFSRB staff deems complete an application for permit, or after the applicant makes a type A modification to an application that is deemed complete ~~has been received and has been deemed complete or after certain types of modification have been made to a complete application~~ (pursuant to the provisions of this Part), HFSRB shall afford an opportunity for public hearing and written comments on the project by preparing and publishing a Notice of Review and Opportunity for Public Hearing and Comment (Notice). This Notice shall consist of at least the following elements:

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- 1) Identification of the proposed project, including the project cost and a brief description of the project and the tentative date that the application is scheduled for HFSRB review;
- 2) Identification, including the mailing address and telephone number, of the agency that is responsible for the public hearing;
- 3) Information regarding where a copy of the application may be viewed by the public and how copies of the application may be obtained;
- 4) A statement that any person has the right to request a public hearing and to submit written comments on the proposed project;
- 5) The date (which shall be at least 15 days from the date of publication of the Notice) by which a written request for a public hearing shall be received by HFSRB; and
- 6) HFSRB staff must receive all public comments regarding an application.~~All public comment regarding an application shall be received by HFSRB staff~~ no later than 20 days prior to the tentatively scheduled consideration of the application ~~by HFSRB~~. If ~~the~~that date of consideration date is extended, ~~then~~ the public comment period will also be extended. If subsequent to HFSRB consideration of an application, a final decision is not made (application is deferred or is issued an Intent to Deny, ~~or is denied~~), ~~then~~ the public comment period shall be extended to the 20 days prior to the next consideration.

HFSRB NOTE: The provisions of this subsection (a) do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing concerning an application for permit.

- b) HFSRB shall forward the~~The~~ Notice of Review and Opportunity for Public Hearing and Comment ~~shall be forwarded promptly~~ to the applicant by certified mail and publish the notices~~shall be published~~ in a newspaper of general circulation in the area or community where the project is to occur.

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- c) Notice to all other persons, including health care facilities and members of the general public, shall be deemed to have been given by ~~publishing~~~~publication of~~ the notice in a newspaper in the area or community where the project is to occur.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.930 Notice of Public Hearing on Applications for Permit

- a) Content and Distribution of Notice of Public Hearing on Application for Permit
If HFSRB staff receive a request for a public hearing on a proposed project in response to the Notice of Review and Opportunity for Public Hearing or Comment within the time frame established in the notice, HFSRB staff shall schedule a public hearing on the proposed project and prepare and publish a Notice of Public Hearing. The Notice of Public Hearing shall consist of at least the following:
- 1) Identification of the subject to be heard;
 - 2) Identification of the law under which the subject is being heard;
 - 3) Identification of the agency conducting the hearing;
 - 4) Announcement of the time, date and location of the hearing;
 - 5) Announcement that the hearing is an open public meeting at which ~~opportunity will be afforded~~ all parties at interest will be afforded an opportunity to present written and/or verbal comments relevant to the project; and
 - 6) Announcement that allegations or assertions should be relevant to the need for the proposed project and be supported with two copies of documentation or materials that are preferably printed or typed on 8½" by 11" paper.
- b) Notice to all other persons, including members of the general public, who are to be served by the proposed project shall be deemed to have been given by publication of the Notice of Public Hearing in a newspaper in the area or community where the project is to occur.

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HFSRB NOTE: If the applicant or other person requests a public hearing on a proposed project after an application for permit has been submitted, but prior to the application being deemed complete or after a modification that requires an opportunity for a public hearing (pursuant to the provisions of this Part) is received, HFSRB staff shall not provide a Notice of Review and Opportunity for Public Hearing or Comment. ~~But but~~ shall, at the time the application is deemed complete or the modification is received, schedule a public hearing and prepare and publish a Notice of Public Hearing.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.940 Procedures for Public Hearing on Applications for Permit

Procedures for public hearing shall include at least the following:

- a) A place of reasonable size and accessibility shall be provided;
- b) A hearing officer or officers ~~who~~ shall conduct the hearing and take all necessary steps to assure the hearing's proper completion;
- c) The hearing officer shall have the authority to require the swearing in of persons presenting testimony and to determine the order in which testimony is taken and the time to be allocated for each person to testify;
- d) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. The hearing officer's verbal announcement shall, for this purpose, constitute public notice;
- e) The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcript need not be made, however, unless required by law and paid for by the requesting party;
- f) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his or her custody; and
- g) The hearing officer shall, within a reasonable time, submit a public hearing report that shall include all exhibits and documents to HFSRB staff for submission to HFSRB.

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(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.950 Written Comments on Applications for Permit

- a) Provision for and Types of Written Comments
 - 1) Written comments regarding an application and any supplemental information pertaining to an application shall be submitted in accordance with the Notice of Review requirements of this Subpart, in accordance with public hearing requirements established at the direction of the hearing officer, or in accordance with requirements for additional testimony established as a request from and at the direction of HFSRB.
 - 2) Persons who have previously participated in any public hearings or submitted written comments related to a project shall not repeat previously submitted comments.
- b) Submission of Comments
 - 1) Written comments are to be submitted to HFSRB or its Administrator at:

Illinois Health Facilities and Services Review Board
525 West Jefferson St., 2nd Floor
Springfield IL 62761
 - 2) Those written comments that have been addressed and submitted as described in this subsection will be included as part of the public record, provided that ~~HFSRB receives these~~ ~~such~~ ~~comments~~ ~~have been received~~ within the prescribed time frame and in ~~accordance~~ ~~accord~~ with the requirements of this Subpart. Persons submitting comments are responsible for assuring that the Board's staff receive the comments within the prescribed time frame. No person shall knowingly provide ex parte comment to any HFSRB member or staff in contravention of Section 1130.630(d) (see 20 ILCS 3960/4.2).
- c) Format of Comments

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- 1) Written comments shall contain a signature and the name and address of the person submitting the comments. Written comments shall be on 8½" by 11" paper .
- 2) All written comments shall be submitted within the allowable time frames established in Sections 1130(b) and 1130.920(a)(5), and shall be sent only by any recognized overnight courier or personal delivery service.
- 3) Written comments submitted by email or fax will not be accepted.
- d) Forwarding of Comments to HFSRB and to Applicant
~~HFSRB staff shall forward all timely written comments to HFSRB members~~All written comments that are received within the specified time frame will be forwarded by HFSRB staff to HFSRB members and to the applicant prior to in advance of the HFSRB meeting date.
- e) Ex Parte Comments
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFSRB or to the applicant.
- f) Validity of Comments
 - 1) Written comments filed with HFSRB or oral statements made under oath to HFSRB ~~regarding~~under any Board matter that are subsequently found to be false or inaccurate will serve as a basis for an HFSRB investigation of the matter.
 - 2) HFSRB may require the person who made the false or inaccurate comments or statements to appear before the Board. HFSRB may censure that person. Further, HFSRB may determine that person to be ineligible to provide written comments or oral statements concerning any future Board considerations.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

**Section 1130.980 Procedures Concerning Public Hearing for Certificate of Exemption ~~for~~
Change of Ownership**

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The procedures pertaining to public hearing requirements concerning an application for exemption for a proposed change of ownership of a health care facility are as specified in Section 1130.520.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.990 Procedures for Public Hearing and Comment on Proposed Rules

- a) All proposed rulemaking is subject to the provisions of the IAPA.
- b) HFSRB will provide notice of the public comment period, together with the publication of the proposed rules in the Illinois Register, as part of the IAPA's First Notice requirements.
- c) 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>).
- d) ~~Commenters~~Commenters participating at a public hearing are encouraged to submit their testimony in writing.
- e) The entire proceedings of every HFSRB public hearing will be transcribed by a court reporter and this transcript will serve as the administrative record of the HFSRB public hearing.
- f) Written comments should be submitted in accordance with the First Notice requirements published in the Illinois Register.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.995 Procedures for Written Public Comment on All Other Matters

Written public~~Public~~ comment is permitted for all other matters subject to HFSRB proceedings that are not otherwise specified ~~in this Part above~~ (e.g., requests for alterations, renewals, extensions, declaratory rulings). ~~The~~Public comment shall identify the subject matter and ~~conform to be in conformance with~~ the following:

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- a) Persons who ~~have~~ previously participated in any public hearings or submitted written comments related to a project shall not repeat previously submitted comments.
- b) HFSRB staff must receive all~~All~~ public comment ~~shall be received by HFSRB staff~~ no later than 20 days prior to HFSRB's tentatively scheduled consideration of the matter ~~by HFSRB~~. If that date of consideration is extended, ~~then~~ the public comment period ~~shall~~will also be extended.
- c) Comments shall be in writing. ~~Written comments are to be submitted to HFSRB staff.~~ Only those written comments ~~that have been~~ addressed or submitted to HFSRB or its Administrator and received at HFSRB headquarters shall be included as part of the public record, provided that HFSRB receives these~~such~~ comments ~~have been received~~ within the prescribed time frame and the comments meet~~are in accord with~~ the requirements of this Subpart. Persons submitting comments are responsible for assuring that HFSRB staff receive the comments within the prescribed time frame. In addition, persons providing comments to HFSRB ~~shall be responsible to~~ assure that the~~any~~ submission is not in violation of the ex parte provisions of the Act.
- d) Written comments shall contain a signature and the name and address of the person submitting the comments. Written comments shall be on 8½" by 11" paper.
- e) All written comments shall be submitted within the ~~allowable~~ time frames established in subsection (b) and shall be sent only by any recognized overnight courier or personal delivery service.
- f) Written comments that are submitted by fax or email will not be accepted.
- g) Ex Parte Comments
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFSRB or to the applicant and shall not be considered in making a determination.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

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Section 1130.1020 Initiation of a Contested Case (Pleadings)

- a) In contested cases, in which HFSRB is required to serve ~~on the~~ respondent a ~~notice~~ Notice of ~~opportunity~~ Opportunity for an ~~administrative hearing~~ Administrative Hearing, that notice shall contain:
- 1) *a statement of the nature of the action;*
 - 2) *a statement of the legal authority and jurisdiction under which the action is being initiated;*
 - 3) *a reference to the particular Sections of the statutes and/or rules involved;*
 - 4) *allegations of noncompliance;*
 - 5) *a statement of the procedure for requesting an administrative hearing, including a date by which the request must be received by HFSRB, which must be set at least 10 days after the notice is mailed or personally served;*
 - 6) *except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or reference number. [5 ILCS 100/10-25]*
- b) A person who receives a Notice of an Opportunity for an Administrative Hearing shall submit a written request for a hearing to HFSRB. The request shall be sent to HFSRB at the address stated in the notice and shall be received by the date set forth in the notice. Failure to comply with this Section shall constitute a waiver of the person's right to an administrative hearing.
- c) Upon ~~receiving receipt of~~ a timely request for hearing, HFSRB shall issue a ~~notice~~ Notice of ~~hearing~~ Hearing or ~~prehearing conference~~ Prehearing Conference. *The notice of hearing or prehearing conference shall contain:*
- 1) *a statement of the nature of the hearing;*
 - 2) *a statement of the time and place that the hearing or prehearing conference will be held;*

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- 3) *a statement of the legal authority and jurisdiction under which the hearing is to be held; and*
 - 4) *the names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law. [5 ILCS 100/10-25]*
- d) Amendments to the pleadings may be allowed upon proper motion at any time during the pendency of the proceedings on such terms as shall be just and reasonable.
 - e) All written documents provided for under this Section shall be liberally construed with a view toward doing substantial justice between the parties.
 - f) Venue shall be the location designated in the Notice of Administrative Hearing. Venue may be moved to another location upon stipulation by all parties or upon a showing to and a finding by the administrative law judge that exceptional circumstances, including but not limited to age, infirmity or inability to travel, exist that make it desirable, in the interest of justice, to allow a change of venue.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.1030 Waiver of Hearing

An applicant waives the right to a hearing if, after HFSRB issues a denial, the applicant submits a modified application for permit. An applicant also waives the right to a hearing if the applicant does not request a hearing within the required timeframe. ~~applicant's right to an administrative hearing on an application denied by HFSRB pursuant to Section 10 of the Act shall be waived by the submission of a modified application for permit for the project that was the subject of the application that was denied. If an administrative hearing is not requested within the required timeframe, the right to an administrative hearing is waived.~~ Any pending administrative hearing on an application for permit shall be dismissed by the administrative law judge upon the showing that a modified application was submitted by the applicant and the matter was referred to HFSRB. The waiver of a right to an administrative hearing on a denied application does not waive the right to an administrative hearing on the denial of the modified application.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.1040 Parties to Hearings

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- a) The parties to proceedings before HFSRB are complainants, applicants, respondents, and intervenors.
- b) HFSRB shall be deemed a complainant in any proceedings initiated by its own action.
- c) An applicant is the person required by the Act to obtain a permit from HFSRB who files an application with HFSRB.
- d) ~~A respondent is a party other than an applicant against whom a complaint or petition is filed.~~
- de) Intervenors are "adversely affected persons" and are granted the right to be parties to proceedings before HFSRB. These persons are defined as:
 - 1) the ~~area-wide~~areawide health planning organization for the health service area in which the proposed project is to be located;
 - 2) ~~the area-wide~~areawide health planning organizations serving contiguous health service areas or located within the same Standard Metropolitan Statistical Area (SMSA);
 - 3) any person residing within the geographic area served or to be served by the applicant;
 - 4) any person who regularly uses health care facilities within that geographic area;
 - 5) health care facilities and HMOs located in the health service area in which the project is proposed to be located that provide services similar to the services of the applicant;
 - 6) health care facilities and HMOs that, prior to ~~receipt by~~HFSRB staff ~~receiving~~of the application being reviewed, have formally indicated an intention to provide similar services in the future;
 - 7) third party payers who reimburse health care facilities for services in the health service area in which the proposed project is to be located;

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- 8) any agency that establishes rates for health care facilities or HMOs located in the health service area in which the project is proposed to be located; and
- 9) IDPH.

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.1080 Disqualification of Administrative Law Judge

Prior to [the](#) commencement of a hearing, a party may file a written motion to disqualify the administrative law judge supported by an affidavit setting forth the facts upon which the motion is made. The administrative law judge who is the subject of a motion to disqualify shall review the motion and affidavit and shall issue his or her report to HFSRB. The report shall include a proposed ruling on the motion and the reasons for the ruling. If HFSRB determines that bias or a conflict of interest exists, it shall grant the motion and the HFSRB Chairman shall appoint a new administrative law judge within 30 days after HFSRB's determination. *An adverse ruling, in and of itself, shall not constitute bias or conflict of interest* [5 ILCS 100/10-30].

(Source: Amended at 40 Ill. Reg. _____, effective _____)

Section 1130.1130 Motions

- a) Motions, unless made during a hearing or pre-hearing, shall be made in writing and shall set forth the relief or order sought and the legal authority for the action requested. Except as otherwise provided in this Part or by a specific statute, motions may seek any relief or order recognized in the Illinois Code of Civil Procedure and Rules of the Illinois Supreme Court, and shall include a reference to the applicable Section of such Code or Rules. Motions based on a matter that does not appear [on](#) record shall be supported by affidavit.
- b) Written motions shall be titled as to the party making the motion and the nature of the relief sought. The title shall be in capital letters and shall be placed either below the caption or to the right of the caption beneath the docket number. No motion shall be identically titled with any other motion. Examples of properly titled motions: Respondent's Motion to Dismiss, Respondent's Second Motion to Dismiss.

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- c) Motions to the pleadings if not raised at the earliest opportunity shall be deemed waived. Motions to the pleadings shall not be granted if the pleadings are in conformity with Section 1130.1020.
- d) The administrative law judge shall not have the authority to dismiss, postpone, vacate, or overturn an order or notice issued by HFSRB, but may make a recommendation to HFSRB any time that circumstances merit such a recommendation.
- e) Motions for a continuance shall be granted only for good cause shown. Motions for a continuance shall be in writing and filed at least 5 working days prior to the hearing. Motions for a continuance shall be made immediately when the party learns that a continuance is needed and statements as to when the party learned that a continuance was needed, steps that were taken to avoid the continuance, and the current reasons the continuance is needed shall be contained in the motion. After one continuance has been granted to a party additional continuances may be granted to that party only if:
 - 1) a hearing on the issue of whether or not to grant the continuance has been held and the administrative law judge finds that the moving party has presented sufficient evidence showing entitlement to another continuance;
 - 2) there is an emergency; or
 - 3) all parties so stipulate.
- f) Whenever possible, as much of the hearing as possible shall be completed and only those matters that must be continued shall be continued.
- g) If there is an unforeseen emergency, motions for a continuance may be made by telephone rather than in writing. Motions by telephone shall be made through a conference call involving the administrative law judge and all parties and shall be confirmed within three business days by the filing of a written motion.
- h) Responses shall be in writing unless made at a prehearing conference or a hearing.
- i) Demands for a Bill of Particulars shall not be allowed.
- j) All motions under this Section shall be filed with the administrative law judge.

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(Source: Amended at 40 Ill. Reg. _____, effective _____)

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Section 1130.APPENDIX A Capital Expenditure Minimums/Review Thresholds

In accordance with P.A. 96-31, the following capital expenditure minimums/review thresholds become effective July 1, ~~2015~~2012. These thresholds were adjusted by 2.5% in accordance with P.A. 96-31. The source for the increases is RS Means.

Capital Expenditure (Hospitals)	\$12,797,313 <u>12,182,576</u>
Capital Expenditure (Long-Term Care)	\$7,233,262 <u>6,885,803</u>
Capital Expenditure (All Other Applicants)	\$3,338,430 <u>3,178,064</u>

(Source: Amended at 40 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Lekoteks
- 2) Code Citation: 89 Ill. Adm. Code 899
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
899.10	Repeal
899.20	Repeal
899.30	Repeal
899.40	Repeal
- 4) Statutory Authority: Implementing and authorized by Sections 3(k) and 3c of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(k) and 3c]
- 5) A Complete Description of the Subjects and Issues involved: Section 3c of the Disabled Persons Rehabilitation Act pertaining to Lekoteks [20 ILCS 2405/3c] was repealed by P.A. 99-120 on July 23, 2015. This rulemaking is necessary to repeal the corresponding Administrative Rules.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures

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Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: July 2015

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

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NOTICE OF PROPOSED REPEALER

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER h: MISCELLANEOUS PROGRAMSPART 899
LEKOTEKS (REPEALED)

Section

899.10	Purpose
899.20	Selection Criteria
899.30	Determination of Geographical Need
899.40	Conditions of Contract

AUTHORITY: Implementing and authorized by Sections 3(k) and 3c of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3(k) and 3c].

SOURCE: Adopted at 14 Ill. Reg. 18567, effective November 5, 1990; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; repealed at 40 Ill. Reg. _____, effective _____.

Section 899.10 Purpose

The Department of Human Services (DHS) shall enter into contracts with public or private agencies for the establishment and continued support of resource, training and counseling centers for families with children with special needs. These centers shall be known as Lekoteks. (Section 3c of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3c])

Section 899.20 Selection Criteria

- a) DHS shall enter into contracts to establish or expand services (e.g. family counseling, loaning of toys and resources to families, providing referral information to families) offered by Lekotek centers or satellite offices based upon the availability of state funds.
- b) DHS shall only enter into contracts for the purpose of establishing Lekotek centers with those agencies which are:
 - 1) licensed by the National Lekotek Center (NLC), and

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- 2) located in geographical areas designated by DHS in consultation with the NLC as being in need of Lekotek centers, based upon an agency's proposal which complies with Lekotek Manual (July, 1989), National Lekotek Center, 2100 Ridge Avenue, Evanston, Illinois 60204, with no later editions or amendments. The proposal shall also indicate:
 - A) cooperative efforts with the existing network of service agencies or the community,
 - B) the credibility of the agency, as determined by community responses to inquiries,
 - C) the outreach efforts and response to community needs by the agency,
 - D) the agency's endorsement of the Lekotek philosophy, and
 - E) the agency's contribution towards project maintenance.
- c) The NLC will license an agency submitting an application for licensure, which is reviewed by the staff and trustees of the NLC. The agency must:
 - 1) be a non-profit agency in good standing or a unit of local government,
 - 2) provide evidence of a philosophy that is consistent with the NLC's,
 - 3) agree to adhere to the established guidelines of the NLC for delivery of Lekotek services, and
 - 4) provide evidence of sound fiscal status and financial commitment to the operation of the Lekotek program.

Section 899.30 Determination of Geographical Need

DHS in consultation with the NLC shall determine the geographical need for Lekotek centers based upon:

- a) a review of the criteria in Section 899.20(b)(2),

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- b) the size of the population to be served (e.g. a fully funded site will serve 60-70 families per year; a satellite will serve 35-40 families).

Section 899.40 Conditions of Contract

As contractors with DHS, the Lekotek centers must agree to comply with:

- a) the rules set forth in 89 Ill. Adm. Code 525 (Grants and Contracts) and
- b) the conditions set forth in the National Lekotek Center's licensing agreement, which require:
 - 1) that the center acknowledge NLC's exclusive right, title and interest in and to the marks (i.e. the name "Lekotek" and the "BlockLogo") and agrees not to contest the validity of the marks of NLC's ownership thereof and agrees not to be a party, directly or indirectly, to any act disputing the validity or ownership of the marks, or tending to impair the value of the marks or the good will associated therewith;
 - 2) that the center will become qualified for not-for-profit status under the regulations of the Internal Revenue Service, 26 U.S.C. 501(c);
 - 3) that the center will abide by the Lekotek Manual;
 - 4) that the center agrees any and all personnel dealing directly with children and families in teaching, leading or instructional situations must be certified as Lekotek Leaders by NLC;
 - 5) that the client intake procedures approved by NLC will be followed;
 - 6) that NLC's Lekotek Library system, or any other system approved by NLC will be used to maintain the center's library inventory, and that an inventory of library materials will be made at least once a year;
 - 7) that the center will submit a written report containing information on the operations of the center to NLC on a semi-annual basis;
 - 8) that the center consents to periodic evaluation visits by NLC upon reasonable advance notice;

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- 9) that all advertising and promotional material shall be of a style, appearance, and quality consistent and commensurate with NLC's reputation and shall be suitable for public distribution;
- 10) that the center shall automatically become a member of the National Council of Lekoteks;
- 11) that the center will pay NLC an annual assessment;
- 12) that the center shall acquire and maintain insurance from a nationally recognized insurance company which encompasses not only normal and bodily injury and property damage, but also contractual liability coverage for all obligations assumed by the center;
- 13) that the center agrees to indemnification stipulations;
- 14) that the center will promptly communicate to NLC all games, ideas, inventions or designs which it develops, created and uses in rendering its services under the marks and in connection with the agreement signed by NLC and the center;
- 15) that the center will notify NLC any time it becomes aware of use by a third party of the marks;
- 16) that the center will keep accurate books of account and records covering all financial transactions relating to its operation under the license granted by the NLC.

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Public Information, Rulemaking and Organization
- 2) Code Citation: 2 Ill. Adm. Code 5050
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
5050.20	Amendment
5050.30	Amendment
5050.100	Amendment
5050.200	Amendment
5050.APPENDIX A	Amendment
- 4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05]
- 5) Effective Date of Rules: December 9, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The rulemaking does not include incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Board of Higher Education's office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: Prior publication of internal rule in the *Illinois Register* is not required pursuant to Section 4.01 of the Illinois Administrative Procedure Act.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Prior review of internal rule by JCAR is not required.
- 11) Differences between Proposal and Final Version: The rulemaking does not include incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Not applicable

ILLINOIS BOARD OF HIGHER EDUCATION

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- 13) Will these rules replace any emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Updates the agency's mailing address, changes the minimum number of meetings to four times per year, adds statutory language about what constitutes a quorum and the exceptions regarding the adoption of a motion for specific items, and makes changes to the staff organization chart.
- 16) Information and questions regarding these adopted rules shall be directed to:

Karen Helland
Agency Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377

217/557-7358
fax: 217/782-8548
helland@ibhe.org

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

ILLINOIS BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE F: EDUCATIONAL AGENCIES
CHAPTER III: BOARD OF HIGHER EDUCATION

PART 5050
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

- Section
- 5050.10 Individual or Group Requests for Making Presentations to the Board
- 5050.20 Proposals for New Board Policies or Amendments to Existing Policy
- 5050.30 Information Requests
- 5050.40 Recording Meetings
- 5050.50 Attendance of a Board Member by Means Other Than Physical Presence

SUBPART B: RULEMAKING

- Section
- 5050.100 Rulemaking Procedures

SUBPART C: ORGANIZATION

- Section
- 5050.200 Organization of Illinois Board of Higher Education
- 5050.APPENDIX A Organization Chart

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 9.05 of the Board of Higher Education Act [110 ILCS 205/9.05].

SOURCE: Adopted and codified at 8 Ill. Reg. 16822, effective August 30, 1984; amended at 29 Ill. Reg. 2713, effective February 3, 2005; amended at 34 Ill. Reg. 12794, effective August 18, 2010; amended at 36 Ill. Reg. 17847, effective December 6, 2012; amended at 39 Ill. Reg. 16387, effective December 9, 2015.

SUBPART A: PUBLIC INFORMATION

ILLINOIS BOARD OF HIGHER EDUCATION

NOTICE OF ADOPTED AMENDMENTS

Section 5050.20 Proposals for New Board Policies or Amendments to Existing Policy

- a) Any proposal by third parties purporting to advance a new policy or alter or amend an existing policy of the Board must be submitted in writing, indicating the precise nature of the proposed change, accompanied by research data [oref](#) supportive rationale.
- b) Any such proposed change of policy should be given the Chairperson or Executive Director who shall, in turn, present the policy proposal to the Board as a whole.

AGENCY NOTE: The above procedures are for the information and guidance of all who may wish to make presentations to the Illinois Board of Higher Education. The Board reserves the right to decline or restrict presentations, to refer requests to existing or ad hoc committees of the Board, to establish the conditions under which presentations may be made, or to waive restrictions if circumstances warrant.

(Source: Amended at 39 Ill. Reg. 16387, effective December 9, 2015)

Section 5050.30 Information Requests

Requests for information or assistance from the Illinois Board of Higher Education should be directed to the Executive Director, Illinois Board of Higher Education, [1 N. Old State Capitol Plaza, Suite 333431 East Adams Street, Second Floor](#), Springfield, Illinois 62701-[13774404](#).

(Source: Amended at 39 Ill. Reg. 16387, effective December 9, 2015)

SUBPART B: RULEMAKING

Section 5050.100 Rulemaking Procedures

- a) New rules, amendments or repealers will be initiated at the direction of the Board or its Executive Director, and may result in some cases from statutory changes, court decisions, or suggestions from interested individuals or advisory committees. Proposed new rules, amendments or repealers will be presented at an open public meeting of the Board prior to publication in the Illinois Register.
- b) Following Board approval, proposed rules, amendments or repealers will be published in the Illinois Register. During the 45-day "first notice" period,

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NOTICE OF ADOPTED AMENDMENTS

interested persons or agencies may provide comments.

- c) Review of proposed rules, amendments or repealers by the Joint Committee on Administrative Rules will take place during the "second notice" period. The Joint Committee on Administrative Rules will review any comments on the rules which were submitted to the issuing agency by interested individuals or agencies.
- d) Proposed new rules, amendments or repealers which have met the requirements for public input and Joint Committee on Administrative Rules review, will be adopted at a second public meeting of the Board.
- e) Individuals or organizations proposing the creation, amendment or repeal of a rule may do so by writing to the Chairperson or Executive Director of the Illinois Board of Higher Education at [1 N. Old State Capitol Plaza, Suite 333431 East Adams Street, Second Floor](#), Springfield, Illinois 62701-~~1377~~[1404](#). The written statement should include specific language, and, in the case of existing rules, cite the specific rule to be amended or repealed. Justification for the proposal shall also be included.

(Source: Amended at 39 Ill. Reg. 16387, effective December 9, 2015)

SUBPART C: ORGANIZATION

Section 5050.200 Organization of Illinois Board of Higher Education

- a) The Illinois Board of Higher Education, the ~~State~~ coordinating agency for public and private postsecondary education, is composed of 16 members: ten members appointed by the Governor with the consent of the Senate (including one faculty member from a public university), a member appointed by the Governor to represent public universities, a member appointed by the Governor to represent independent institutions, the Chairman of the Illinois Community College Board, the Chairman of the Illinois Student Assistance Commission, and two student members selected by the recognized student advisory committee to the IBHE, *one of whom must be a non-traditional undergraduate student who is at least 24 years old and represents the view of non-traditional students, such as a person who is employed or is a parent* [110 ILCS 205/2].
- b) There are five standing advisory committees to the Board: the Faculty Advisory Council, the Independent College and University Advisory Committee, the

ILLINOIS BOARD OF HIGHER EDUCATION

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Proprietary Advisory Committee, the Student Advisory Committee, and the Council of Community College Presidents.

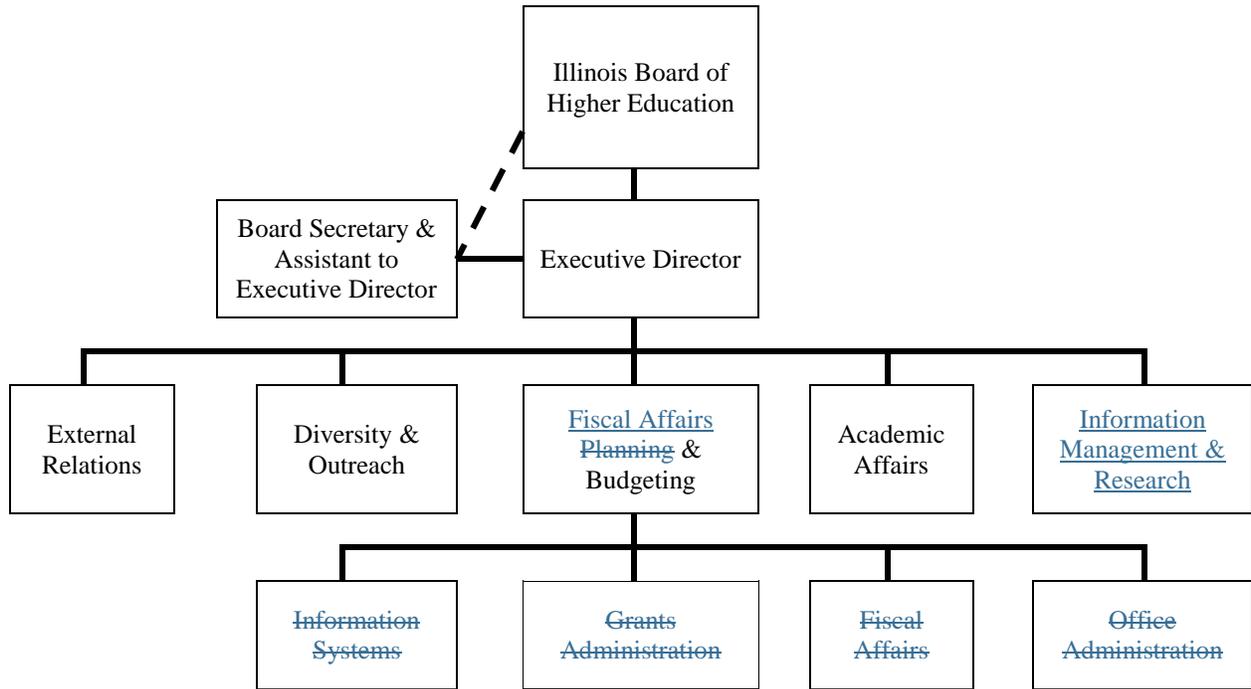
- c) The Board is supported by a staff headed by an Executive Director who serves at the pleasure of the Board. The organizational structure is illustrated by function ~~in on the chart labeled~~ Appendix ~~A of this Part~~.
- d) To the extent practicable, Board meetings will be held ~~on the first Tuesday of~~ every ~~third~~~~other~~ month. The Board shall convene at least ~~four~~~~six~~ times per year. The annual meeting schedule shall be adopted by the Board at its last meeting of the calendar year for the following calendar year. The meeting calendar shall be posted on the Board's web site (www.ibhe.org). *Special or additional meetings may be held on call of the Chairman, or upon a call signed by at least 6 members, or upon call of the Governor* [110 ILCS 205/4]. All Board meetings shall be conducted in accordance with the Open Meetings Act [5 ILCS 120/1.01].
- e) *Eight members of the Board shall constitute a quorum at all its meetings* [110 ILCS 205/4]. Pursuant to Section 2.01 of the Open Meetings Act, *all Board members physically present at two or more public locations during an interactive video conference of a meeting will count towards determining a quorum when one location is the Board's office in Springfield* [5 ILCS 120/2.01].
- f) When a quorum is present, a majority of the votes cast is sufficient for the adoption of any motion that is in order, except for those specified in statute. *The majority of all the members of the Board is required for the approval of a new unit of instruction, research or public service for a public institution of higher education* [110 ILCS 205/4] and for the approval of a plan for capital improvements of noninstructional facilities submitted by a State supported institution [110 ILCS 205/8].
- ge) A Vice-Chairperson shall be elected by the Board. The Vice-Chairperson shall preside at all meetings in the absence of the Chairperson. In the absence of the Chairperson and the Vice-Chairperson at any regular meeting, the members present shall designate one of those in attendance to serve as acting Chairperson for that meeting only.

(Source: Amended at 39 Ill. Reg. 16387, effective December 9, 2015)

ILLINOIS BOARD OF HIGHER EDUCATION

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Section 5050.APPENDIX A Organization Chart



(Source: Amended at 39 Ill. Reg. 16387, effective December 9, 2015)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.299 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: December 14, 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 materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: July 24, 2015; 39 Ill. Reg. 10334
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary
- 13) Will this rulemaking replace an emergency rule currently in effect? No. The companion emergency rule expired December 6, 2015.
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment eliminates the Medicaid Facilitation and Utilization payments that reimburse for inpatient services to Illinois hospitals that meet specific requirements.
- 16) Information and questions regarding this adopted rule shall be directed to:

Mollie Zito

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

General Counsel
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/782-1233

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section

148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments (Repealed)
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments (Repealed)
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments (Repealed)
148.100	County Trauma Center Adjustment Payments
148.103	Outpatient Service Adjustment Payments (Repealed)
148.105	Reimbursement Methodologies for Inpatient Rehabilitation Services
148.110	Reimbursement Methodologies for Inpatient Psychiatric Services
148.112	Medicaid High Volume Adjustment Payments
148.115	Reimbursement Methodologies for Long Term Acute Care Services
148.116	Reimbursement Methodologies for Children's Specialty Hospitals
148.117	Outpatient Assistance Adjustment Payments
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.122	Medicaid Percentage Adjustments
148.126	Safety Net Adjustment Payments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services

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- 148.150 Public Law 103-66 Requirements
- 148.160 Payment Methodology for County-Owned Large Public Hospitals
- 148.170 Payment Methodology for University-Owned Large Public Hospitals
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act (Repealed)
- 148.180 Payment for Pre-operative Days and Patient Specific Orders
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems (Repealed)
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions (Repealed)
- 148.230 Admissions Occurring on or after September 1, 1991 (Repealed)
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals (Repealed)
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates (Repealed)
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals (Repealed)
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements (Repealed)
- 148.285 Excellence in Academic Medicine Payments (Repealed)
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments
- 148.296 Transitional Supplemental Payments
- 148.297 Physician Development Incentive Payments
- 148.298 Pediatric Inpatient Adjustment Payments (Repealed)
- 148.299 Medicaid Facilitation and Utilization Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives (Repealed)
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Sub-acute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Sub-acute Alcoholism and Substance Abuse Treatment Services

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

	(Repealed)
148.390	Hearings
148.400	Special Hospital Reporting Requirements
148.402	Medicaid Eligibility Payments (Repealed)
148.404	Medicaid High Volume Adjustment Payments (Repealed)
148.406	Intensive Care Adjustment Payments (Repealed)
148.408	Trauma Center Adjustment Payments (Repealed)
148.410	Psychiatric Rate Adjustment Payments (Repealed)
148.412	Rehabilitation Adjustment Payments (Repealed)
148.414	Supplemental Tertiary Care Adjustment Payments (Repealed)
148.416	Crossover Percentage Adjustment Payments (Repealed)
148.418	Long Term Acute Care Hospital Adjustment Payments (Repealed)
148.420	Obstetrical Care Adjustment Payments (Repealed)
148.422	Outpatient Access Payments (Repealed)
148.424	Outpatient Utilization Payments (Repealed)
148.426	Outpatient Complexity of Care Adjustment Payments (Repealed)
148.428	Rehabilitation Hospital Adjustment Payments (Repealed)
148.430	Perinatal Outpatient Adjustment Payments (Repealed)
148.432	Supplemental Psychiatric Adjustment Payments (Repealed)
148.434	Outpatient Community Access Adjustment Payments (Repealed)
148.436	Long Term Stay Hospital Per Diem Payments
148.440	High Volume Adjustment Payments
148.442	Inpatient Services Adjustment Payments
148.444	Capital Needs Payments
148.446	Obstetrical Care Payments
148.448	Trauma Care Payments
148.450	Supplemental Tertiary Care Payments
148.452	Crossover Care Payments
148.454	Magnet Hospital Payments
148.456	Ambulatory Procedure Listing Increase Payments
148.458	General Provisions
148.460	Catastrophic Relief Payments (Repealed)
148.462	Hospital Medicaid Stimulus Payments (Repealed)
148.464	General Provisions
148.466	Magnet and Perinatal Hospital Adjustment Payments
148.468	Trauma Level II Hospital Adjustment Payments
148.470	Dual Eligible Hospital Adjustment Payments
148.472	Medicaid Volume Hospital Adjustment Payments
148.474	Outpatient Service Adjustment Payments

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148.476	Ambulatory Service Adjustment Payments
148.478	Specialty Hospital Adjustment Payments
148.480	ER Safety Net Payments
148.482	Physician Supplemental Adjustment Payments
148.484	Freestanding Children's Hospital Adjustment Payments
148.486	Freestanding Children's Hospital Outpatient Adjustment Payments

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section	
148.500	Definitions
148.510	Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section	
148.600	Definitions
148.610	Scope of the Program
148.620	Assistance Level and Reimbursement
148.630	Criteria and Information Required to Establish Eligibility
148.640	Covered Services

SUBPART E: INSTITUTION FOR MENTAL DISEASES PROVISIONS FOR HOSPITALS

Section	
148.700	General Provisions

SUBPART F: EMERGENCY PSYCHIATRIC DEMONSTRATION PROGRAM

Section	
148.800	General Provisions
148.810	Definitions
148.820	Individual Eligibility for the Program
148.830	Providers Participating in the Program
148.840	Stabilization and Discharge Practices
148.850	Medication Management
148.860	Community Connect IMD Hospital Payment
148.870	Community Connect TCM Agency Payment
148.880	Program Reporting

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

148.TABLE A	Renal Participation Fee Worksheet
148.TABLE B	Bureau of Labor Statistics Equivalence
148.TABLE C	List of Metropolitan Counties by SMSA Definition

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722,

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effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg.

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17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866, effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a

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maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007; emergency amendment at 31 Ill. Reg. 10137, effective July 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11688, effective August 1, 2007; amended at 31 Ill. Reg. 14792, effective October 22, 2007; amended at 32 Ill. Reg. 312, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 518, effective January 1, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 2993, effective February 16, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8718, effective May 29, 2008; amended at 32 Ill. Reg. 9945, effective June 26, 2008; emergency amendment at 32 Ill. Reg. 10517, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 33 Ill. Reg. 501, effective December 30, 2008; peremptory amendment at 33 Ill. Reg. 1538, effective December 30, 2008; emergency amendment at 33 Ill. Reg. 5821, effective April 1, 2009, for a maximum of 150 days; emergency expired August 28, 2009; amended at 33 Ill. Reg. 13246, effective September 8, 2009; emergency amendment at 34 Ill. Reg. 15856, effective October 1, 2010, for a maximum of 150 days; emergency expired February 27, 2011; amended at 34 Ill. Reg. 17737, effective November 8, 2010; amended at 35 Ill. Reg. 420, effective December 27, 2010; expedited correction at 38 Ill. Reg. 12618, effective December 27, 2010; amended at 35 Ill. Reg. 10033, effective June 15, 2011; amended at 35 Ill. Reg. 16572, effective October 1, 2011; emergency amendment at 36 Ill. Reg. 10326, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 148.70(g) suspended at 36 Ill. Reg. 13737, effective August 15, 2012; suspension withdrawn from Section 148.70(g) at 36 Ill. Reg. 18989, December 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 148.70(g) at 36 Ill. Reg. 18976, effective December 12, 2012 through June 30, 2013; emergency amendment to Section 148.140(b)(1)(F) suspended at 36 Ill. Reg. 13739, effective August 15, 2012; suspension withdrawn from Section 148.140(b)(1)(F) at 36 Ill. Reg. 14530, September 11, 2012; emergency amendment to Sections 148.140(b) and 148.190(a)(2) in response to Joint Committee on Administrative Rules action at 36 Ill. Reg. 14851, effective September 21, 2012 through June 30, 2013; amended at 37 Ill. Reg. 402, effective December 27, 2012; emergency rulemaking at 37 Ill. Reg. 5082, effective April 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 10432, effective June 27, 2013; amended at 37 Ill. Reg. 17631, effective October 23, 2013; amended at 38 Ill. Reg. 4363, effective January 29, 2014; amended at 38 Ill. Reg. 11557, effective May 13, 2014; amended at 38 Ill. Reg. 13263, effective June 11, 2014; amended at 38 Ill. Reg. 15165, effective July 2, 2014; emergency amendment at 39 Ill. Reg. 10453, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 10824, effective July 27, 2015; amended at 39 Ill. Reg. 16394, effective December 14, 2015.

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SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.299 Medicaid Facilitation and Utilization Payments

Medicaid Facilitation and Utilization Payments shall be made on a monthly basis as follows:

- a) **Qualifying Hospitals.** Hospitals may qualify for the Medicaid Facilitation and Utilization Payments if they meet any of the following criteria:
 - 1) The hospital must be an Illinois general acute care hospital that had an increase over 35% of the total Medicaid days, excluding Medicare crossover days, from State fiscal year 2009 to State fiscal year 2013 as recorded in the Department's paid claims data, had more than 50 routine beds as included in the 2012 cost report filed with the Department, and, for State fiscal year 2013, the average length of stay was less than 4.5 days.
 - 2) The hospital must be an Illinois general acute care hospital that had a Medicaid Inpatient Utilization Rate (MIUR), as defined in Section 148.120(i)(4), between 50 and 80 percent, is designated a Perinatal Level II facility, and had less than 110 routine beds as included in the 2012 Cost Report on file with the Department, and, for State fiscal year 2013, provided greater than 6,000 Medicaid days, excluding Medicare crossover days, as recorded in the Department's paid claims database.
 - 3) The hospital must be an Illinois children's hospital, as defined in Section 148.25(d)(3)(B), had greater than 10 routine beds as included in the 2012 cost report on file with the Department, and for State fiscal year 2013, the average length of stay was less than 4.5 days.
- b) **Rates**
 - 1) Hospitals qualifying under subsection (a)(1) will receive the following:
 - A) If the hospital provided more than 4,000 covered Medicaid days, excluding Medicare crossover days in State fiscal year 2013, as recoded in the Department's paid claims database, the rate is \$947.00 for dates of service on July 1, 2014 through June 30,

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~~20152018~~. For dates of service on or after July 1, ~~20152018~~, the rate is \$0.00.

- B) If the hospital provided less than 4,000 covered Medicaid days, excluding Medicare crossover days, in State fiscal year 2013, as recoded in the Department's paid claims database, the rate is \$76.00 for dates of service on July 1, 2014 through June 30, ~~20152018~~. For dates of service on or after July 1, ~~20152018~~, the rate is \$0.00.
- 2) Hospitals qualifying under subsection (a)(2) will receive the following:
- A) If the hospital had greater than 100 routine beds, as included in the 2012 cost report on file with the Department, the rate is \$205.00 for dates of service on July 1, 2014 through June 30, ~~20152018~~. For dates of service on or after July 1, ~~20152018~~, the rate is \$0.00.
- B) If the hospital had less than 100 routine beds, as included in the 2012 cost report on file with the Department, the rate is \$59.00 for dates of service on July 1, 2014 through June 30, ~~20152018~~. For dates of service on or after July 1, ~~20152018~~, the rate is \$0.00.
- 3) Hospitals qualifying under subsection (a)(3) will receive a rate of \$390.00 for dates of service on July 1, 2014 through June 30, ~~20152018~~. For dates of service on or after July 1, ~~20152018~~, the rate is \$0.00.
- c) Payment for a qualifying hospital shall be the product of the rate as defined in subsection (b), multiplied by the hospital's SFY 2013 covered days less Medicare crossover days as recorded in the Department's paid claims data (adjudicated through February 21, 2014).

(Source: Amended at 39 Ill. Reg. 16394, effective December 14, 2015)

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- 1) Heading of the Part: Home Health, Home Services, and Home Nursing Agency Code
- 2) Code Citation: 77 Ill. Adm. Code 245
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
245.20	Amendment
245.30	Amendment
245.40	Amendment
245.71	Amendment
245.75	Amendment
245.80	Amendment
245.90	Amendment
245.95	Amendment
245.200	Amendment
245.205	Amendment
245.210	Amendment
245.212	Amendment
245.214	Amendment
245.220	Amendment
245.225	Amendment
245.240	Amendment
245.250	Amendment
- 4) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
- 5) Effective Date of Rules: December 10, 2015
- 6) Do these rulemakings contain an automatic repeal date? No
- 7) Do these rulemakings contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: December 12, 2014; 38 Ill. Reg. 23298
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

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- 11) Differences between Proposal and Final Version: In Section 245.30(g)(2), in response to public comments, the Department inserted "If the agency has both a home health and a home nursing agency license, one person may fulfill this requirement, but he or she shall be full-time". In subsections 245.40(i) and (j), respectively inserted, "The speech-language pathologist may perform selected acts in accordance with the Illinois Speech-Language Pathology and Audiology Practice Act," and "The audiologist may perform selected acts in accordance with the Illinois Speech-Language Pathology and Audiology Practice Act." Changes were made to the record keeping requirements in Sections 245.200 and 245.205. In Section 245.210(i), inserted the Department "The agency may utilize hard copies or an electronic format. Each agency shall have a written policies and procedures for records maintenance and shall retain records for a minimum of two years beyond the last date of service provided. The procedures may include that the agency will use and maintain faxed copies of records, rather than original records, provided that faxed copies shall be maintained on non-thermal paper and that the original records will be maintained for a period of two years by the originating entity." In addition, various nonsubstantive typographical, grammatical and form changes were made in response to the comments from JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these rulemakings 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 Home Health, Home Services, and Home Nursing Agency Code regulates home health agencies, home nursing agencies, home services agencies, and home nursing and home services placement agencies. Rules adopted in 2008 implemented then-new statutory requirements for home nursing agencies, home services agencies, and placement agencies for home nursing and home services workers. These amendments are meant to clarify the distinction between home nursing and home services agencies, and nursing and services placement agencies, and to delineate the respective obligations and responsibilities of each kind of agency.
- 16) Information and questions regarding these adopted rules shall be directed to:

Elizabeth Paton
Assistant General Counsel

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Department of Public Health
535 West Jefferson, 5th Floor
Springfield IL 62761

217/782-2043
e-mail: dph.rules@illinois.gov

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIESPART 245
HOME HEALTH, HOME SERVICES,
AND HOME NURSING AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section	Purpose
245.10	Purpose
245.20	Definitions
245.25	Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

Section	Purpose
245.30	Organization and Administration
245.40	Staffing and Staff Responsibilities
245.50	Services (Repealed)
245.55	Vaccinations
245.60	Annual Financial Statement
245.70	Home Health Aide Training
245.71	Qualifications and Requirements for Home Services Workers
245.72	Health Care Worker Background Check
245.75	Infection Control

SUBPART C: LICENSURE PROCEDURES

Section	Purpose
245.80	Licensure Required
245.90	License Application
245.95	License Application Fee, Single or Multiple Licenses
245.100	Provisional License
245.110	Inspections and Investigations
245.115	Complaints
245.120	Violations
245.130	Adverse Licensure Actions

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- 245.140 Penalties and Fines
- 245.150 Hearings

SUBPART D: CLIENT/PATIENT SERVICES

- 245.200 Services – Home Health
- 245.205 Services – Home Nursing Agencies
- 245.210 Services – Home Services Agencies
- 245.212 Services – Home Nursing Placement Agency
- 245.214 Services – Home Services Placement Agency
- 245.220 Client Service Contracts – Home Nursing and Home Services Agencies
- 245.225 Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency
- 245.240 Quality Improvement Program
- 245.250 Abuse, Neglect, and Financial Exploitation Prevention and Reporting

AUTHORITY: Implementing and authorized by the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55].

SOURCE: Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 22050, effective December 10, 1998; amended at 23 Ill. Reg. 1028, effective January 15, 1999; amended at 24 Ill. Reg. 17213, effective November 1, 2000; amended at 25 Ill. Reg. 6379, effective May 1, 2001; amended at 26 Ill. Reg. 11241, effective July 15, 2002; amended at 28 Ill. Reg. 3487, effective February 9, 2004; amended at 28 Ill. Reg. 8094, effective May 26, 2004; amended at 29 Ill. Reg. 20003, effective November 28, 2005; amended at 31 Ill. Reg. 9453, effective June 25, 2007; amended at 32 Ill. Reg. 8949, effective June 5, 2008; amended at 34 Ill. Reg. 5711, effective April 5, 2010; amended at 39 Ill. Reg. 16406, effective December 10, 2015.

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SUBPART A: GENERAL PROVISIONS

Section 245.20 Definitions

Act – the Home Health, Home Services and Home Nursing Agency Licensing Act ~~[210 ILCS 55]~~.

Activities of Daily Living – include, but are not limited to, eating, dressing, bathing, toileting, transferring, or personal hygiene.

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, ~~in order~~ to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Agency – a home health agency, home nursing agency, or home services agency, unless specifically stated otherwise. (Section 2.03a of the Act)

Agency Manager – the individual designated by the governing body or the entity legally responsible for the agency, who has overall responsibility for the organization and day-to-day operation of the home services or home nursing agency.

Audiologist – a person who has received a license to practice audiology pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act ~~[225 ILCS 110]~~.

Branch Office – a location or site from which an agency provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the agency and is located sufficiently close to share administration, supervision and services in a manner that renders it unnecessary for the branch to be independently licensed.

Bylaws or Equivalent – a set of rules adopted by an agency for governing the agency's operation.

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Client – an individual receiving services from a home nursing agency, a home services agency or a placement agency. This term includes the service recipient's advocate or designee.

Client Record – a written [or electronic](#) record that includes, but is not limited to, personal information, emergency notification information, plans of service agreed to between the client and the home services agency, a copy of the home services contract or agreement, and documentation of the services provided at each visit.

Clinical Note – a dated, written notation [or electronic entry](#) by a member of the health team of a contact with a patient, containing a description of signs and symptoms, treatment and/or drug given, the patient's reaction, and any changes in physical or emotional condition.

Clinical Record – an accurate account of services and care provided for each patient and maintained by a home health or home nursing agency in accordance with accepted professional standards.

Companionship – services that provide fellowship, care and protection for a client who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. Services requested may include, but are not limited to, household work related to the care of the client, such as meal preparation, bed making, or laundry; shopping or errands; or other similar services.

Department or IDPH – the Department of Public Health of the State of Illinois.
(Section 2.01 of the Act)

Director – the Director of Public Health of the State of Illinois, or his or her designee. (Section 2.02 of the Act)

Discharge Summary – the written report of services rendered, goals achieved, and final disposition at the time of discharge from service of a home health or home nursing agency.

Employee – [a person who works in the service of another person, or company, under an express or implied contract for hire, under which the employer has the right to control the details of work performance for wages, salary, fee or payment](#)~~an individual for whom an agency licensed under this Part pays withholding taxes.~~

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Employee Prospect – a person or persons to whom an agency expects to extend an offer of employment.

Geographic Service Area – the area from which home health agency patients are drawn. This area is to be clearly defined by readily recognizable boundaries.

Health Care Professional – a physician licensed to practice medicine in all of its branches, a podiatrist, an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes services under the Act, or a physician assistant who has been delegated the authority to perform services under the Act by his or her supervising physician.

Home Health Agency – a public agency or private organization that provides skilled nursing services and at least one other home health service as defined in this Part. (Section 2.04 of the Act)

Home Health Agency Administrator – an employee of the home health agency who is any one of the following:

a physician;

a registered nurse;

an individual with at least one year of supervisory or administrative experience in home health care or in related health provider programs; or

an individual who meets the requirements for Public Health Administrator as contained in Section 600.300 of the Certified Local Health Department Code.

Home Health Aide – a person who provides nursing, medical, or personal care and emotional comfort to assist the patient toward independent living in a safe environment. A person may not be employed as a home health aide unless he/she meets the requirements of Section 245.70 ~~of this Part~~.

Home Health Services – services provided to a person at his or her residence according to a plan of treatment for illness or infirmity prescribed by a physician or podiatrist. Such services include part-time and intermittent nursing services

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and other therapeutic services such as physical therapy, occupational therapy, speech therapy, medical social services or services provided by a home health aide. (Section 2.05 of the Act)

Home Nursing Agency – an agency that provides services directly, or acts as a placement agency, in order to deliver skilled nursing and home health aide services to persons in their personal residences. A home nursing agency provides services that would ~~be required to be performed by~~ ~~require~~ an individual licensed under the Nurse Practice Act ~~to perform~~. Home health aide services are provided under the direction of a registered professional nurse or advanced practice nurse. A home nursing agency does not require licensure as a home health agency under the Act. "Home nursing agency" does not include an individually licensed nurse acting as a private contractor or a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.11 of the Act)

Home Nursing Services – services that would be required to be performed by an individual licensed under the Nurse Practice Act on a shift schedule, one-time, full-time or part-time, and/or intermittent basis.

Home Services Agency – an agency that provides services directly, or acts as a placement agency, for the purpose of placing individuals as workers providing home services for consumers primarily in their personal residences. Home services agency does not include agencies licensed under the Nurse Agency Licensing Act, the Hospital Licensing Act, the Nursing Home Care Act, or the Assisted Living and Shared Housing Act and does not include an agency that limits its business exclusively to providing housecleaning services. Programs providing services exclusively through the Community Care Program of the Illinois Department on Aging or the Department of Human Services Office of Rehabilitation Services ~~or the United States Department of Veterans Affairs~~ are not considered to be a home services agency under ~~the~~ ~~the~~ Act. (Section 2.08 of the Act)

Home Services or In-Home Services or In-Home Support Services – assistance with activities of daily living, housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. "Home services" does not include services that would be required to be performed by an individual licensed under the Nurse

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Practice Act. (Section 2.09 of the Act) Home care services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.

Home Services Worker or In-Home Services Worker – an individual who provides home care services to a consumer in the consumer's personal residence. (Section 2.10 of the Act) The terms homemaker and companion are commonly used to refer to this type of worker.

Licensed Practical Nurse – a person currently licensed as a licensed practical nurse under the Nurse Practice Act.

Medical Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act.

Occupational Therapist – a person who is licensed as an occupational therapist under the Illinois Occupational Therapy Practice Act and meets either or both of the following requirements:

Isis a graduate of an occupational therapy curriculum accredited jointly by the Council on Medical Education of the American Medical Association and the American Occupational Therapy Association; or

Isis eligible for the National Registration Examination of the American Occupational Therapy Association.

Occupational Therapy Assistant – a person who is licensed as an occupational therapy assistant under the Illinois Occupational Therapy Practice Act and meets the requirements for certification as an occupational therapy assistant established by the American Occupational Therapy Association.

Part Time or Intermittent Care – home health services given to a patient at least once every 60 days or as frequently as a few hours a day, several times per week.

Patient – a person who is under treatment or care for illness, disease, injury or conditions appropriately responsive to home health or home nursing services to

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maintain health or prevent illness.

Patient Care Plan – a coordinated and combined care plan prepared by and in collaboration with each discipline providing service to the patient, to the patient's family, or, for home health agencies, to both.

Person – any individual, firm, partnership, corporation, company, association or any other legal entity. (Section 2.03 of the Act)

Personal Care Services – services that are furnished to a client in the client's personal residence to meet the client's physical, maintenance, and supportive needs, when those services are not considered skilled personal care, as described in this Section and Part, and do not require a physician's orders or the supervision of a nurse.

Physical Therapist – a person who is licensed as a physical therapist under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services (42 CFR 484.1 through 484.40).

Physical Therapist Assistant – a person who is licensed as a physical therapist assistant under the Illinois Physical Therapy Act and who meets the qualifications for a physical therapist assistant under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services (42 CFR 484.1 through 484.40).

Physician – Any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987. For a patient who has received medical care in another state, or has moved from another state, and who has not secured the services of a physician licensed in Illinois, an individual who holds an active license to practice medicine in another state will be considered the physician for the patient during this emergency (as determined by the physician) as provided in Section 3 of the Medical Practice Act of 1987. ~~An~~Such an emergency may not extend more than six months in any case.

Placement Agency – any person engaged for gain or profit, regardless of the agency tax status, in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers. The term includes a

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private employment agency and any other entity that places a worker for private hire by a consumer in that consumer's residence for purposes of providing home services. The term does not include a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.12 of the Act) For the purposes of this Part, there are two types of placement agencies: Home Nursing Placement Agencies (see Section 245.212) and Home Services Placement Agencies (see Section 245.214). [A placement agency does not provide ongoing, continuous client support and management of services.](#)

Plan of Treatment – a plan based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with, in the case of a home health agency, the home health services team, which includes the attending physician or podiatrist, pertinent members of the agency staff, the patient, and members of the family.

Podiatrist – a person who is licensed to practice under the Podiatric Medical Practice Act of 1987.

Professional Advisory Group – a group composed of at least one practicing physician, one registered nurse (preferably a public health nurse), and with appropriate representation from other professional disciplines that are participating in the provision of home health services. It is highly recommended that a consumer be a member of the group. At least one member of the group is neither an owner nor an employee of the home health agency.

Progress Notes – a dated, written notation by a member of the health team, summarizing facts about care and the patient's response during a given period of time.

Purchase of Services/Contractual – the provision of services through a written agreement with other providers of services.

Registered Nurse – a person who is currently licensed as a registered nurse under the Nurse Practice Act.

Skilled Nursing Services – those services that, due to their nature and scope, would require the performing individual to be licensed under the Nurse Practice

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Act. These services are acts requiring the basic nursing knowledge, judgment and skills acquired by means of completion of an approved nursing education program and include, but are not limited to: assessment of healthcare needs; nursing diagnosis; planning, implementation and nursing evaluation; counseling; ~~and/or~~ patient education; health education; the administration of medications and treatments; and the coordination and/or management of a nursing or medical plan of care.

Skilled Personal Care – personal care that may be provided only by a home health aide, as defined in this Section, or an individual who is a certified or licensed health care professional under the laws of the State of Illinois.

Social Work Assistant – a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has had at least one year of social work experience in a health care setting.

Speech-Language Pathologist – a person who is licensed as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act.

Student – an individual who is enrolled in an educational institution and who is receiving training in a health-related profession.

Subdivision – a component of a multi-function health agency, such as the home care department of a hospital or the nursing division of a health department, which independently meets the federal conditions of participation for home health agencies. A subdivision that has branches is regarded as a parent agency.

Substantial Compliance or Substantially Meets – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved.

Subunit – a semi-autonomous organization that serves patients in a geographic area different from that of the parent agency. ~~Because of~~~~The subunit, by virtue of~~ the distance between ~~the subunit~~ and the agency, ~~the subunit is considered to beis judged~~ incapable of sharing administration, supervision and services.

Summary Report – a compilation of the pertinent factors from the clinical notes and progress notes regarding a patient, which is submitted to the patient's

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physician or podiatrist.

Supervision – authoritative procedural guidance by a qualified person of the appropriate discipline.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.30 Organization and Administration

- a) **Governing Body – All Agencies**
The agency shall have a governing body or a clearly defined body having legal authority and responsibility for the conduct of the agency. Where the governing body of a large organization is functionally remote from the operation of the agency, the Department may approve the designation of an intermediate level "governing body". For the purposes of this Section, the governing body shall:
- 1) Have bylaws or the equivalent, which shall be reviewed annually and be revised as needed. They shall be made available to all members of the governing body and, for home health agencies, to the professional advisory group. The bylaws or the equivalent shall specify the objectives of the agency;~~;~~
 - 2) Employ a qualified administrator for home health agencies;~~;~~
 - 3) Adopt and revise, as needed, policies and procedures for the operation and administration of the agency;~~;~~
 - 4) Meet to review the operation of the agency;~~;~~
 - 5) Keep minutes of all meetings; ~~and;~~
 - 6) Provide and maintain an office facility adequately equipped for efficient work, and confidentiality of patient and/or client records, and that provides a safe working environment in compliance with local ordinances and fire regulations.
- b) **Administration – All Agencies**

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- 1) The agency shall have written administrative policies and procedures to ensure that the patient or client is provided~~the provision of~~ safe and adequate care ~~of the patient or client~~.
 - 2) The agency shall show evidence of liability insurance in accordance with Section 245.90(a).
 - 3) The agency shall develop and implement written policies for complaint resolution between the agency and its patients/clients and/or patient/client advocates in regard to services being provided to the patient/client.
- c) Personnel Policies – All Agencies (Placement agencies shall meet the requirements of subsections (c)(1)(B), (2), (3) and (4).)
- 1) Personnel policies applicable and available to all full- and part-time employees shall include, but not be limited to, the following:
 - A) Wage scales, ~~fringe~~ benefits, hours of work and leave time;
 - B) Requirements for an initial health evaluation of each new employee or the placed home services worker/placed nurse who has contact with clients/patients, as specified by the governing body;
 - C) Orientation to the agency and appropriate continuing education;
 - D) Job descriptions for all positions used~~utilized~~ by the agency;
 - E) Annual performance evaluation for all employees;
 - F) Compliance with all applicable requirements of the Civil Rights Act of 1964;
 - G) Confidentiality~~Provision for confidentiality~~ of personnel records;
 - H) Employee health policies that require employees to report health symptoms and exposure to any communicable or infectious disease, and that specify conditions under which employees are to

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be removed from patient or client contact and conditions under which employees may resume patient/client contact; and

- D) Agency procedures ~~for~~ identifying potential dangers to the health and safety of agency personnel providing services in the home and procedures for protecting agency personnel from identified dangers.
- 2) Prior to employing or placing any individual in a position that requires a State professional license, the agency shall contact the Illinois Department of Financial and Professional Regulation to verify that the individual's license is active. A copy of the verification of the individual's license shall be placed in the individual's personnel file.
- 3) The agency shall, prior to hiring, check the status of employee or placement prospects who have direct patient/client care responsibilities with the Department's Health Care Worker Registry concerning findings of abuse, neglect or misappropriation of property~~prior to hiring~~.
- 4) Personnel records for all employees ~~or~~ placement agency registry files for placement workers shall include the name and address of the employee or placement worker, Social Security number, date of birth, name and address of next of kin, evidence of qualifications (including any current licensure, registration, or certification that is required by State or federal law for the functions performed), and dates of employment or placement and separation from the agency and the reason for separation.
- 5) Home health agencies that provide other home health services under arrangement through a contractual purchase of services shall ensure that these services are provided by qualified personnel, who hold any current licensure, registration, or certification that is required by State or federal law for the functions performed, under the supervision of the agency.
- 6) Home services and home nursing agencies that use some contractual services shall ensure that these services are provided by qualified personnel who hold any current licensure, registration or certification that is required by State or federal law for the functions performed under the supervision of the agency.

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- d) Professional Advisory Group – Home Health Agencies
- 1) The professional advisory group shall be appointed by the governing body and shall assist in developing and recommending policies and procedures for administration and home health services provided by the agency. ~~Policies~~~~These policies~~ and procedures shall be in accordance with the scope of services offered by the agency and based on the home health needs of the patient and the area being served. Policies and procedures shall be reviewed annually or more frequently as needed to determine their adequacy and suitability. Recommendations for any improvements are made to the governing body. ~~Policies~~~~These policies~~ and procedures shall include, but are not limited to:
 - A) Administration and supervision of the home health agency and the home health services it provides;
 - B) Criteria for the acceptance, non-acceptance, and discharge of patients;
 - C) Home health services;
 - D) Medical supervision and plans of treatment;
 - E) Patient care plans;
 - F) Clinical records;
 - G) Personnel data;
 - H) Evaluation; and
 - I) Coordination of services.
 - 2) The group shall keep minutes of its meetings and meet as often as necessary to carry out its purposes.
- e) Agency Supervision – Home Health Agencies

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- 1) The governing body shall appoint a Home Health Administrator with the duties prescribed in Section 245.40.
- 2) The home health agency shall designate an agency supervisor with one of the following sets of qualifications to supervise the provision of home health services:
 - A) A registered nurse who:
 - i) Has completed a baccalaureate degree program approved by the National League for Nursing; and
 - ii) Has at least one year of nursing experience;
 - B) A registered nurse who does not have a baccalaureate degree, but who has at least three years of nursing experience that meets the following requirements:
 - i) At least two years of the nursing experience must have been in: a home health agency; a community health program that included care of the sick; or a generalized family-centered nursing program in a community health agency.
 - ii) At least two years of the three years of nursing experience must have been obtained within five years prior to current employment with the home health agency.
- 3) The agency supervisor shall be a full-time registered nurse who is available at all times during operating hours of the agency and who participates in all activities ~~related to providing relevant to the provision of~~ home health services. The agency supervisor shall designate a qualified staff member to act in his or her absence.
- 4) Any person employed as an agency supervisor prior to July 1, 1983, who does not meet the qualifications for agency supervisor that were in effect prior to October 1, 1983, may continue to serve in that capacity only at that agency.

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- 5) No one person may hold the positions of both home health agency administrator and agency supervisor.
 - 6) If the licensed home health agency also is licensed as a home nursing agency, the agency supervisor may supervise the provision of skilled nursing services in the home nursing agency only if there are equally qualified individuals available in each licensed component of the organization to act in his or her absence.
- f) Agency Supervisor Responsibilities – Home Health Agency
- 1) The entire clinical program shall be under the direction of the agency supervisor. The agency shall organize the personnel and clinical activities of the home health agency ~~so in such a way that the organization will facilitate the provision of~~ safe and adequate care will be provided to the patient.
 - 2) The skilled nursing service of a home health agency shall be under the direction of the agency supervisor.
 - 3) The agency supervisor shall be responsible for:
 - A) ~~Supervising~~The overall supervision of all registered nurses, licensed practical nurses, home health aides, therapists, social workers and other clinical personnel employed by the agency or with whom the agency contracts for services;
 - B) Assuring that all staff providing patient care maintain the professional standards of community nursing practice ~~are maintained by all staff providing patient care~~;
 - C) Maintaining and adhering to agency procedure and patient care policy manuals;
 - D) Participating in establishing~~Participation in the establishment of~~ service policies and procedures;

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- E) ~~Participating in selecting and evaluating~~Participation in the selection and evaluation of nursing personnel and ~~of~~ other staff providing patient care;
 - F) ~~Coordinating~~Coordination of patient care services;
 - G) Keeping and maintaining records of case assignments and case management;
 - H) ~~Preparing and maintaining~~Preparation and maintenance of the schedule of cases to be brought to the clinical record review committee; and
 - D) ~~Conducting~~The conduct of selective program evaluations to improve deficient services and developing and implementing~~the development and implementation of~~ plans of correction.
- g) Agency Manager – Home Services and Home Nursing Agencies
- 1) A home services agency shall designate a person to supervise the provision of services or to oversee the placement of workers through the licensed home services agency.
 - 2) If the home nursing agency has appointed an agency manager who is not a registered nurse or an advanced practice nurse, the home nursing agency shall identify a registered nurse or advanced practice nurse ~~who is responsible~~ to supervise the provision of skilled nursing services as required by Section 2.11 of the Act. The supervisor shall be a registered nurse who is available at all times during the operating hours of the agency and who participates in all activities related to the provision of home nursing services. If the agency has both a home health and a home nursing agency license, one person may fulfill this requirement, but he or she shall be full-time.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.40 Staffing and Staff Responsibilities

- a) Home Health Administrator/Agency Manager. The administrator ~~and~~ or agency

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manager shall have the following responsibilities:

- 1) Ensure that the agency is in compliance with all applicable federal, State and local laws~~;-~~
 - 2) Be familiar with the applicable rules of the Department and maintain them within the agency~~;-~~
 - 3) Familiarize all employees as well as providers through contractual purchase of services with the Act and the rules of the Department and make copies available for their use~~;-~~
 - 4) Ensure ~~that the completion, maintenance and submission of such~~ reports and records as required by the Department are completed, maintained and submitted~~;-~~
 - 5) Maintain ongoing liaison with the governing body, professional advisory group, staff members and the community~~;-~~
 - 6) Maintain a current organizational chart to show lines of authority down to the patient or client level~~;-~~
 - 7) Manage~~Have the authority for the management of the~~ business affairs and the overall operation of the agency~~;-~~
 - 8) Maintain appropriate personnel records, administrative records and all policies and procedures of the agency~~;-~~
 - 9) Employ qualified personnel in accordance with job descriptions~~;-~~
 - 10) Provide orientation of new staff, regularly scheduled in-service education programs and opportunities for continuing education for the staff; and~~;-~~
 - 11) Designate in writing the qualified staff member to act in the absence of the administrator.
- b) Home Health Aide
- 1) When home health aide services are offered, the services shall be under

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the supervision of a registered nurse in accordance with the plan of treatment. The ~~registered nurse shall assign the~~ home health aide ~~is assigned~~ to a particular patient ~~by a registered nurse~~. ~~The registered nurse or the appropriate therapist shall prepare written~~ Written instructions for patient care ~~are prepared by a registered nurse or the appropriate therapist~~.

- 2) Duties of the home health aide may include:
 - A) ~~Performing~~ The performance of simple procedures as an extension of therapeutic services;:-
 - B) Skilled personal care and personal ~~Personal~~ care, as defined in this Part;:-
 - C) Patient ambulation ~~Ambulation~~ and exercise; ~~of the patient~~.
 - D) Household services essential to health care at home;:-
 - E) Assisting ~~Assistance~~ with medications that are ordinarily self-administered;:-
 - F) Reporting changes in the patient's/client's condition and needs to the registered nurse or the appropriate therapist; and:-
 - G) Completing ~~Completion of~~ appropriate records.
 - 3) For home health agencies, the registered nurse or appropriate therapist shall make a supervisory visit to the patient's residence at least every two weeks either when the home health aide is present to observe and assist, or when the home health aide is absent. The purpose of the advisory visits is to assess relationships and determine whether goals are being met.
 - 4) For home nursing agencies, the registered nurse shall make a supervisory visit to the patient's/client's residence at least every 60 days when the home health aide is present to observe and assist, or when the home health aide is absent. The purpose of the advisory visits is to assess relationships and determine whether the goals of the treatment plan are being met.
- c) Home Services or In-Home Services Worker

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- 1) As defined in this Part and under the Act, *Home Services or in-home services means assistance with activities of daily living , housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. Home Services or in home services does not include services that would be required to be performed by an individual licensed under the Nurse Practice Act. (Section 2.09 of the Act) Home services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.*
- 2) Home services or in-home services workers ~~shall~~will provide services only in accordance with this Part~~the policies and requirements of the placement or employing agency, as well as the service arrangements spelled out in the contract.~~
- 3) Duties of home services or in-home services workers may include the following:
 - A) Observation of client functioning and reporting changes to his or her~~his/her~~ supervisor or employer or to a person designated by the client;
 - B) Assistance with household chores, including cooking and meal preparation, cleaning and laundry;
 - C) Assistance in completing activities such as shopping and appointments outside of the home;
 - D) Companionship;
 - E) Completion of appropriate records documenting service provision; and
 - F) Assistance with activities of daily living and personal care.

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- 4) To delineate the types of services that can be provided by a home services worker, the following are examples of acceptable tasks and also limitations when a more medical model of assistance would be needed to meet the higher needs of the client.
- A) **Skin Care.** A home services worker may perform general skin care assistance. Skin care may be performed by a home services worker only when skin is unbroken, and when any chronic skin problems are not active. The skin care provided by a home services worker must be preventative rather than therapeutic in nature, and may include the application of non-medicated lotions and solutions, or of lotions and solutions not requiring a physician's prescription. Skilled skin care must be provided by an agency licensed as a home health or home nursing services agency. Skilled skin care includes wound care, dressing changes, application of prescription medications, skilled observation and reporting.
- B) **Ambulation.** A home services worker may assist clients with ambulation. Clients in the process of being trained to use adaptive equipment for ambulation, such as walkers, canes or wheelchairs, require supervision by an agency licensed to provide home health or home nursing services during the period of ~~their~~ training. Once the prescribing individual or the health care provider responsible for ~~the~~ training ~~of~~ the client is comfortable with releasing the client to work on his or her own with the adaptive equipment, a home services worker may assist with ambulation.
- C) **Bathing.** A home services worker may assist clients with bathing. When a client has skilled skin care needs or skilled dressings that will need attention before, during, or after bathing, the client shall be in the care of an agency licensed as a home health agency or a home nursing agency to meet those specific needs. Home services workers may assist individuals who are unable to be bathed in a tub or shower only when the following requirements are met:
- i) The home services worker shall have been trained in the particular methods required to perform a bed bath;

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- ii) The client or client's representative shall be able to participate in or direct the bathing process and provide ongoing feedback to the home services worker; and
 - iii) The agency shall have conducted a competency evaluation of the home services worker's ability to employ the methods required to perform a bed bath.
- D) Dressing. A home services worker may assist a client with dressing. This may include assistance with ordinary clothing and application of support stockings of the type that can be purchased without a physician's prescription. A home services worker may not assist with ~~applying application of~~ an ~~elastic Ace~~ bandage that can be purchased only with a physician's prescription (the application of which involves wrapping a part of the client's body) or with ~~applying application of~~ a sequential compression device that can be purchased only with a physician's prescription.
- E) Exercise. A home services worker may assist a client with exercise. Passive assistance with exercise that can be performed by a home services worker is limited to ~~encouraging the encouragement of~~ normal bodily movement, as tolerated, on the part of the client, and to encouragement with a prescribed exercise program. ~~A home services worker shall not perform~~ Passive Range of Motion ~~may not be performed by a home services worker.~~
- F) Feeding. A home services worker may provide assistance with feeding. Home services workers can assist clients with feeding when the client can independently swallow and be positioned upright. Assistance by a home services worker does not include syringe, tube feedings, and intravenous nutrition. Whenever there is a high risk that the client may choke as a result of the feeding, the client shall be in the care of an agency licensed as a home health or home nursing agency to fulfill this function.
- G) Hair Care. As a part of the broader set of services provided to clients who are receiving home services, home services workers may assist clients with the maintenance and appearance of their

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hair. Hair care within these limitations may include shampooing with non-medicated shampoo or shampoo that does not require a physician's prescription, drying, combing and styling hair.

- H) Mouth Care. A home services worker may assist in and perform mouth care. This may include denture care and basic oral hygiene, including oral suctioning for mouth care. Mouth care for clients who are unconscious shall be performed by an agency licensed as a home health agency or home nursing agency.
- I) Nail Care. A home services worker may assist with nail care. This assistance may include soaking of nails, pushing back cuticles without utensils, and filing ~~of~~ nails. Assistance by a home services worker ~~shall~~ may not include nail trimming. Clients with a medical condition that might involve peripheral circulatory problems or loss of sensation shall be under the care of an agency licensed as a home health agency or home nursing agency to meet this need.
- J) Positioning. A home services worker may assist a client with positioning when the client is able to identify to the personal care staff, either verbally, non-verbally or through others, when the position needs to be changed, only when skilled skin care, as previously described, is not required in conjunction with the positioning. Positioning may include simple alignment in a bed, wheelchair, or other furniture.
- K) Shaving. A home services worker may assist a client with shaving only with an electric or a safety razor.
- L) Toileting. A home services worker may assist a client to and from the bathroom; provide assistance with bed pans, urinals, and commodes; provide pericare; or change clothing and pads of any kind used for the care of incontinence.
 - i) A home services worker may empty or change external urine collection devices, such as catheter bags or suprapubic catheter bags. In all cases, the insertion and removal of catheters and care of external catheters is

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considered skilled care and shall not be performed by a home services worker.

- ii) A home services worker may empty ostomy bags and provide assistance with other client-directed ostomy care only when there is no need for skilled skin care or for observation or reporting to a nurse. A home services worker shall not perform digital stimulation, insert suppositories, or give an enema.
- M) Transfers. A home services worker may assist with transfers only when the client has sufficient balance and strength to reliably stand and pivot and assist with the transfer to some extent. Adaptive and safety equipment may be used in transfers, provided that the client is fully trained in the use of the equipment and can direct the transfer step by step. Adaptive equipment may include, but is not limited to, ~~wheelchairs~~wheel-chairs, tub seats, and grab bars. Gait belts may be used as a safety device for the home services worker as long as the worker has been properly trained in their use. ~~At~~ ~~general,~~ a home services worker ~~shall~~may not assist with transfers when the client is unable to assist with the transfer. Home services workers may assist clients in the use of a mechanical or electrical transfer device only when the following conditions are met:
- i) The home services worker must have been trained in the use of the mechanical or electrical transfer device by the licensed agency;
 - ii) The client or client representative must be able to direct the transfer step by step; and
 - iii) The agency must have conducted a competency evaluation of the worker using the type of device that is available in the home.
- N) Medication Reminding. A home services worker may assist a client with medication reminding only when medications have been pre-selected by the client, a family member, a nurse, or a pharmacist and are stored in containers other than the prescription

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bottles, such as medication minders. Medication minder containers shall be clearly marked as to day and time of dosage. Medication reminding includes: inquiries as to whether medications were taken; verbal prompting to take medications; handing the appropriately marked medication minder container to the client; and opening the appropriately marked medication minder container for the client if the client is physically unable to open the container. These limitations apply to all prescription and all over-the-counter medications. The home services worker shall immediately report to the supervisor, or, in the case of a placement worker, to the client or the client's advocate or designee, any irregularities noted in the pre-selected medications, such as medications taken too often or not often enough, or not at the correct time as identified in the written instructions.

- O) A home services worker shall not provide respiratory care. Respiratory care is skilled and includes postural drainage; cupping; adjusting oxygen flow within established parameters; nasal, endotracheal and tracheal suctioning; and turning off or changing tanks. However, home services workers may temporarily remove and replace a cannula or mask from the client's face for the purposes of shaving or washing a client's face and may provide oral suctioning.
- 5) In addition to the exclusions prescribed in subsection (c)(4), home services workers shall not act in the following capacities:
- A) Provide skilled personal care services as defined in Section 245.20;
 - B) Become or act as a ~~power of attorney~~Power of Attorney;
 - C) Be involved in any financial transactions of the client outside of contracted services. In ~~thesesuch~~ cases, the home services worker shall follow agency policies in regard to securing receipts for items purchased and ensuring both client and worker signatures documenting those expenditures;
 - D) Perform or provide medication setup for a client; and

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- E) Other actions specifically prohibited by agency policy or other State laws.
- 6) Supervision of a home services worker shall include the following (these provisions do not apply to placement agencies):
- A) An individual who is in a supervisory capacity shall be designated and available to the worker for responses to questions at all times.
- B) On-site supervision shall take place at a minimum of every 90 days or more often if the plan of service requires it. The supervisory visits may be made when the home services worker is present so that the supervisor may observe, or when the home services worker is absent so that the supervisor may assess relationships and determine whether the service plan is being met.
- C) Supervision does not constitute time or an activity that can be billed as a service to the client/consumer.
- d) Licensed Practical Nurse
- 1) The licensed practical nurse may perform selected acts in accordance with the Nurse Practice Act and under the direction of a registered nurse, including administering the administration of treatments and medications in the care of the ill, injured, or infirm; ~~the maintenance of health maintenance;~~ and prevention of illness prevention, ~~under the direction of a registered nurse~~.
- 2) The licensed practical nurse shall report changes in the patient's condition to the registered nurse, and these reports shall be documented in the clinical notes.
- 3) The licensed practical nurse shall prepare clinical notes for the clinical record.
- e) Medical Social Worker. When medical social services are provided, ~~the medical social services shall be given by a~~ social worker or ~~by a~~ social work assistant under the supervision of a social worker shall provide the services in accordance with the plan of treatment. These services shall include the following:

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- 1) Assist the physician or podiatrist and other members of the health team in understanding significant social and emotional factors related to the patient's health problems.
- 2) Assess the social and emotional factors ~~in order~~ to estimate the patient's capacity and potential to cope with the problems of daily living.
- 3) Help the patient and family to understand, accept, and follow medical recommendations and provide services planned to restore the patient to the optimum social and health adjustment within the patient's capacity.
- 4) Assist the patient and family with personal and environmental difficulties that predispose toward illness or interfere with obtaining maximum benefits from medical care.
- 5) ~~Use~~Utilize all available resources, such as family and community agencies, to assist the patient to resume life in the community or to live within the disability.
- 6) Observe, record and report social and emotional changes.
- 7) Prepare clinical and progress notes for the clinical record.
- 8) ~~Supervise~~Supervision of the social work assistant, which shall include the following:
 - A) A licensed social worker ~~shall~~must be accessible by telephone to the social work assistant at all times while the social work assistant is treating patients.
 - B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the social work assistant is present so that the supervisor may observe and assist, or when the social work assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
 - C) Supervision does not constitute treatment.

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- D) The supervisory visit shall include a complete on-site assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the ~~use~~utilization of outside resources.
- f) Occupational Therapist and Occupational Therapy Assistant. When occupational therapy services are required, ~~occupational therapy services shall be provided by~~ an occupational therapist or ~~by~~ an occupational therapy assistant under the supervision of an occupational therapist shall provide the services in accordance with the plan of treatment and within the licensee's scope of practice as established by the Illinois Occupational Therapy Practice Act. These services shall include the following:
- ~~1)~~ Assist the physician or podiatrist in evaluating the patient's level of function by applying diagnostic and prognostic procedures.
 - ~~2)~~ Guide the patient in the use of therapeutic creative and self-care activities for the purpose of improving function.
 - ~~3)~~ Observe, record and report to the physician or podiatrist the patient's reaction to treatment and any changes in the patient's condition.
 - ~~1)4)~~ Instruct other health team personnel, including, when appropriate, home health aides and family members in certain phases of occupational therapy in which they may work with the patient.
 - ~~2)5)~~ Prepare clinical and progress notes for the clinical record.
 - ~~3)6)~~ Supervise~~Supervision of~~ the occupational therapy assistant, which shall include the following:
 - A) A licensed occupational therapist shall be accessible by telephone to the occupational therapy assistant at all times while the occupational therapy assistant is treating patients.
 - B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the occupational therapy assistant is present so that the supervisor may observe and assist, or when the occupational therapy assistant is absent so that

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the supervisor may assess relationships and determine whether goals are being met.

- C) Supervision does not constitute treatment.
 - D) The supervisory visit shall include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the useutilization of outside resources.
- g) Physical Therapist and Physical Therapist Assistant
- 1) When physical therapy services are provided, ~~physical therapy services shall be given by~~ a physical therapist or ~~by~~ a physical therapist assistant under the supervision of a physical therapist shall provide the services in accordance with the plan of treatment and within the licensee's scope of practice as established by the Illinois Physical Therapy Act. These services shall include the following:
 - A) ~~Review and evaluate physician's or podiatrist's referral and patient's medical record to determine physical therapy required.~~
 - B) ~~Plan and prepare a written treatment program based on the evaluation of available patient data.~~
 - C) ~~Perform patient tests, measurements, and evaluations, such as range of motion and manual muscle tests, gait and functional analyses, and body parts measurements, and record and evaluate findings to aid in establishing or revising specifics of treatment programs.~~
 - D) ~~Plan and administer prescribed physical therapy treatment programs for patients to restore function, relieve pain, and prevent disability following disease, injury or loss of body part.~~
 - E) ~~Administer manual therapeutic exercises to improve or maintain muscle function, applying precise amounts of manual force and guiding patient's body parts through selective patterns and degrees of movement. Instruct, motivate and assist patient in non manual~~

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~~exercises, such as active regimens, isometric and progressive resistive, and in functional activities using available equipment and assistive and supportive devices, such as crutches, walkers, canes, orthoses and prostheses. Administer treatment involving application of physical agents, such as heat, light, cold, water and electricity. Administer traction and massage. Evaluate, fit and adjust prosthetic and orthotic devices and recommend modifications to the orthotist/prosthetist.~~

~~F) Observe, record, and report to the physician or podiatrist the patient's treatment, response and progress.~~

~~A)G) Instruct other health team personnel, including, when appropriate, home health aides and family members, in certain phases of physical therapy with which they may work with the patient.~~

~~B)H) Instruct the patient and family in the total physical therapy program.~~

~~C)I) Prepare clinical and progress notes for the clinical record.~~

2) Supervision of the physical therapist assistant shall include the following:

A) A licensed physical therapist shall be accessible by telephone to the physical therapist assistant at all times while the physical therapist assistant is treating patients.

B) On-site supervision shall take place every four to six visits. The supervisory visits may be made either when the physical therapist assistant is present so that the supervisor may observe and assist, or when the physical therapist assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.

C) Supervision does not constitute treatment.

D) The supervisory visit shall include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of

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outside resources.

- 3) The physical therapist assistant shall:
- A) Be directed by and under the supervision of a licensed physical therapist and within the licensee's scope of practice as established by the Illinois Physical Therapy Act;
 - B) Administer the physical therapy program as established by the physical therapist;
 - ~~C) Administer non-complex active and passive manual therapeutic exercises, therapeutic massage, traction, heat, light, cold, water and electrical modalities to patients with relatively stable conditions.~~
 - ~~D) Instruct, motivate and assist patients in learning and improving functional activities such as perambulation, transfers, ambulation and activities of daily living.~~
 - ~~C)E) Observe patient's progress and response to treatment, and report to the physical therapist; and~~
 - ~~D)F) Confer with members of the health care team for planning, modifying and coordinating treatment programs.~~
- h) Registered Nurse (RN). The registered nurse may perform selected acts in accordance with the Nurse Practice Act. Skilled nursing services shall be provided by a registered nurse in accordance with the plan of treatment. The registered nurse shall~~These services shall include the following:~~
- 1) Be responsible for the observation, assessment, nursing diagnosis, counsel, care and health teaching ~~for of the ill, injured or infirm patients;~~ and health~~the~~ maintenance ~~of health~~ and illness prevention ~~for of illness of~~ others;
 - 2) Maintain a clinical record for each patient receiving care;
 - 3) Provide progress notes to the patient's physician or podiatrist about patients under care when the patient's conditions change or there are

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deviations from the plan of care, or at least every 60 days for a home health agency and every 90 days for a home nursing agency;~~;~~

- 4) In the case of an RN working as a part of a home health or home nursing agency, make home health aide assignments, prepare written instructions for the aide, and supervise the aide in the home;~~;~~
 - 5) Direct the activities of the licensed practical nurse;~~;~~
 - 6) Administer medications and treatments as prescribed by the patient's physician or podiatrist; ~~and-~~
 - 7) Act as the coordinator of the health care team in order to maintain the proper linkages within a continuum of care.
- i) **Speech-Language Pathologist.** The speech-language pathologist may perform selected acts in accordance with the Illinois Speech-Language Pathology and Audiology Practice Act. When required, speech therapy services shall be provided by a speech-language pathologist in accordance with the plan of treatment. The speech-language pathologist shall~~These services shall include the following:~~
- 1) Assist the physician in determining and recommending appropriate speech and hearing services;~~;~~
 - 2) Evaluate the patient's speech and language abilities and establish a plan of ~~care;~~treatment.
 - 3) Provide rehabilitation services for speech and language disorders;~~;~~
 - 4) Record and report to the patient's physician the patient's progress in treatment and any changes in the patient's condition and plan of care;~~;~~
 - 5) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills; ~~and-~~
 - 6) Prepare clinical and progress notes for the clinical record.
- j) **Audiologist.** The audiologist may perform selected acts in accordance with the Illinois Speech-Language Pathology and Audiology Practice Act. When

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~~audiology services are~~ required, ~~audiology services shall be provided by an~~ audiologist shall provide the services in accordance with the plan of treatment. ~~The audiologist shall~~ These services shall include the following:

- 1) Administer diagnostic hearing tests to evaluate the patient's audiological abilities;
 - 2) Assess the patient's need for amplification;
 - 3) Provide rehabilitative services for hearing disorders;
 - 4) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills; and;
 - 5) Record and report to the patient's physician the patient's response to rehabilitative intervention.
- k) Student Training Program. When an agency elects to participate with an educational institution to provide clinical experience for students as part of their health-related professional training, a written agreement between the agency and each educational institution shall specify the responsibilities of the agency and the educational institution. The agreement shall include, at a minimum, the following provisions:
- 1) The agency retains the responsibility for client care;
 - 2) The educational institution retains the responsibility for student education;
 - 3) Student and faculty performance expectations;
 - 4) Faculty supervision of undergraduate students in the clinic and the field;
 - 5) Ratio of faculty to students;
 - 6) Confidentiality regarding patient information;
 - 7) Required insurance coverage; and
 - 8) Provisions for the agency and faculty to jointly evaluate the students'

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performance and the training program.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.71 Qualifications and Requirements for Home Services Workers

- a) Each agency shall ensure and shall maintain documentation in the home services worker's employee file that all persons employed or providing services as an in-home services worker, and who are not otherwise licensed, certified or registered in accordance with Illinois law to render this care, comply with the following conditions:
- 1) Does not have a disqualifying background check under the requirements of the Health Care Worker Background Check Act without a waiver;
 - 2) Has a copy of his or her Social Security card; and
 - 3) Has a visa or proof of citizenship in compliance with federal requirements for employment.
- b) Each placement agency shall require proof that the home service worker has completed a minimum of eight hours of training prior to his or her first assignment. The training shall include all of the items noted in subsection (d) ~~of this Section.~~
- c) Each home services agency shall provide or arrange for a minimum of eight hours of training for each home services worker. Four hours of training shall be provided prior to the home services worker's first assignment, and the remaining four hours shall be provided within the worker's first 30 days after employment. The training shall include the components of subsections (d)(1) through ~~(12) of this Section.~~ The home services agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days) in lieu of providing or arranging for training, including a home health aide who is approved on the Health Care Worker Registry. The agency shall give the home health aide a competency evaluation prior to his or her first assignment. The home services agency shall not give ~~an~~ worker an assignment until the worker has first passed a competency evaluation given by the agency of the topics included in the first four hours of training. The competency evaluation shall ensure that the home services

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worker is competent to provide the services required in his or her first assignment. The ~~worker~~~~workers~~ shall be similarly tested following the remaining four hours of training.

- d) The placement agency may accept proof that the worker has successfully completed a training program at or through another licensed home services agency within the prior year (previous 365 days). The home services placement agency shall not give ~~an~~ worker an assignment until the worker has first passed a competency evaluation given by the agency. The competency evaluation shall ~~ensure~~~~insure~~ that the home services worker is competent to provide the services required in his or her assignment. The competency evaluation or proof of prior training at a licensed home services agency within the prior year shall address each of the following subjects:
- 1) The employee's job responsibilities and limitations;
 - 2) Communication skills in areas such as with persons who are hard of hearing, have dementia, or have other special needs;
 - 3) ~~Observing~~~~Observation~~, reporting and ~~documenting~~~~documentation of~~ client status and the service furnished, including changes in functional ability and mental status demonstrated by the client;
 - 4) ~~Performing~~~~Performance of~~ personal care tasks for clients, including: bathing; skin care; hair care; nail care; mouth care; shaving; dressing; feeding; assistance with ambulation; exercise and transfers; positioning; toileting; and medication reminding;
 - 5) ~~Assisting~~~~Performance of ability to assist~~ in the use of specific adaptive equipment, such as a mechanical lifting device, if the worker will be working with clients who use the device;
 - 6) Basic hygiene and basic infection control practices;
 - 7) ~~Maintaining~~~~Maintenance of~~ a clean, safe and healthy environment;
 - 8) Basic personal and environmental safety precautions;

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- 9) Recognizing emergencies and knowledge of emergency procedures, including basic first aid and implementation of a client's emergency preparedness plan;
 - 10) Confidentiality of ~~client's~~ personal, financial and health information;
 - 11) Behaviors that would constitute abuse or neglect and the legal prohibitions against ~~these such~~ behaviors, as well as knowledge and understanding of abuse and neglect prevention and reporting requirements; and
 - 12) Any other task that the agency may choose to have the worker perform.
- e) All home services workers shall complete a minimum of eight hours of training during each year of employment to maintain placement availability, based on either a calendar year or an anniversary date basis, whichever is selected by the agency. The initial eight hours of training required in subsection (c) ~~of this Section~~ shall satisfy the annual training requirement for the home services worker's first year of employment. The annual training can include self-study courses with demonstration of learned concepts that are applicable to the employee's responsibilities. Training shall include:
- 1) Promoting client dignity, independence, self-determination, privacy, choice and rights;
 - 2) Disaster procedures;
 - 3) Hygiene and infection control; and
 - 4) Abuse and neglect prevention and reporting requirements.
- f) All training shall be documented with the date of the training; the length of time spent on each training topic starting and ending times; instructors and their qualifications; short description of content; and staff member's signature.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.75 Infection Control

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- a) Each agency shall develop and implement policies and procedures for investigating, controlling and preventing infections. Placement agencies shall provide to in-home services workers the Centers for Disease Control and Prevention publication "Guidelines for Hand Hygiene in Health-Care Settings".
- b) Each agency shall adhere, at a minimum and as appropriate, to the guidelines of the ~~Center for Infectious Diseases~~, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, as incorporated in Section 245.25**(b)**.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

SUBPART C: LICENSURE PROCEDURES

Section 245.80 Licensure Required

- a) *No person shall open, manage, conduct or maintain a home health agency without a license issued by the Department. (Section 3 of the Act)*
- b) *On and after September 1, 2008, no person shall open, manage, conduct, or maintain a home services agency, or advertise himself or herself as a home services agency or as offering services that would be included in the definition of home services or a home services agency, without a license issued by the Department. (Section 3.3 of the Act)*
- c) *On and after September 1, 2008, no person shall open, manage, conduct, or maintain a home nursing agency, or advertise himself or herself as a home nursing agency or as offering services that would be included in the definition of a home nursing agency, without a license issued by the Department. (Section 3.7 of the Act)*
- d) License Nontransferable
 - 1) Each license shall be issued only for the specific agency named in the application and shall not be transferred or assigned to any other person, agency or corporation.
 - 2) Sale, assignment, lease or other transfer, voluntary or involuntary, shall require relicensure by the new owner prior to maintaining, operating or

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conducting an agency.

- 3) In the case of agencies operating under a franchise arrangement, each unique business entity shall obtain and maintain a distinct license and shall not share licensure based on franchised name status.
- 4) A licensee shall notify the Department in writing at least 30 days in advance of any intention to:
 - A) Change ownership; or
 - B) Sell its agency.
- 5) A change of ownership happens when one of the following transactions occurs:
 - A) In an unincorporated sole proprietorship, when the property is transferred to another party;
 - B) A material change in a partnership that is caused by the removal, addition or substitution of a partner;
 - C) In a corporation, when the provider corporation merges into another corporation, or the consolidation of two or more corporations, one of which is the licensee, resulting in the creation of a new corporation;
 - D) The transfer of any corporation stock that results in a change of the person or persons who control the agency; or
 - E) The transfer of any stock in excess of 75 percent of the outstanding stock.
- 6) Pursuant to subsection (d)(5)(C), the transfer of corporate stock or the merger of another corporation into the licensee corporation does not constitute a change of ownership if the licensee corporation remains in existence. In these transactions, the name of the corporation, its officers, its independent subsidiaries, and any other relevant information that the

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Department may require shall be made available to the Department upon request.

- 7) If a sale of an agency causes a change in the person or persons who control or operate the agency, the agency is considered a new agency, and the licensee shall apply for a new license and shall comply with this Part and any other applicable State and federal rules.
 - 8) Whenever ownership of an agency is sold from the person or organization named on the license to another person or organization, the new owner shall apply for a new license. The new owner shall file an application for license on the renewal/change of ownership application at least 30 days prior to the sale.
 - 9) The Department shall issue a new license to a new owner who meets the requirements for licensure under this Part. The transactions described in this Section shall not be complete until the Department issues a new license to the new person, legal entity or partnership. The former licensee shall return its license to the Department by certified mail.
- e) Each license shall be for a term of one year and shall expire one year from the date of issuance. However, initial licenses shall expire one year from the end of the month in which the initial license was issued.
- f) Out-of-State Agencies. A license is required for any agency providing care in Illinois, or functioning in a capacity of matching workers with clients or consumers for home nursing or home service care, including internet matching services where the parent agency is domiciled in a state other than Illinois. In ~~thesesuch~~ cases, the following conditions shall be met:
- 1) The licensee shall be registered to do business in Illinois under the Business Corporation Act of ~~1983~~~~1938~~ ~~[805 ILCS 5]~~ or otherwise authorized to do business in Illinois.
 - 2) The licensee shall have an office in Illinois.
 - 3) All professional care supervisory and staff personnel caring for patients or clients residing in Illinois shall be subject to any licensure, certification or registration that is required to perform the respective service in Illinois,

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and shall be so licensed, certified or registered.

- g) The licensee shall notify the Department in writing not less than 30 days prior to closing the agency.
- h) *Any agency conducted by and for the adherents of any well recognized church or religious denomination for the purpose of providing services for the care or treatment of the sick who depend upon prayer or spiritual means for healing in the practice of the religion of such church or religious denomination is not subject to licensure. (Section 13 of the Act)*
- i) Subunits. A separate license for the operation of a home health agency is required for each home health agency subunit. A separate license application and fee shall be submitted for each home health agency subunit.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.90 License Application

- a) Initial Application – All Agencies
 - 1) Any person who desires to obtain a license to operate a home health, home nursing, home services, home nursing placement, or home service placement agency shall file a licensure application with the Department. Any person in interest, different from the licensee, who desires to conduct, maintain, or operate a home health, home nursing, home services, home nursing placement or home services placement agency shall also file an application for licensure with the Department.
 - 2) The application shall be accompanied by a Certificate of Insurance documenting minimum liability coverage of \$1 million per occurrence and \$3 million in the aggregate.
 - 3) Each initial application for licensure shall be on forms provided by the Department, and shall contain, at a minimum, the following information:
 - A) *Name, address, and location of the agency;*
 - B) *Ownership, organization and governing structure of the agency;*

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- C) A description of the services to be provided;
 - D) A list of the staff of the agency or a list of placement agency registry, including any applicable licensure, registration, or certification and any other *qualifications of the staff* of the agency;
 - E) *Sources of financing of services* and any other sources of income of the agency;
 - F) A description or map of the geographic *service area* in which services are provided by the agency;
 - G) *Charges for services* by types of services provided by the agency; and
 - H) For home health agencies, copies of any *affiliation agreements with other health care providers*. (Section 5(a) of the Act)
- b) Renewal Application – All Agencies
- 1) Each licensee shall file a renewal application with the Department not less than 60 days, ~~or more~~ more than 90 days, prior to the expiration date of the licensee's current license.
 - 2) Each renewal application shall be on forms provided by the Department and shall contain the information specified in subsection (a)(3) ~~of this Section~~.
- c) Renewal Application – Home Health Agencies
- Applications for renewal of home health agency licenses shall additionally contain the following information:
- 1) *Patient load* data for the preceding year, including the number of patients discharged, the total number of patients who received services, the number of patients over 65 years of age who received services, and the number of patients being served at the end of the year; and
 - 2) *Agency utilization* data, including the number of patients receiving specific

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types of services and the number of visits by types of services provided.
(Section 5(a) of the Act)

- d) Renewal Application – Home Services, Home Nursing, Home Services Placement and Home Nursing Placement Agencies
Applications for renewal shall additionally contain the following information:
- 1) Client load data for home services and home nursing for the preceding year, including the number of clients admitted, the number of clients discharged, the number of patients over 65 years of age who received services, and the number of clients being served at the end of the year, with the exception of those clients being served through the Community Care Program of the Illinois Department on Aging, the Department of Human Services Office of Rehabilitation Services, or the United States Department of Veterans Affairs; and
 - 2) Client data for Home Services Placement and Home Nursing Placement for the preceding year, including the number of placements, the number of placements for clients 65 or older, and the number of clients in process on the last day of the most recent fiscal period.
- e) A home health agency shall be in operation and be able to demonstrate client activity prior to the second renewal of the agency's license to verify compliance for a renewal of the agency's license. A home services, home nursing, home services placement and home nursing placement agency shall be in operation and be able to demonstrate client activity prior to the second renewal of the agency's license to verify compliance for a renewal of the agency's license.
- ~~f)~~ *An entity that meets the requirements for licensure under the Act and this Part may obtain licensure singly or in any combination for the categories authorized under the Act and this Part. (Section 4(d) of the Act)*
- ~~g)~~e) *One application for licensure shall be used even if a combination of licenses authorized under the Act and this Part is sought. Applicants for multiple licenses shall pay the higher of the licensure fees applicable. (Section 4(d) of the Act) The non-refundable licensure fee under the multiple category shall not exceed \$1500 annually.*
- ~~h)~~f) The Department will review each application. The Department will approve the

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application and issue an initial or renewal license to the applicant for operation of an agency when it finds that the applicant meets all of the *requirements of the Act and the standards established by the Department* in this Part. The Department may also issue a provisional license, as provided in Section 4 of the Act and Section 245.100 ~~of this Part~~, or deny an application, as provided in Sections 8 and 9 of the Act and Section 245.130 ~~of this Part~~. (Section 4(c) of the Act)

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.95 License Application Fee, Single or Multiple Licenses

- a) *Applicants for multiple licenses under the licensure~~his~~ system set forth in this Part shall pay the higher of the licensure fees applicable.* (Section 4(d) of the Act)
- b) A home nursing agency or a home ~~services~~service agency shall pay a licensure fee not to exceed \$1500 annually. The fee is not refundable.
- c) A home nursing placement agency or home services placement agency shall pay a licensure fee not to exceed \$500 annually. The fee is not refundable.
- d) ~~Home Health Agencies.~~ For a single home health agency license only, each initial and renewal application shall be accompanied by a *license fee of \$25*. (Section 4(c) of the Act) The fee is not refundable.
- e) An applicant for dual licenses as a home services agency and a home services placement agency, or a home nursing agency and a home nursing placement agency, shall operate each licensed agency as a separate entity to meet the requirements of the Act and this Part as an employer of workers and as a placement agency that places individuals.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

SUBPART D: CLIENT/PATIENT SERVICES

Section 245.200 Services – Home Health

- a) Each home health agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The agency staff

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shall directly provide basic skilled nursing service. The agency staff may provide other home health services directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by ~~the~~ physician or podiatrist, and under the supervision of agency staff.

- b) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.
- c) Services provided under contractual arrangements shall be through a written agreement that includes, but is not limited to, the following:
 - 1) A detailed description of the services ~~Services~~ to be provided;
 - 2) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies;
 - 3) Designation of full responsibility for agency control over contracted services;
 - 4) Procedures for submitting clinical and progress notes;
 - 5) Charges for contracted services;
 - 6) Statement of responsibility of liability and insurance coverage;
 - 7) Period of time in effect;
 - 8) Date and signatures of appropriate authorities; and
 - 9) Provision for termination of services.
- d) Acceptance of Patients. Patient acceptance and discharge policies shall include, but not be limited to, the following:

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- 1) Persons shall be accepted for health services on a part-time or intermittent basis in accordance with a plan of treatment established by the patient's physician or podiatrist. This plan shall be promulgated in writing within 14 days after acceptance and signed by the physician within 30 days after the start of the care date.
 - 2) Prior to acceptance of a patient, the agency shall inform the person of the agency's charges for the various services that it offers.
 - 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of services.
 - 4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing and social needs can be met adequately by the agency in the patient's place of residence.
 - 5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When any continuing care is indicated, a plan shall be developed or a referral made ~~for any continuing care~~.
 - 6) Services shall not be terminated until ~~such time as~~ the registered nurse, or the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, consider termination ~~deem it~~ appropriate or arrangements are made for continuing care.
- e) Plan of Treatment
- Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and an assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient, and members of the patient's family. The plan of treatment shall include:
- 1) Diagnoses;
 - 2) Functional limitations and rehabilitation potential;

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- 3) Expected outcomes for the patient;
 - 4) The patient's physician's or podiatrist's regimen of:
 - A) Medications;
 - B) Treatments;
 - C) Activity;
 - D) Diet;
 - E) Specific procedures ~~considered~~deemed essential for the health and safety of the patient;
 - F) Mental status;
 - G) Frequency of visits;
 - H) Equipment required;
 - I) Instructions for timely discharge or referral; and
 - J) Assessed need for influenza and pneumococcal vaccination;
 - 5) The patient's physician's or podiatrist's signature and date.
- f) Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 30 days after any modification of the medical plan of treatment.
- 1) The home health services team shall review the plan every 62 days, or more often if the patient's condition warrants.
 - 2) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every 62 days, or more often as indicated.

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g) Patient Care Plan

- 1) Home health services from members of the agency staff, as well as those under contractual arrangements, shall be provided in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. ~~A registered nurse shall make the~~The initial assessment ~~is to be made by a registered nurse~~. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse. ~~If in those circumstances in which~~ the patient's physician has ordered only therapy services, the appropriate therapist (physical therapist, speech-language pathologist or occupational therapist) may perform the initial assessment.
- 2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:
 - A) Patient problems;
 - B) Patient's goals, family's goals, and service goals;
 - C) Service approaches to modify or eliminate problems;
 - D) The staff responsible for each element of service;
 - E) Anticipated outcome of ~~the~~ service approach with an estimated time frame for completion; and
 - F) Potential for discharge from service.

h) Clinical Records

- 1) Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:

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- A) Appropriate identifying information for the patient, household members and caretakers, medical history, and current findings;
- B) A plan of treatment signed by the patient's physician or podiatrist;
- C) A patient care plan developed by the home health services team in accordance with the patient's physician's or podiatrist's plan of treatment;
- D) A noted medication list with dates reviewed and revised and date sent to the patient's physician or podiatrist;
- E) Initial and periodic patient assessments by the registered nurse that include documentation of the patient's functional status and eligibility for service;
- F) Assessments made by other members of the home health services team;
- G) Signed and dated clinical notes for each contact that are written the day of service and incorporated into the patient's clinical record at least weekly;
- H) Reports on all patient home health care conferences;
- I) Reports of contacts with the patient's physician or podiatrist by patient and staff;
- J) Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team;
- K) Written summary reports sent to the patient's physician or podiatrist every 62 days, containing home health services provided, the patient's status, recommendations for revision of the plan of treatment, and the need for continuation or termination of services;

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- L) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders;~~:-~~
- M) A discharge summary giving a brief review of service, patient status, reason for discharge, and plans for post-discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits and short-term or event-focused or diagnoses-focused interventions. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician; and-
- N) A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.
- 2) For record keeping, the agency may utilize hard copies or an electronic format. Each agency shall have ~~a~~ written policies and procedures for records maintenance ~~policy on records procedures~~ and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will use and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies shall be maintained on non-thermal paper and that the original records shall be maintained for a period of five years by the professional who originated the records. If the professional is providing services through a contract with the agency, then the contract shall include that the professional shall maintain the original records for a period of five years.
- 3) Agencies~~Those agencies~~ that are subject to the Local Records Act should note that, *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act)
- 4) Each agency shall have a written policy and procedure for protecting the ~~protection of~~ confidentiality of patient records that explains the use of records, removal of records and release of information.

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- 5) Agencies that maintain client records by computer rather than hard copy may use electronic signatures. The agency shall develop policies and procedures governing these entries and the appropriate authentication and dating of electronic records. Authentication may include signatures, written initials, or computer-secure entry by a unique identifier or primary author who has received and approved the entry. The agency shall enact safeguards to prevent unauthorized access to the records and shall draft a process for reconstruction of the records if the system fails or breaks down.
- i) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals that shall include, but not be limited to, the following:
- 1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.
 - 2) Drugs and treatments ~~shall be~~ administered by agency staff only as ordered by the physician, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a physician, and after an assessment of the patient.
 - 3) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection, and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.
 - 4) The agency's physician or podiatrist or registered nurse shall check all medicines that a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications, and shall promptly report any problem to the patient's physician or podiatrist.
 - 5) All verbal orders for medication or change in medication orders shall be taken by the ~~registered~~ nurse, written, and signed by the patient's physician or podiatrist within 30 days after the verbal order.

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- 6) When any experimental drug, sera, allergenic desensitizing agent, penicillin or other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary ~~if in the event of~~ a drug reaction occurs.
- j) Evaluation. The home health agency shall have written policies for evaluation and shall make an overall evaluation of the agency's total program at least once a year. This evaluation shall be made by the Professional Advisory Group (or a committee of this group), home health agency staff, consumers, or representation from professional disciplines that are participating in the provision of home health services. The evaluation shall consist of an overall policy and administrative review and a clinical record review. The evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported and acted upon by those responsible for the operation of the agency and maintained separately as administrative records.
- k) Policy and Administrative Review. As a part of the evaluation process, the policies and administrative practices of the agency shall be reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective and efficient. Mechanisms shall be established in writing for the collection of pertinent data to assist in evaluation. The data to be considered may include, but are not limited to: number of patients receiving each service offered; number of patient visits; reasons for discharge; breakdown by diagnosis; sources of referral; number of patients not accepted, with reasons; and total staff days for each service offered.
- l) Clinical Record Review
- 1) At least quarterly, members of professional disciplines representing at least the scope of the agency's programs shall review a sample of both active and closed clinical records to assure that established policies are followed in providing services (direct, as well as those under contractual arrangement). This review shall include, but not be limited to, whether the:
- A) Patient care plan was directly related to the stated diagnosis and plan of treatment;

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- B) Frequency of visits was consistent with the plan of treatment; and
 - C) Services could have been provided in a shorter span of time.
- 2) Clinical records shall be reviewed continually for each 62-day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.205 Services – Home Nursing Agencies

- a) Each home nursing agency shall provide skilled nursing services and may provide home health aide services under the supervision of the registered nurse. Home nursing services may be provided directly by agency staff or through a contractual purchase of services. All services shall be provided:
 - 1) ~~In~~ accordance with the client's physician or podiatrist, or under a plan of treatment established by the physician, podiatrist or prescribing health care professional; and
 - 2) ~~Under~~ the supervision of agency staff, by a health care professional. If the agency manager is the designated nursing supervisor, the agency shall also have another nurse on staff to provide the direct skilled nursing care.
- b) The agency shall state in writing to the client what services will be provided directly by agency staff, and what services will be provided under contractual arrangements with a third party.
- c) If the agency provides services under contractual arrangements with a third party, it shall have a written agreement that includes, but is not limited to, the following:
 - 1) A detailed description of the services to be provided;
 - 2) Provisions for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies, and criminal background checks if applicable;

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- 3) Designation of full responsibility for agency control over contracted services;
- 4) Procedures for submitting clinical and progress notes;
- 5) Charges for contracted services;
- 6) A statement of responsibility of liability and insurance coverage (employment, workers' compensation) and taxes, including employment and social security taxes;
- 7) The period of time the written agreement is in effect;
- 8) The date and signatures of appropriate authorities; and
- 9) Provisions for termination of services.

d)e) Acceptance and Discharge of Patients

Patient acceptance and discharge policies shall include, but not be limited to, the following:

- 1) Persons shall be accepted for services with a plan of treatment established by the patient's health care professional. This plan shall be promulgated in writing within 30 days after acceptance and shall be signed by the prescribing health care professional within 45 days after acceptance.
- 2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.
- 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or sexual orientation. Patients shall be accepted for treatment on the basis of a reasonable expectation that the patient's nursing needs can be met adequately in the patient's place of residence.
- 4) When services are to be terminated by the agency, the patient shall be notified seven working days in advance of the date of termination. The notice shall state the reason for termination. This information shall be documented in the clinical record. When any continuing care is indicated, a plan shall be developed or a referral made for any continuing care.

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- 5) Services shall not be terminated until ~~such time as~~ the registered nurse has provided a minimum of seven ~~days'~~ days notice to the patient's health care professional. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In ~~thesesuch~~ cases, the agency shall notify the client of the timing of the termination of services and the reason for the termination. Documentation of the risk to the worker shall be maintained in the client record.

e)⇄ Plan of Treatment

Skilled nursing services shall be in accordance with a plan based on the client's diagnosis, an assessment of the client's immediate and long-range needs and resources, and client participation. The plan is to be established in consultation with the nursing personnel; the client's health care professional; other pertinent members of the agency staff; the client; and client's advocate. The plan shall include:

- 1) Diagnoses;
- 2) Client limitations and prognosis;
- 3) Expected outcomes for the client;
- 4) The prescribing health care professional's regimen of care designed to address identified client needs, including medications; treatments; activity; diet; specific procedures deemed essential for the health and safety of the client; mental status; and potential for discharge;
- 5) The types and frequency of services to be provided; and
- 6) Assessment of need for influenza and pneumococcal vaccination.

f)e) Consultation with the client's health care professional on any modifications in the plan of treatment deemed necessary shall be documented, and the prescribing health care professional's signature shall be obtained within 45 days after any modification of the plan.

- 1) The home nursing services team shall review the plan every 90 days, or more often should the patient's condition warrant.

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- 2) An updated plan of treatment shall be given to the client's health care professional for review, for any necessary revisions, and for signature every 90 days, or more often as indicated.

g) Clinical Records

- 1) ~~The agency shall maintain~~~~Each client shall have~~ a clinical record ~~for each client maintained by the agency~~ in accordance with accepted professional standards. Clinical records shall contain:
 - A) Appropriate identifying information for the client, household members and caretakers;
 - B) A plan of treatment developed by the home nursing agency in ~~accordance~~~~accord~~ with the health care professional's order;
 - C) A list of medications ~~that~~ the client is taking, updated as needed. The list shall specify the dose, method, route of administration, and frequency of administration of each medication. All potential contraindications, drug interactions, and adverse reactions shall be reported to the health care professional within 24 hours, or sooner as warranted, and documented in the clinical record;
 - D) Initial and periodic client assessments by the registered nurse;
 - E) Signed and dated clinical notes for each contact that are written the day of service and incorporated into the client's clinical record at least weekly;
 - F) Reports on all client conferences;
 - G) Report of ~~contact~~~~contracts~~ with the client's health care professional by client and staff;
 - H) ~~Documentation~~~~Indication~~ of supervision of services by the supervising nurse, a registered nurse, or other members of the home nursing supervisory/management team;

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- D) Written and signed confirmation of the client's health care professional's interim verbal orders;
- J) A discharge summary giving a brief review of service, client status, reason for discharge, and plans for post-discharge needs of the client. A discharge summary may suffice as documentation to close the client record for one-time visits or short-term services. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician or health care professional;
- K) A copy of appropriate client transfer information, when requested, if the client is transferred to another health facility or health agency.
- 2) For record keeping, the agency may utilize hard copies or an electronic format. Each agency shall have ~~a written~~ policies and procedures for records maintenance~~policy on records procedures~~ and shall retain records for a minimum of five years beyond the last date of service provided. The procedures may include that the agency will use and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on non-thermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract shall provide that the professional maintain the original records for a period of five years.
- 3) Agencies that maintain client records by computer rather than hard copy may use electronic signatures. The agency shall have policies and procedures in place in regard to ~~thesesuch~~ entries and the appropriate authentication and dating of those records. Authentication may include signatures, written initials, or computer secure entry by a unique identifier of a primary author who has received and approved the entry. The agency shall have safeguards in place to prevent unauthorized access to the records and a process for reconstruction of the records ~~if thein the event of a system fails or breaks down~~failure or breakdown.

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- 4) ~~Agencies~~~~Those agencies~~ that are subject to the Local Records Act should note that, *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act)
- 5) Each agency shall have a written policy and procedure for protecting the ~~protection of~~ confidentiality of client records that explains the use of records, removal of records and release of information.

h)g) Drugs and Biologicals

The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include, but not be limited to, the following:

- 1) All orders for medications to be given shall be dated and signed by the client's health care professional.
- 2) All orders for medications shall contain the name of the drug, dosage, frequency, method, and route of administration, and permission from the prescribing health care professional if the client, the client's family, or both are to be taught to give medications.
- 3) All verbal orders for medication or change in medication orders shall be taken by the ~~registered~~nurse, written, and signed by the patient's health care~~healthcare~~ professional within 45 days.
- 4) When any experimental drug, sera, allergenic desensitizing agent, penicillin or other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary ~~if in the event of~~ a drug reaction occurs.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.210 Services – Home Services Agencies

- a) Agencies licensed as home services agencies shall provide non-medical services, which may be provided directly by agency staff or through a contractual purchase

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of services, that are intended to assist clients with activities of daily living. Services may include, but are not limited to, activity of daily living support, personal care, medication reminding, housekeeping services, personal laundry, cooking, shopping, assistance in getting to and from appointments, maintenance of household records, and companionship. Each agency shall maintain a listing of the types of services offered by the agency, and the scope of the work to be provided under each area, which the agency shall distribute to clients before contracting with the client, with the signed contract, and when changes occur.

- b) If the agency provides services under contractual arrangements with a third party, it shall have a written agreement that includes, but is not limited to, the following:
- 1) A detailed description of the services to be provided;
 - 2) Provisions for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies, and criminal background checks if applicable;
 - 3) Designation of full responsibility for agency control over contracted services;
 - 4) Procedures for submitting clinical and progress notes;
 - 5) Charges for contracted services;
 - 6) A statement of responsibility of liability and insurance coverage (employment, workers' compensation) and taxes, including employment and Social Security taxes;
 - 7) The period of time the written agreement is in effect;
 - 8) Date and signatures of appropriate authorities; and
 - 9) Provisions for termination of services.
- c)b) When services are provided to clients by a home services agency, there shall be a written contractual agreement between the client and the agency that includes, but is not limited to:

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- 1) Indication and assurance of compliance by the agency with the requirements of the ~~licensing~~ Act, including the Health Care Worker Background Check Act;
- 2) Identification of parties responsible for payment of employment taxes, Social Security taxes, and workers' compensation;
- 3) Information on the parties responsible for supervising workers, as well as hiring, firing and discipline of in-home services workers;
- 4) Identification of the charges to be paid, payment schedule, and to whom the client, or person acting on behalf of the client, is to make payments for services under the contract;
- 5) Time period for ~~the~~ contractual arrangement and conditions for termination of ~~the~~ contract; and
- 6) Contact information for the client to use in case of concerns, complaints, or questions on care to be provided.

~~d)e)~~ Acceptance of Clients. Home Services Agencies shall develop and follow policies on acceptance and discharge of clients, which shall include, but not be limited to, the following:

- 1) Persons shall be accepted for service on the basis of their desire or need for ~~assistance with~~ household or personal support ~~and/or~~ companionship services. A home services agency shall not provide medical services that would be performed by an agency licensed as a home health agency or home nursing agency.
- 2) No person shall be refused services based on age, race, color, sex, marital status or national origin.
- 3) When services are terminated by the agency, the client is to be notified at least seven working days in advance of the date of termination, with a stated reason for the termination. This information shall be maintained in the client record. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In ~~thesesuch~~ cases, the agency may notify the client of termination of services and the reason for

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termination. Documentation of the risk to the provider shall be maintained in the client record.

4) The acceptance of the client for non-medical services shall be based on the following documented information, in consultation with the client and his or her appropriate family members or representative:

A) Any functional limitations of the client and the relevance of the limitation to the services requested; and

B) Any circumstances that may have an impact on activity or involvement by the client, such as basic information on medications being taken, treatments received, client's physical activity, diet and mental status in relation to the services requested.

e)Ⓢ Service Plan. The agency shall establish a plan for each client, in consultation with the client and his or her appropriate family members or representative, that outlines the services to be provided to the client. The plan shall address and include, but not be limited to:

- 1) The level, type, frequency and ~~or~~ scope of services the client is receiving;
- 2) Identification of any functional limitations of the client and the relevance of the limitation to the services to be provided;
- 3) Information received from the client, ~~in consultation with the client~~ and his or her appropriate family members or representative, which shall be communicated to the home services worker, on circumstances that may have an impact on the client's activity or involvement ~~by the client~~, such as basic information on medications being taken, treatments received, client's physician, activity, diet and mental status.

f)Ⓢ Physician signature is not required for the plan of service developed under this Section.

g)Ⓢ The service plan shall be reviewed and revised as necessary, but not less than once annually.

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- ~~h)~~g) Client Records. A client record shall be maintained for each client receiving in-home services. The record shall contain:
- 1) Appropriate identifying information for the client, including the client's name, address and telephone numbers;
 - 2) The name, telephone numbers and address of the client's representative, if applicable;
 - 3) The name, telephone numbers and address of an individual or relative to be contacted in an emergency;
 - 4) The plan of services agreed to by the client and agency;
 - 5) A copy of the Client Home Care Services Agreement or Contract; and
 - 6) Documentation by the home services worker of each of the services provided at each visit.
- ~~i)~~h) Each agency shall have a written policy on records procedures and shall retain records for a minimum of two years beyond the last date of service provided. The agency may utilize hard copies or an electronic format. Each agency shall have written policies and procedures for records maintenance and shall retain records for a minimum of two years beyond the last date of service provided. The procedures may include that the agency will use and maintain faxed copies of records, rather than original records, provided that faxed copies shall be maintained on non-thermal paper and that the original records will be maintained for a period of two years by the originating entity.
- ~~j)~~i) Each agency shall have a written policy for protecting the confidentiality of patient records that explains the use of records, removal of records, and release of information.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.212 Services – Home Nursing Placement Agency

- a) "Placement agency" includes a private employment agency and any other entity that places a worker for private hire by a consumer in that consumer's residence

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for purposes of providing home services. (Section 2.12 of the Act) Agencies licensed as home nursing placement agencies are in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers. A placement agency shall not be the employer of the nurse for whom it procures, offers, refers, provides or attempts to provide work. The nurse shall perform services ordered by the client's physician without any direction, control or supervision by the home nursing placement agency with respect to performing the skilled nursing services. Following the placement of the worker with the client, the placement agency shall not have any control of the worker's assignments or duties, or assist the client in the payment of the worker. A placement agency shall not provide ongoing support and administrative management of the client's needs.

- 1) The maximum duration of a contract shall be no longer than 12 months.
 - 2) The home nursing placement agency may charge only a one-time fee for placement. The home nursing placement agency may allow the client to pay the fee throughout the duration of the contract. An ongoing, continuous client service fee beyond the duration of the contract is prohibited.
-
- b) Actions taken by the placement agency as part of its quality review process as required by Section 245.240(d) shall not be considered an ongoing relationship.
 - c) Actions taken by a client that fall under Section 245.250(a)(4) shall not be considered an ongoing relationship.
 - b) ~~A placement agency, by definition, cannot be the employer of the worker.~~
 - d)e) A placement agency shall must identify itself as a placement agency in all advertisement and marketing materials, including, but not limited to, a statement that the placed nurse is the client's employee and not the placement agency's employee.
 - e)d) The placement agency shall require and document that anyone wishing to remain eligible for placement by the agency shall provide, to the agency, a copy of his or her current Illinois Professional RN or LPN license. The placement agency shall contact the Illinois Department of Financial and Professional Regulation to verify that the individual's license is active.

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- 1) ~~An individual wishing to remain eligible for placement by the agency shall submit to a criminal background check;~~
- 2) ~~Anyone wishing to remain eligible for placement by the agency shall undergo a competency evaluation prior to placement to ensure that the individual is competent to provide the services that the consumer is seeking; and~~
- 3) ~~Anyone wishing to remain eligible for placement by the agency, even after an initial placement, shall participate in a minimum of eight hours of in-service training per year, provided and arranged for by the placement agency.~~

~~f)e)~~ The placement agency shall notify the worker both verbally and in writing of the implications of the worker's relationship to the client as the worker's employer. The document ~~shall~~must be printed in no less than 12-point type and shall include at least the following elements in the body or through supporting documents or attachments, indicating the responsible parties for the following:

- 1) Employer of the licensed worker;
- 2) Liability for the licensed worker;
- 3) Payment of wages to the licensed worker;
- 4) Payment of employment taxes, unemployment insurance, and ~~workers'~~worker's compensation for the licensed worker;
- 5) Payment of Social Security taxes for the licensed worker;
- 6) Day-to-day supervision of the licensed worker;
- 7) Assignment of duties to the licensed worker;
- 8) Responsibility for hiring, firing and ~~disciplining~~discipline of the licensed worker; and

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- 9) Provision of equipment or materials for the licensed worker's use in providing services to the consumer.
- g) A placement agency shall provide the placed nurse with contact information for the Department on Aging and the Department of Children and Family Services to report abuse, neglect or financial exploitation, and a list of situations for which the client or placed worker shall contact local law enforcement.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.214 Services – Home Services Placement Agency

- a) "Placement agency" includes a private employment agency and any other entity that places a worker for private hire by a consumer in that consumer's residence for purposes of providing home services. (Section 2.12 of the Act) Agencies licensed as home services placement agencies are in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers. A placement agency shall not be the employer of a home services worker for whom it procures, offers, refers, provides or attempts to provide work. The home services worker shall perform services pursuant to Section 245.71 without any direction, control or supervision exercised by the home services placement agency with respect to performing the home services work. Following the placement of the worker with the client, the placement agency shall not have any control of the worker's assignments or duties, or assist the client in the payment of the worker. A placement agency shall not provide ongoing support and administrative management of the client's needs.
- 1) The maximum duration of a contract shall be no longer than 12 months.
- 2) The home services placement agency may charge only a one-time fee for placement. The home services placement agency may allow the client to pay the fee throughout the duration of the contract. An ongoing, continuous client service fee beyond the duration of the contract is prohibited.
- b) Actions taken by the placement agency as part of its quality review process (required by Section 245.240(d)) shall not be considered an ongoing relationship.

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- c) Actions taken by a client that fall under Section 245.250(a)(4) shall not be considered an ongoing relationship.
- b) ~~A placement agency, by definition, cannot be the employer of the worker.~~
- d)e) A placement agency shall identify itself as a placement agency in all advertisement and marketing materials, including, but not limited to, a statement that the placed home services worker is the client's employee and not the placement agency's employee.
- e)d) The placement agency shall require and document that:
- 1) An individual wishing to remain eligible for placement by the agency has submitted to a health care worker background check and is active on the Department's Health Care Worker Registry;
 - 2) Anyone wishing to remain eligible for placement by the agency shall provide proof of eight hours of training pursuant to Section 245.71(d) of this Part prior to his or her first placement; and
 - 3) Anyone wishing to remain eligible for placement by the agency, even after an initial placement, shall provide proof of a minimum of eight hours of in-service training per year.
- f)e) The placement agency shall notify the worker both verbally and in writing of the implications of his or her relationship to the client as his or her employer. The document ~~shall~~must be printed in no less than 12-point type and shall include at least the following elements in the body or through supporting documents or attachments, indicating the responsible parties for the following:
- 1) Employer of the in-home services worker;
 - 2) Liability for the in-home services worker;
 - 3) Payment of wages to the in-home services worker;
 - 4) Payment of employment taxes, unemployment insurance, and workers'~~worker's~~ compensation for the in-home services worker;

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- 5) Payment of Social Security taxes for the in-home services worker;
 - 6) Day-to-day supervision of the in-home services worker;
 - 7) Assignment of duties to the in-home services worker;
 - 8) Responsibility for hiring, firing, and ~~disciplining~~discipline of the in-home services worker;
 - 9) Provision of equipment or materials for the in-home services worker's use in providing services to the consumer; and
 - 10) ~~All worker~~All placement fees, which shall be payable to the placement agency, and procedures for refunds of ~~such~~ fees and a complaint resolution process for disputes concerning placement fees, which shall comply with, as currently provided under the Private Employment Agency Act.
- g) A placement agency shall provide the placed worker with contact information for the Department on Aging and the Department of Children and Family Services to report abuse, neglect or financial exploitation, and a list of situations for which the client and/or placed worker shall contact local law enforcement.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.220 Client Service Contracts – Home Nursing and Home Services Agencies

A contract ~~shall be in force~~ between a home nursing or home services agency and a client, ~~shall be in force~~, A copy of ~~the contract shall be~~which is provided to the client and a copy ~~shall be of~~which is maintained in the client file at the agency. If the agency has both a home services license and a home nursing license, the agency shall maintain two separate client contracts, one for skilled medical care and one for non-medical services. The ~~contracts document~~ shall be printed in no less than 12-point type, and shall include at least the following elements in the body or through supporting documents or attachments:

- a) Client consent to receive services;
- b) The name, street address, mailing address and telephone number of the agency;

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- c) The name, mailing address and telephone number of the persons designated as the agency manager and/or other individual beyond the in-home worker to contact in regard to questions, problems, needs or concerns;
- d) A statement describing the agency license status;
- e) Indication and assurance of compliance by the agency with the requirements of the ~~licensing~~ Act, including compliance with the Health Care Worker Background Check Act;
- f) The duration of the contract;
- g) The rate to be paid by the client and a detailed description of services to be provided as a part of the rate;
- h) A description of the process through which the contract may be modified, amended or terminated;
- i) A description of the agency complaint resolution process;
- j) The billing and payment procedures and requirements;
- k) A statement regarding the agency's policy on notification of a relative or other individual in case of an emergency;
- l) A notice as developed and provided by the agency, indicating the responsible party for the following:
 - 1) Employer of the in-home/licensed worker;
 - 2) Liability for the in-home/licensed worker;
 - 3) Payment of wages to the in-home/licensed worker;
 - 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home/licensed worker;
 - 5) Payment of Social Security taxes for the in-home/licensed worker;

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- 6) Day-to-day supervision of the in-home/licensed worker;
- 7) Assignment of duties to the in-home/licensed worker;
- 8) Responsibility for hiring, firing and ~~disciplining~~discipline of the in-home/licensed worker; and
- 9) Provision of equipment or materials for the in-home/licensed worker's use in providing services to the consumer.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.225 Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency

A contract between a home nursing placement agency or home services placement agency and a client shall be in force, a copy of which is provided to the client and a copy of which is maintained in the client file at the agency. The document shall be printed in no less than 12_ point type, and shall include at least the following elements in the body or through supporting documents or attachments:

- a) Client consent to receive referral services of a placed worker;
- b) The name, street address, mailing address and telephone number of the agency;
- c) The name, mailing address and telephone number of the persons designated as the placement agency manager ~~and~~/or other individual representing the placement agency whowhom the consumer may contact ~~if in the event that~~ the contract terms are not performed;
- d) A statement describing the agency license status;
- e) The duration of the contract, not to exceed 12 months;
- f) The placement rate and fees to be paid by the client ~~and a detailed description of services to be provided as a part of the rate~~;
- g) A description of the process through which the contract may be modified, amended or terminated;

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- ~~h)~~ ~~A description of the agency complaint resolution process;~~
- ~~h)i)~~ The billing and payment procedures and requirements;
- ~~j)~~ ~~A statement regarding the agency's policy on notification of a relative or other individual in case of an emergency;~~
- ~~i)k)~~ ~~The entity to whom~~A statement on how the client can report abuse, neglect or financial exploitation, ~~and the number of the Department's complaint hotline;~~
- ~~j)l)~~ A notice, as developed and provided by the agency, indicating that the client is the employer of the home services worker or nurse and that the client is responsible party for the following:
 - ~~l)~~ ~~Employer of the in-home/licensed worker;~~
 - ~~1)2)~~ Liability for the in-home/licensed worker or nurse;
 - ~~2)3)~~ ~~Paying~~Payment of wages to the in-home/licensed worker or nurse;
 - ~~3)4)~~ ~~Paying~~Payment of employment taxes, unemployment insurance, and ~~workers'~~worker's compensation for the in-home/licensed worker or nurse;
 - ~~4)5)~~ ~~Paying~~Payment of Social Security taxes for the in-home/licensed worker or nurse;
 - ~~5)6)~~ Day-to-day supervision of the in-home/licensed worker or nurse;
 - ~~6)7)~~ ~~Assigning~~Assignment of duties to the in-home/licensed worker or nurse;
 - ~~7)8)~~ ~~Hiring~~Responsibility for hiring, firing and ~~disciplining~~discipline of the in-home/licensed worker or nurse; and
 - ~~8)9)~~ ~~Providing~~Provision of equipment or materials for the in-home/licensed worker's or nurse's use in providing services to the consumer; ~~and~~

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- 10) ~~All placement fees, procedures for refunds of those fees, and a complaint resolution process for disputes concerning placement fees, as currently provided under the Private Employment Agency Act.~~

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.240 Quality Improvement Program

- a) Each agency shall develop a quality improvement program ~~for the agency~~. The quality improvement program shall include written policies and shall evaluate the agency's total program at least once a year. The evaluation for home health agencies, home services agencies, and home nursing agencies shall, at a minimum, include a clinical or client record review, as appropriate. This evaluation shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient. Results of the evaluation shall be reported to and acted upon by those responsible for the operation of the agency and shall be maintained separately as administrative records.
- b) Record Review. At least quarterly, the agency shall review a sample of both active and closed clinical or client records to assure that established policies are followed in providing services (direct services, as well as those under contractual arrangement). If applicable, this review shall include, but not be limited to:
- 1) Whether the care plan was directly related to the stated diagnosis and plan of care;
 - 2) Whether the frequency of visits was consistent with the plan of care; ~~and~~
 - 3) Whether the services could have been provided in a shorter span of time or with fewer visits; ~~and~~
 - 4) Whether the service plan was followed by the home services worker or nursing staff.
- c) None of the information, interviews, reports, statements, memoranda and recommendations produced during or resulting from the agency's quality improvement program may be admissible as evidence nor discoverable in any action of any kind in any court, as provided in Article VIII, Part 21 of the Code of Civil Procedure (Medical Studies).

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- d) Placement agencies shall assess the extent to which the agency's program is appropriate, adequate, effective and efficient, including, but not limited to, the placement of workers who have prior training and who are on the Health Care Worker Registry. Results of the evaluation shall be reported to those responsible for the operation of the agency and shall be maintained in a separate file as administrative records.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

Section 245.250 Abuse, Neglect and Financial Exploitation Prevention and Reporting

- a) When an agency has reasonable suspicion that a client has been the victim of abuse, neglect or financial exploitation, the agency shall do the following:
- 1) In the case of an individual who is 60 years of age or older, an individual who has been found to be disabled or one who otherwise qualifies as an "eligible adult" under the Adult Protective Services Act [320 ILCS 20]Elder Abuse and Neglect Act, the agency shall notify the elder abuse provider agency designated by the Department on Aging or an Area Agency on Aging for the area in which the client resides. The agency shall document this report and maintain documentation on the premises for 12 months after the date of the report.
 - 2) In the case of an alleged victim under the age of 18, the agency shall notify the Department of Children and Family Services through the Child Abuse Hotline. The agency shall document this report and maintain documentation on the premises for 12 months after the date of the report.
 - 3) If the abuse or neglect is alleged to be a result of actions by an employee of the agency, ~~or one placed by an agency~~ providing in-home, home health, or home nursing services, the agency shall immediately remove the alleged perpetrator from direct contact with clients and investigate the allegation.
 - 4) If the client contacts the home services placement agency regarding an allegation of abuse or neglect by the placed worker, the agency shall comply with the home services agency reporting requirements in Section 6.3 of the Act. If the client contacts the home nursing placement agency

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regarding an allegation of abuse or neglect by the placed worker, the agency shall comply with the home nursing agency reporting requirements in Section 6.7 of the Act.

- b) In cases of allegations of abuse or neglect by an employee ~~or an individual who has been placed by an agency~~, the agency shall conduct an investigation and develop a written report of the findings of the investigation within 14 days after the initial report. The agency shall send the written report of the investigation to the Department within 24 hours after completion of the investigation and shall maintain a copy of the report on the agency premises for 12 months after the date of the report.
- c) A placement agency shall provide the client, at the time of the placement of the worker, and the placed worker with contact information for the Department on Aging and the Department of Children and Family Services to report abuse, neglect or financial exploitation and a list of situations for which the client or placed worker shall contact local law enforcement.
- d)e) The written report of the investigation conducted pursuant to this Section shall contain at least the following:
- 1) Dates, times and description of alleged abuse, neglect or financial exploitation;
 - 2) Description of injury or abuse to client;
 - 3) Any actions taken by the licensee;
 - 4) A list of individuals and agencies interviewed or notified by the licensee;
 - 5) A description of the action to be taken by the licensee to prevent the abuse, neglect or financial exploitation from occurring in the future; and
 - 6) Statements of any witnesses.
- e)d) Agency employees, ~~persons placed by a placement agency~~ and volunteers shall report abuse, neglect or financial exploitation of a client to the agency management and to the appropriate elder abuse provider agency or the ~~Illinois~~ Department on Aging.

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- ~~f)e~~) The agency shall immediately contact local law enforcement authorities (e.g., telephoning 911 where available) in the following situations:
- 1) Physical abuse involving physical injury inflicted on a patient ~~and~~/or client by a staff member;
 - 2) Sexual abuse of a patient ~~and~~/or client by a staff member;
 - 3) When a crime has been committed in the ~~patient's~~patient ~~and~~/or client's home by a person other than the patient or client;
 - 4) When a ~~patient's~~patient or client's death has occurred other than by disease processes; or
 - 5) When an allegation of physical abuse, sexual abuse or crime has been reported, or when death (other than by disease or natural causes) has occurred to a patient ~~and~~/or client.
- ~~g)f~~) The agency shall develop and implement a policy concerning local law enforcement notification, including:
- 1) Ensuring the safety of patients ~~and~~/or clients in situations requiring local law enforcement notification;
 - 2) Contacting local law enforcement in situations involving physical abuse of a patient ~~and~~/or client by another person;
 - 3) Contacting police, fire, ambulance and rescue services; and
 - 4) Seeking advice concerning preservation of a potential crime scene.
- ~~h)g~~) Nothing in this Section relieves a ~~mandated~~mandates reporter from the responsibility of making a report to an agency designated to receive ~~such~~ reports under the Adult Protective Services Act [320 ILCS 20]~~Elder Abuse and Neglect Act~~ or to the Department.

(Source: Amended at 39 Ill. Reg. 16406, effective December 10, 2015)

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- 1) Heading of the Part: Schedule of Controlled Substances
- 2) Code Citation: 77 Ill. Adm. Code 2070
- 3) Section Number: 2070.2246 Peremptory Action: New Section
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires this Peremptory Rulemaking: These changes are being made to conform with the Federal Controlled Substances Act (21 USC 801 et seq.) and the Federal Schedule of Controlled Substances (21 CFR 1308).
- 5) Statutory Authority: Implementing and authorized by Section 100 of the Illinois Controlled Substances Act [720 ILCS 570/100]
- 6) Effective Date: December 17, 2015
- 7) A Complete Description of the Subjects and Issues involved: This peremptory amendment is necessary to comply with the amendments to 21 CFR 1308, the Drug Enforcement Administration's Schedule of Controlled Substances, effective December 17, 2015. On November 12, 2015, the Federal Drug Enforcement Administration issued a rule placing the substance 5-[[[(2S)-2-amino-3-[4-aminocarbonyl]-2,6-dimethylphenyl]-1-oxopropyl]][(1S)-1-(4-phenyl-1 H-imidazol-2-yl)ethyl]amino]methyl]-2-methoxybenzoic acid ("Eluxadoline"), including its salts, isomers, and salts of isomers into Schedule IV of the Controlled Substances Act (21 USC 801 et seq.). This peremptory amendment mirrors the Drug Enforcement Administration's amendments to its Schedule of Controlled Substances by placing Eluxadoline, including its salts, isomers, and salts of isomers into Illinois' list of Schedule IV substances, ensuring that Illinois' Schedule of Controlled Substances (77 Ill. Adm. Code 2070) contains all of the Federally scheduled controlled substances.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date filed with the Index Department: December 11, 2015
- 10) A copy of the peremptory rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

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- 11) This rulemaking is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.
- 12) Are there any rulemakings pending on this Part? No
- 13) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 14) Information and questions regarding this peremptory amendment shall be directed to:

Tracie Drew, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Bldg., 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER e: CONTROLLED SUBSTANCES ACTIVITIESPART 2070
SCHEDULE OF CONTROLLED SUBSTANCES

SUBPART A: GENERAL

Section	
2070.10	Definitions
2070.20	Designated Products
2070.30	Names Given to Listed Drugs
2070.40	Excluded Substances
2070.50	Excepted Compounds

SUBPART B: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE I

Section	
2070.100	Schedule I – Criteria
2070.110	Schedule I – Enumeration
2070.115	Opiates
2070.117	AB-CHMINACA <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1 <i>H</i> -indazole-3-carboxamide
2070.118	AB-PINACA <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1 <i>H</i> -indazole-3-carboxamide
2070.120	Acetylmethadol
2070.122	Acetyl-alpha-methylfentanyl
2070.124	Alfentanil (Renumbered)
2070.125	Allylprodine
2070.130	Alphacetylmethadol
2070.135	Alphameprodine
2070.140	Alphamethadol
2070.145	Alpha-methylfentanyl
2070.146	Alpha-methylthiofentanyl
2070.147	1-methyl-4-phenyl-4-propionoxypiperdine (MPPP)
2070.148	PEPAP 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperdine
2070.150	Benzethidine
2070.155	Betacetylmethadol

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2070.157	Beta-hydroxyfentanyl
2070.160	Betameprodine
2070.165	Betamethadol
2070.170	Betaprodine
2070.175	Clonitazene
2070.180	Dextromoramide
2070.185	Diampromide
2070.190	Diethylthiambutene
2070.195	Difenoxin
2070.200	Dimenoxadol
2070.205	Dimepheptanol
2070.210	Dimethylthiambutene
2070.220	Dioxaphetylbutyrate
2070.230	Dipipanone
2070.235	Ethylmethylthiambutene
2070.240	Etonitazene
2070.245	Etoxidine
2070.247	3-Methylfentanyl (Renumbered)
2070.250	Furethidine
2070.255	Hydroxypethidine
2070.260	Ketobemidone
2070.265	Levomoramide
2070.270	Levophenacylmorphan
2070.272	3-Methylfentanyl
2070.273	3-Methylthiofentanyl
2070.275	Morpheridine
2070.280	Noracymethadol
2070.285	Norlevorphanol
2070.290	Normethadone
2070.295	Norpipanone
2070.297	Para-fluorofentanyl
2070.300	Phenadoxone
2070.310	Phenampromide
2070.320	Phenomorphin
2070.330	Phenoperidine
2070.340	Piritramide
2070.350	Proheptazine
2070.360	Properidine
2070.370	Propiram

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2070.380	Racemoramide
2070.385	Sufentanil (Renumbered)
2070.388	Thiofentanyl
2070.389	THJ-2201 [1-(5-fluoropentyl)-1 <i>H</i> -indazol-3-yl](naphthalen-1-yl)methanone
2070.390	Tilidine
2070.395	Trimeperidine
2070.397	Beta-hydroxy-3-methylfentanyl
2070.400	Opium Derivates
2070.405	Acetorphine
2070.410	Acetyldihydrocodeine
2070.412	Alpha-pyrrolidinobutiophenone ("a-PBP")
2070.414	Alpha-pyrrolidinopentiophenone ("a-PVP")
2070.415	Benzylmorphine
2070.420	Codeine methylbromide
2070.425	Codeine-N-Oxide
2070.430	Cyprenorphine
2070.435	Desomorphine
2070.440	Diacetyldihydromorphine (Dihydroheroin)
2070.445	Dihydromorphine
2070.450	Drotebanol
2070.455	Etorphine (except hydrochloride salt)
2070.460	Heroin
2070.465	Hydromorphenol
2070.470	Methyldesorphine
2070.475	Methyldihydromorphine
2070.480	Morphine methylbromide
2070.485	Morphine methylsulfonate
2070.490	Morphine-N-Oxide
2070.495	Myorphine
2070.500	Nicocodeine
2070.505	Nicomorphine
2070.510	Normorphine
2070.515	Pholcodine
2070.520	Thebacon
2070.530	1-(1,3-benzodioxol-5-yl)-2(methylamino)butan-1-one ("butylone")
2070.540	1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one ("pentylone")
2070.545	1-(naphthalene-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one ("naphyrone")
2070.600	Hallucinogenic Substances
2070.602	2-(methylamino)-1-phenylpentan-1-one ("pentedrone")

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2070.604	3-fluoro-N-methylcathinone ("3-FMC")
2070.605	3, 4 Methylenedioxyamphetamine
2070.606	Alpha-ethyltryptamine
2070.607	3,4 Methylenedioxymethamphetamine (MDMA)
2070.608	3,4-methylenedioxy-N-ethylamphetamine
2070.610	3-methoxy-4, 5-methylenedioxyamphetamine (MMDA)
2070.615	3, 4, 5-trimethoxyamphetamine (TMA)
2070.616	4-fluoro-N-methylcathinone ("4-FMC")
2070.617	4-methyl-N-ethylcathinone ("4MEC")
2070.618	4-methylalpha-pyrrolidinopropiophenone ("4-MePPP")
2070.620	5-hydroxydimethyltryptamine (Bufotenine)
2070.625	Diethyltryptamine (DET)
2070.630	Dimethyltryptamine (DMT)
2070.635	4-methyl, 2, 5-dimethoxyamphetamine (DOM, STP)
2070.640	Ibogaine
2070.645	Lysergic acid diethylamide
2070.650	3, 4, 5-trimethoxyphenethylamine (Mescaline)
2070.655	Peyote
2070.660	N-ethyl-3-piperidyl benzilate (JB 318)
2070.665	N-methyl-3-piperidyl benzilate
2070.667	N-hydroxy-3,4-methylenedioxyamphetamine
2070.670	Parahexyl
2070.675	Psilocybin
2070.680	Psilocyn
2070.685	Alpha-methyltryptamine (AMT)
2070.690	2,5-dimethoxyamphetamine
2070.695	4-bromo-2,5-dimethoxyamphetamine
2070.700	4-methoxyamphetamine (4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine, PMA)
2070.705	Thiophene analog of phencyclidine (TPCP)
2070.710	Ethylamine analog of phencyclidine
2070.715	Pyrrolidine analog of phencyclidine
2070.720	5-methoxy-3,4-methylenedioxy-amphetamine
2070.725	2,5-dimethoxy-4-ethylamphetamine
2070.730	1-[1-(2-thienyl) cyclohexyl] pyrrolidine
2070.735	3,4-methylenedioxy-amphetamine
2070.740	Thiophene analog of phencyclidine
2070.745	Bufotenine
2070.750	Depressants

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2070.755	Mecloqualone
2070.760	Methaqualone
2070.800	Stimulants
2070.805	Fenethylamine
2070.810	N-ethylamphetamine
2070.815	Aminorex
2070.820	Methcathinone
2070.825	Chathinone
2070.830	N,N-dimethylamphetamine
2070.835	(+ or -) cis-4-methylaminorex

SUBPART C: SCHEDULE OF CONTROLLED SUBSTANCES--SCHEDULE II

Section	
2070.900	Schedule II – Criteria
2070.910	Schedule II – Enumeration
2070.915	Narcotics
2070.920	Opium and Opiates
2070.925	Raw Opium
2070.930	Opium Extracts
2070.935	Opium Fluid Extracts
2070.940	Powdered Opium
2070.945	Granulated Opium
2070.950	Tincture of Opium
2070.955	Codeine
2070.960	Ethylmorphine
2070.965	Etorphine Hydrochloride
2070.970	Hydrocodone
2070.975	Hydromorphone
2070.980	Metopon
2070.985	Morphine
2070.990	Oxycodone
2070.995	Oxymorphone
2070.998	Thebaine
2070.999	Thebaine-derived butorphanol
2070.1100	Equivalencies
2070.1110	Opium poppy and poppy straw
2070.1120	Cocaine
2070.1130	Concentrate of Poppy Straw

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2070.1150	Opiates
2070.1155	Alphaprodine
2070.1160	Anileridine
2070.1165	Bezitramide
2070.1170	Bulk Dextropropoxyphene
2070.1175	Dihydrocodeine
2070.1180	Diphenoxylate
2070.1185	Fentanyl
2070.1186	Alfentanil
2070.1187	Carfentanil
2070.1190	Isomethadone
2070.1193	Levo-alphacetylmethadol
2070.1195	Levomethorphan
2070.1200	Levorphanol
2070.1205	Metazocine
2070.1210	Methadone
2070.1215	Methadone – Intermediate
2070.1220	Moramide – Intermediate
2070.1225	Meperidine
2070.1230	Pethidine-Intermediate-A
2070.1235	Pethidine-Intermediate-B
2070.1240	Pethidine-Intermediate-C
2070.1245	Phenazocine
2070.1250	Piminodine
2070.1255	Racemethorphan
2070.1260	Racemorphan
2070.1265	Sufentanil
2070.1300	Stimulants
2070.1310	Amphetamine
2070.1320	Methamphetamine
2070.1330	Methylphenidate
2070.1370	Phenmetrazine
2070.1400	Depressants
2070.1405	Methaqualone (Renumbered)
2070.1410	Amobarbital
2070.1420	Secobarbital
2070.1425	Pentobarbital
2070.1430	Phencyclidine
2070.1435	Pentazocine

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2070.1438	Gluthethimide
2070.1500	Immediate Precursors
2070.1505	Amphetamine and Methamphetamine
2070.1510	Phencyclidine
2070.1520	Nabilone
2070.1550	Dronabinol (synthetic)

SUBPART D: SCHEDULE OF CONTROLLED SUBSTANCES--SCHEDULE III

Section	
2070.1600	Schedule III – Criteria
2070.1605	Schedule III – Enumeration
2070.1610	Stimulants
2070.1615	Excepted Compounds
2070.1620	Benzphetamine
2070.1625	Chlorphentermine
2070.1630	Clortermine
2070.1635	Mazindol (Renumbered)
2070.1640	Phendimetrazine
2070.1700	Other Stimulants
2070.1750	Methylphenidate (Renumbered)
2070.1800	Depressants
2070.1805	Barbiturates
2070.1810	Barbiturates – Suppository Dosage Form
2070.1825	Derivatives of Barbituric Acid
2070.1830	Chlorhexadol
2070.1835	Glutethimide (Renumbered)
2070.1840	Methyprylon
2070.1845	Sulfondiethylmethane
2070.1850	Sulfonethylmethane
2070.1855	Sulfonmethane
2070.1860	Lysergic Acid
2070.1865	Lysergic Acid Amide
2070.1868	Tiletamine or Zolazepam or Both
2070.1870	Pentazocine and Aspirin Compound
2070.1875	Pentazocine and Acetaminophine
2070.1880	Pentazocine and Naloxone
2070.1890	Nalorphine
2070.1900	Narcotic Drugs

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2070.1905	Codeine
2070.1910	Codeine
2070.1915	Dihydrocodeinone
2070.1920	Dihydrocodeinone
2070.1925	Dihydrocodeine
2070.1930	Ethylmorphine
2070.1935	Opium
2070.1940	Morphine
2070.1960	Anabolic Steroids
2070.1962	Androgen L.A.
2070.1964	Andro-Estro 90-4
2070.1966	depANDROGYN
2070.1968	DEPO-T.E.
2070.1970	depTESTROGEN
2070.1972	Duomone
2070.1974	DURATESTRIN
2070.1976	DUO-SPAN II
2070.1978	Estratest
2070.1980	Estratest H.S.
2070.1982	PAN ESTRA TEST
2070.1984	Premarin with Methyltestosterone
2070.1986	TEST-ESTRO Cypionates
2070.1988	Testosterone Cyp 50 Estradiol Cyp 2
2070.1990	Testosterone Cypionate-Estradiol Cypionate Injection
2070.1992	Testosterone Enanthate-Estradiol Valerate Injection
2070.2000	Excepted Compounds

SUBPART E: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE IV

Section	
2070.2100	Schedule IV – Criteria
2070.2105	Schedule IV – Enumeration
2070.2110	Narcotic Drugs
2070.2115	Difenoxin and Atropine Sulfate
2070.2120	Dextropropoxyphene
2070.2200	Depressants
2070.2210	Alprazolam
2070.2215	Barbital
2070.2217	Bromazepam

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2070.2218	Camazepam
2070.2220	Chloral Betaine
2070.2225	Chloral Hydrate
2070.2230	Chlordiazepoxide
2070.2232	Clobazam
2070.2235	Clonazepam
2070.2240	Clorazepate
2070.2241	Clotiazepam
2070.2242	Cloxazolam
2070.2244	Delorazepam
2070.2245	Diazepam
2070.2246	Eluxadoline
2070.2248	Estazolam
2070.2250	Ethchlorvynol
2070.2255	Ethinamate
2070.2256	Ethyl Loflazepate
2070.2258	Fludiazepam
2070.2259	Flunitrazepam
2070.2260	Flurazepam
2070.2265	Halazepam
2070.2266	Haloxazolam
2070.2268	Ketazolam
2070.2269	Loprazolam
2070.2270	Lorazepam
2070.2272	Lormetazepam
2070.2275	Mebutamate
2070.2277	Medazepam
2070.2280	Meprobamate
2070.2285	Methohexital
2070.2290	Mephobarbital
2070.2291	Midazolam
2070.2292	Nimetazepam
2070.2293	Nitrazepam
2070.2294	Nordiazepam
2070.2295	Oxazepam
2070.2297	Oxazolam
2070.2300	Paraldehyde
2070.2305	Petrichloral
2070.2310	Phenobarbital

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2070.2312	Pinazepam
2070.2315	Prazepam
2070.2317	Quazepam
2070.2320	Temazepam
2070.2322	Tetrazepam
2070.2325	Triazolam
2070.2350	Zolpidam
2070.2400	Fenfuramine
2070.2500	Stimulants
2070.2503	Cathine
2070.2505	Diethylpropion
2070.2515	Fencamfamin
2070.2520	Fenproporex
2070.2540	Mazindol
2070.2545	Mefenorex
2070.2650	Stimulants
2070.2655	Ephedrine
2070.2565	Phentermine
2070.2570	Pemoline
2070.2575	Pipradrol
2070.2580	SPA
2070.2600	Excepted Compounds

SUBPART F: SCHEDULE OF CONTROLLED SUBSTANCES –
SCHEDULE V

Section	
2070.2700	Schedule V – Criteria
2070.2705	Schedule V – Enumeration
2070.2710	Narcotic Drugs
2070.2712	Buprenorphine
2070.2715	Codeine
2070.2720	Dihydrocodeine
2070.2725	Ethylmorphine
2070.2730	Diphenoxylate
2070.2735	Opium
2070.2740	Difenoxin
2070.2750	Pyrovalerone
2070.2800	Other Substances

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NOTICE OF PEREMPTORY AMENDMENT

AUTHORITY: Implementing and authorized by Section 100 of the Illinois Controlled Substances Act [720 ILCS 570/100].

SOURCE: Filed and effective November 19, 1975; rules repealed, new rules adopted at 2 Ill. Reg. 16, p. 151, effective April 24, 1978; amended at 2 Ill. Reg. 33, p. 63, effective August 15, 1978; amended at 2 Ill. Reg. 44, p. 127, effective October 30, 1978; amended at 2 Ill. Reg. 45, p. 19, effective November 10, 1978; amended at 2 Ill. Reg. 52, p. 283, effective January 5, 1979; amended at 3 Ill. Reg. 8, p. 112, effective February 23, 1979; amended at 3 Ill. Reg. 12, p. 246, effective March 23, 1979; amended at 4 Ill. Reg. 33, p. 193, effective August 4, 1980; amended at 5 Ill. Reg. 2987, effective March 5, 1981; amended at 5 Ill. Reg. 5156, effective April 29, 1981; amended at 5 Ill. Reg. 13454, effective November 25, 1981; amended at 6 Ill. Reg. 5176, effective April 16, 1982; amended at 6 Ill. Reg. 7200, effective June 7, 1982; amended at 7 Ill. Reg. 16142, effective December 2, 1983; amended at 7 Ill. Reg. 16639, effective December 9, 1983; transferred to the Department of Alcoholism and Substance Abuse by the Alcoholism and Substance Abuse Act (supp. to Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 634 et seq.) effective July 1, 1984; amended at 8 Ill. Reg. 13138, effective July 27, 1984; amended at 8 Ill. Reg. 16760, effective September 14, 1984; codified at 8 Ill. Reg. 19319; amended at 8 Ill. Reg. 21212, effective October 19, 1984; amended at 9 Ill. Reg. 1837, effective January 29, 1985; amended at 9 Ill. Reg. 10649, effective July 2, 1985; amended at 10 Ill. Reg. 914, effective January 7, 1986; amended at 10 Ill. Reg. 11222, effective June 16, 1986; emergency amendment at 10 Ill. Reg. 15662, effective September 10, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18159, effective October 8, 1986; amended at 10 Ill. Reg. 19709, effective November 6, 1986; emergency amendment at 11 Ill. Reg. 4048, effective February 24, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 5192, effective March 17, 1987; amended at 11 Ill. Reg. 11944, effective July 2, 1987; amended at 20 Ill. Reg. 3081, effective February 2, 1996; recodified from Department of Alcoholism and Substance Abuse to Department of Human Services at 21 Ill. Reg. 9319; peremptory amendment at 38 Ill. Reg. 8439, effective April 7, 2014; peremptory amendment at 39 Ill. Reg. 3171, effective February 13, 2015; peremptory amendment at 39 Ill. Reg. 16482, effective December 17, 2015.

Section 2070.2246 Eluxadoline

[Eluxadoline 5-\[\[\[\(2S\)-2-amino-3-\[4-\(aminocarbonyl\)-2,6-dimethylphenyl\]-1-oxopropyl\]\]\[\(1S\)-1-\(4-phenyl-1 H-imidazol-2-yl\)ethyl\]amino\]methyl\]-2-methoxybenzoic acid](#)

(Source: Added by peremptory rulemaking at 39 Ill. Reg. 16482, effective December 17, 2015)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

Petition for Exemption from Section 22.23b of the Environmental Protection Act

Con-Trol-Cure, Inc., 1229 W Cortland St, Chicago, Illinois, 60614 has submitted a petition to the Illinois Environmental Protection Agency ("Illinois EPA") to renew the exemption from Section 22.23b of the Illinois Environmental Protection Act ("Act") [415 ILCS 5/22.23b] it was granted for AC voltage switching over 660 VAC relays. Section 22.23b of the Act states that "no person shall sell, offer to sell, distribute, or offer to distribute a mercury switch or a mercury relay individually or as a product component." 415 ILCS 5/22.23b. The manufacturer of a mercury switch or mercury relay may petition the Illinois EPA for an exemption from Section 22.23b for one or more specific uses of the switch or relay. Requirements for the petition and procedures for the Illinois EPA's review of the petition can be found in Section 22.23b(c) of the Act [415 ILCS 5/22.23b(c)] and in Illinois EPA rules at 35 Ill. Adm. Code 182.

Pursuant to 35 Ill. Adm. Code 182.302(a), the Illinois EPA is providing public notice of the following information:

1. The petitioner is identified above. AC voltage switching over 660 VAC relays.
2. The petitioner is seeking renewal of an exemption for high voltage relays used in ultraviolet power supplies for switching AC voltages greater than 660 V, and as high as 3,000V in multi-switching applications.
3. A copy of the petition is available for review at the Illinois EPA's headquarters. Persons wanting to review the application may do so during normal business hours at:

Illinois EPA Headquarters
1021 North Grand Avenue East
Springfield IL 62794-9276

217/524-9642
TDD 217/782-9143

Please call ahead to assure that someone will be available to assist you.

4. Written public comments on the petition may be submitted to the Illinois EPA for a period of 45 days after the date of publication of this notice. Comments must be submitted to the following address:

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PUBLIC INFORMATION

Becky Jayne, MC #24
Illinois EPA
Bureau of Land
1021 North Grand Avenue East
P. O. Box 19276
Springfield IL 62794-9276

217/524-9642
TDD 217-782-9143
e-mail: Becky.Jayne@illinois.gov

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC INFORMATION

1. Statute requiring Agency to publish information concerning proposed changes in methods and standards for establishing medical assistance payment rates for medical services in the Illinois Register: 5 ILCS 100/5-70(c)
2. Summary of information: The Illinois Department of Healthcare and Family Services (HFS) propose changes to methods and standards for establishing payment methodologies for certain Illinois Medical Assistance Program services.

For services on and after June 1, 2015, the Department shall approve bed reserve payments for the purpose of therapeutic home visits for individuals scoring as TBI on the MDS3.0 and residing in a nursing facility or specialized mental health rehabilitation facility. To qualify for payment, a facility must have at least a 90% occupancy level and at least 80% of their residents must be Medicaid eligible. Payment shall be at 75% of the facility Medicaid per diem rate and cannot exceed 10 days in a calendar month.

The reimbursement rates will apply to services rendered to Medicaid enrollees, including members of the Affordable Care Act Adult Eligibility group receiving coverage through the Alternative Benefit Plan. The rates have no adverse effect on access to early and periodic screening, diagnostic, and treatment services for any enrollee receiving either the Alternative Benefit Plan or standard state plan services.

Payments for bed reserve days on an annual basis are estimated to be \$40,000.

3. Name and address of person that written comments should be mailed to:

Bureau of Program and Policy Coordination
Division of Medical Programs
Healthcare and Family Services
201 South Grand Avenue East
Springfield, IL 62763-0001

email: HFS.bpra@illinois.gov

Interested persons may review these proposed changes on the Internet at <http://www.illinois.gov/hfs/info/legal/PublicNotices/>. Local access to the Internet is available through any local public library. In addition, this material may be viewed at the DHS local offices (except in Cook County). In Cook County, the changes may be reviewed at the Office of the Director, Illinois Department of Healthcare and Family Services, 401 South Clinton Street, Chicago, Illinois. The changes may be reviewed at all

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLIC INFORMATION

offices Monday through Friday from 8:30 a.m. until 5:00 p.m. This notice is being provided in accordance with federal requirements found at 42 CFR 447.205.

ILLINOIS BOARD OF HIGHER EDUCATION

JANUARY 2016 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Performance Metrics for Budget Recommendations, 23 Ill. Adm. Code 900
- 1) Rulemaking:
- A) Description: The Board proposes the adoption of new IBHE rules to provide the performance metrics for the higher education budget recommendations pursuant to PA 97-320.
- B) Statutory Authority: Section 8 of the Board of Higher Education Act (110 ILCS 205/8)
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings have been scheduled.
- D) Date Agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377
- 217/557-7358
email: helland@ibhe.org
fax: 217/782-8548
- G) Related rulemakings and other pertinent information: None
- b) Part(s) (Heading and Code Citation): Annual Public University Performance Report, 23 Ill. Adm. Code 1032
- 1) Rulemaking:

ILLINOIS BOARD OF HIGHER EDUCATION

JANUARY 2016 REGULATORY AGENDA

- A) Description: The Board may propose the adoption of new IBHE rules to implement PA 97-610. Pursuant to the Act, the Board has compiled and submitted an annual report with information on new programs created, existing programs that have been closed or consolidated, and programs that exhibit low performance or productivity. Rules may be used to define terms and timelines for the report.
- B) Statutory Authority: Section 7 of the Board of Higher Education Act (110 ILCS 205/7)
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings have been scheduled.
- D) Date Agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377

217/557-7358
email: helland@ibhe.org
fax: 217/782-8548

- G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citations): Private Business and Vocational Schools, 23 Ill. Adm. Code 1095

- 1) Rulemaking:

ILLINOIS BOARD OF HIGHER EDUCATION

JANUARY 2016 REGULATORY AGENDA

- A) Description: The Board may review this part to consider if additional rules are needed for oversight of the schools. Findings of this review may result in proposed amendments to the rules.
- B) Statutory Authority: Private Business and Vocational School Act of 2012 [105 ILCS 426]
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings have been scheduled.
- D) Date Agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Undetermined
- F) Agency Contact Person for Information:

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377

217/557-7358
email: helland@ibhe.org
fax: 217/782-8548

- G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citations): Grow Your Own Teacher Grants, 23 Ill. Adm. Code 1085

1) Rulemaking:

- A) Description: The Board proposes the adoption of amendments to the existing rules pursuant to PA 98-1036, pending state funding.
- B) Statutory Authority: Section 90 of the Grow Your Own Teacher Education Act [110 ILCS 48/90]

ILLINOIS BOARD OF HIGHER EDUCATION

JANUARY 2016 REGULATORY AGENDA

- C) Scheduled Meeting/Hearing Dates: No meetings or hearings have been scheduled.
- D) Date Agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Undetermined
- F) Agency Contact Person for Information:
- Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377
- 217/557-7358
email: helland@ibhe.org
fax: 217/782-8548
- G) Related rulemakings and other pertinent information: None
- e) Part(s) (Heading and Code Citations): Nursing School Grant Program, 23 Ill. Adm. Code 1100
- 1) Rulemaking:
- A) Description: The Board may review this grant program in 2016. Findings of the review may result in proposed amendments to the rules.
- B) Statutory Authority: Board of Higher Education Act [110 ILCS 205/9.31]
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings have been scheduled.
- D) Date Agency anticipates First Notice: Undetermined

ILLINOIS BOARD OF HIGHER EDUCATION

JANUARY 2016 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not-for-profit corporations: Undetermined

Agency Contact Person for Information:
Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377

217/557-7358
email: helland@ibhe.org
fax: 217/782-8548

- G) Related rulemakings and other pertinent information: None

- f) Part(s) (Heading and Code Citations): Nurse Educator Fellowship Program, 23 Ill. Adm. Code 1105

1) Rulemaking:

- A) Description: The Board may review this grant program in 2016. Findings of the review may result in proposed amendments to the rules.
- B) Statutory Authority: Board of Higher Education Act [110 ILCS 205/9.32]
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings have been scheduled.
- D) Date Agency anticipates First Notice: Undetermined
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Undetermined
- F) Agency Contact Person for Information:

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333

ILLINOIS BOARD OF HIGHER EDUCATION

JANUARY 2016 REGULATORY AGENDA

Springfield IL 62701-1377

217/557-7358

email: helland@ibhe.org

fax: 217/782-8548

- G) Related rulemakings and other pertinent information: None

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

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