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REGISTER RULES OF GOVERNMENTAL AGENCIES



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RACING BOARD, ILLINOIS

Superfecta

11 Ill. Adm. Code 31116643

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Editor’s Notes:

Issue 3 - January 10, 2003: Data through	December 31, 2002 (Annual)
Issue 15 - April 11, 2003: Data through	March 31, 2003 (1 st Quarter)
Issue 28 - July 11, 2003: Data through	June 30, 2003 (2nd Quarter)
Issue 41 - October 10, 2003: Data through	September 29, 2003 (3rd Quarter)
Issue 2 - January 9, 2004: Data through	December 29, 2003 (Annual)



SECRETARY OF STATE

DEPARTMENT OF INDEX

111 East Monroe
Springfield, Illinois 62756

TO: RULEMAKING AGENCIES, BOARDS, COMMISSIONS AND
DEPARTMENTS

DATE: October 4, 2002

REF: Compatible Format for Submission of Administrative Rules

To Whom It May Concern:

As publisher of the Illinois Administrative Code (Code) and Illinois Register (Register), the Office of the Secretary of State, Index Department, must, occasionally, make adjustments to the requirements for submission of rules for publication in the Register. Over the past year, the Joint Committee on Administrative Rules (JCAR) and the Legislative Information Systems (LIS) have developed a new (Microsoft Word XP) system to track and maintain their version of the Administrative Code and the Illinois Register. The Secretary of State also has begun utilizing Microsoft XP to process the Register and the Code. **Therefore, effective January 1, 2003, Index Department will no longer accept submissions of entries for the Register from state agencies unless it is on a Microsoft Word format.** Any information that cannot be developed in Microsoft Word due to special characters or mapping will need to be scanned by the agency and embedded into the document.

If you have any questions, please feel welcome to contact me.

Thank you,

Terry Long, Administrator
Administrative Code Division and
Public Records Division
Department of Index

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. The Register will also contain the Cumulative Index and Sections Affected Indices which will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are the end of March, June, Sept, Dec.

Rulemaking activity consist 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 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'

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

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July 2001 - 675 - GA -82

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: APPENDIX G Proposed Action: Amendment
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) A Complete Description of the Subjects and Issues Involved: In Appendix G, Broad-Band Pay Range Classes Salary Schedule, the Health Information Services Administrator title is being added with the Fiscal Year 2003 monthly salary range of \$2571 - \$5125 at the request of the Department of Human Services.

This new classification was developed from a class study conducted on the Medical Records Director I and II titles in the analysis of their current duties and the present requirements for registered health information administrators.

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

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Ill. Reg. Citation</u>
TABLE AA	Amend	26 Ill. Reg. 1774; 02/15/02
310.110	Amend	26 Ill. Reg. 10094; 07/12/02
310.130	Amend	26 Ill. Reg. 10094; 07/12/02
310.230	Amend	26 Ill. Reg. 10094; 07/12/02
310.290	Amend	26 Ill. Reg. 10094; 07/12/02
310.490	Amend	26 Ill. Reg. 10094; 07/12/02
310.510	Amend	26 Ill. Reg. 10094; 07/12/02
310.530	Amend	26 Ill. Reg. 10094; 07/12/02
310.540	Amend	26 Ill. Reg. 10094; 07/12/02
APPENDIX B	Amend	26 Ill. Reg. 10094; 07/12/02
APPENDIX C	Amend	26 Ill. Reg. 10094; 07/12/02
APPENDIX D	Amend	26 Ill. Reg. 10094; 07/12/02

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

APPENDIX G	Amend	26 Ill. Reg. 10094; 07/12/02
TABLE AA	Amend	26 Ill. Reg. 13128; 09/06/02
TABLE AB	Amend	26 Ill. Reg. 13128; 09/06/02
310.280	Amend	26 Ill. Reg. 13735; 09/20/02
310.280	Amend	26 Ill. Reg. 13901; 09/27/02
310.280	Amend	26 Ill. Reg. 15154; 10/25/02
TABLE O	Amend	26 Ill. Reg. 15360; 11/01/02

- 10) Statement of Statewide Objective: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:
- Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
Telephone: (217) 782-5601
- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

The full text of the proposed amendment is identical to the emergency amendment published on page 16585 of the *Illinois Register*.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Reports of Child Abuse and Neglect
- 2) Code Citation: 89 Ill. Adm. Code 300
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
300.20	Amendment
300.30	Amendment
300.130	Amendment
- 4) Statutory Authority: 325 ILCS 5
- 5) A Complete Description of the Subjects and Issues Involved: The revised Sections implement Public Act 92-0801, which requires members of clergy to report cases of sexual abuse under the Abused and Neglected Child Reporting Act; and Public Act 92-0319, which allows the disclosure of appropriate information about the findings and actions taken to ensure the safety of the children who were the subjects of the investigation by the Child Protective Service Unit to an extended family member interviewed for relevant information in the course of the investigation.
- 6) Will these amendments replace any emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any proposed amendments to this Part pending? No
- 10) Statement of Statewide Policy Objective: The amended Sections do not expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805].
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 East Monroe Street, Station #65
Springfield, Illinois 62701-1498

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Telephone: 217/524-1983
TDD: 217/524-3715
FAX: 217/557-0692
E-Mail address: cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small business, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping, other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Public Act affecting the rulemaking was not approved until August 16, 2002.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 300

REPORTS OF CHILD ABUSE AND NEGLECT

Section	
300.10	Purpose
300.20	Definitions
300.30	Reporting Child Abuse or Neglect to the Department
300.40	Content of Child Abuse or Neglect Reports
300.50	Transmittal of Child Abuse or Neglect Reports
300.60	Special Types of Reports (Recodified)
300.70	Referrals to the Local Law Enforcement Agency and State's Attorney
300.80	Delegation of the Investigation
300.90	Time Frames for the Investigation
300.100	Initial Investigation
300.110	The Formal Investigative Process
300.120	Taking Children into Temporary Protective Custody
300.130	Notices Whether Child Abuse or Neglect Occurred
300.140	Transmittal of Information to the Illinois Department of Professional Regulation and to School Superintendents
300.150	Referral for Other Services
300.160	Special Types of Reports
300.170	Child Death Review Teams
APPENDIX A	Acknowledgement of Mandated Reporter Status
APPENDIX B	Child Abuse and Neglect Allegations

AUTHORITY: Implementing and authorized by the Abused and Neglected Child Reporting Act [325 ILCS 5] and Section 3 of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3].

SOURCE: Adopted and codified as 89 Ill. Adm. Code 302 at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5915, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1151, effective January 14, 1987;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified from 89 Ill. Adm. Code 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, and Appendix A at 11 Ill. Reg. 3492; emergency amendment at 11 Ill. Reg. 4058, effective February 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12619, effective July 20, 1987; recodified at 11 Ill. Reg. 13405; amended at 13 Ill. Reg. 2419, effective March 1, 1989; emergency amendment at 14 Ill. Reg. 11356, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 17558, effective October 15, 1990; amended at 14 Ill. Reg. 19827, effective November 28, 1990; emergency amendment at 15 Ill. Reg. 14285, effective September 25, 1991; amended at 15 Ill. Reg. 17986, effective December 1, 1991; emergency amendment at 17 Ill. Reg. 15658, effective September 10, 1993, for a maximum of 150 days; emergency expired February 7, 1994; amended at 18 Ill. Reg. 8377, effective May 31, 1994; amended at 18 Ill. Reg. 8601, effective June 1, 1994; amended at 19 Ill. Reg. 3469, effective March 15, 1995; amended at 19 Ill. Reg. 10522, effective July 1, 1995; amended at 20 Ill. Reg. 10328, effective July 19, 1996; amended at 22 Ill. Reg. 18847, effective October 1, 1998; amended at 23 Ill. Reg. 13590, effective November 15, 1999; amended at 24 Ill. Reg. 7707, effective June 1, 2000; amended at 25 Ill. Reg. 12781, effective October 1, 2001; amended at 26 Ill. Reg. 7435, effective May 15, 2002; amended at 26 Ill. Reg. 11730, effective August 1, 2002; amended at 27 Ill. Reg. _____, effective _____.

Section 300.20 Definitions

"Abused Child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

inflicts, causes to be inflicted, or allows to be inflicted upon such child physical or mental injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

creates a substantial risk of physical or mental injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss of or impairment of any bodily function;

commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

commits or allows to be committed an act or acts of torture upon such child;

inflicts excessive corporal punishment; or

commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child. [325 ILCS 5/3]

"Caregiver" means the child's parents, guardian, custodian or relative with whom the child lives and who has primary responsibility for the care and supervision of the child.

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

"Child care facility" means any person, group of persons, agency, association or organization, whether established for gain or otherwise, who or which receives or arranges for care or placement of one or more children, unrelated to the operator of the facility, apart from the parents, with or without the transfer of the right of custody in any facility as defined in the Child Care Act of 1969, established and maintained for the care of children. Child care facility includes a relative who is licensed as a foster family home under Section 4 of the Child Care Act of 1969. [225 ILCS 10/2.05]

"Child Protective Service Unit" (CPS) means certain specialized State employees of the Department assigned by the Director or his designee to perform the duties and responsibilities as provided under this Part. They are also known as investigative staff. [325 ILCS 5/3]

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents has signed an adoptive surrender or voluntary placement agreement with the Department.

"Collateral contact" means obtaining information concerning a child, parent, or other person responsible for the child from a person who has knowledge of the family situation but was not directly involved in referring the child or family to the Department for services.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

"Credible evidence of child abuse or neglect" means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected.

"Delegation of an investigation" means the investigation of a report of child abuse or neglect has been deferred to another authority. The Department maintains responsibility for determining whether the report is indicated or unfounded, entering information about the report in the State Central Register and notifying the subjects of the report and mandated reporters of the results of the investigation.

"Department" means the Department of Children and Family Services.

"Determination" means a final Department decision about whether there is credible evidence that child abuse or neglect occurred. A determination must be either "indicated" or "unfounded."

"Disfigurement" means a serious or protracted blemish, scar, or deformity that spoils a person's appearance or limits bodily functions.

"Formal investigation" means those activities conducted by Department investigative staff necessary to make a determination as to whether a report of suspected child abuse or neglect is indicated or unfounded. ~~Those Such~~ activities shall include: *an evaluation of the environment of the child named in the report and any other children in the same environment; a determination of the risk to such children if they continue to remain in the existing environments, as well as a determination of the nature, extent and cause of any condition enumerated in such report, the name, age and condition of other children in the environment; and an evaluation as to whether there would be an immediate and urgent necessity to remove the child from the environment if appropriate family preservation services were provided. After seeing to the safety of the child or children, the Department shall forthwith notify the subjects of the report, in writing, of the existence of the report and their rights existing under the Act in regard to amendment or expungement.* [325 ILCS 5/3]

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising a child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact, designate the person as the godparent. If the parents are unavailable, the worker

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 must be met.

"Indicated Report" means any report of child abuse or neglect made to the Department for which it is determined, after an investigation, that credible evidence of the alleged abuse or neglect exists.

"Initial Investigation" means those activities conducted by Department investigative staff to determine whether a report of suspected child abuse or neglect is a good faith indication of abuse or neglect and, therefore, requires a formal investigation. Good faith in this context means that the report was made with the honest intention to identify actual child abuse or neglect.

"Initial Oral Report" means a report alleging child abuse or neglect for which the State Central Register has no prior records on the family.

"Involved Subject" means a child who is the alleged victim of child abuse or neglect or a person who is the alleged perpetrator of the child abuse or neglect.

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Mandated reporters" means those individuals required to report suspected child abuse or neglect to the Department. A list of these persons and their associated responsibilities is provided in Section 300.30 of this Part.

"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs. [325 ILCS 5/3]

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support, or medical or other

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remedial care recognized under State law as necessary for a child's well-being (including where there is harm or substantial risk of harm to the child's health or welfare), or other care necessary for a child's well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who is a newborn infant whose blood, urine or meconium contains any amount of controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care under Section 4 of the Abused and Neglected Child Reporting Act. Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and necessary medical care is not being provided to treat or prevent that harm or risk of harm because such parent or other person responsible for the child's welfare depends upon spiritual means alone for treatment or cure, such child is subject to the requirements of this Act for the reporting of, investigation of, and provision of protective services with respect to such child and his health needs, and in such cases spiritual means through prayer alone for the treatment or cure of disease or for remedial care will not be recognized as a substitute for such necessary medical care, if the Department or, as necessary, a juvenile court determines that medical care is necessary. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of the School Code. [325 ILCS 5/3]

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Person responsible for the child's welfare" means the child's parent, guardian, foster parent, relative caregiver, an operator, supervisor, or employee of a public or private residential agency or institution or public or private profit or not-for-profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors,

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members of the clergy and volunteers or support personnel in any setting where children may be subject to abuse or neglect. [325 ILCS 5/3]

"Private guardianship" means an individual person appointed by the court to assume the responsibilities of the guardianship of the person as defined in Section 1-3 of the Juvenile Court Act of 1987 [705 ILCS 405/1-3] or Article XI of the Probate Act of 1975 [755 ILCS 5/Art. XI].

"Relative," for purposes of placement of children for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:

is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt, or

is the spouse of such a relative, or

is the child's step-father, step-mother, or adult step-brother or step-sister.

Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. [20 ILCS 505/7(b)]

"Subject of a report" means any child reported to the child abuse/neglect State Central Register, and his or her parent, personal guardian or other person responsible for the child's welfare who is named in the report.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated by the Department, subject to review by the Court. Temporary protective custody cannot exceed 48 hours excluding Saturdays, Sundays and holidays.

"Undetermined report" means any report of child abuse or neglect made to the Department in which it was not possible to complete an investigation within 60 days on the basis of information provided to the Department.

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"Unfounded report" means any report of child abuse or neglect for which it is determined, after an investigation, that no credible evidence of the alleged abuse or neglect exists.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 300.30 Reporting Child Abuse or Neglect to the Department

- a) Reports of suspected child abuse or neglect may be immediately made to the State Central Register via its toll-free number [1-800-25A-BUSE] at any time, day or night, or on any day of the week. Reports may also be made to the nearest Department office. The Department encourages use of the toll-free hotline number.
- b) Persons Mandated to Report Child Abuse or Neglect
 - 1) Types of Mandated Reporters

Any of the following individuals who have reasonable cause to believe that a child known to them in their professional or official capacity may be abused or neglected shall immediately report or cause a report to be made to the Department. These mandated reporters include:

 - A) physicians, residents, and interns;
 - B) hospitals;
 - C) hospital administrators and personnel engaged in the examination, care and treatment of persons;
 - D) surgeons;
 - E) dentists;
 - F) dentist hygienists;
 - G) osteopaths;
 - H) chiropractors;
 - I) podiatrists;
 - J) Christian Science practitioners;
 - K) coroners;
 - L) medical examiners;
 - M) emergency medical technicians;
 - N) crisis line or hotline personnel;
 - O) school personnel;
 - P) educational advocate assigned to a child pursuant to the School Code;
 - Q) truant officers;
 - R) social workers;
 - S) social services administrators;

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- T) domestic violence program personnel;
- U) registered nurses;
- V) licensed practical nurses, advanced practice nurses, home health aides;
- W) directors or staff assistants of nursery schools or child day care centers;
- X) recreational program or facility personnel;
- Y) law enforcement officers;
- Z) registered psychologists;
- AA) assistants working under the direct supervision of a psychologist or psychiatrist;
- BB) field personnel of the Illinois Departments of Public Aid, Public Health, Mental Health and Developmental Disabilities, Corrections, Children and Family Services, Human Rights or Rehabilitation Services;
- CC) probation officers;
- DD) foster parents, homemakers or any other child care worker;
- EE) supervisors and administrators of General Assistance under the Illinois Public Aid Code;
- FF) substance abuse treatment personnel; ~~or~~
- GG) funeral home directors or their employees; ~~or~~
- HH) members of the clergy.

2) Members of the Clergy

Members of the clergy are only required to report or cause a report to be made when they have reasonable cause to believe that a child known to them in their professional or official capacity may be a sexually abused child.

32) Acknowledgement of Reporting Responsibility

- A) Individuals who became mandated reporters on or after July 1, 1986, by virtue of their employment shall sign statements acknowledging that they are mandated to report suspected child abuse and neglect in accordance with Section 4 of the Abused and Neglected Child Reporting Act [325 ILCS 5/4]. The statement shall be on a form prescribed by the Department, but provided by the employer. (See Appendix A.) The statement shall be signed before beginning employment and shall be retained by the employer as a permanent part of the personnel record.
- B) The Department shall provide, upon request at a reasonable cost of \$.50 each, copies of the Abused and Neglected Child Reporting Act to all employers employing persons who are mandated to

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report under this Act.

- 43) Interference with Reporting Prohibited
- A) ~~Whenever such person is required to report under the Act. Mandated reporters who report instances of child abuse or neglect in his~~their capacity as ~~a member~~members of the staff of a medical or other public or private institution, school, facility or agency, or as a member of the clergy, he shall make report immediately to the Department in accordance with provisions of the Act and may ~~may~~ also notify the person in charge ~~or designee~~ of such institution, school, facility or agency, or church, synagogue, temple, mosque, or other religious institution, or his designated agent that such a report has been made. Under no circumstances shall any person in charge of such institution, school, facility or agency, or church, synagogue, temple, mosque or other religious institution, or designated agent to whom such notification has been made ~~However, the person in charge or designee may not~~ exercise any control, restraint, modification or other change in the report or the forwarding of such report to the Department. [325 ILCS 5/4]
- B) ~~Any person who knowingly transmits a false report to the Department commits the offence of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 1961. Any person who violates this provision a second or subsequent time shall be guilty of a Class 4 felony.~~
~~Any person who knowingly and willfully violates any provision of this Section other than a second or subsequent violation of transmitting a false report as described in this subsection, is shall be guilty of a Class A misdemeanor for the first violation and a Class 4 felony for a second or subsequent violation.~~ [325 ILCS 5/4]
- C) ~~No employer shall discharge, demote or suspend, or threaten to discharge, demote or suspend, or in any manner discriminate Employers shall not discriminate in any manner against any employee~~employees who makes any ~~make~~ good faith oral or written report ~~reports~~ of suspected child abuse or neglect, or who is or will be a witness ~~act as witnesses or testify in any an~~ investigation or proceeding concerning a report of suspected child abuse or neglect. [325 ILCS 5/9.1]
- 54) Consequences of Failure to Report
- A) The privileged quality of communication between any professional person required to report and patient or client shall not constitute

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grounds for failure to report suspected child abuse or neglect. Mandated reporters who willfully fail to report suspected child abuse or neglect are subject to license suspension or revocation in accordance with the following statutes:

- i) Nursing and Advanced Practice Nursing Act [225 ILCS 65];
- ii) Medical Practice Act of 1987 [225 ILCS 60];
- iii) Podiatric Medical Practice Act of 1987 [225 ILCS 100];
- iv) Clinical Psychologist Licensing Act [225 ILCS 15];
- v) Clinical Social Work and Social Work Practice Act [225 ILCS 20];
- vi) The School Code [105 ILCS 5];
- vii) The Illinois Dental Practice Act [225 ILCS 25];
- viii) Physician Assistant Practice Act of 1987 [225 ILCS 95];
- ix) Illinois Optometric Practice Act of 1987 [225 ILCS 80];
- x) Illinois Physical Therapy Act [225 ILCS 90]; and
- xi) Illinois Athletic Trainers Act [225 ILCS 5].

B) *Any physician who willfully fails to report child abuse or neglect shall be referred to the Illinois State Medical Disciplinary Board for action. Any other person required to report suspected child abuse or neglect who willfully fails to report such abuse or neglect shall be guilty of a Class A misdemeanor. [325 ILCS 5/4]*

C) Members of the clergy of any religious denomination accredited by the religious body to which he or she belongs shall not be compelled to disclose a confession or admission made to him or her in his or her professional character or as a spiritual advisor.

65) Written Confirmation of Reports

Mandated reporters shall confirm their telephone report in writing on a form prescribed by the Department within 48 hours of the oral report. The Department shall provide forms to mandated reporters – one for the exclusive use of medical professionals and another for use by all other mandated reporters. These confirmation reports shall be admissible as evidence in any administrative or judicial proceeding related to child abuse or neglect. Local investigative staff shall transmit confirmation reports to the State Central Register within 24 hours of receipt.

c) Other Persons May Report

Other persons may report suspected child abuse or neglect if they have reasonable cause to believe a child may be abused or neglected.

d) Consequences of False Reporting

Any person who knowingly transmits a false report to the Department commits the

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offense of disorderly conduct under subsection (a)(7) of Section 26-1 of the Criminal Code of 1961 [720 ILCS 5/26-1(a)(7)]. A violation of this subsection is a Class B misdemeanor, punishable by a term of imprisonment for not more than 6 months, or by a fine not to exceed \$500, or both. Any person who violates this provision a second or subsequent time shall be guilty of a Class 4 felony. [325 ILCS 5/4] The Department shall refer cases of false reporting to the local State's Attorney when the reporter is known.

- e) Cooperation in Court or Administrative Hearings
Any person who makes a report or who investigates a report may be ordered by the Court to testify fully in any judicial proceeding resulting from the report about any evidence of the abuse or neglect or the cause of the abuse or neglect. Any mandated reporter listed in subsection (b)(1) who makes a report of suspected child abuse or neglect shall testify fully in any administrative hearing resulting from such report, as to any evidence of abuse or neglect or the cause thereof. No evidence shall be excluded because of any common law or statutory privilege regarding communications between the alleged perpetrator or the child subject and the person making or investigating the report.
- f) Referrals to Public Health
All mandated reporters listed in subsection (b)(1) may refer to the Department of Public Health any pregnant person in Illinois who is addicted as defined in the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301].
- g) Depending upon Spiritual Means Through Prayer Alone for the Treatment or Cure of Disease or Remedial Care
A child whose parent, guardian or custodian in good faith selects and depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care may be considered neglected or abused, but not for the sole reason that his parent, guardian, or custodian accepts and practices such beliefs. [325 ILCS 5/4] Where the circumstances indicate harm or substantial risk of harm to the child's health or welfare and medical care necessary to treat or prevent that harm or risk of harm is not being provided because a parent or other person responsible for the child's welfare depends upon such spiritual means, the child shall be subject to the requirements of the Abused and Neglected Child Reporting Act for the reporting of, investigation of, and provision of protective services with respect to the child and his health needs.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 300.130 Notices Whether Child Abuse or Neglect Occurred

- a) Written Notices of Decision

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The Department provides a written notice to mandated reporters who reported suspected child abuse or neglect as well as to the child's parent, personal guardian, or legal custodian; the Juvenile Court Judge (when a State ward is involved); and the alleged perpetrator concerning the final determination of the report.

- b) Mandated Reporters
- 1) Mandated reporters who have reported suspected child abuse or neglect are informed via a written notice that a formal investigation was conducted. The written notice also provides an explanation of how further information on an indicated report may be secured. Department staff will notify them in writing:
 - A) of the name of the child who was the subject of a report of abuse or neglect;
 - B) whether the report was indicated or unfounded;
 - C) whether the Department took temporary protective custody.
 - 2) Requests for additional information must be directed, in writing, to the State Central Register and must include:
 - A) the identity of the requestor;
 - B) the subject's name for whom the record is requested;
 - C) a notary public's attestation as to the identity of the requestor;
 - D) the purpose of the request.
 - 3) Upon receipt of an appropriate request, only the following information will be disclosed to the mandated reporter:
 - A) whether a Department case has been opened for the family or children; and
 - B) what Department services are being provided to the family or children.
 - 4) All requested information is sent in writing through certified mail and is deliverable only to the mandated reporter who made the request.
 - 5) Whenever the Department determines that a reported incident of child abuse or neglect from a mandated reporter is unfounded, the mandated reporter may request a review of the investigation within ten days after the notification of the final findings. Multi-disciplinary Review Committees established in each of the Department's regions shall conduct requested reviews.
 - 6) Multi-disciplinary Review Committees shall draw upon the expertise of the Child Death Review Teams (see Section 300.170 of this Part). Each committee shall be composed of a health care professional, Department employee, law enforcement official, licensed social worker, and representative of a State's Attorney's office. When appointing committee members, primary consideration shall be given to candidates with prior

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- child abuse and neglect case experience.
- 7) Multi-disciplinary Review Committees will have access to all information in the Department's possession related to the case being reviewed. Committee recommendations concerning the adequacy of the investigation and accuracy of the final finding determination shall be made to the regional Child Protection Manager.
- 8) Department records of investigations provided to committees and committee recommendation reports shall not be public record.
- c) Parents, Personal Guardians, Legal Custodians, and Alleged Perpetrators
- 1) Custodial and non-custodial parents, personal guardians, or legal custodians of child subjects, and alleged perpetrators shall receive notification within five calendar days after the report has been indicated or unfounded which indicate that the allegations were either:
- A) unfounded, and that all identifying information in the computer and local index files will be retained in accordance with 89 Ill. Adm. Code 431 (Confidentiality of Information of Persons Served by the Department); or
- B) indicated, and all Department records will be maintained intact.
- 2) In addition, written notices shall explain that:
- A) the subjects of the report have access to the Department's records on the report, with the exception of the identity of the reporter or other persons who cooperated in the investigation;
- B) the subjects of the report have the right to request a review of the determination that the report was indicated including the decision to maintain a record of the report in the Department's computer and local index files. 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings) fully explains the Department's review and appeal process; and
- C) the subjects of the report may request, within 10 days of the date on the written notice, that an unfounded report be retained in the Department's computer and local index files, if the subjects of the report believe the report was not made in good faith. All such requests will be honored.
- d) Extended Family
An extended family member interviewed for relevant information during the course of an investigation by the Child Protective Service Unit may request and receive the following information about the findings and actions taken by the Child Protective Service Unit to ensure the safety of the child or children who were the subjects of the investigation:

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- 1) name of the child who was the subject of the abuse or neglect report;
- 2) whether the report was indicated or unfounded;
- 3) whether the Department took protective custody;
- 4) whether a Department case has been opened for the family or children;
- 5) what Department services are being provided the family or children; and
- 6) whether a safety plan has been established.

ed) Child's School

- 1) The Department shall send a copy of final finding reports involving indicated allegations of physical or sexual abuse to the indicated victim's school within ten days after the investigation is completed. Reports completed during the summer months shall be sent to the last known school attended by the child.
- 2) The final finding report shall be sent confidential and the school shall ensure that the report remains confidential in accordance with the Illinois School Student Records Act.
- 3) The victim's school shall purge the final finding report from the student's record and return the report to the Department upon notification from the Department that the report was overturned in an appeal or hearing or an indicated finding has been expunged from the State Central Register or that the Department has determined that the child is no longer at risk of physical or sexual harm.

fe) Other Parties

The Department shall notify, in writing, those supervisors or administrators referenced in Section 300.100(i) of this Part whether a report involving the persons they supervise was indicated or unfounded and, if unfounded, that Section 13 of the Personnel Record Review Act [820 ILCS 40/13] requires that any record of the investigation must be expunged from the employee's personnel records. The Department shall also notify the employee, in writing, that notification has been sent to the employer informing the employer that the Department's investigation has resulted in an unfounded report. The notice to the employee shall also contain a statement of the employee's right to take the notice to the employer to have any record of the investigation expunged from the employee's record.

gf) Child Abuse and Neglect Reports on Children in Department Custody

- 1) When a child is reported to the Department as being abused or neglected while in a foster home or relative home placement, whether by the foster parent, caregiver, or any other person residing in the home, the

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Department shall promptly notify the following persons when the report has been made, when an investigation is pending, and when the report has been indicated or unfounded:

- A) the parents or private guardians of the alleged abuse or neglect victim;
 - B) all Department caseworkers or case managers responsible for the alleged victim and for any other children in the same foster home or relative home placement;
 - C) those persons designated by the Director as responsible for evaluating the investigation and the disposition of the report;
 - D) Department staff responsible for licensing and making placements with the facility.
- 2) When a child is reported to the Department as being abused or neglected while in residential placement, the Department shall promptly notify the following persons when the report has been made, an investigation is pending, and when the report has been indicated or unfounded:
- A) the parents or private guardians of the alleged abuse or neglect victim;
 - B) those Department caseworkers or case managers responsible for the alleged victim, for each child alleged to be a witness to the incident, and for each child alleged to be a perpetrator of the incident;
 - C) those persons designated by the Director responsible for evaluating the investigation and the disposition of the report;
 - D) Department staff responsible for licensing and making placements with the facility.
- 3) The Department shall notify the following when a report involving a child in Department custody is indicated:
- A) the Juvenile Court. If services are being provided by the Department or its providers, the notice shall also give the name and location of the Department office serving the children;
 - B) the Department's administrative case reviewer responsible for reviewing the case plans of the children involved.
- 4) The Department shall transmit a copy of the report to the guardian ad litem appointed under the Juvenile Court Act of 1987 when a report has been indicated, unfounded, or undetermined and the minor who is the subject of the report is also the minor for whom the guardian ad litem has been appointed.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Audits, Reviews, and Investigations
- 2) Code Citation: 89 Ill. Adm. Code 434
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
434.1	Amend
434.2	Amend
434.3	Amend
434.4	Amend
434.5	Amend
434.6	Amend
434.7	Amend
434.8	Amend
434.9	Amend
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4] and the Fiscal Control and Internal Auditing Act [30 ILCS 10]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking establishes the Office of Field Audits (OFA) within the Department. The OFA will conduct audits and desk reviews of contracted purchase of service providers to confirm their compliance with applicable laws and regulations, and to make recommendations to the Director regarding the results of such audits.

This rulemaking also amends language regarding the Department's excess revenue determination process. Under the proposed amendments child care institutions, shelter care facilities, group homes, independent living facilities, community integrated living arrangements and agency foster care services would all be subject to the revised excess revenue determination procedures.
- 6) Will these amendments replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these amendments contain incorporations by reference? Yes
- 9) Are there any proposed amendments to this Part pending? No
- 10) Statement of Statewide Policy Objective: These rules do not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

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

Jeff Osowski
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
Telephone: (217) 524-1983
TTY: (217) 524-3715
FAX: (217) 557-0692
cfpolicy@idcfs.state.il.us

The Department will consider fully all written comments on this proposed rulemaking submitted during the 45-day comment period. Comments submitted by small businesses should be identified as such.

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: Child care institutions, shelter care facilities, group homes, independent living facilities, community integrated living arrangements and agency foster care services.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized on either of the two most recent regulatory agendas because: This amendment was not anticipated when the regulatory agendas were published.

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER f: GENERAL ADMINISTRATION

PART 434

AUDITS, REVIEWS, AND INVESTIGATIONS

Section

434.1	Purpose
434.2	Definitions
434.3	Audit Standards to be Applied and Audit Procedures to be Followed for the Office of Field Audits – OFA Internal Auditing
434.4	Scope of the OF A Internal -Audit/Review or Investigation
434.5	Reports of OF A Internal Auditors
434.6	Exit Conferences
434.7	Certified Audits, Cost Reports and Desk Reviews
434.8	Records Maintenance and Availability for Audit
434.9	Responsibilities of the Office of Field Internal -Audits
434.10	Administrative Hearings of Draft Audit Findings and Recommendations
434.11	Referrals by Department Employees to the Investigations Unit
434.12	Severability of This Part

AUTHORITY: Implementing and authorized by Section 4 of the Children and Family Services Act [20 ILCS 505/4] and the Fiscal Control and Internal Auditing Act [30 ILCS 10].

SOURCE: Adopted and codified at 5 Ill. Reg. 8634, effective September 1, 1981; amended at 8 Ill. Reg. 133, effective December 30, 1983; amended at 18 Ill. Reg. 6697, effective May 1, 1994; emergency amendment at 18 Ill. Reg. 8944, effective June 3, 1994, for a maximum of 150 days; emergency expired on October 31, 1994; amended at 19 Ill. Reg. 2760, effective February 27, 1995; amended at 21 Ill. Reg. 15469, effective December 15, 1997; amended at 26 Ill. Reg. 3021, effective February 15, 2002; amended at 27 Ill. Reg. _____, effective _____.

Section 434.1 Purpose

The purpose of ~~this Part these rules~~ is to define the scope of the audits/reviews and investigations conducted by the Department. ~~This Part These rules~~ also ~~explains explain~~ the process the Department will use when conducting audits/reviews and investigations of ~~private agencies internal units of the Department, providers~~ who contract with the Department, and agencies which are licensed by the Department.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

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Section 434.2 Definitions

"Audit/Review" means an examination of financial transactions, accounts ~~and~~, reports, ~~and~~ an evaluation of internal controls or an evaluation of compliance with applicable laws and regulations. An audit/review may also include an examination of efficiency and economy in the use of resources (such as personnel, property, space), or an examination to determine whether desired results are effectively achieved.

"Certified Audits" means the entity's annual financial and compliance report which has been examined by an Independent Licensed Certified Public Accountant.

"Cost Report" means the ~~Consolidated Financial Report-State of Illinois Interagency Statistical and Financial report~~.

"Department" means the Illinois Department of Children and Family Services.

"Desk Review", as used in this Part, means a review by the Department's ~~Office of Field Audits Internal Auditors~~ of certified public audits and cost reports submitted by the provider agency.

~~"Field Auditor" is a Department employee whose responsibilities include conducting audits of contracted purchase of service providers to confirm their compliance with applicable laws and regulations, and to make recommendations to the Director regarding the results of those audits.~~

"Follow-up Review" means a viewing of past occurrences ~~or~~, contemplation or consideration of past events, circumstances, or facts.

~~"Internal Auditor" is a Department employee whose responsibilities include conducting audits of Department activities and contracted purchase of service providers in order to make recommendations to the Director regarding the results of such audits.~~

"Investigation" means an examination of employee conduct, security systems, and contractor conduct to assure compliance with State, ~~federal Federal~~ and Departmental rules and regulations. A Department investigation is not intended to focus on criminality or prepare cases for prosecution, but rather to obtain sufficient documentation to assure the Director of the appropriateness of

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Department and service provider employee conduct and the safeguarding of Department assets.

"Limited Review" means an examination of financial transactions, accounts ~~and~~, reports, an evaluation of internal controls, or an evaluation of compliance with applicable laws and regulations ~~that which~~ is limited in scope to examine only certain areas. (Although this is not a full scope audit, it may include an examination of efficiency and economy in the use of resources (such as personnel, property, space), and an examination to determine whether desired results are effectively achieved.)

"Preliminary Review" means a limited review of financial transactions, accounts, reports ~~and~~, internal controls and compliance with contract provisions to assess the full scope needed during an upcoming audit.

"Program Type" means services provided through the same appropriation account for similar services.

"Related Party Transaction" means a financial transaction in which one party has the ability to influence the management or operating policies of the other party. Disclosure of related party transactions should include the nature of the relationship, a description of the transactions, including dollar amounts, and amounts due to and from related parties.

"Scope of the Audit or Investigation" means the activities and testing procedures that the auditor or investigator deems necessary to conduct an examination or investigation.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 434.3 Audit Standards to be Applied and Audit Procedures to be Followed for Office of Field Audits – OFA Internal Auditing

The audits of entities shall be performed in accordance with the AICPA's (American Institute of Certified Public Accountants) standards for auditing and Standards for Professional Practice of Internal Auditing (The Institute of Internal Auditors, 1978) or where required, in accordance with Government Auditing Standards (United States General Accounting Office, 19941988).

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 434.4 Scope of the OFA Internal Audit/Review or Investigation

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- a) The Department reserves the right to conduct audits/reviews, limited reviews, follow-up reviews and/or investigations of entities that ~~which~~ contract with or ~~who~~ are licensed by the Department. The Department may elect to designate qualified individuals to do this on its behalf when an independent (non-DCFS) audit is required by law or contract. Outside independent auditors will be used to conduct audits when a grant award from an outside funding source requires an independent certified audit as a condition of the grant. Audits/reviews and investigations shall encompass some or all of the following general objectives:
- 1) an examination of financial transactions, accounts, and reports, including an evaluation of compliance with applicable laws and regulations and Department rules.
 - 2) an evaluation of whether the entity is maintaining effective control over revenues, expenditures, assets and liabilities.
 - 3) an examination to verify that financial and cost reports contain accurate and reliable financial and client service data, and are presented fairly.
 - 4) an examination to verify that related party transactions are properly accounted for and disclosed appropriately.
 - 5) an examination to verify that funds are used for their stated purpose as prescribed in the contract with the Department.
 - 6) an examination to verify that costs and services were incurred, expended or provided as billed.
- b) A preliminary review of entities may be conducted prior to the full audit. The purpose of the preliminary review is to define and limit the general objectives of the audit so that the audit can be conducted in an efficient manner. The preliminary review may encompass a selective review of financial transactions, accounts, reports, internal controls and compliance with contract provisions. At the conclusion of this review and based upon the results, the auditors ~~auditor(s)~~ may:
- 1) conduct a full scope audit that ~~which~~ encompasses all of the general objectives. A full scope audit will be conducted when major internal control weaknesses or significant deviations from generally accepted accounting principles are observed during the preliminary review.
 - 2) conduct a limited scope audit to include only the areas of observed weaknesses in the entity's recordkeeping or compliance with contracts. A limited scope audit will be conducted when weaknesses in internal controls are observed or minor deviations from generally accepted accounting principles are observed during the preliminary review.
 - 3) cancel additional field work if no major areas of weaknesses are observed in the entity's recordkeeping or compliance with contracts.
- c) In the event that a full or limited scope audit is not completed, a written report of

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the results of the preliminary review shall be prepared and distributed as specified in Section 434.5 of this Part.

- d) Current employees of entities or licensees and/or clients of the Department will be interviewed as necessary in conjunction with audits/reviews, limited reviews, and investigations.
- e) The scope of the OFA's audit/review or investigation ~~Internal Audit/Review or Investigation~~ is not intended to identify fraud; but when fraud is suspected, the Department reserves the right to surrender all records pertaining to the audit/review or investigation to the appropriate law enforcement body without notice to the entity with whom the Department has the contracts ~~contract(s)~~.
- f) Follow-up reviews may be conducted when entities have had major internal control weaknesses identified in the final audit report. Major internal control weaknesses include, but are not limited to, the following:
 - 1) lack of controls over cash accounts or petty cash controls,
 - 2) lack of control over fixed assets,
 - 3) noncompliance with recordkeeping contractual requirements,
 - 4) major deviations from generally accepted accounting principles in the provider's financial reporting and recordkeeping practices,
 - 5) major deviations from federal or State law or Department rules and procedures.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 434.5 Reports of OFA ~~Internal~~ Auditors

- a) All entities that undergo a Department audit, review or investigation shall be provided a draft copy and a final copy of the report.
- b) The audited entity shall be provided with a draft copy of the audit or review within 30 business days after the fieldwork is completed. Fieldwork may include additional work after the "onsite" work has been completed. At that time, the entity will be requested to provide written comments on the findings and recommendations corresponding to each issue. The draft copy will be distributed to the appropriate officials of the Department and the audited entity.
- c) The draft report shall present findings and detailed supporting information to the extent necessary to clarify the findings. Where possible, the report shall contain the auditor's recommendations to effect improvements in problem areas noted in the audit and to otherwise make improvements in operations.
- d) Upon receipt of the draft report, the entity may submit a response to the findings and recommendations. The response must be submitted to the Office of Field Audits within 30 business days after ~~of~~ the date of receipt of the draft report.
- e) A final report shall be issued within 30 business days after the date of the draft

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report unless the entity requests an exit conference or an administrative hearing of the audit findings per Sections 434.6 and 434.10 of this Part.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 434.6 Exit Conferences

All entities that undergo a Department audit, review or investigation shall be given the opportunity for an exit conference and an administrative hearing of the Department's findings and recommendations. The requirements for requesting a review of the findings and recommendations are as follows:

- a) After receipt of the draft report or desk review report, the entity may request an exit conference. The request for an exit conference must be received within 15 business days after receipt of the draft report or desk review report. The request must be sent to the Department's Office of Field Audits Chief Auditor and must explain which findings and recommendations the entity does not understand or does not agree with.
 - 1) The exit conference shall be scheduled within 15 business days after ~~of~~ the request and shall be a general discussion between the agency representatives and the auditors who performed the fieldwork or desk review. Proposed responses to the draft report or desk review may be presented at the time of the discussion.
 - 2) When an exit conference is held, the final report shall contain a brief narrative regarding the date that the conference was held; the names of the persons attending; the topics discussed; and any mutually agreed changes to the draft or report that were decided upon during the exit conference.
- b) If the entity disagrees with the audit findings, it may request an administrative hearing regarding the findings and recommendations. A request for an administrative hearing must be received in writing within 15 business days after the conclusion of the exit conference and shall be directed to the administrator of the Administrative Hearings Unit with a copy forwarded to the Office of Field Audits. A request for an administrative hearing must be accompanied by supporting documents or factual matter that refutes ~~which refute~~ or modifies ~~modify~~ the Department's draft findings.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 434.7 Certified Audits, Cost Reports and Desk Reviews

- a) The Department's requirements for providers include the annual filing of a cost report (for all providers in accordance with 89 Ill. Adm. Code 357) and a certified

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audit of entities who receive annual payments in excess of \$150,000 in any one contract year. The certified audit for all entities must be completed and submitted within 180 calendar days after the completion of their fiscal year as required by Purchase of Service (89 Ill. Adm. Code 357.12011(f)). All governmental and not-for-profit entities must complete audits in accordance with OMB Circular Circulars A-128 or A-133, whichever is applicable.

- b) The certified audit and related cost reports are to be reviewed by the Office of Field Audits Internal Auditors and, when appropriate, a report on the certified audit or cost reports will be issued to Department officials who are responsible for the contracts. The general objectives of the desk review and report shall determine whether:
- 1) financial and service unit information is appropriately presented and is consistent with the generally accepted accounting principles;
 - 2) costs incurred in operating the contracted service are not less than the revenues received directly for the program;
 - 3) related party transactions are appropriately recorded and disclosed;
 - 4) significant accounting practices and other information that require disclosure (as described by generally accepted accounting principles) are disclosed appropriately; and
 - 5) funds were used in accordance with Department policy and whether the entity has received monies in excess of actual reimbursable costs.
- c) The Office of Field Internal Audits is responsible for answering all questions regarding the preparation of a certified audit. If the Department has not received the certified audit by the deadline of 180 calendar days after the completion of the entity's fiscal year, the Office of Field Internal Audits will notify the entity of the delinquency and send a copy of the notice to the Department's Contracts and Grants unit and Department regional administrative staff.
- d) All certified audits are logged in upon receipt by the Office of Field Internal Audits and an audit digest (summary of findings) is prepared for each audit received. If the audit does not contain adequate information, the Office of Field Internal Audits will send a letter to the entity to request additional information. If the certified audit does not meet the standards set out in subsection (a) of this Section, the entity will be given 30 business days to submit a new certified audit.
- e) The Office of Field Internal Audits will prepare a desk review report that will highlight any deficiencies that are found in the audit and will contain specific recommendations for procedural changes in the preparation of certified audits. The completed desk review report will be sent directly to the entity, with a copy to appropriate Department regional staff.
- f) Department regional staff are responsible for reviewing the recommendations contained in the desk review report and providing assistance as necessary to the entity in follow-up on the recommendations made. The desk review report may

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contain recommendations for contract or budget revisions that must be acted upon by the regional staff.

- g) The desk review report may contain recommendations that require an additional response from the entity before the certified audit is accepted. The entity's response and concurrence with the recommendations of the desk review report will close the desk review process.
- h) Excess revenue calculations shall be based on the information reported in the Consolidated Financial Report or other suitable financial report accepted by the Department. The certified independent audit report may be used to develop excess revenue calculations if sufficient detail exists within the report to support the excess revenue calculations, and an accurate Consolidated Financial Report or other suitable financial report is not available.
- 1) Programs Subject to Excess Revenue Determination:
The Department shall determine individual program excess revenues attributable to Department funding for contracted provider agency 24-hour substitute care programs. Examples of provider agency programs include, but are not limited to:
- A) childcare institutions;
- B) shelter care;
- C) group homes;
- D) independent living;
- E) community integrated living arrangements;
- F) agency foster care; and
- G) other programs or contracted agencies, as determined by the Director or his/her designee.
- 2) Excess Revenue Determination Procedure
- A) Excess revenue is the amount of purchase of service fees and governmental grant funding that exceeds total audited costs, less:
- i) disallowable costs as listed in 89 Ill. Adm. Code 356.60 (Disallowable Cost and Reduced Reimbursement);
- ii) fringe benefit costs, as defined in 89 Ill. Adm. Code 356.20 (Definitions), that exceed 25% of salaries and wages; and
- iii) administrative costs that exceed 20% of all other allowable costs.
- B) For excess revenue determinations, profit is considered as an allowable cost to the extent permitted in 89 Ill. Adm. Code 356 (Rate Setting).
- C) Excess revenue attributable to Department funding is the amount of program excess revenues times Departmental revenue divided by all program purchase of service fees and government non-restricted grants.

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3) Excess Revenue Amounts that May Be Retained

In each fiscal year, provider agencies may retain an amount of program excess revenues attributable to substitute care programs reimbursed by means of an actual cost based rate that has been calculated consistent with the process and standards defined in 89 Ill. Adm. Code 356. The amount retained may not exceed 7% of the program reimbursable costs, provided that:

- A) for programs with a license capacity, the total utilization is between 85% and 95% of the licensed or approved program capacity;
- B) for all programs subject to the excess revenue review, administrative costs do not exceed 20% of reimbursable cost; and
- C) the program staffing level meets the minimum requirements defined in the contract program plan and licensing standards where applicable. Provider agencies choosing to retain excess revenues in accordance with this Section will be required to provide documentation supporting historical staffing levels in a report format prescribed by the Department.

All DCFS identified program excess revenue amounts retained by the provider agency must be invested in direct service (non-administrative) activities in programs funded by the Department. Provider agencies unable to demonstrate that retained program excess revenue amounts have been invested consistent with the provisions of this subsection (h)(3) will be subject to forfeiture of the retained funds.

4) Amounts Returned to the Department

Amounts to be returned to the Department must be received within 60 days after the date the excess revenue notification is mailed to the provider agency's director or his/her designee or after a payment plan has been approved.

5) Program Excess Revenue Offsets

Program excess revenue may not be offset against other program deficits occurring in the year reviewed, or any other year, without the approval of the Director or his/her designee. When the rates for group homes, institutions, independent living, homemakers, Medicaid and unmarried mothers services are set by audited costs, the entity is exempt from recapture of any excess revenues associated with these services. The total amount of excess revenues identified during FY 1981-FY 1994 must be recorded as a liability on the entity's financial statements and may be retained by the entity until the specified program type is no longer in effect. If, beginning with State fiscal year 1995 and in any subsequent years, payments from the Department exceed expenses attributable for a

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~~specified program type, any excess revenues that are identified will be recaptured during the following fiscal year contract period.~~

- i) Waiver of the certified audit requirement must be requested in writing and directed to the Department's Chief Internal Auditor. The request should state the reason for the waiver request. A request for an extension of the deadline for submittal of the audit beyond the time specified in the contract must ~~also~~ be submitted in writing to the Associate Deputy Director of the Office of Field Audits ~~Chief Auditor~~. The Department's Chief Internal Auditor ~~and Associate Deputy Director of the Office of Field Audits~~ will respond to requests for waivers or extensions within 30 business days, specifying approval or rejection of the waiver or extension.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 434.8 Records Maintenance and Availability for Audit

All records specified in the Department's rules on Service Delivery (89 Ill. Adm. Code 300-313), Fiscal Administration (89 Ill. Adm. Code 351-362), and Licensing License Standards (89 Ill. Adm. Code 377-410, as appropriate for the facility type), and any documents ~~that which~~ support financial transactions, or billing statements, or ~~that which~~ should be included in a case or personnel file must be or maintained by the provider for a period of 5 five years. Department requests for review of records shall be subject to the following guidelines:

- a) entities shall be issued a written request ~~verbally requested~~ to provide required records by properly authorized Department staff or designees at the ~~after the~~ commencement of desk review, limited review, preliminary review, limited scope audit, full scope audit or receipt of a questionable business paper;
- b) ~~entities who fail to provide requested records shall be issued a written request for the documents. The request shall be from the Department Director, the Chief Auditor or the contract administrator;~~
- b)e) if the records (requested in writing) are not provided within 15 business days after ~~of~~ the date of the request, the Department's Director or authorized designee shall issue a subpoena for the requested records;
- c)d) continued failure to provide the requested records shall, with the Director's approval, result in termination of the Department's contract with the entity and forfeiture or withholding of payment.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 434.9 Responsibilities of the Office of Field Internal Audits

The Department of Children and Family Services is mandated by the Fiscal Control and Internal

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Auditing Act (~~Ill. Rev. Stat. 1991, ch. 15, pars. 1001 et. seq.~~) [30 ILCS 10] to monitor, report on, and enforce Department compliance with federal and State statutes, Department rules, policy, and management directives, as well as to ensure ~~ensuring~~ the integrity of Department assets through the review and monitoring of internal accounting controls. The Associate Deputy Director ~~Chief Auditor~~ reports and is directly responsible to the Deputy Director of the Purchase of Service Monitoring Division ~~Department~~. In order to fulfill their duties, the Department's Office of Field ~~Internal~~ Audits regularly undertakes audits/ and annual Desk Reviews ~~reviews of Divisions or Units of the Department and activities~~ of purchase of service providers and other entities that ~~which~~ have contracts with or are licensed by the Department in order to assess their compliance with contracts, federal and State rules and regulations ~~established law, policy and directives~~. ~~Accordingly, Department staff are responsible for full cooperation with the internal audit staff in their efforts to monitor, measure, and recommend improvements in performance.~~

(Source: Amended at 27 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Program to Foster the Elimination of the Digital Divide
- 2) Code Citation: 83 Ill. Adm. Code 758
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
758.10	Amendment
758.30	Amendment
758.50	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 5-105 and 13-301.2 of the Public Utilities Act [220 ILCS 5/5-105 and 13-301.2]
- 5) A Complete Description of the Subjects and Issues Involved: On July 15, 2002, 83 Ill. Adm. Code 758, "Program to Foster the Elimination of the Digital Divide", became effective. The rules implement Section 13-301.2 of the Public Utilities Act, which reads in relevant part:

The Commission shall require by rule that each telecommunications carrier notify its customers that if the customer wishes to participate in the funding of the Program to Foster Elimination of the Digital Divide he or she may do so by electing to contribute, on a monthly basis, a fixed amount that will be included in the customer's monthly bill.

There is a variance between the adopted rules and the requirements of statute. Section 758.10 contains the definitions for use in the Part. The definition of "telecommunications carrier" is

"Telecommunications carrier" or "carrier" means a telecommunications carrier as that term is defined in Section 13-202 of the Act [220 ILCS 5/13-202] that is providing local exchange telecommunications service as defined in Section 13-204 of the Act.

This definition does not appear to comply with the requirement of Section 13-301.2 of the Public Utilities Act that requires each telecommunications carrier to notify its customers, without limiting the notice to the local exchange carriers. This statutory requirement would include all telecommunications carriers.

In addition to modifying the definition of "telecommunications carrier", it will also be necessary to amend Section 758.30(b) and Section 758.50(g) to change dates by which the carriers were to have complied with certain requirements.

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- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand any State mandate on units of local government, school districts, or community college districts.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register* in Docket 02-0689, with:

Donna M. Caton
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701
(217)782-7434
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: These amendments will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. These amendments will not affect any small municipalities or not for profit corporations that are not otherwise jurisdictional entities.
 - B) Reporting, bookkeeping or other procedures required for compliance: Filing and bookkeeping requirements
 - C) Types of professional skills necessary for compliance: Managerial skills
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Commission did not anticipate the need for this amendment at that time.

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

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NOTICE OF PROPOSED AMENDMENTS

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

PART 758

PROGRAM TO FOSTER THE ELIMINATION OF THE DIGITAL DIVIDE

Section

758.10	Definitions
758.20	Dispute Procedures
758.30	Service Requirement
758.40	Contribution Solicitation and Program Publicity
758.50	Contributions
758.60	Telecommunications Carrier Remittance
758.70	Monitoring of Telecommunications Carriers

AUTHORITY: Implementing and authorized by Sections 5-105 and 13-301.2 of the Public Utilities Act [220 ILCS 5/5-105 and 13-301.2].

SOURCE: Adopted at 26 Ill. Reg. 11466, effective July 15, 2002; amended at 27 Ill. Reg. _____, effective _____.

Section 758.10 Definitions

When used in this Part, the listed terms will have the definitions given in this Section.

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

"Commission" means the Illinois Commerce Commission.

"Customer" means any person, building owner, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., provided with ~~local exchange carrier~~ telecommunications services for its own consumption and not for resale as defined in Section 13-204 of the Act [220 ILCS 5/13-204].

"Customer" may also be referred to as "end-user".

"Department" means the Department of Commerce and Community Affairs (DCCA).

"Program" means the Program to foster the elimination of the digital divide

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established pursuant to Section 13-301.2 of the Act [220 ILCS 5/13-301.2].

"Telecommunications carrier" or "carrier" means a telecommunications carrier as that term is defined in Section 13-202 of the Act [220 ILCS 5/13-202] ~~that is providing local exchange telecommunications service as defined in Section 13-204 of the Act.~~

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 758.30 Service Requirement

- a) Each telecommunications carrier shall participate in the notification, collection, and remittance of the monthly voluntary contributions to support the Program.
- b) By ~~April 1, 2003~~ ~~August 14, 2002~~, each telecommunications carrier shall file with the Commission a tariff pursuant to Section 13-301.2 of the Act for the provision of the Program.
- c) All voluntary contributions received by a telecommunications carrier under Section 758.50 shall be forwarded to the Department for deposit into the Digital Divide Elimination Fund.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 758.50 Contributions

- a) Customers wishing to participate in the funding of the Program may do so by electing to contribute, on a monthly basis, a fixed amount to be included by the telecommunications carrier on the customer's monthly bill. This contribution shall not reduce the customer's total amount due for telecommunications services or other charges appearing on the bill.
- b) This contribution will be a line item on the bill and identified as the "Digital Divide Fund.
- c) Customers may elect to contribute \$.50, \$1, \$2, \$5, \$10, \$15, or \$25 per month per line.
- d) Contributions shall be collected on a recurring basis each month from the customer's bill and remittance shall be reported and transferred to the Department or its designee as required by Section 758.60.
- e) Customers may elect to discontinue or change the amount of the monthly contribution on their bill at any time upon providing at least 30 days notice by telephone, mail, or e-mail, if available, to the telecommunications carrier.
- f) Contributions other than those provided for in subsection (c) of this Section ~~above~~

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shall be made directly to the Department or its designee.

- | g) By ~~September 30, 2002~~ April 1, 2003, telecommunications carriers shall provide customers the ability and the opportunity to make the elections referred to in subsections (c) and (f) of this Section on the bill inserts required by Section 758.40.
- h) Failure by the customer in any month to remit the entire billed amount may reduce the contribution accordingly.
- i) There are no other funding requirements on any party or individual for the Program beyond those in this Section.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Rulemaking, Public Information and Organization
- 2) Code Citation: 2 Ill. Adm. Code 3300
- 3)

<u>Section Numbers</u>	<u>Proposed Action</u>
3300.100	New
3300.200	New
3300.210	New
3300.220	New
3300.230	New
3300.240	New
3300.250	New
3300.260	New
3300.300	New
3300.310	New
3300.320	New
3300.330	New
3300.340	New
3300.350	New
3300.360	New
3300.370	New
3300.380	New
3300.390	New
APPENDIX A	New
- 4) Statutory Authority: Implementing the Deaf and Hard of Hearing Commission Act [20 ILCS 3932] and authorized by the Illinois Administrative Procedure Act [5 ILCS 100].
- 5) A Complete Description of the Subjects and Issues Involved: The Deaf and Hard of Hearing Commission is required to file rules describing the organization of the agency and how the public can access public information.
- 6) Will these proposed amendments replace an emergency rule making currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No

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- 10) Statement of Statewide Policy Objectives: This rulemaking clearly explains rulemaking procedures, how the public can access agency information and the organization of the agency.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Not Applicable
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

The full text of the proposed rules begins on the next page:

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NOTICE OF PROPOSED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LXIII: DEAF AND HARD OF HEARING COMMISSIONPART 3300
RULEMAKING, PUBLIC INFORMATION AND ORGANIZATION

SUBPART A: RULEMAKING

Section
3300.100 Rulemaking Procedures

SUBPART B: PUBLIC INFORMATION

Section
3300.200 Submission of Requests
3300.210 Timeliness for Commission Response
3300.220 Types of Commission Responses
3300.230 Appeal of Denied Request
3300.240 Director's Response to Appeal
3300.250 Fee for Copies of Public Records
3300.260 Inspection of Public Records at Commission Office

SUBPART C: ORGANIZATION

Section
3300.300 Commission Powers and Duties
3300.310 Commission Membership, Terms of Office and Vacancies
3300.320 Officers, Responsibilities, Removal and Vacancies
3300.330 Members' Responsibilities and Duties
3300.340 Meetings, Notice and Place of Meetings
3300.350 Quorum and Voting
3300.360 Public Participation
3300.370 Task Force/Committee Establishment, Reimbursement, Liaison and Appointment
3300.380 Director and Staff
3300.390 Parliamentary Procedures
APPENDIX A Organizational Chart

AUTHORITY: Implementing the Deaf and Hard of Hearing Commission Act [20 ILCS 3932] and authorized by the Illinois Administrative Procedure Act [5 ILCS 100].

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Source: Adopted at 27 Ill. Reg. _____, effective _____.

SUBPART A: RULEMAKING

Section 3300.100 Rulemaking Procedures

Rules governing the Illinois Deaf and Hard of Hearing Commission are proposed, adopted or repealed pursuant to the Illinois Administrative Procedure Act [5 ILCS 100].

SUBPART B: PUBLIC INFORMATION

Section 3300.200 Submission of Requests

- a) All requests for public information are to be in writing unless, because of a disability, the individual is unable to prepare a written request, oral requests will be accepted. All requests must be submitted to:

Freedom of Information Officer
Illinois Deaf and Hard of Hearing Commission
1630 South Sixth Street
Springfield IL 62703

- b) All requests shall include:
- 1) The full name, address and phone number of the requesting individual;
 - 2) A specific description of the records sought;
 - 3) Whether the request is for copies of records, inspection of records, or both; and
 - 4) Whether the requestor wants copies of public records "certified". The Freedom of Information officer shall provide the appropriate FOI certification, when requested.

Section 3300.210 Timeliness for Commission Response

- a) The Commission shall respond to written request for public records within 7 working days after receipt of the request.
- b) In the event that the request for public records cannot be responded to within 7 working days for one of the reasons provided in Section 3(d) of the Freedom of Information Act, the Commission shall have an additional 7 working days in which to respond. The Commission shall give the requestor notice of the

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extension of time to respond. The notice of extension shall set forth the reasons why the extension is necessary.

Section 3300.220 Types of Commission Responses

- a) The Commission shall respond to a request in three ways:
 - 1) The request may be granted, in which case the material requested will be sent, written notice will be sent stating materials will be made available upon receipt of reproduction costs, or written notice will be sent indicating the time and place for inspection of the records.
 - 2) The request may be denied, in which case the requesting individual will be sent a letter stating the reason for the denial in accordance with either Section 3(f) or Section 7 of the Freedom of Information Act and the names and titles of those responsible for the decision to deny the request. The denial shall also include information pertaining to the right to appeal the decision to the Director of the Illinois Deaf and Hard of Hearing Commission.
 - 3) The request may be approved in part and denied in part, in which case subsection (b)(1) and (2) will be followed, as appropriate.
- c) Any request that creates an undue burden on Illinois Deaf and Hard of Hearing Commission will be denied. However, prior to denial an attempt will be made to confer with the requesting individual to reduce the amount of information to a manageable level in accordance with Section 3(f) of the Freedom of Information Act.
- d) Failure of the Commission to respond to a written request within 7 working days may be considered by the requestor as a denial of the request and can the requestor appeal to the Director of the Illinois Deaf and Hard of Hearing Commission.

Section 3300.230 Appeal of Denied Request

- a) A requestor may appeal the denial of public records to the Director. The appeal must be in writing and addressed to:

Director
Illinois Deaf and Hard of Hearing Commission
1630 South Sixth Street
Springfield IL 62703

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- b) The appeal must include a copy of the original request, a copy of the denial letter and a written statement setting forth the reasons why the appeal should be granted.

Section 3300.240 Director's Response to Appeal

The Director shall respond, in writing, within 7 working days after receipt of an appeal. The Director may either:

- a) Provide access to the requested public records; or
- b) Uphold the denial and inform the requesting individual of the right to judicial review under the Freedom of Information Act.

Section 3300.250 Fee for Copies of Public Records

- a) Charges for copies of public records shall be 20 cents per page except no fee will be charged for:
 - 1) A request for fewer than 10 pages;
 - 2) A request from a State agency, State officer or member of the legislature;
or
 - 3) A request for public records that is in the public interest.
- b) Copies of public records shall be provided to the requestor only upon payment of any charges that are due.

Section 3300.260 Inspection of Public Records at Commission Office

- a) Public records will be made available for requestor's inspection at the Commission's office in Springfield during normal working hours.
- b) A space will be provided in which the requestor may inspect public records and an employee of the Commission may be present throughout the inspection.
- c) A requestor shall not be permitted to take a briefcase, folder or other similar materials or pens into the room in which the inspection will take place.
- d) A requestor will be permitted to take pencil and paper into the room while inspecting public records.
- e) Documents that the requestor wishes to have copied shall be segregated during the course of the inspection. Commission employees will do all copying.

SUBPART C: ORGANIZATION

Section 3300.300 Commission Powers and Duties

DEAF AND HARD OF HEARING COMMISSION

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- a) The Commission is the governing body and is responsible for the overall direction of the Commission;
- b) The Commission shall establish and maintain goals and priorities utilizing long and short range goals;
- c) The Commission shall develop public policy;
- d) The Commission shall identify and address the needs and concerns of deaf and hard of hearing people;
- e) The Commission shall promote the new development and/or improvement of services, programs and activities for deaf and hard of hearing people; and
- f) The Commission shall assess the performance of the agency through continuous self-evaluation.

Section 3300.310 Commission Membership, Terms of Office and Vacancies

- a) The Illinois Deaf and Hard of Hearing Commission shall consist of 11 members, at least 6 of whom shall be deaf or hard of hearing, appointed by the Governor.
- b) The full terms of the members shall be for 3 years, with each member serving no more than 2 consecutive full terms. A member shall serve for a term ending on November 14.
- c) Vacancies are to be filled in the same manner as membership appointments. Vacancy appointments occurring before the expiration of a term are for the remainder of the unexpired term.

Section 3300.320 Officers, Responsibilities, Removal and Vacancies

- a) The officers of the Commission shall consist of a chair and a vice-chair, elected by a simple majority vote of the total membership of the Commission. At least one of the officers shall be deaf or hard of hearing.
- b) The chair and vice-chair shall serve for a term of one year or until the Commission elects new officers.
- c) The chair shall preside at all meetings of the Commission, shall be an ex-officio member of all Commission committees, and shall be the supervisor of the Director. The chair shall also:
 - 1) The chair shall also:
 - A) Set time and place of regular meetings of the Commission;
 - B) Call special meetings of the Commission;
 - C) Develop the agenda, with the Director's assistance, for each Commission meeting;
 - D) Address and respond to urgent needs at the discretion of the Commission;

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- E) Orient new members;
 - F) Encourage full participation of the members in Commission activities;
 - G) Promote effective communication between the Commission and the deaf and hard of hearing community;
 - H) Oversee the work of the Director; and
 - I) Function as the primary contact between the Director and the Commission.
- 2) The vice-chair shall aid the chair in the performance of his/her duties and shall:
- A) Preside at meetings of the Commission when the chair is absent; and
 - B) Perform other duties assigned by the Commission or delegated by the chair.
- d) The officers may be removed from office by a ? vote of the Commission members.
- e) The officers may resign from office provided that the majority of the Commission members accept the resignation.
- f) The Commission members shall elect the successive officers by majority vote upon removal or resignation of either officer.

Section 3300.330 Members' Responsibilities and Duties

- a) Members shall be committed to the mission and the goals of the Commission;
- b) Members shall be knowledgeable about the operation, services, and programs;
- c) Members shall be objective in evaluating the programs, problems, and policies of the Commission;
- d) Members shall resist all pressures from groups and individuals, either from within or outside the Commission, who attempt to compromise the values, ideals, goals, policies, or prerogatives of the Commission;
- e) Members shall budget time and plan ahead in order to attend the meetings of the Commission and of those committees to which a member is appointed;
- f) Members shall accept and discharge specific responsibilities, either on committees or in the general work of the Commission;
- g) Members shall refrain from using one's position as a member of the Commission to obtain special privileges or favor;
- h) Members shall assist the Commission in identifying the needs of deaf and hard of hearing persons;
- i) Members shall comply with and carry out statutes, regulations and policies of the State and the Commission;

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- j) Members shall resist issuing directives or indiscreet, improper, or unofficial communication with employees of the Commission or becoming unnecessarily involved in the day-to-day operation of the Commission;
- k) Members shall respect the work and authority of the Commission; maintain the confidentiality of the deliberations of the Commission; and support the majority action of the Commission.

Section 3300.340 Meetings, Notice and Place of Meetings

- a) The Commission meetings are subject to the provisions of the Open Meetings Act [5 ILCS 120].
- b) The Commission shall convene no fewer than 4 times a year and these 4 meetings are open to the public.
- c) Special meetings may be called by the chair when deemed necessary or at the request of a majority of the Commission members.
- d) Before a closed meeting can occur, the Commission must announce publicly the specific exemptions under the provisions of the Open Meetings Act for closing the meeting. Closed meetings are not open to the public.
- e) The dates, times, and place of the Commission's regular meetings scheduled for the fiscal year will be posted at the beginning of each fiscal year.
- f) Notice of any meetings and agenda shall be posted, 48 hours prior to the meeting, at the Commission's office and the location where the meeting is held.
- g) Meeting notice and agenda, if requested, shall be sent to interested individuals, organizations, and agencies 48 hours prior to the date of the meeting.
- h) The media, if they have filed a request, shall be notified 5 working days prior to the date of the meeting.
- i) Notice of meeting cancellations will be published in a newspaper of general circulation in the area of the scheduled meeting at least 10 days prior to the cancellation.
- j) The Commission shall hold their meetings at a location most convenient to the public.

Section 3300.350 Quorum and Voting

- a) A quorum shall be a simple majority of total membership, discounting vacant seats not currently filled by the Governor. A quorum shall be required to conduct Commission business.
- b) Each member, including the chair, shall be entitled to one vote.
 - 1) No member shall vote by proxy.
 - 2) No vote can be taken via telephone, fax, and/or e-mail.

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Section 3300.360 Public Participation

- a) All regular and special meetings of the Commission are open to the public and the media. The public and the media are requested to introduce themselves and State whom they are representing, if anyone.
- b) An individual, group of individuals, or organizations requesting to address the Commission should place their request in writing to the Director 2 working days prior to the meeting.
- c) The chair shall recognize the individuals, groups, or organizations at the appropriate time on the agenda.
- d) A limit of 10 minutes will be allotted for a presentation to the Commission. The Commission may allot more time, ask questions, or begin discussion of the issue presented.

Section 3300.370 Task Force/Committee Establishment, Reimbursement, Liaison and Appointment

- a) The Commission may create task forces and/or committees to advise, recommend, and investigate issues of significance to individuals with hearing loss in Illinois at the request of the Commission and will report on their activities directly to the Commission.
- b) The Commission will reimburse task force and/or committee members for travel, per diem, and lodging according to the prevailing rates established by the State of Illinois and subject to budgetary availability.
- c) The Director, or his designee, shall attend all task force and committee meetings. The Director shall be the liaison between the Commission and task forces and committees and shall report all task forces' and committees' progress to the Commission during its regular meetings.
- d) Commission members may serve as ex-officio members of any task force or committee.
- e) The Director and/or Commission members may recommend individuals for Commission appointments to serve on the task forces and committees. Appointments shall be confirmed by a majority vote of the Commission members.

Section 3300.380 Director and Staff

- a) The Director shall be the executive officer of the Commission; shall be hired, supervised, and evaluated by the Commission; and shall serve at the pleasure of the Commission.

DEAF AND HARD OF HEARING COMMISSION

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- 1) The Director shall be responsible for the development, execution and evaluation of Commission activities and programs; supervise personnel; propose the Commission's budget; allocate and use funds; monitor and/or initiate legislation, regulations, policies and programs; and report as needed and as advised by the Commission.
 - 2) The Director shall be afforded the same rights and privileges as outlined in the Personnel Code [20 ILCS 415], except for hiring.
- b) The staff shall be hired, supervised, and evaluated by the Director and be provided salary and benefits in accordance with the Personnel Code [20 ILCS 415] and Illinois Deaf and Hard of Hearing Commission's policy and procedure manual.

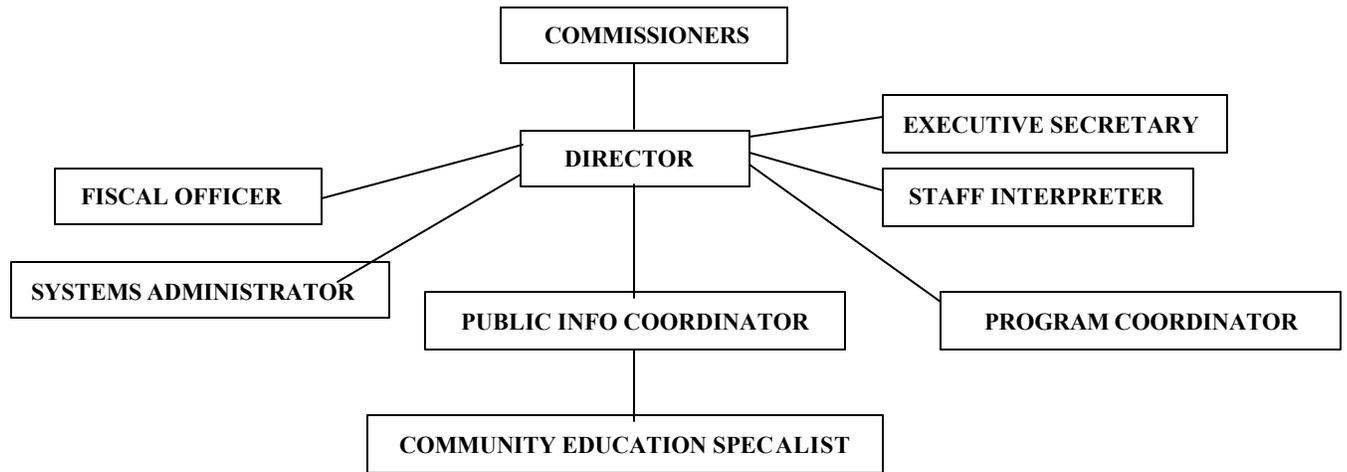
Section 3300.390 Parliamentary Procedures

The meetings of the Commission shall be governed according to the most recent edition of Robert's Rules of Order.

DEAF AND HARD OF HEARING COMMISSION

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Section 3300.APPENDIX A Organizational Chart



DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Special Education Program and Services
- 2) Code Citation: 89 Ill. Adm. Code 765
- 3)

<u>Section Number</u> :	<u>Proposed Action</u> :
765.75	Add
- 4) Statutory Authority: Implementing Section 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking adds new language that pertains to school personnel. It outlines the requirements and standards for all superintendents, principals, teachers and other educational personnel.
- 6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
3rd Floor, Harris Building
Springfield IL 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small business, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in either on the 2 most recent regulatory agendas because: the need for this rulemaking was not anticipated at the time those agendas were submitted.

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: EDUCATIONAL FACILITIESPART 765
SPECIAL EDUCATION PROGRAM AND SERVICES

SUBPART A: ADMINISTRATION OF EDUCATIONAL PROGRAM

Section

765.10	Special Education Instructional Programs
765.20	Range of Services
765.30	Availability of Services
765.40	Involvement of Students with Disabilities in Activities
765.50	Adequacy of Facilities
765.60	Written Policies
765.70	State Approved Administrator of Special Education (Repealed)
<u>765.75</u>	<u>School Personnel</u>
765.80	State-Approved Supervisory Services (Repealed)
765.90	Role of Principal (Repealed)

SUBPART B: SERVICE PROVIDED

Section

765.100	Related Services to be Provided or Arranged
765.110	Other Related Services
765.120	Student-based Objectives
765.130	Specific Objectives
765.140	Time Spent

SUBPART C: SPECIAL EDUCATION INSTRUCTIONAL PROGRAM

Section

765.200	Instructional Programs
765.210	Curriculum
765.220	Considerations
765.230	Determinants

SUBPART D: VOCATIONAL PROGRAMS

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

Section

765.300	Provision of Vocational Programs to Exceptional Students
765.310	Vocational Plan
765.320	Community Work Experiences
765.330	Coordination With Other Programs

AUTHORITY: Implementing Sections 3, 10, 11 and 13 and authorized by Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3, 10, 11 and 13].

SOURCE: Adopted at 6 Ill. Reg. 1235, effective January 18, 1982; codified at 6 Ill. Reg. 14859; amended at 12 Ill. Reg. 12103, effective July 8, 1988; amended at 13 Ill. Reg. 5154, effective March 30, 1989; amended at 15 Ill. Reg. 6261, effective April 15, 1991; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 10297, effective August 10, 1999; amended at 27 Ill. Reg. _____, effective _____.

SUBPART A: ADMINISTRATION OF EDUCATIONAL PROGRAM

Section 765.75 School Personnel

All superintendents, principals, teachers and other educational personnel shall meet standards set by the State Board of Education (23 Ill. Adm. Code 226.800) and the requirements of the Illinois Department of Central Management Services and be licensed or certified as required by law. Other personnel and employees shall meet such standards, certification, and licensing requirements as are required by law, including those of the Illinois Board of Education, the Illinois Department of Professional Regulation, and the Illinois Department of Central Management Services.

(Source: Added at 27 Ill. Reg. _____, effective _____)

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Accrediting Persons in the Practice of Medical Radiation Technology
- 2) Code Citation: 32 Ill. Adm. Code 401
- 3)

<u>Section Number:</u>	<u>Proposed Action:</u>
401.20	Amendment
401.40	Amendment
401.50	Amendment
401.60	Amendment
401.70	Amendment
401.80	Amendment
401.100	Amendment
401.110	Amendment
401.120	Amendment
401.130	Amendment
401.140	Amendment
401.160	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 [420 ILCS 40/5, 6, 7 and 36].
- 5) A Complete Description of the Subjects and Issues Involved: The Department is proposing these amendments to: (1) add a category of accreditation for Limited Bone Densitometry; (2) allow the Department to suspend, revoke, refuse to issue or renew accreditation of an individual for making a false material statement during Department business; (3) change application fees for initial and renewal and delete fees for late applications and deficient continuing education; and (4) be consistent with continuing education requirements set forth in 32 Ill. Adm. Code 370.
- 6) Will this proposed amendment replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand, or modify

DEPARTMENT OF NUCLEAR SAFETY

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their activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. The Department will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Louise Michels
Staff Attorney
Department of Nuclear Safety
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 524-0770 (voice)
(217) 782-6133 (TDD)

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not for profit corporations affected: The Department believes that this amendment will have no effect on small businesses, small municipalities or not for profit corporations.
 - B) Reporting, bookkeeping or other procedures required for compliance: No reporting, bookkeeping, or other procedures would be required for compliance.
 - C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: January 2001

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

DEPARTMENT OF NUCLEAR SAFETY

NOTICE OF PROPOSED AMENDMENTS

TITLE 32: ENERGY

CHAPTER II: DEPARTMENT OF NUCLEAR SAFETY
SUBCHAPTER b: RADIATION PROTECTION

PART 401

ACCREDITING PERSONS IN THE PRACTICE OF
MEDICAL RADIATION TECHNOLOGY

Section

401.10	Policy and Scope
401.20	Definitions
401.30	Exemptions
401.40	Application for Accreditation
401.50	Categories of Accreditation
401.60	Examination Requirements
401.70	Acceptable Examinations
401.80	Approved Program
401.90	Practice Requirement – Initial Licensure (Repealed)
401.100	Initial Issuance of Accreditation
401.110	Duration of Accreditation
401.120	Suspension, Revocation and Denial of Accreditation
401.130	Fees
401.140	Requirements for Renewal of Accreditation
401.150	Reciprocity
401.160	Additional Requirements for Radiographers Performing Mammography
401.170	Civil Penalties
APPENDIX A	Limited Diagnostic Radiography Procedures by Type of Limited Accreditation
APPENDIX B	Example Topics Directly Related to Radiologic Sciences
APPENDIX C	Minimum Training Requirements for Radiographers Performing Mammography

AUTHORITY: Implementing and authorized by Sections 5, 6, 7 and 36 of the Radiation Protection Act of 1990 [420 ILCS 40/5, 6, 7 and 36].

SOURCE: Adopted at 7 Ill. Reg. 17318, effective January 1, 1984; emergency amendment at 8 Ill. Reg. 17584, effective September 12, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 2499, effective February 13, 1985; amended at 10 Ill. Reg. 13259, effective July 28, 1986; amended at 10 Ill. Reg. 21086, effective January 1, 1987; amended at 11 Ill. Reg. 15623, effective September 11, 1987; emergency amendment at 11 Ill. Reg. 19797, effective November

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24, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 7603, effective April 18, 1988; amended at 12 Ill. Reg. 18164, effective January 1, 1989; amended at 13 Ill. Reg. 15005, effective September 11, 1989; amended at 14 Ill. Reg. 15341, effective September 4, 1990; amended at 15 Ill. Reg. 7054, effective April 29, 1991; amended at 16 Ill. Reg. 9115, effective June 2, 1992; amended at 20 Ill. Reg. 12595, effective September 6, 1996; amended at 21 Ill. Reg. 13587, effective September 25, 1997; amended at 23 Ill. Reg. 324, effective January 1, 1999; amended at 24 Ill. Reg. 18239, effective December 1, 2000; amended at 27 Ill. Reg. _____, effective _____.

Section 401.20 Definitions

As used in this Part, the following definitions shall apply:

"Accreditation" – The process by which the Department of Nuclear Safety grants permission to persons meeting the requirements of the Act and the Department's rules and regulations to engage in the practice of administering radiation to human beings. [420 ILCS 40/4]

"Act" – The Radiation Protection Act of 1990 [420 ILCS 40].

"Administers Ionizing Radiation" – see "Applies Ionizing Radiation"

"Applies Ionizing Radiation" – The act(s) of using ionizing radiation for diagnostic or therapeutic purposes. Specifically included are those tasks ~~that~~ ~~which~~ have a direct impact on the radiation burden of the patient, e.g.: Positioning of the patient, film and beam; preparation, calibration, and injection of radiopharmaceuticals; imaging or laboratory techniques which if performed improperly would result in the re-administration of radiation; selection of technique or treatment parameters.

"Approved Program" – A program ~~that~~ ~~which~~ the Department has determined is adequate to prepare students to meet the education requirements prescribed in 42 CFR 75.3 Appendix A, D, and E (1999), exclusive of subsequent amendments or editions. A copy of 42 CFR 75.3 is available for inspection at the Department's offices, 1035 Outer Park Drive, Springfield, IL.

"Board" – The Radiologic Technologist Accreditation Advisory Board (R.T.A.A.B.).

"Bone Densitometer" – An x-radiation producing device that is manufactured

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specifically for, and limited to, bone densitometry.

"Bone Densitometry" - The science and art of applying x-radiation to human beings for determination of site specific bone density.

"Chiropractic Radiographic Assistant" – A person other than a licensed practitioner who performs medical radiation procedures and applies x-radiation to the human body for diagnostic evaluation of skeletal anatomy, while under the supervision of a licensed chiropractor.

"Chiropractic Radiography" – The science and art of applying x-radiation to human beings for diagnostic purposes in Chiropractic.

"Credentialing" – Any process whereby a State government or non-governmental agency or association grants recognition to an individual who meets certain predetermined qualifications.

"Department" – The Illinois Department of Nuclear Safety.

"Direct Supervision" – An individual is in the physical presence of a licensed practitioner or medical radiation technologist who holds active status accreditation and assists, evaluates and approves of the individual's performance of the various tasks involved in the application of ionizing radiation.

"Director" – The Director of the Department of Nuclear Safety.

"Ionizing Radiation" – Gamma rays, and x-rays, alpha and beta particles, high speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared or ultraviolet light.

"In vitro" – Isolated from the living organism.

"In vivo" – Occurring within the living organism.

"Licensed Practitioner" – A person licensed or otherwise authorized by law to practice medicine, dentistry, osteopathy, chiropractic or podiatry.

"Limited Diagnostic Radiographer–Bone Densitometry" - A person, other than a licensed practitioner, who, while under the supervision of a licensed practitioner, applies x-radiation to humans with a bone densitometer.

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"Limited Diagnostic Radiographer–Chest" – A person, other than a licensed practitioner, who, while under the supervision of a licensed practitioner, applies x-radiation to the human chest for diagnostic purposes.

"Limited Diagnostic Radiographer–Extremities" – A person, other than a licensed practitioner, who, while under the supervision of a licensed practitioner, applies x-radiation to the human extremities for diagnostic purposes.

"Limited Diagnostic Radiographer–Skull and Sinuses" – A person, other than a licensed practitioner, who, while under the supervision of a licensed practitioner, applies x-radiation to the human skull and sinuses for diagnostic purposes.

"Limited Diagnostic Radiographer–Spine" – A person, other than a licensed practitioner, who, while under the supervision of a licensed practitioner, applies x-radiation to the human spine for diagnostic purposes.

AGENCY NOTE: Specific radiographic examinations appropriate to each type of limited radiography accreditation may be found in Appendix A of this Part.

"Medical Radiation Technology" – The science and art of performing medical radiation procedures involving the application of ionizing radiation to human beings for diagnostic and therapeutic purposes. The five specialized disciplines of Medical Radiation Technology are Medical Radiography, Nuclear Medicine Technology, Radiation Therapy Technology, Chiropractic Radiography, and Podiatric Radiography.

"Medical Radiographer" – A person, other than a licensed practitioner, who, while under supervision of a licensed practitioner, applies x-radiation to any part of the human body and who, in conjunction with radiation studies, may administer contrast agents and related drugs for diagnostic purposes.

"Medical Radiography" – The science and art of applying x-radiation to human beings for diagnostic purposes.

"Nuclear Medicine Technologist" – A person, other than a licensed practitioner, who, administers radiopharmaceuticals and related drugs to human beings for diagnostic purposes, performs in vivo and in vitro detection and measurement of radioactivity and administers radiopharmaceuticals to human beings for therapeutic purposes. A nuclear medicine technologist may perform such

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procedures only while under the supervision of a licensed practitioner who is licensed to possess and use radioactive materials.

"Nuclear Medicine Technology" – The science and art of in vivo and in vitro detection and measurement of radioactivity and the administration of radiopharmaceuticals to human beings for diagnostic and therapeutic purposes.

"Radiation Therapist" – A person, other than a licensed practitioner, who performs procedures and applies ionizing radiation emitted from x-ray machines, particle accelerators, or sealed radioactive sources to human beings for therapeutic purposes while under the supervision of a licensed practitioner who is licensed, as required, to possess and use radioactive materials.

"Radiation Therapy Technology" – The science and art of applying ionizing radiation emitted from x-ray machines, particle accelerators and sealed radioactive sources to human beings for therapeutic purposes.

"Supervision" – Responsibility for, and control of, quality, radiation safety and protection, and technical aspects of the application of ionizing radiation to human beings for diagnostic and/or therapeutic purposes.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.40 Application for Accreditation

- a) Any person applying to the Department for initial accreditation or renewal of accreditation shall:
 - 1) submit a complete and legible application form;
 - 2) pay the appropriate application fee in accordance with Section 401.130 of this Part; and
 - 3) provide evidence that he/she has met the requirements for the given category and status of accreditation ~~that which~~ is sought.
- b) Persons applying for Active Status Accreditation shall submit evidence of registration, Board certification, or other examination as appropriate pursuant to Section 401.70 of this Part.
- c) Persons applying for accreditation in Limited Diagnostic Radiography (i.e., limited-chest, limited-extremities, limited-skull and sinuses, ~~and~~ limited-spine and limited-bone densitometry) shall submit evidence that they have passed the required examinations as specified in Section 401.60(d)-(hg) of this Part.
- d) Persons applying for Temporary Accreditation shall submit evidence of

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- graduation from an approved program.
- e) Fees and charges collected by the Department shall be paid into the Radiation Protection Fund. Such fees and charges shall be used to defray costs incurred in the administration of this program.
 - f) Accreditation shall be valid for a specified period of time and shall entitle the individual to privileges consistent with the category and status of accreditation indicated unless the accreditation is suspended or revoked in accordance with Section 401.120 of this Part.
 - g) The Department shall refuse to issue or renew accreditation to any individual if the Department has evidence that the applicant is delinquent in the repayment of an educational loan guaranteed by the Illinois Student Assistance Commission, as set forth in 20 ILCS 2005/~~2005-8574~~.
 - h) The Department shall refuse to issue or renew accreditation to any individual; ~~after an opportunity for a hearing~~, if the Department has evidence that the applicant is delinquent in the payment of child support orders pursuant to the provisions and procedures set forth in 5 ILCS 100/10-65.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.50 Categories of Accreditation

- a) The Department shall accredit persons in the practice of Medical Radiation Technology in one or more of these specific categories:
 - 1) Medical Radiography;
 - 2) Nuclear Medicine Technology;
 - 3) Radiation Therapy Technology;
 - 4) Chiropractic Radiography; and
 - 5) Limited Diagnostic Radiography.
- b) The Department shall recognize the following status conditions for the categories of accreditation:
 - 1) Active - An applicant who meets the requirements as set forth in Section 401.100(a) of this Part.
 - 2) Temporary - An applicant who meets the requirements ~~as~~ set forth in Section 401.100(b) of this Part.
 - 3) Conditional - An applicant who meets the requirements ~~as~~ set forth in Section 401.100(c); or (d) of this Part.
 - 4) Limited – Chest - An applicant who meets the requirements ~~as~~ set forth in Section 401.100(e) of this Part. This status condition is applicable to the category of Limited Diagnostic Radiography only.
 - 5) Limited – Extremities - An applicant who meets the requirements ~~as~~ set

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forth in Section 401.100(e) of this Part. This status condition is applicable to the category of Limited Diagnostic Radiography only.

- 6) Limited – Skull and Sinuses - An applicant who meets the requirements ~~as~~ set forth in Section 401.100(e) of this Part. This status condition is applicable to the category of Limited Diagnostic Radiography only.
- 7) Limited – Spine - An applicant who meets the requirements as set forth in Section 401.100(e) of this Part. This status condition is applicable to the category of Limited Diagnostic Radiography only.
- 8) Limited – Bone Densitometry – An applicant who meet the requirements set forth in Section 401.100(e) of this Part. This status condition is applicable to the category of Limited Diagnostic Radiography only.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.60 Examination Requirements

- a) Active – Persons who seek active status accreditation in medical radiation technology shall pass a Department approved examination as appropriate to the category of accreditation sought in accordance with Section 401.70 of this Part.
- b) Temporary – Persons who seek active status accreditation and are awaiting the successful completion of an examination in accordance with Section 401.70 of this Part may apply for and be issued temporary accreditation. Temporary accreditation shall be valid until the person has passed the appropriate examination and has applied for and been issued active status accreditation. In no case shall temporary accreditation be valid for more than two years from the date of issuance.
- c) Conditional – Examination shall not be required for conditional accreditation.
- d) Limited Diagnostic Radiographer – Chest – Persons who seek accreditation to perform radiography of the chest, but not any other parts of the body, shall pass a Department approved examination on general radiography topics and a Department approved examination on chest anatomy and clinical skills required to perform radiography of the chest in accordance with Section 401.70(c) of this Part.
- e) Limited Diagnostic Radiographer – Extremities – Persons who seek accreditation to perform radiography of the extremities, but not any other parts of the body, shall pass a Department approved examination on general radiography topics and a Department approved examination on anatomy of the extremities and clinical skills required to perform radiography of the extremities in accordance with Section 401.70(c) of this Part.
- f) Limited Diagnostic Radiographer – Skull and Sinuses – Persons who seek

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accreditation to perform radiography of the skull and/or sinuses, but not any other parts of the body, shall pass a Department approved examination on general radiography topics and a Department approved examination on anatomy of the skull and sinuses and clinical skills required to perform radiography of the skull and sinuses in accordance with Section 401.70(c) of this Part.

- g) Limited Diagnostic Radiographer – Spine – Persons who seek accreditation to perform radiography of the spine, but not any other parts of the body, shall pass a Department approved examination on general radiography topics and a Department approved examination on anatomy of the spine and clinical skills required to perform radiography of the spine in accordance with Section 401.70(c) of this Part.
- h) Limited Diagnostic Radiographer – Bone Densitometry – Persons who seek accreditation to perform bone densitometry must pass a Department approved examination on bone densitometry in accordance with Section 401.70(c) of this Part.

AGENCY NOTE: Persons may seek accreditation in more than one status condition of limited diagnostic radiography.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.70 Acceptable Examinations

- a) The Department shall accept for issuance of Active Status Accreditation examinations as identified by this Section. Accreditation shall be specific to the category of examination ~~as~~-specified in subsection (b) of this Section.
- b) Examinations ~~as~~-appropriate to category of accreditation are as follows:
- 1) Medical Radiography
 - A) The American Registry of Radiologic Technologists (R) (A.R.R.T.), or
AGENCY NOTE: Graduation from an approved program ~~as~~-set forth in Section 401.80(a) of this Part is a prerequisite for sitting for the A.R.R.T. examination.
 - B) The American Registry of Clinical Radiography Technologists (A.R.C.R.T.) provided that the applicant passed the A.R.C.R.T. examination after January 1, 1991, and the applicant has graduated from an approved program ~~as~~-set forth in Section 401.80(a) of this Part.
 - 2) Nuclear Medicine Technology
The American Registry of Radiologic Technologists (N) (A.R.R.T.), the Nuclear Medicine Technology Certification Board (N.M.T.C.B.), the

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- American Society of Clinical Pathologists (NM) (A.S.C.P.).
- 3) Radiation Therapy Technology
The American Registry of Radiologic Technologists (T) (A.R.R.T.).
- 4) Chiropractic Radiography
American Chiropractic Registry of Radiologic Technologists (ACRRT),
provided that the examination was administered after June 30, 1984.
- c) Examinations in Limited Diagnostic Medical Radiography – Applicants for accreditation in one or more areas of limited diagnostic radiography shall have passed a Department approved ~~examination on general radiography topics and a Department approved~~ examination specific to the type of limited accreditation sought. All Department approved examinations shall be approved by and scheduled through the Department. The passing score for Department approved examinations shall be a ~~scaled~~-score of ~~70~~75 percent.
- d) For Active Status Accreditation, examinations by other certifying organizations shall be accepted upon written request to the Department, provided that the Department finds that the certifying organization has met the National Commission for Health Certifying Agencies (NCHCA) requirements. (Publication Title: Perspectives on Health Occupational Credentialing) Contract # 232-78-0187, dated September 30, 1979, DHHS Publication No. (HRA) 81-4, U.S. Government Printing Office, Washington, D.C. 20402.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.80 Approved Program

- a) The Department shall base its approval of didactic and clinical education for Medical Radiography, Nuclear Medicine Technology, or Radiation Therapy Technology on the standards accepted by the United States Department of Education. (Specific information concerning these standards is available from the Joint Review Committee on Education in Radiologic Technology (JRCERT), 20 North Wacker Dr., Chicago IL 60606-2901 and from the Department. These standards are entitled: Standards for Educational Programs in Radiological Sciences (1997); Essentials of an Accredited Educational Program for the Nuclear Medicine Technologist (1991), and do not include subsequent amendments or editions.)
- b) The Department shall base its approval of didactic and clinical education in Chiropractic Radiography on the standards accepted by the Chiropractic Council on Education (CCE), published January 27, 1985, exclusive of subsequent amendments or editions. Specific information concerning these standards is available from the Department or from the Chiropractic Council on Education,

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3209 Ingersoll Avenue, Des Moines, Iowa 50312. Student exemption for persons enrolled in an approved Chiropractic Radiography program shall not exceed 12 months.

- c) The Department shall base its approval of didactic and clinical education in Limited Diagnostic Radiography on standards contained in the "Curriculum Guide for Limited Permittee Programs", June 1987, exclusive of subsequent amendments or editions. Copies of these standards are available from the American Society of Radiologic Technologists, 15000 Central Avenue South East, Albuquerque, New Mexico 87123. Students-in-training in Limited Diagnostic Radiography shall be registered with the Department on forms provided by the Department. Registration with the Department shall include application and payment of applicable fees for examination. Students-in-training in Limited Diagnostic Radiography shall not begin application of ionizing radiation to humans prior to the Department's approval of the student's proposed training as identified through the student-in-training registration process. The Department shall refuse to register an individual as a student-in-training when the party(s) responsible for the training of ~~the said~~ student has demonstrated poor training of students as evidenced by either a cumulative failure rate in excess of 50 percent of the trainer's students or 2 ~~two~~ consecutive students who fail the examinations specified in Section 401.70(c) of this Part. Such refusal shall not prohibit the trainer from training students in limited radiography through didactic and clinical education exclusive of the application of ionizing radiation to human beings. Successful examinations by students trained in such a manner may be used to demonstrate improved training and qualification for further students-in-training provided that the cumulative failure rate is reduced to less than 50 percent without 2 ~~two~~ consecutive failures.
- d) If the employer is not identified as the party responsible for training the student, the Department shall register an individual as a student-in-training in the employer's practice only if the student is concurrently enrolled in a program that meets the minimum requirements for a training program in limited radiography established by the Joint Review Committee on Education in Radiologic Technology, published 1997, by the Joint Review Committee on Education, 20 N. Wacker Drive, Suite 900, Chicago, Illinois 60606-2901. Students-in-training in Limited Diagnostic Radiography shall take the appropriate Department approved and practical examinations not later than the eighth month of training. Students shall not perform radiographic procedures beyond the 16 months of training unless the required examinations have been passed.
- e) All approved training programs shall include an overview of the Radiation Protection Act of 1990, this Part and related application forms and procedures.

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(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.100 Initial Issuance of Accreditation

- a) The Department shall issue Active Status Accreditation in a category of medical radiation technology to persons who have passed an examination as indicated in Section 401.70(b) of this Part. Active Status Accreditation ~~issued after January 1, 1988,~~ shall be valid for 2 ~~two~~ years from the date of issuance.
- b) The Department shall issue Temporary Accreditation in a category of medical radiation technology and chiropractic radiography to persons who are awaiting an examination in accordance with Section 401.70(b) of this Part and have completed an approved program. Applicants for Temporary Accreditation must provide specific evidence of the intent to take such an examination, the category of examination to be taken, and the date on which the examination will be taken. Temporary Accreditation shall convey the same rights as the Active Status Accreditation for which the individual is awaiting examination. Temporary Accreditation shall be valid until such time as the individual successfully completes the appropriate examination and applies for and is issued Active Status Accreditation in accordance with subsection (a) of this Section, but in no instance longer than 24 months from the date of issuance for medical radiation technology and no longer than 12 months from the date of issuance for Chiropractic Radiography ~~chiropractic radiography~~.
- c) The Department shall issue Conditional Accreditation Type I in a category of medical radiation technology upon determining that community hardship exists. When making a determination of the existence of community hardship, the Department will consult Health Systems Agencies or County or Local Health Departments, and will evaluate the availability of alternative radiology services and trained personnel. In addition, the Department shall require the applicant's employer or prospective employer to demonstrate that recruitment of qualified personnel, at competitive compensation, has been attempted and unsuccessful. Such demonstration can take the form of documented advertising in publications intended to reach radiologic technologists. If based on the information submitted, the Department determines that qualified personnel cannot be recruited, and that the people in the locality in which the conditional accreditation is sought would be denied adequate health care because of the unavailability of appropriately accredited persons, the Department shall issue Conditional Accreditation Type I which shall be valid for a period of 24 months from the date of issuance.
- d) The Department shall issue Conditional Accreditation Type II in a category of medical radiation technology to any person who, 24 months prior to July 1, 1989, was employed in medical radiation technology and who otherwise does not meet

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the qualifications for accreditation. Conditional accreditation issued pursuant to this Section shall be valid for 2 ~~two~~ years from date of issuance. Issuance shall be contingent upon submitting a written Statement of Assurance that the person is competent to apply ionizing radiation to human beings. A Statement of Assurance submitted to the Department in accordance with this Section shall specify the nature of the equipment and procedures ~~which~~ the individual is competent to utilize. The Statement of Assurance must be provided by a licensed practitioner under whose supervision the individual is employed or has been employed at some time within the last 12 ~~twelve~~ months. Conditional accreditation ~~which is~~ issued pursuant to this Section shall be specific to the procedures and equipment indicated in the Statement of Assurance. An individual who is accredited in accordance with this Section may expand the accreditation to additional procedures and/or equipment by receiving training in accordance with Section 401.30(c)(3) of this Part. After such training, the individual may submit an additional Statement of Assurance from a licensed practitioner under whose supervision the individual is employed as to the additional equipment and procedures ~~which~~ the individual is competent to utilize. However, an individual may not become accredited pursuant to the provisions of this Section for equipment or procedures outside of those in the category of initial accreditation. Nothing in this Section should be interpreted to limit an individual's right to make application for and be issued Active Status Accreditation in accordance with subsection (a) of this Section. The Department shall not issue Conditional Accreditation Type II as provided by this Section after September 7, 1990. However, Conditional Accreditation Type II issued on or before September 7, 1990, is renewable in accordance with Section 401.140 of this Part.

- e) The Department shall issue accreditation in one or more areas of Limited Diagnostic Radiography to persons who have passed examinations as indicated in Section 401.70(c) of this Part. Such accreditation shall be valid for two years from the date of issuance.
- f) All persons who have received accreditation from the Department pursuant to the terms of this Section shall provide notice in writing to the Department of any permanent or temporary change in their designated mailing address, or of any change in name due to marriage or for any other reason. Notification to the Department shall be made within 10 days after any such change. Failure of the accredited individual to forward such information to the Department, as required by this subsection (f), shall not be considered to be a valid cause for delaying any subsequent administrative proceeding involving the particular accredited individual nor excuse the accredited individual from complying with any other legal obligations from the laws and rules administered by the Department. ~~See "Notice, Service and Proof of Service", 32 Ill. Adm. Code 200.50(h).~~

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(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.110 Duration of Accreditation

- a) The duration of initial issuance of Active Status Accreditation, regardless of the category of medical radiation technology, shall be 2 ~~two (2)~~-years. Active Status Accreditation shall be renewable for periods of 2 ~~two~~-years, in accordance with meeting the requirements in Section 401.140 of this Part.
- b) The duration of Temporary Accreditation shall not exceed 2 ~~two~~-years for the categories of Radiography, Nuclear Medicine Technology, or Radiation Therapy Technology and shall not exceed one year for Chiropractic Radiography. Temporary Accreditation shall not be renewed.
- c) The duration of initial issuance of Conditional Accreditation Type I shall be 2 ~~two~~ years, ~~and shall be~~ renewable thereafter for periods of 2 ~~two~~-years. Such renewal shall be based on a re-evaluation by the Department of a condition of community hardship and meeting the requirements of Section 401.140.
- d) ~~The duration of initial issuance of~~ Conditional Accreditation Type II shall be 2 ~~two~~ years. ~~This accreditation shall be~~ renewable for periods of 2 ~~two~~-years in accordance with meeting the requirements in Section 401.140 of this Part. The renewed accreditation shall be specific to the procedures and equipment indicated in the most recent Statement of Assurance ~~that which~~ has been presented to the Department in accordance with Section 401.100(d) of this Part.
- e) The duration of initial issuance of accreditation in Limited Diagnostic Radiography shall be 2 ~~two~~ years. This accreditation shall be renewable for periods of 2 ~~two~~-years in accordance with meeting the requirements in Section 401.140 of this Part.
- f) The expiration date of a renewed accreditation that has been renewed on or before the expiration of the previous accreditation shall be 2 ~~two~~-years from the expiration date of the previous accreditation. For renewal of accreditation that has lapsed, or that has been surrendered, the expiration shall be 2 ~~two~~-years from the last day of the month in which the application for renewal is processed.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.120 Suspension, Revocation and Denial of Accreditation

- a) The Department may act to suspend or revoke an individual's accreditation, or refuse to issue or renew accreditation, for any one or a combination of the following causes:

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- 1) Knowingly causing a material misstatement or misrepresentation to be made in the application for initial accreditation or renewal of accreditation if such misstatement or misrepresentation would impair the Department's ability to assess and evaluate the applicant's qualifications for accreditation under this Part;
 - ~~2)~~ 2) Knowingly making a false material statement to a Department employee during the course of official Department business;
 - ~~32)~~ Willfully evading the statute or regulations pertaining to accreditation, or willfully aiding another person in evading such statute or regulations pertaining to accreditation;
 - ~~43)~~ Performing procedures under or representing as valid to any person either a certificate of accreditation not issued by the Department, or a certificate of accreditation containing on its face unauthorized alterations or changes that are inconsistent with Department records regarding the issuance of such certificate;
 - ~~54)~~ Having been convicted of a crime ~~that which~~ is a felony under the laws of this State or conviction of a felony in a federal court, unless such individual demonstrates to the Department that he/she has been sufficiently rehabilitated, by restoration of all civil rights, to warrant the public trust;
 - ~~65)~~ Exhibiting significant or repeated incompetence in the performance of professional duties;
 - ~~76)~~ Having a physical or mental illness or disability ~~that which~~ results in the individual's inability to perform professional duties with reasonable judgment, skill and safety;
 - ~~87)~~ Continuing to practice medical radiation technology when knowingly having a potentially serious disease, such as those listed in 77 Ill. Adm. Code 690.100, which could be transmitted to patients;
 - ~~98)~~ Repeatedly using alcohol, narcotics or stimulants to such an extent as to impair the performance of professional duties;
 - ~~109)~~ Having had a similar credential by another state or the District of Columbia suspended or revoked if the grounds for that suspension or revocation are the same ~~as~~ or equivalent to one or more grounds for suspension or revocation ~~as~~-set forth in this Section herein;
 - ~~1110)~~ Failing to repay an educational loan guaranteed by the Illinois Student Assistance Commission as provided in 20 ILCS 2005/2005-8574;
 - ~~1244)~~ Failing to meet child support orders as provided in 5 ILCS 100/10-65;
 - ~~1312)~~ Failing to pay a fee or civil penalty properly assessed by the Department.
- b) If, based upon any of the grounds in subsection (a) of this Section, the Department determines that action to suspend or revoke accreditation, or refusal to issue or

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renew accreditation, is warranted, the Department shall notify the individual and shall provide an opportunity for a hearing in accordance with 32 Ill. Adm. Code 200. An opportunity for a hearing shall be provided before the Department takes action to suspend or revoke an individual's accreditation unless the Department finds that an immediate suspension of accreditation is required to protect against immediate danger to the public health or safety (see 420 ILCS 40/38), in which case the Department shall suspend an individual's accreditation pending a hearing. The Department shall revoke or suspend or shall refuse to issue or renew accreditation under subsection (a)(~~1244~~) of this Section *based solely upon the certification of delinquency made by the Department of Public Aid or the certification of violation made by the court. Further process, hearing, or redetermination of the delinquency or violation by the Department shall not be required.* [5 ILCS 100/10-65(c)]

- c) If the Department finds that removal, or refusal to issue or renew accreditation, is warranted, the usual action shall be a suspension or denial of accreditation for up to one year. The term of suspension or denial may be reduced by the Director, based upon evidence presented, if the conditions leading to the Preliminary Order for Suspension can be cured in less than one year. In the case of frequent child support arrearages, the Department may also impose conditions, restrictions or disciplinary action upon the accreditation. However, if the Department finds that the causes are of a serious or continuous nature, such as past actions ~~that which~~ posed an immediate threat to public health or safety, deficiencies that cannot be cured within one year or frequent child support arrearages, the Department shall revoke the individual's accreditation or deny the application.
- d) When an individual's accreditation is suspended or revoked, the individual shall surrender his/her credential to the Department until the termination of the suspension period or until reissuance of the accreditation.
- e) An individual whose accreditation has been revoked may seek reinstatement of accreditation by filing a petition for reinstatement with the Department. ~~The Such~~ petition may be filed one year or more after the beginning of the revocation period. The individual shall be afforded a hearing in accordance with 32 Ill. Adm. Code 200 and shall bear the burden of proof of establishing that the accreditation should be reinstated due to rehabilitation or other just cause.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.130 Fees

- a) The fees for initial or renewal of accreditation in all categories - Active, Conditional, Temporary or Limited Status shall be \$120 per application and

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~~accreditation in all categories shall be non-refundable, and shall be as follows:~~

- 1) ~~Initial Accreditation—Active, Conditional, Temporary or Limited Status~~ \$60 per application
 - 2) ~~Renewal of Accreditation—Active, Conditional, or Limited Status. Application filed and all qualifications, including continuing education met prior to expiration of previous accreditation, or in the case of closed files, prior to application~~ \$60 per application
 - 3) ~~Renewal of Accreditation—Active, Conditional, or Limited Status. Application filed after the expiration of previous accreditation, closed files excepted, and all qualification, including met prior to application for renewal:~~ \$75 per application
 - 4) ~~Renewal of Accreditation—Active, Conditional, or Limited Status. Application filed before or after the expiration of previous accreditation, but the applicant has not documented completion of the required continuing education prior to the expiration of the accreditation being renewed, resulting in issuance of interim Department authorization to perform medical radiation procedures for a period ant to Section 401.140(a)(1) of this Part:~~ \$90 per application
- b) Examination fee for Limited Diagnostic Radiography Accreditation shall be \$80. for categories of Chest, Extremities, Spine, Skull and Sinuses, or any combination thereof. The fee for examination in Limited Bone Densitometry shall be \$100. ~~All applications for examinations to be held in the year 2001 shall be accompanied by the \$80 fee regardless of date of receipt by Department.~~
- c) The appropriate fees are to accompany the application when filing with the Department. An application is filed on the date that it is received and stamped by the Department.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.140 Requirements for Renewal of Accreditation

- a) Prerequisites
 - 1) An individual shall make application for renewal of accreditation on or before the expiration date of the accreditation. Accreditation shall lapse if not renewed within this time period. An individual may not legally

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perform medical radiation technology without valid accreditation, or without the expressed approval of the Department during such time as an application may be pending. Such approval shall be limited to the applicant who meets all requirements for accreditation and requires additional time for the filing of continuing education records. The duration of such approval shall not exceed 90 days unless the application is received prior to expiration of the current accreditation. Nothing in this Section shall be interpreted to preclude an individual from seeking the renewal of lapsed accreditation.

- 2) Each applicant shall submit a complete and legible application with the fee for renewal of accreditation in accordance with Section 401.130 of this Part. Submission of a timely and sufficient application for renewal shall hold the prior accreditation valid until such time as the Department acts to grant or deny renewal of accreditation. The Department will grant or deny renewal of accreditation within 90 days after receipt of application for renewal or the expiration date of the current accreditation, whichever is later.

b) Continuing Education Requirements

All applicants for renewal of accreditation, regardless of the category or status of accreditation sought to be renewed, shall provide evidence of having participated in an approved program of continuing education as indicated below:

- 1) The required effort in continuing education per year for each category of medical radiation technology, applicable to each year elapsed since the most recent date of issuance of accreditation, not to exceed 2 years beyond the expiration of the last accreditation, is as follows:

A) Radiography	12 units
B) Nuclear Medicine Technology	12 units
C) Radiation Therapy Technology	12 units
D) Chiropractic Radiology	6 units
E) Limited Diagnostic Radiography	6 units
- 2) An applicant who:
 - A) surrenders his/her accreditation shall meet the requirements set forth in subsection (b)(1) of this Section but shall not be held responsible for continuing education for the period beyond the date when such accreditation was surrendered.
 - B) can provide evidence that he/she has not been employed to perform radiation procedures in this State during periods of lapsed accreditation shall not be held responsible for continuing education for periods of such lapsed accreditation but shall be responsible for continuing education requirements accrued during the period for

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- which the most recent accreditation was valid.
- C) applies for renewal of accreditation and meets ~~the either~~ provision in ~~either~~ subsection (b)(2)(A) or (b)(2)(B) of this Section shall have completed 12 of the units of continuing education required by subsection (b)(1) of this Section for renewal within 1 year preceding the application for renewal or within 90 days after the submission of the application, if approved by the Department or the expiration date of the current accreditation, whichever is later. ~~Approval~~Such approval by the Department shall be granted only for reasons of deficient continuing education.
- 3) The continuing education effort may be averaged during the period to which the requirement applies and shall be prorated by month. Individual courses may be applicable to more than one category of accreditation. The Department will base its approval on the relevance of the course work or training to the category or categories of current accreditation. In establishing relevancy, the Department will use standards such as are accepted by Verification of Involvement in Continuing Education (V.O.I.C.E.), Evidence of Continuing Education (E.C.E.), Continuing Medical Education (C.M.E.), and Continuing Education Units (C.E.U.). The Department will also accept relevant course work from accredited colleges and universities to satisfy this requirement.
- 4) Credit for continuing education other than as indicated in this Section ~~above~~ shall be granted by the Department if the individual or activity sponsor seeks approval of the course or activity and the Department finds that the course or activity will be consistent with courses approved in accordance with subsection (b)(1) of this Section.
- 5) The basis for a unit of continuing education credit shall be the contact hour (50 minutes) of lecture. Activity other than lecture shall be approved for credit by the Department based upon the standards of subsection (b)(3) of this Section.
- 6) In each category of accreditation the applicant for renewal shall have completed a minimum of 6 units of continuing education for each year elapsed since the most recent date of issuance of accreditation, not to exceed 2 years beyond the expiration of the most recent accreditation, in continuing education in subject matter directly related to radiologic sciences in the applicant's specific category of accreditation. The balance of the requirement may be accomplished either in subject matter directly related to radiologic sciences or in subject matter directly related to patient care in the radiologic environment.

AGENCY NOTE: Applicants may refer to Appendix B of this Part for

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examples of specifically related continuing education subjects by category.

- c) Nonrenewal of Accreditation
- 1) The Department shall not renew an individual's accreditation if he/she fails to present satisfactory evidence that he/she possesses the necessary qualifications for accreditation, and that he/she has participated in an approved continuing education program in accordance with this Part.
 - 2) If the Department does not find satisfactory evidence that the individual meets these requirements, the Department shall, within 90 days after receipt of the application for renewal of accreditation or the expiration date of the current accreditation, whichever is later, send the individual a Notice of Intent Not to Renew Accreditation. This notice shall include the areas of deficiency and the individual's rights as set forth in this Section.
 - 3) The individual, at any time while an application is pending, may submit additional information to the Department in order to establish that the identified areas of deficiency have been met or corrected.
 - 4) If the applicant does not provide additional information to the Department within the time frame specified in the Notice of Intent Not to Renew Accreditation, the Department shall issue a Notice of Accreditation Denied.
 - 5) An individual's current credential shall be invalid as of the date of his/her receipt of a Notice of Accreditation Denied pursuant to subsection (c)(4) of this Section. After the Department has sent the Notice of Accreditation Denied, the individual may request a hearing within 30 days in accordance with 32 Ill. Adm. Code 200.70. The individual shall have the burden of proof in accordance with 32 Ill. Adm. Code 200.150.
 - 6) If an individual's accreditation is not renewed, he/she shall have the right at any time to submit an application for renewal of accreditation. ~~The~~Such application shall be reviewed and processed in accordance with the requirements of this Section, except that an individual may not legally apply ionizing radiation to human beings until and unless the Department has acted to grant ~~the such~~ application for renewal of accreditation.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

Section 401.160 Additional Requirements for Radiographers Performing Mammography

- a) ~~In After September 18, 1992, in~~ addition to meeting the accreditation requirements set forth in this Part, any medical radiographer who performs mammography shall have completed the required minimum initial training in

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mammography ~~as specified in 32 Ill. Adm. Code 370.70(b)(1) identified in 401. Appendix C of this Part~~ prior to performing mammography.

- b) A medical radiographer who performs mammography procedures shall complete engage in continuing education units directly related to mammography specified in 32 Ill. Adm. Code 370.70(b)(2). ~~at the rate of 10 contact hours within each 24 month period after meeting the initial mammography training requirement.~~ Subjects identified in ~~401. Appendix C~~ of this Part shall be considered directly related to mammography and may be utilized toward meeting the continuing education requirements of Section 401.140(b) of this Part.
- c) Programs, courses or other activities intended to meet the requirement for initial mammography training, or continuing education in mammography, shall be approved by the Department.
- d) Completion of initial mammography training, and continuing education in mammography, shall be verified to the Department.

AGENCY NOTE: For additional requirements for facilities who perform mammographic procedures see 32 Ill. Adm. Code ~~370.360.71~~.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Freestanding Emergency Center Demonstration Program Code
- 2) Code Citation: 77 Ill. Adm. Code 518
- 3) Section Numbers: 518.1550 Proposed Action: Amendment
- 4) Statutory Authority: Emergency Medical Services (EMS) System Act [210 ILCS 50]
- 5) A complete description of the subjects and issues:
Section 518.1550 (Personnel Services) is being amended to require a facility, prior to employing any individual in a position that requires a State license, to contact the Department of Professional Regulation to verify that the individual's license is active. Facilities will also be required to check the status of all applicants with the Nurse Aide Registry prior to hiring. A reference to the Control of Tuberculosis Code (77 Ill. Adm. Code 696) is being added.

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

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.
- 6) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain any incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State Mandate under the State Mandates Act [30 ILCS 805]
- 11) Time, place, and manner in which interested persons may comment on this rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

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Peggy Snyder
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson St., 5th Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Peggy Snyder at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate its status as such, in writing, in its comments.

- 12) Initial Regulatory Flexibility Analysis:
- A) Type of small businesses, small municipalities and not-for-profit corporations affected: Freestanding emergency centers
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2001

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 518

FREESTANDING EMERGENCY CENTER DEMONSTRATION PROGRAM CODE

Section

518.1000	Definitions
518.1050	Incorporated and Referenced Materials
518.1100	Freestanding Emergency Center Demonstration Program
518.1150	Licensure Application and Renewal
518.1200	Emergency Suspension Orders
518.1250	Violations, Hearings and Fines
518.1300	Governing Board
518.1350	Provision of Emergency Services
518.1400	EMS System Participation
518.1450	Patients' Rights
518.1500	Language Assistance Services
518.1550	Personnel Services
518.1600	Personnel Requirements
518.1610	Health Care Worker Background Check
518.1650	Medical Staff Organization
518.1700	Nursing Services
518.1750	Accounting
518.1800	Quality Assurance and Reporting
518.1850	Orders for Medications and Treatments
518.1900	Infection Control
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518.2030	Notification of Emergency Personnel
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518.2110	Food Service
518.2120	Maintenance
518.2130	Fire Safety
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518.2150	Garbage, Waste and Sewage Handling and Disposal
518.2160	Submission of Architectural Plans
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518.2180	Construction Details
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518.2200	Structural Requirements
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518.2240	Building Requirements
ILLUSTRATION A	Seismic Zone Map
TABLE A	Piping Locations for Oxygen, Vacuum and Medical Compressed Air
TABLE B	Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by Section 32.5 of the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Adopted at 22 Ill. Reg. 13756, effective July 10, 1998; amended at 24 Ill. Reg. 14026, effective August 31, 2000; amended at 27 Ill. Reg. _____, effective _____.

Section 518.1550 Personnel Services

- a) An organized personnel department or service shall be established and designed to meet the needs of the personnel.
- b) Personnel policies and practices that adequately support freestanding emergency center services and quality of patient care shall be established and maintained.
- c) Sufficient, qualified personnel shall be employed to properly operate the various departments and the adjunct services requiring technical skill, such as laboratory, x-ray, pharmacy, nursing, etc.
- d) Sufficient service personnel shall be employed to properly operate service departments.
- e) Qualified personnel shall mean those persons who hold necessary licenses for the activities they perform. If no license is required, qualified personnel shall mean those persons who are registered or certified by the Department, the Illinois Department of Professional Regulation, the Council on Medical Education of the American Medical Association or Agencies or Committees established in

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collaboration with the Council, other accrediting agencies approved by the Department, or an acceptable experience equivalent to the above.

- f) Personnel policies shall be written and available to all personnel.
- g) Personnel policies shall be reviewed and/or revised periodically, but no less than once every two years. The date of review or revision shall be indicated on the personnel policies.
- h) The personnel service shall have available organizational charts that identify all departments and/or services.
- i) All positions shall be authorized by the Board, either directly or through delegation to the administrator.
- j) A job description shall be written for each position in the freestanding emergency center, including minimum qualifications.
- k) Personnel records
 - 1) Accurate, current and complete personnel records shall be maintained for each employee during his/her term of employment and for the years thereafter as may be necessary to satisfy other State or federal requirements.
 - 2) An established standard of content shall be established for personnel records, which shall contain at least the following:
 - A) Application form and/or resume with current and background information sufficient to justify the initial and continuing employment of the individual.
 - B) Verification of license, if the position requires a license. A licensed person shall be employed only after verification of the license is obtained.
 - C) A record regarding the employee's specialized education, training, and experience.
 - D) Verification of identity.
 - E) Employment health examination and subsequent health services rendered to the employees as are necessary to ensure that all employees are physically able to perform their duties.
 - F) Record of orientation to the job.
 - G) Continuance of education.
 - H) Current information relative to periodic work performance evaluations.
- l) Employees shall not be assigned duties that exceed their education, training, experience, and qualifications.
- m) Orientation and in-service training programs shall be provided so that personnel may maintain skills and learn new developments.
- n) Personnel health requirements

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- 1) Each FEC shall establish an employee health program that includes the following:
 - A) An assessment of the employee's health and immunization status at the time of employment;
 - B) Policies regarding required immunizations; and
 - C) Policies and procedures for the periodic health assessment of all personnel. These policies must specify the content of the health assessment and the interval between assessments and must comply with the Control of Tuberculosis Code (77 Ill. Adm. Code 696) Section 690.720 (Tuberculosis) of the Department's rules entitled "Control of Communicable Diseases Code" (77 Ill. Adm. Code 690).
- 2) Personnel absent from duty because of any communicable disease shall not return to duty until examined for freedom from any condition that might endanger the health of patients or employees.
 - o) Personnel services may be provided by the owning or controlling hospital, provided that standards are established in accordance with this Section that are specific to the FEC.
 - p) Prior to employing any individual in a position that requires a State license, the facility shall contact the Illinois Department of Professional Regulation to verify that the individual's license is active. A copy of the license shall be placed in the individual's personnel file.
 - q) The facility shall check the status of all applicants with Nurse Aide Registry prior to hiring.

(Source: Amended at 27 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Services Delivered by the Department
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
302.310	Amendment
302.405	Amendment
- 4) Statutory Authority: Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFS 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].
- 5) Effective Date of Amendments: October 22, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of proposal published in Illinois Register: April 19, 2002, 26 Ill. Reg.5457
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: There are no difference between the proposal and the final version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any proposed amendments to this Part pending? No
- 15) Summary and purpose of these adopted amendments:

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The adopted amendments extend the deadline for the \$3000.00 payment to Department wards, between the ages of 14 and 18 years, who are adopted or transferred to subsidized guardianship from March 15, 2001 to October 31, 2002.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
(217) 524-1983
TTY: (217) 524-3715
FAX: (217) 557-0692
E-Mail address cfpolicy@idcfs.state.il.us

The full text of the adopted amendments begin on the next page.

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 302

SERVICES DELIVERED BY THE DEPARTMENT

SUBPART A: GENERAL PROVISIONS

Section	
302.10	Purpose
302.20	Definitions
302.30	Introduction
302.40	Department Service Goals
302.50	Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible
302.310	Adoption Assistance Agreements
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)

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302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Placement Services (Repealed)
302.400	Successor Guardianship (Repealed)
302.405	Subsidized Guardianship Program

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section	Purpose
302.500	Purpose
302.510	Implementation of the Family Preservation Act
302.520	Types of Intensive Family Preservation Services
302.530	Phase In Plan for Statewide Family Preservation Services
302.540	Time Frames

APPENDIX A Acknowledgement of Mandated Reporter Status (Recodified)

APPENDIX B Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; preemptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg. 5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274,

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effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired on July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 27 Ill. Reg. 16434, effective Oct 22, 2002.

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.310 Adoption Assistance Agreements

- a) Adoption assistance may be provided to those persons adopting children who are legally free for adoption, for whom the Department is legally responsible, who are residents of Illinois, and who the Department has determined have special needs because of which it is reasonable to conclude that the child cannot be adopted unless adoption assistance is provided. Although eligibility for adoption assistance shall be determined regardless of the financial circumstances of the adoptive parents, the types and amounts of assistance under each adoption assistance agreement shall be determined by the Department and the adoptive parents on an individual basis. The Department shall take into consideration the specific circumstances of the adoptive parents and any special care needs of the child being adopted as described in subsection (b)(2) of this Section. The types of adoption assistance that may be provided include:
 - 1) one-time only payments of non-recurring adoption expenses incurred by or on behalf of the adoptive parents in connection with the adoption of a special needs child, up to a maximum of \$1500 for each adopted child;
 - 2) payments for physical, emotional and mental health needs not wholly payable through insurance or other public resources that are associated with or result

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from a condition whose onset has been established as occurring prior to the completion of the adoption. Such payments include medical benefits as provided under Title XIX of the Social Security Act (Medicaid) and include services such as physician and clinic fees, hospitalization costs, and prescriptions;

- 3) in cases where a child also meets the eligibility requirements of subsection (d) of this Section, ongoing monthly payments in an amount determined in each case by the Department not to exceed the applicable licensed foster care payment level the child would be receiving if the child were in foster care and subject to adjustment at a review every two years, or more frequently based on changes in the circumstances of the adopted parents and the needs of the child being adopted. However, while payments may be increased based on changes in the level of care the child needs, payments will not be decreased based on changes in the level of care. In no event shall the monthly adoption assistance payment be greater than the applicable licensed foster family care payment level;
 - 4) an incentive payment of \$3000 for children who are 14 to 18 years of age when adopted during the time period of March 15, 2001 through ~~June 30, 2002~~ October 31, 2002. For a further description of the purpose and terms of this payment, see subsection (k) of this Section; and
 - 5) payment for day care for children under the age of three years, if the adoptive parent is employed or in an education-related program. This day care payment cannot be used in addition to therapeutic day care. Payment for day care services will end on the child's third birthday.
- b) For purposes of this Section, a child shall not be considered a child with special needs unless the Department has first determined that:
- 1) the child cannot or should not be returned to the home of his or her parents, as determined by:
 - A) a judicial adjudication that the child is abused, neglected or dependent or other judicial determination that there is probable cause to believe that a child is abused, neglected or dependent; and
 - B) a determination by the Department that the child is likely to suffer further abuse or neglect or will not be adequately cared for if returned to the parent(s); and
 - 2) the child meets one of the following criteria:
 - A) has an irreversible or non-correctable physical, mental or emotional disability; or
 - B) has a physical, mental or emotional disability correctable through surgery, treatment, or other specialized services; or
 - C) is one year of age or older; or
 - D) is a member of a sibling group being adopted together where at least one

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child meets one of the criteria in subsection (b)(2)(A) through (C) above;
or

- E) is a child being adopted by adoptive parents who have previously adopted, with adoption assistance, another child born of the same mother or father; and
- 3) a reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing adoption assistance and the prospective adoptive parents are either unwilling or unable to adopt the child without adoption assistance, as evidenced by a written statement from the adoptive parents. A documented search for alternative adoptive placements without adoption assistance shall be made unless the Department determines that such a search is against the best interests of the child because the child has developed significant emotional ties with the prospective adoptive parents while in their foster care.
- c) Adoption assistance as a one-time only payment for non-recurring adoption expenses shall be provided to parents adopting a child who is determined by the Department to have special needs as provided in subsection (b) of this Section. This includes expenses incurred by or on behalf of such parents, in connection with the adoption of a special needs child, either directly or through another public or private agency. These expenses include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs and that are not incurred in violation of State or Federal law. The amount of payments to be made in any specific case shall be determined by the needs of the child being adopted and the availability of pro bono services, and shall not exceed \$1500 per adoptive child. The adoptive parents may refuse any or all payments available under this subsection (c) of this Section.
- d) Adoption assistance for ongoing monthly payments and medical assistance may be provided to parents adopting a child who:
- 1) is determined by the Department to have special needs as provided in subsection (b) of this Section; and
 - 2) meets one of the following conditions:
 - A) was eligible at the time the adoption petition was filed for Aid to Families with Dependent Children (AFDC) under the provisions of Title IV-A of the Social Security Act in effect as of July 16, 1996; or
 - B) was eligible for foster care maintenance payments under Title IV-E of the Social Security Act at the time the adoption petition was filed; or
 - C) was eligible for Supplemental Security Income (SSI) prior to finalization of the adoption; or
 - D) is a child for whom the Department of Children and Family Services was legally responsible when the adoption petition was filed; and

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- 3) in all cases, other than a child determined to have special needs under subsection (b)(2) of this Section because of a documented physical, mental, or emotional disability, the child has been in the care of the Department or another agency or person other than his or her parents pursuant to an order of the court for at least one year prior to the adoption unless the child is being adopted after October 1, 1997 and is a child who had previously been adopted with adoption assistance, but the adoption was dissolved and the parental rights of the adoptive parents were terminated, or the adoptive parents died. However, the one year placement requirement is not applicable for sibling groups where at least one sibling is determined to be special needs because of a documented physical, mental, or emotional disability and meets all requirements for adoption assistance.
- e) The Department shall make an initial determination whether to provide ongoing monthly payments and the amount of the payment in each individual case by taking into consideration the circumstances of the adoptive parents and the needs, age, and type of placement of the child being adopted as adjusted for any benefits the child will be receiving, such as Social Security, Veterans' benefits, railroad retirement or black lung benefits. Supplemental Security benefits (SSI) are not to be considered in the determination of the ongoing monthly payment. If a child is receiving SSI, the receipt of adoption assistance is taken into consideration by the Social Security Administration when calculating the amount of the SSI benefit.
- f) In cases where the determination under subsection (b)(2) of this Section is based on a diagnosis that the child may eventually require care for a documented medical condition or disability related to pre-existing physical, mental, or emotional conditions or risk factors that do not yet require treatment at the time of the adoption, no such payments shall be made at that time. The adoption assistance agreement may provide that such payments be initiated when the child's pre-existing condition or identified risk factors warrant treatment or professional intervention. If such payments are commenced, the ongoing monthly payment shall in no event exceed the amount the child would receive if the child was in foster care at the time the payments are initiated.
- g) The adoption assistance agreement providing for ongoing monthly payments and medical assistance shall include an agreement with the adoptive parents that the amount of any ongoing monthly payments shall be reviewed every two years and may be readjusted every two years or more frequently, based on changes in the circumstances of the adoptive parents and the needs of the child being adopted. However, while payments may be increased based on changes in the level of care the child needs, payment will not be decreased based on changes in the level of care. If the adoptive parents or the adopted child disagree with the Department's determination, they may appeal the determination in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process). Adoptive parents may refuse any or all

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- payments offered by the Department.
- h) A prospective adoptive family being presented with a child determined to be a special needs child shall be made aware of the availability of adoption assistance and the types of adoption assistance and, in the case of ongoing monthly adoption assistance payments, that such payments are subject to review at least every two years and may be terminated or readjusted based on subsections (i) and (j). In order to receive adoption assistance, the child must be placed in the adoptive home and the adoption assistance agreement signed prior to finalization of the adoption.
 - i) The type(s), amount and duration of adoption assistance shall be agreed to in writing by the Department and the adoptive parent(s) prior to the finalization of the adoption, and shall be set forth in the adoption assistance agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the adoptive parents reside currently or in the future and shall contain provisions for the protection of the interests of the child in cases where the adoptive parents and child move to another state while the agreement is in effect. The duration of adoption assistance may extend until age 18 years, or until age 19 years if the child is still in high school, although adoption assistance may be provided at the Department's option until the child's 21st birthday if the child has a physical, mental or emotional disability that warrants the continuation of assistance. The adoptive parents or the adoptive child may appeal the Department's decision to discontinue adoption assistance at age 18 or 19 for a child still in high school.
 - j) The adoptive parent shall notify the Department as soon as practically possible in writing of a change in address or when the following changes occur which will affect the amount of adoption assistance:
 - 1) the child is no longer the legal responsibility of the adoptive parent;
 - 2) the child is no longer receiving financial support from the adoptive parent;
 - 3) the child's condition has changed to the extent that, if the child were in foster care, an increase in the child's level of care would be required; or
 - 4) a change has occurred in the circumstances of the family that is relevant in determining the amount of assistance payments. Such circumstances pertain to the parents' ability to incorporate the child into their household in relation to their standard of living, future plans and overall capacity to meet the immediate and future needs of the child.
 - k) The Department will provide a payment of \$3000 to be awarded to an adopted child under the following circumstances in the manner described:
 - 1) In order to assist youth who have been adopted to make the transition to adulthood, the Department will provide a payment of \$3000 directly to the youth upon termination of his or her adoption subsidy.
 - 2) the payment is intended to assist the child's transition to adulthood by helping pay for education, housing, or other forms of vocational training or

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employment assistance.

- 3) In order to be eligible for this payment, the child:
 - A) must have been the legal responsibility of the Department prior to the adoption; and
 - B) must have been 14 to 18 years of age when adopted, during the time period of March 15, 2001 through June 30, 2002.
- 4) Children in adoptive placements within this time period who do not have their adoptions finalized by June 30, 2002 will not be eligible for this grant award.
- 5) The payment will be awarded directly to the child.
- l) If an adoption is dissolved because of the termination of the parental rights of the adoptive parents or the death of the adoptive parents, a child adopted with adoption assistance continues to be eligible for such assistance if he or she is adopted again on or after October 1, 1997.

(Source: Amended at 26 Ill. Reg. 16434, effective Oct 22, 2002)

Section 302.405 Subsidized Guardianship Program

- a) Description. Subsidized guardianship is a program for which the Department has received waivers from the federal Department of Health and Human Services under Section 1130 of the Social Security Act to operate a child welfare demonstration project. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out as evidenced by an assessment documented in the service plan. The types of assistance that may be provided include:
 - 1) payments of one-time court costs and legal fees, if required, in connection with the establishment of guardianship, up to a maximum of \$500;
 - 2) payments for physical, emotional and mental health needs not wholly payable through insurance or other public resources that are associated with or result from a medical condition whose onset has been established as occurring prior to the transfer of guardianship. Such payments include medical benefits as provided under Title XIX of the Social Security Act (Medicaid) and include services such as physician and clinic fees, hospitalization costs, and prescriptions;
 - 3) ongoing monthly payments in an amount determined in each case by the Department in accordance with subsection (e) below;
 - 4) an incentive payment of \$3000 for children 14 to 18 years of age, when guardianship with subsidized guardianship was awarded the private guardian during the time period of March 15, 2001 through October 31, 2002 ~~June 30, 2002~~. For a further description of the purpose and terms of this payment, see subsection (f) of this Section; and

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- 5) payment for day care for children under the age of three years, if the guardian is employed or in an education-related program. This day care payment cannot be used in addition to therapeutic day care. Payment for day care services will end on the child's third birthday.
- b) When Subsidized Guardianship is Appropriate
- Subsidized guardianship is a program available for only those children who meet the following criteria.
- 1) The child must have been in the legal custody of the State for one year immediately prior to establishing subsidized guardianship.
 - 2) The child must have resided with the prospective private guardian (relative caregiver or non-relative licensed foster care provider) for at least one year immediately prior to establishing the subsidized guardianship. However, the one year placement requirement is not applicable for sibling groups when at least one sibling meets all other subsidized guardianship requirements.
 - 3) A child living in the home of a non-relative must be at least 12 years of age. However, the age criteria is not applicable for sibling groups when at least one sibling meets all subsidized guardianship criteria. However, if a child younger than 12 years of age is living in the home of a non-relative and has no older sibling for whom subsidized guardianship is being considered, the caseworker must determine that subsidized guardianship is in the child's best interests due to the length of time the child has been in the home, the age of the child, characteristics, limitations, and responsibilities including health and mobility of the caretakers or the special needs of the child. The basis for the best interest decision must be documented, and must be approved by the Department Guardianship Administrator.
 - 4) The child must have a strong attachment to the potential guardian and the guardian must have a strong commitment to the child.
 - 5) Reunification efforts of the child with his or her family must have been ruled out despite reasonable efforts having been made to reunite the child with his or her parents as documented in the case record.
 - 6) Adoption must have been ruled out as a permanency goal for the child.
 - 7) The parents may consent to the subsidized guardianship arrangement or the Department may proceed, for good cause, to seek a private guardian without parental consent provided that notice is given of the guardianship petition hearing in accordance with Section 11-10.1(a) of the Probate Act [755 ILCS 5/11-10.1(a)].
 - 8) A child 14 years of age or older must consent to the initiation of the subsidized guardianship living arrangement.
 - 9) The prospective guardian must have no record of any felony convictions.

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- c) Responsibilities of the Private Subsidized Guardian
- 1) Private guardians are responsible for ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court.
 - 2) Private guardians shall notify the Department as soon as practically possible in writing when the following changes occur which may affect the amount of the subsidy:
 - A) the child is no longer the legal responsibility of the subsidized guardian;
 - B) the child is no longer receiving financial support from the subsidized guardian;
 - C) a change has occurred in the circumstances of the family that is relevant in determining the amount of assistance payments; or
 - D) there is a change of address.
- d) Responsibilities of Department
- 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized guardianship is in the best interests of the child. In making that determination the Department shall, through an assessment, consider all relevant factors including but not limited to:
 - A) the wishes of the child's prospective subsidized guardian;
 - B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
 - C) the interaction and interrelationship of the child with the prospective subsidized guardian;
 - D) the child's adjustment to the present home, school, and community;
 - E) the child's need for stability and continuity of relationship with the prospective subsidized guardian; and
 - F) the mental and physical health of all individuals involved.
 - 2) The Department shall ensure that the subsidized guardianship arrangement is a safe and suitable placement by means of a safety check which shall include a CANTS and LEADS check.
 - 3) The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services) when making placements under the subsidized guardianship program.
 - 4) The Department will offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment for one time only court

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- costs and legal fees, if required.
- 5) The Department shall provide children in the subsidized guardianship program with a full range of services under the Medicaid program which includes health care services and mental health care services.
 - 6) The Department shall ensure that an orientation is provided to the family of the subsidized guardian to assure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.
 - 7) The Department shall ensure that each prospective guardian has access to a caseworker who will respond to requests for information and assistance.
 - 8) The Department shall ensure that all guardians are provided access to fair hearings under 89 Ill. Adm. Code 337 (Service Appeal Process).
 - 9) The Department shall accept custody of the child in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5] if the guardian does not care for him or her to the extent the child's health or well-being is endangered.
 - 10) The Department shall provide financial assistance for these children in accordance with Section 302.405(e) (Subsidy for Subsidized Guardianship).
- e) Subsidy for the Subsidized Guardianship Program
- 1) Although eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian, the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in Section 302.310(e) of this Part.
 - 2) The subsidized guardianship agreement providing for ongoing monthly payments shall include an agreement with the subsidized guardian that the amount of any ongoing monthly payments shall be reviewed at least every two years or more frequently and may be readjusted annually or more frequently. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department.
 - 3) A relative caregiver or licensed foster parent with a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship, the types of assistance available, the amount of payment, and, in the case of ongoing monthly subsidized guardianship payments, that such payments are subject to review at least every two years or more frequently and may be readjusted as set forth in subsection (e)(2) above. In order to receive a subsidized

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- guardianship payment, the subsidized guardianship agreement must be signed prior to finalization of the transfer to private guardianship.
- 4) The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the finalization of the transfer to private guardianship, and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases where the subsidized guardian and child move to another state while the agreement is in effect. The duration of subsidized guardianship shall continue without further involvement by the court until termination when the child marries or dies, is emancipated, or reaches the age of 18 or 21 as specified in the agreement. The guardianship will also terminate upon the death, incapacity, resignation, or removal of the guardian.
 - 5) While guardianship is terminated under the Probate Act when a child reaches age 18, financial assistance may be provided through age 19 for a child still in high school or until age 21 for children with certain mental or physical handicapping conditions only.
- f) The Department will provide a payment of \$3000 to be awarded to a child placed in subsidized guardianship under the following circumstances in the manner described:
- 1) In order to assist youth who have been receiving subsidized guardianship to make the transition to adulthood, the Department will provide a payment of \$3000 directly to the youth upon termination of his or her subsidized guardianship subsidy.
 - 2) The payment is intended to assist the child's transition to adulthood by helping pay for education, housing, or other forms of vocational training or employment assistance.
 - 3) In order to be eligible for this payment, the child:
 - A) must have been the legal responsibility of the Department prior to the subsidized guardianship; and
 - B) must have been 14 to 18 years of age when guardianship was awarded to the private guardian during the time period of March 15, 2001 through June 30, 2002.
 - 4) Children in subsidized guardianship within this time period who do not have their private guardianship finalized by June 30, 2002 will not be eligible for this grant award.
 - 5) The payment will be awarded directly to the child.
- g) Demonstration and Cost Neutrality Groups

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Although participation in the subsidized guardianship program is Statewide, for purposes of meeting the cost neutrality, federal funding, and evaluation requirements of the federal waiver demonstrations, clients will be randomly assigned in three geographical areas of the State to a demonstration group or a cost neutrality group. The demonstration group will be subject to the waiver provisions of the demonstration, and the cost neutrality group will be subject to the regular treatment services according to the Department's rules and procedures.

The three areas are:

- 1) the Cook Central Region.
- 2) the East St. Louis sub-region serving the following counties:
 - A) Madison;
 - B) St. Clair;
 - C) Bond;
 - D) Clinton;
 - E) Washington;
 - F) Monroe; and
 - G) Randolph.
- 3) the Peoria sub-region serving the following counties:
 - A) Fulton;
 - B) Henderson;
 - C) Knox;
 - D) Warren;
 - E) Henry;
 - F) LaSalle;
 - H) Mercer;
 - I) Rock Island;
 - J) Tazewell;
 - K) Woodford;
 - L) Peoria;
 - M) Bureau;
 - N) Marshall;
 - O) Putnam; and
 - P) Stark.

(Source: Amended at 26 Ill. Reg. 16434, effective Oct 22, 2002)

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- 1) Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services Is Legally Responsible
- 2) Code Citation: 89 Ill. Adm. Code 309
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
309.50	Amend
309.70	Amend
- 4) Statutory Authority: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq; 45 CFR 1356.40 and 1356.41); and the Adoption and Safe Families Act (42 USCA 1305)
- 5) Effective Date of Rulemaking: October 23, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of proposal published in Illinois Register: December 21, 2001, 25 Ill. 16195
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: No changes were made to the proposed version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR: Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any proposed amendments to this Part pending? No
- 15) Summary and Purpose of the Adopted Amendments:
The Department has amended Section 309.50, Identification of Children for Potential Adoption Planning, by deleting paragraph (c)(14) from the list of grounds of parental

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unfitness. In 2001, the Illinois Supreme Court ruled this ground to be unconstitutional in re. H.G. Nos. 89115,89783, and 90053.

The Department has also amended Section 309.70 based on the fact that Public Act 92-320 amended the Adoption Act provisions regarding consents to adoption by a specified person to provide that a consent to an adoption is voidable if the specified person or persons do not file a petition after the consent is signed and, after one year has elapsed, the parent files a motion to revoke the consent. Public Act 92-320 also reduced, from one year to 6 months, the time period in which a minor or sibling of the minor must have resided with a foster parent who seeks to adopt the minor in order for the parents to execute a consent to the adoption of the child by the foster parents.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Jeff Osowski
Office of Rules and Procedures
Department of Children and Family Services
406 East Monroe, Station # 65
Springfield, Illinois 62701-1498
(217) 524-1983
TTY: (217) 524-3715

The full text of the adopted amendments begin on the next page.

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 309

ADOPTION SERVICES FOR CHILDREN FOR WHOM THE DEPARTMENT OF
CHILDREN AND FAMILY SERVICES IS LEGALLY RESPONSIBLE

Section	
309.10	Purpose
309.20	Definitions
309.30	Recruitment of Adoptive Families
309.40	Adoption Listing Services
309.50	Identification of Children for Potential Adoption Planning
309.60	Legal Risk Placements
309.70	Freeing Children for Adoption
309.80	Termination of Parental Rights
309.90	Putative Father Registry
309.100	Preparation of Children for Adoption
309.105	Who May Adopt a Child
309.110	Preparation and Training of Adoptive Families
309.120	Preparation of the Child's Biological Parents
309.130	Placement Considerations
309.140	Placement of Children with Adoptive Families
309.150	Providing Information to Adoptive Families
309.160	Post-Placement Services
309.170	Post-Adoption Services
309.180	Adoption Assistance
309.190	Adoption Registry

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.; 45 CFR 1356.40 and 1356.41); and the Adoption and Safe Families Act (42 USCA 1305).

SOURCE: Adopted at 22 Ill. Reg. 8769, effective May 15, 1998; amended at 23 Ill. Reg. 11098, effective September 16, 1999; amended at 25 Ill. Reg. 11778, effective September 14, 2001; amended at 26 Ill. Reg. 16449, effective Oct 23, 2002.

Section 309.50 Identification of Children for Potential Adoption Planning

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- a) The Department shall immediately consider for all children under its care the possibility of adoption when exploring permanency options, and begin adoption planning when it is in the child's best interests and when either the grounds for parental unfitness as defined in the Adoption Act described in subsection (b) below are present or other additional factors as described in subsection (c) or (d) of this Section are present.
- b) When any of the grounds for parental unfitness, as defined in the Adoption Act, or expedited termination of parental rights are identified, the following actions shall be taken:
 - 1) the parents shall explore the opportunity to voluntarily surrender their child for adoption or consent to the adoption of their child by specified person as described in Section 309.70(c) or (d); or
 - 2) if the parents are unwilling to voluntarily surrender or consent to the adoption of the child, the case shall be referred for an internal legal screening in accordance with Section 309.80 (Termination of Parental Rights) to determine whether to seek involuntary termination of parental rights.
- c) The following grounds of parental unfitness are defined in Section 1 of the Adoption Act [750 ILCS 50/1] and should be considered when adoption is in the best interests of the child:
 - 1) *Abandonment of the child. Abandonment of a newborn infant in a hospital. Abandonment of a newborn infant in any setting where the evidence suggests that the parent intended to relinquish his or her parental rights.*
 - 2) *Failure to maintain a reasonable degree of interest, concern or responsibility as to the child's welfare.*
 - 3) *Desertion of the child for more than three months next preceding the commencement of the adoption proceeding.*
 - 4) *Substantial neglect of the child if continuous or repeated. Substantial neglect, if continuous or repeated, of any child residing in the household which resulted in the death of that child.*
 - 5) *Extreme or repeated cruelty to the child.*
 - 6) *Two or more findings of physical abuse to any children under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court Act of 1987 [705 ILCS 405], the most recent of which was determined by the juvenile court hearing the matter to be supported by clear and convincing evidence; a criminal conviction or a finding of not guilty by reason of insanity resulting from the death of any child by physical abuse; or a finding of physical child abuse resulting from the death of any child under Section 4-8 of the Juvenile Court Act or Section 2-21 of the Juvenile Court*

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Act of 1987.

- 7) *Failure to protect the child from conditions within his environment injurious to the child's welfare.*
- 8) *Other neglect of, or misconduct toward, the child; provided that in making a finding of unfitness the court hearing the adoption proceeding shall not be bound by any previous finding, order or judgement affecting or determining the rights of the parents toward the child sought to be adopted in any other proceeding except such proceedings terminating parental rights as shall be had under either the Adoption Act, the Juvenile Court Act or the Juvenile Court Act of 1987.*
- 9) *Depravity.*
 - A) *Conviction of any one of the following crimes shall create a presumption that a parent is deprived which can be overcome only by clear and convincing evidence:*
 - i) *first degree murder in violation of paragraph 1 or 2 of subsection (a) of Section 9-1 of the Criminal Code of 1961 or conviction of second degree murder in violation of subsection (a) of Section 9-2 of the Criminal Code of 1961 of a parent of the child to be adopted;*
 - ii) *first degree murder or second degree murder of any child in violation of the Criminal Code of 1961;*
 - iii) *attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961;*
 - iv) *solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; or*
 - v) *aggravated criminal sexual assault in violation of Section 12-14(b)(1) of the Criminal Code of 1961.*
 - B) *There is a rebuttable presumption that a parent is deprived if the parent has been criminally convicted of at least 3 felonies under the laws of this State or any other state, or under federal law, or the criminal laws of any United States territory; and at least one of these convictions took place within 5 years of the filing of the petition or motion seeking termination of parental rights.*
 - C) *There is a rebuttable presumption that a parent is deprived if that parent has been criminally convicted of either first or second degree murder of any person as defined in the Criminal Code of 1961 within 10 years of the filing date of the petition or motion to terminate parental rights.*

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- 10) *Open and notorious adultery or fornication.*
- 11) *Habitual drunkenness or addiction to drugs, other than those prescribed by a physician, for at least one year immediately prior to the commencement of the unfitness proceeding. There is a rebuttable presumption that a parent is unfit under this subsection (c) with respect to any child to which that parent gives birth where there is a confirmed test result that at birth the child's blood, urine, or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or metabolites of such substances, the presence of which in the newborn infant was not the result of medical treatment administered to the mother or the newborn infant; and the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987.*
- 12) *Failure to demonstrate a reasonable degree of interest, concern or responsibility as to the welfare of a newborn child during the first 30 days after its birth.*
- 13) *Failure by a parent to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent, or to make reasonable progress toward the return of the child to the parent within 9 months after an adjudication of neglected or abused minor or dependent minor under the Juvenile Court Act or the Juvenile Court Act of 1987. If a service plan has been established as required under Section 8.2 of the Abused and Neglected Child Reporting Act to correct the conditions that were the basis for the removal of the child from the parent and if those services were available, then, for purposes of this Part, "failure to make reasonable progress toward the return of the child to the parent" includes the parent's failure to substantially fulfill his or her obligations under the service plan and correct the conditions that brought the child into care within 9 months after the adjudication under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.*
- ~~14) Pursuant to the Juvenile Court Act of 1987, a child has been in foster care for 15 months out of any 22 month period which begins on or after June 30 of 1998 unless the child's parent can prove by a preponderance of the evidence that it is more likely than not that it will be in the best interests of the child to be returned to the parent within 6 months of the date on which a petition for termination of parental rights is filed under the Juvenile Court Act of 1987.~~
 - ~~A) The 15 month time limit is tolled during any period for which there is a court finding that the appointed custodian or guardian failed to make reasonable efforts to reunify the child with his or her~~

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~~family, provided that:~~

~~i) the finding of no reasonable efforts is made within 60 days of the period when reasonable efforts were not made; or~~

~~ii) the parent filed a motion requesting a finding of no reasonable efforts within 60 days of the period when reasonable efforts were not made.~~

~~B) For purposes of this ground, the date of entering foster care is the earlier of:~~

~~i) the date of a judicial finding at an adjudicatory hearing that the child is an abused, neglected, or dependent minor; or~~

~~ii) 60 days after the date on which the child is removed from his or her parent, guardian, or legal custodian.~~

1415) Evidence of intent to forego his or her parental rights, whether or not the child is a ward of the court:

A) as manifested by his or her failure for a period of 12 months:

i) to visit the child,

ii) to communicate with the child or agency, although able to do so and not prevented from doing so by an agency or by court order, or

iii) to maintain contact with or plan for the future of the child, although physically able to do so; or

B) as manifested by the father's failure, where he and the mother of the child were unmarried to each other at the time of the child's birth:

i) to commence legal proceedings to establish his paternity under the Illinois Parentage Act of 1984 [750 ILCS 45] or the law of the jurisdiction of the child's birth within 30 days of being informed, pursuant to Section 12a of the Adoption Act, that he is the father or the likely father of the child or, after being so informed where the child is not yet born, within 30 days of the child's birth, or

ii) to make a good faith effort to pay a reasonable amount of the expenses related to the birth of the child and to provide a reasonable amount for the financial support of the child, the court to consider in its determination all relevant circumstances, including the financial condition of both parents; provided that the ground for termination provided in this subsection (b) shall only be available where the petition is brought by the mother or the husband of the mother.

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- 1546) Repeated or continuous failure by the parents, although physically and financially able, to provide the child with adequate food, clothing, or shelter.*
- 1647) Inability to discharge parental responsibilities supported by competent evidence from a psychiatrist, licensed clinical social worker, or clinical psychologist of mental impairment, mental illness or mental retardation as defined in Section 1-116 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-116], or developmental disability as defined in Section 1-106 of that Code, and there is sufficient justification to believe that the inability to discharge parental responsibilities shall extend beyond a reasonable time period.*
- 1748) The parent has been criminally convicted of aggravated battery, heinous battery, or attempted murder of any child.*
- 1819) A finding that at birth the child's blood, urine or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to enroll in and participate in a clinically appropriate substance abuse counseling, treatment, and rehabilitation program.*
- 1920) The child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated as a result of criminal conviction at the time the petition or motion for termination of parental rights is filed, prior to incarceration the parent had little or no contact with the child or provided little or no support for the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period in excess of 2 years after the filing of the petition or motion for termination of parental rights.*
- 2024) The child is in the temporary custody or guardianship of the Department of Children and Family Services, the parent is incarcerated at the time the petition or motion for termination is filed, the parent had been repeatedly incarcerated as a result of criminal convictions, and the parent's repeated incarceration has prevented the parent from discharging his or her parental responsibilities for the child.*
- d) Expedited Termination of Parental Rights
At any time between case opening and 30 days prior to an court adjudication, if it

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becomes known that one or more of the grounds for parental unfitness listed in subsection (d)(1) or (2) exist, the caseworker will seek immediate supervisory consultation to request that a legal screening be convened in accordance with Section 309.80 (Termination of Parental Rights). The purpose of the legal screening will be to determine whether the State's Attorney should be asked to file a petition for expedited termination of parental rights.

- 1) Grounds for which expedited termination of parental rights must be sought are:
 - A) extreme or repeated cruelty to the child;
 - B) a finding of physical abuse and criminal conviction of aggravated battery of the child;
 - C) conviction of: first degree murder in violation of Section 9-1(a)(1) or (2) of the Criminal Code of 1961 or conviction of second degree murder in violation of Section 9-2(a) of the Criminal Code of 1961 of a parent of the child to be adopted; a criminal conviction of first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of attempt or conspiracy to commit first degree murder or second degree murder of any child in violation of the Criminal Code of 1961; a criminal conviction of solicitation to commit murder of any child, solicitation to commit murder of any child for hire, or solicitation to commit second degree murder of any child in violation of the Criminal Code of 1961; or criminal conviction of aggravated criminal sexual assault in violation of Section 12-14(b)(1) of the Criminal Code of 1961;
 - D) abandonment of a newborn infant in a hospital;
 - E) abandonment of a newborn infant in a setting where the evidence suggests that the parent intended to relinquish parental rights;
 - F) incarceration of a parent as a result of a criminal conviction where prior to incarceration the parent had little or no contact with the child or provided little or no support of the child, and the parent's incarceration will prevent the parent from discharging his or her parental responsibilities for the child for a period of two years after the filing of the petition or motion for termination of parental rights.
- 2) Grounds for which expedited termination of parental rights shall be considered, and for which the casework supervisor must document the reason for not considering expedited termination of parental rights, are:
 - A) abandonment of the child (other than newborn infant);
 - B) desertion;
 - C) inability to discharge parental responsibility due to mental illness,

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- mental impairment or developmental disability;
- D) a finding that at birth the child's blood, urine or meconium contained any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substance Act, or a metabolite of a controlled substance, with the exception of controlled substances or metabolites of such substances, the presence of which in the newborn infant was the result of medical treatment administered to the mother or the newborn infant, and that the biological mother of this child is the biological mother of at least one other child who was adjudicated a neglected minor under subsection (c) of Section 2-3 of the Juvenile Court Act of 1987, after which the biological mother had the opportunity to enroll in and participate in a clinically appropriate substance abuse counseling, treatment, and rehabilitation program.
- e) Other additional factors to be considered in identifying the possibility of adoption for a child are:
- 1) the parents have signed or indicated a desire to sign a consent or surrender for adoption;
 - 2) the parents have previously signed a consent or surrender for adoption with regards to other children in the past and those children were the subjects of abuse, neglect or dependency petitions and/or parental rights have been terminated with regard to other children in the past, thus indicating that there may be risk of harm to other children in the parents' care; or
 - 3) the parents have made unsatisfactory progress in correcting the conditions which led to the removal of his or her children, resulting in a rating of unsatisfactory progress which may be indicative of parental unfitness and return home to either parent is unlikely.
- f) The child's case shall be assessed to determine if any of the grounds for parental unfitness or other factors listed above exist:
- 1) when the Department first assumes custody of the child;
 - 2) within 30 days after case opening;
 - 3) at each administrative case review; and
 - 4) at no less than quarterly reviews and supervisory meetings.

(Source: Amended at 26 Ill. Reg. 16449, effective Oct 23, 2002)

Section 309.70 Freeing Children for Adoption

- a) Children for whom the Department of Children and Family Services is legally responsible are free for adoption when any of the following occurs:

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- 1) both parents of the child have signed adoptive surrenders or consents to adoption by a specified person as described in subsection (c) below; or
 - 2) one parent has signed an adoptive surrender or consent to adoption by a specified person as described in subsection (c) below, and parental rights of the remaining parent have been terminated through court action or the remaining parent is deceased; or
 - 3) a court has terminated the parental rights of both parents.
- b) A child 14 years of age or over who is free for adoption must consent to the adoption.
- c) Parents shall be informed that surrenders or consents signed prior to a court determination of abuse, neglect, or dependency may render the child ineligible for adoption assistance.
- d) The following criteria apply to a surrender for adoption:
- 1) The parent or parents must surrender the child to the Department or a child welfare agency as defined by the Child Care Act [225 ILCS 10];
 - 2) The surrender must be on a form that substantially complies with the forms for surrender contained in the Adoption Act [750 ILCS 50/10(C)];
 - 3) The surrender authorizes the agency to place the child with a family or individual selected by the agency;
 - 4) The agency consents to the adoption of the child when the adoption proceeding is commenced in court;
 - 5) No surrender assented to by the mother shall be taken within the 72 hour period immediately following the birth of the child;
 - 6) A surrender assented to by the mother not less than 72 hours after the birth of the child is irrevocable unless obtained by fraud or duress;
 - 7) A surrender may be assented to by the father of the child prior to the birth of the child and may be revoked within 72 hours after the birth by proper written notification from the father. If not revoked by the father within 72 hours after the birth of the child, the surrender is irrevocable. The surrender of a child prior to birth must be on a form that substantially complies with the forms for surrender contained in the Adoption Act [750 ILCS 50/10(D)].
- e) The following criteria apply to a consent to adoption by a specified person:
- 1) In order to execute a consent to adoption by a specified person:
 - A) the parent or parents must be the parents of a child in whose interests an abuse or neglect or dependency petition has been filed; and
 - B) the Department must approve of the consents by conducting an assessment of the person who will adopt the child, including a check of the Child Abuse and Neglect Tracking System and a Law Enforcement Agencies Data System check; and

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- C) the person who is named in the consent as the person who will adopt the child must be person:
- i) in whose physical custody the child had resided for at least ~~six months~~one year; or
 - ii) in whose physical custody at least one sibling of the child who is the subject of this consent has resided for at least ~~six months~~one year, and the child who is the subject of the consent is currently residing in this foster home; or
 - iii) in whose physical custody a child under one year of age has resided for at least three months;
- 2) The consent shall be valid only if the persons specified in the consent adopts the child;
- 3) The consent shall be void if:
- ~~A) the specified person or persons do not file a petition to adopt the child within one year after the consent is signed; or~~
- AB) a court denies the adoption petition; or
- BC) the Guardianship Administrator of the Department determines that the specified persons will not or cannot complete the adoption or, in the best interest of the child, should not adopt the child; ~~or-~~
- C) the specified person or persons do not file a petition to adopt the child within one year after the consent is signed and the birth parent files a motion in court requesting that the consent be voided after the year has elapsed.
- 4) Within 30 days after the consent becomes void, the Guardianship Administrator of the Department shall make good faith attempts to notify the parent, the court and all additional persons, including the State's Attorney, the guardian ad litem, attorneys for the parents, and the person who would have adopted the child as specified in the consent, that adoption has or will not occur and that the consent is void;
- 5) If the adoption does not occur, the biological parents who executed the consent must be notified of any further proceedings to terminate parental rights.

(Source: Amended at 26 Ill. Reg. 16449, effective Oct 23, 2002)

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- 1) Heading of the Part: Licensure of Direct Child Welfare Services Employees and Supervisors
- 2) Code of Citation: 89 Ill. Adm. Code 412
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
412.20	Amended
412.30	Amended
412.50.1.1	Amended
412.60	Amended
412.70	Amended
412.80	Amended
412.90	Amended
412.100	Amended
- 4) Statutory Authority: The Children and Family Services Act [20 ILCS 505/5c]
- 5) Effective Date of Amendments: October 23, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: May 10, 2002 at 26 Ill. Reg. 6903
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: No changes were made to the amendments other than edits recommended by the Joint Committee and the addition of the employee's representative to those persons who will receive the final administrative decision.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rule making replace an emergency rulemaking currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The rulemaking, in part, implements Public Act 92-471, which transfers from the Department to the Direct Child Welfare Services Employee License Board of the Department the authority to revoke or suspend the license of anyone who, after a hearing, is found to be guilty of misfeasance. Other revisions address issues of clarity or complaint investigative procedures by the Department's Office of the Inspector General.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Mr. Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
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E-Mail: cfpolicy@idcfs.state.il.us

The full text of the adopted amendments begins on the next page.

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER f: GENERAL ADMINISTRATION

PART 412

LICENSURE OF DIRECT CHILD WELFARE SERVICES EMPLOYEES AND SUPERVISORS

Section

412.10	Purpose
412.20	Definitions
412.30	Organization and Administration of Licensing Program
412.40	Licensing Requirements
412.50	Grounds for Suspension, Revocation or Refusal to Reinstate License
412.60	Investigation, Notice and Proceedings Involving Formal Complaints
412.70	Final Administrative Decision
412.80	Revocation and Suspension of License
412.90	Imminent Danger to the Public
412.100	Restoration of Revoked or Suspended License
412.110	Severability of This Part

AUTHORITY: Authorized by Section 5c of the Children and Family Services Act [20 ILCS 505/5c].

SOURCE: Adopted at 24 Ill. Reg. 18068, effective December 1, 2000; amended at 26 Ill. Reg. 16461, effective Oct 23, 2002.

Section 412.20 Definitions

"Administrative Law Judge" means a licensed attorney who is appointed by the Director of the Department and is responsible for conducting pre-hearings, motion hearings, and the administrative hearing, and issuing a recommended decision.

"Appeal" means any case filed with the Administrative Hearings Unit asserting a right under 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings) and 383 (Licensing Enforcement).

"Authorized representative" means a contractual employee or person, including an attorney, authorized in writing by a licensee to assist in the administrative hearing process.

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"Chief Administrative Law Judge" means the person who is responsible for the supervision of the Administrative Law Judges and the coordination of the administrative hearing process.

"Department" means the Department of Children and Family Services.

"Department Representative" means the person who is responsible for presenting the Department's case under ~~this Part 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings)~~.

"Direct child welfare services employee" means a contractual employee or person employed by the Department of Children and Family Services (DCFS) or a purchase of service agency who carries cases, ~~conducts or supervises~~ child protective investigations, casework, intact/family preservation, permanency or ~~makes foster care~~ licensing decisions or anyone who is a direct supervisor of any of the above employees.

"Discipline by another jurisdiction" means the licensee holds another license or certification that is subject to regulation by another licensing or regulatory body.

"Exchange of information", for purposes of this Part, means the rights of any party to request and have access to, in advance of the pre-hearing, any documents and list of witnesses in the possession of any other party.

"Final administrative decision" means the Direct Child Welfare Services Employee License Board Director's final decision, order or determination in a particular case that affects the legal rights, duties or privileges of participants and that may be further appealed to the circuit court under the Administrative Review Law.

~~"Incompetence" means inadequate in one's job performance.~~

"Imminent danger to the public" means posing or impending harm or risk to a child, family or community.

"License" means a document issued by the Department that is required to practice as a direct child welfare services employee, the qualifications for which include specific education and examination requirements.

"Licensee" means a Licensed direct child welfare services employee ~~"means a person employed in child welfare services"~~ that holds a direct child welfare

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services employee license issued by the Department.

"Minimum standard of child welfare practice" means the protection of children from foreseeable and preventable harm through minimally adequate services that protect and promote their health, safety, welfare and permanency.

"Persons" includes one or more individuals, partnerships, associations or organizations, labor organizations, labor unions, joint apprenticeship committees, corporations, the State of Illinois and its instrumentalities, legal representatives, trustees in bankruptcy or receivers.

"Preponderance of the evidence" means the greater weight of the evidence that renders a fact more likely than not.

"Purchase of service provider" means an agency or individual offering services to a Department client through a signed contract with the Department.

"Respondent" means the licensee person who has been served with a notice of administrative hearing.

(Source: Amended at 26 Ill. Reg. 16461, effective Oct 23, 2002)

Section 412.30 Organization and Administration of Licensing Program

- a) The Department shall:
- 1) Verify that individuals applying for licensure meet the educational requirements of the position for which they are employed, as specified in Section 412.40(b).
 - 2) Authorize examinations that fairly test the knowledge and skills of applicants to be a direct child welfare services employee.
 - 3) Maintain licensing files for applicants and persons licensed by the Department to be a direct child welfare services employee.
 - 4) Maintain rosters of names and addresses of all licensed direct child welfare services employees, and all persons whose licenses have been suspended, revoked or are pending suspension or revocation.
 - 5) Provide licensing status information concerning specific individuals to prospective employers within three business days after a written request is received. (The Department and purchase of service agencies are required to check the license status of job applicants prior to hiring.) Licensing status information shall include, but not be limited to, date of issuance and

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- pending ~~or implemented licensure disciplinary~~ action against the licensee.
- 6) ~~Provide employers with~~ Employers shall also receive follow up information within three business days concerning any licensure action or any final administrative decision for any licensee individual whose license had been reported to the employer as pending revocation or suspension.
- b) Direct Child Welfare Services Employee License Board
- The Direct Child Welfare Services Employee License Board (hereafter referred to as the Board) shall consist of nine members appointed by the Director of the Department. All persons appointed to the Board shall be residents of the State of Illinois and serve in a voluntary and unpaid capacity.
- 1) The nine member Board shall be composed of five licensed professionals from the field of human services as outlined in 89 Ill. Adm. Code 401. Appendix G, at least two of which shall be employed in the private not-for-profit sector and at least one from the public sector; two members who serve on the faculty of an accredited university and have child welfare experience; and two members of the general public who are not licensed under this Part or similar rule. Members chosen from the public must clearly represent consumer interests.
- 2) All licensed professionals and faculty members must be in good standing within their profession. All members of the Board shall have no pending or indicated reports of child abuse or neglect, and no pending or criminal conviction of any offenses stipulated under the Criminal Code of 1961 listed in Section 4.2(b) of the Child Care Act of 1969 [225 ILCS 10/4.2(b)].
- 3) Board members are to recuse themselves from sitting on any matter involving an employee of a child welfare agency at which the board member is an employee or contractual employee or any matter involving a person known by the board member, or if the member has a personal or professional interest in the matter that would interfere with the board member's ability to exercise objectivity or has any bias against the involved person.
- 4) Members appointed to the initial Board shall serve for one, two or three years. All successive appointments shall be for a term of three years. No member shall be reappointed if his or her reappointment would cause any conflict of interest or cause that person to serve on the Board for longer than six consecutive years. Appointments to fill unexpired vacancies shall be made in the same manner as original appointments.
- 5) Board membership shall have reasonable representation from different geographic areas of Illinois.
- 6) The Director may terminate the appointment of any member for good

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- cause, which includes, but is not limited to, unjustified absences or failure to meet Board responsibilities, failure to recuse himself or herself as required by subsection (b)(3), or failure to maintain the professional position outlined in subsection (b)(1).
- 7) The Board shall make recommendations to the Director regarding licensure rules.
 - 8) The Board shall ~~have the authority to revoke, suspend or reinstate~~ make recommendations to the Director regarding final determination concerning revocation, suspension or reinstatement of an employee's direct child welfare services license after a hearing under the provisions of Section 412.60. Votes ~~on recommendations~~ regarding final determinations can be cast in person, by telephonic or electronic means or by mail, at the discretion of the chairperson and upon notification of all members. A simple majority of the members appointed and serving is required when Board members vote by mail or by telephonic or electronic means. A majority of the quorum is required when a recommendation is voted on during a Board meeting. ~~The Director shall make the final determination on all licensure recommendations voted by the Board.~~
 - 9) The Director shall designate the chairperson and vice-chairperson of the Board annually.
 - 10) Members of the Board shall be reimbursed for all authorized legitimate and necessary expenses incurred in attending the meetings of the Board.
 - 11) A majority of the currently appointed and serving Board members shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to perform all of the duties of the Board.
 - 12) Members of the Board shall have no individual liability in an action based upon a disciplinary proceeding or other activity performed in good faith as a member of the Board.
 - 13) The Director may assign Department employees to provide staff services to the Board.

(Source: Amended at 26 Ill. Reg. 16461, effective Oct 23, 2002)

Section 412.50 Grounds for Suspension, Revocation or Refusal to Reinstate License

~~a) Misfeasance~~

- a) The Board may ~~suspend, revoke or refuse~~ recommend suspension, revocation or refusal to reinstate any license with regard to any direct child welfare services employee license issued by the Department for any of the following acts ~~of~~ misfeasance:

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- 1) violation or negligent disregard of this Part;
 - 2) a charge or criminal conviction of any offenses stipulated under the Criminal Code of 1961 listed in the Child Care Act of 1969 (a charge may result only in suspension or temporary refusal to reinstate);
 - 3) making any misrepresentation for the purpose of obtaining a license, including but not limited to, failure to certify on the form, or a false statement, that the applicant is not more than 30 days delinquent in complying with a child support order;
 - 4) an egregious act that demonstrates incompetence, unfitness or blatant disregard for one's duties in providing direct child welfare services;
 - 5) a pattern of deviation from a minimum standard of child welfare practice that could result in an injury to a child;
 - 6) aiding or assisting another person in violation of any provision of this Part;
 - 7) failing to provide information regarding employee licensure within 60 days in response to a written request made by the Department related to an alleged violation of this Part~~the direct child welfare services employee~~ license;
 - 8) habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a worker's inability to practice with reasonable judgment, skill, or safety (This shall not include any person who has sought, will seek or is receiving substance abuse treatment if it does not impact on their ability to practice with reasonable judgement, skill or safety.);
 - 9) discipline by another state or national licensing entity when the grounds for suspension, revocation or refusal to reinstate are substantially the same as at least one of the grounds established in this Section;
 - 10) falsification of case records, court reports or court testimony;
 - 11) failing to report an instance of suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act (ANCRA);
 - 12) being named as an alleged perpetrator in a pending child abuse or neglect report that may only result in suspension or refusal to reinstate pending the outcome of the child abuse or neglect investigation; and
 - 13) being named as a perpetrator in an indicated report by the Department under ANCRA unless or until ~~when~~ the indication is has not been reversed on appeal or administrative court review in accordance with 89 Ill. Adm. Code 336 (Appeal of Child Abuse and Neglect Investigation Findings).
- b) Other Causes for Licensure Action
- The ~~Board Department~~ may suspend, revoke or refuse to reinstate ~~issue~~ any license for the following causes:
- 1) Mental Health and Developmental Disabilities

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Involuntary admission of a licensee to a mental health facility as provided in the Mental Health and Developmental Disabilities Code shall result in an automatic suspension of his or her license. The license may be reinstated ~~by upon recommendation of~~ the Board after a court finding ~~by a court~~ that the licensee is no longer subject to involuntary admission.

2) Delinquent Compliance With a Child Support Order

Upon a final finding of delinquency or failure to comply with a subpoena or warrant, the ~~Board shall Department may~~ refuse to ~~reinstate issue or shall may~~ suspend or ~~may~~ revoke the license of a person who is more than 30 days delinquent in paying a child support order as specified in Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

3) Default of Educational Loan

The ~~Board shall Department may~~ refuse to ~~reinstate issue, or shall may~~ suspend or ~~may~~ revoke the license of a person who is found to be in default of an educational loan in accordance with Section 2 of the Educational Loan Default Act [5 ILCS 358/2].

(Source: Amended at 26 Ill. Reg. 16461, effective Oct 23, 2002)

Section 412.60 Investigation, Notice and Proceedings Involving Formal Complaints

a) Complaints

Complaints shall be made to the appointed staff to the Board for determination as to whether the complaint meets the description of the grounds for licensure action as defined in Section 412.50. ~~Anyone who, in good faith, submits a complaint or provides information under this Part shall be immune from civil or criminal liability.~~ The appointed staff, the Board Chairman or Vice-Chairman, and the Office of Inspector General (OIG) shall review the complaint to determine whether the complaint meets the description of one or more of the grounds for licensure action as defined in Section 412.50. If there is a consensus that the complaint meets the description of one or more of the grounds for licensure action, the report shall be forwarded to the Office of the Inspector General for investigation.

b) Office of the Inspector General

1) Investigation

The Department's Office of the Inspector General shall investigate formal complaints made to the Board regarding the actions of any person holding ~~or claiming to hold~~ a license. The OIG may impound (pursuant to 89 Ill. Adm. Code 431.130) and subpoena (pursuant to 20 ILCS 505/35.5 and 89 Ill. Adm. Code 430) documents relevant to an investigation authorized

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under this Part. The OIG will review documents and interview relevant persons to determine whether a licensed employee violated any of the provisions of this Part. All investigations under this Part shall be completed within 30 days after the date that all documents have been gathered and all interviews completed. The OIG shall provide a Notice of Hearing pursuant to subsection (c)~~an investigative report with recommendations and relevant supporting documents, if any, to the Board,~~ provided, however, that no ~~recommendation for~~ adverse ~~(suspension or revocation)~~ licensure action (other than summary suspension in accordance with 89 Ill. Adm. Code 412.80 and 412.90) can be made before the employee has been informed of the allegations and given an opportunity to respond.

2) Proposed Action

If, after an investigation, the OIG determines that licensure action is inappropriate but that there is a basis for disciplinary action, it shall proceed according to 20 ILCS 505/35.5. If the investigation discloses possible criminal acts or violations of rules, the OIG may also refer the investigative findings or the investigation to the appropriate law enforcement or regulatory agency. If the OIG determines that licensure action may be ~~is~~ appropriate, the OIG will request the Administrative Hearings Unit to schedule an administrative hearing under subsection (c) of this Section. If the investigation does not provide a basis for adverse licensure action, the OIG will so notify the Board and the licensee in writing. The OIG will also inform the employer of the close of the licensure investigation if the employer had been notified of the investigation

3) Referrals from the OIG Reports to the Board

When the OIG directly investigates an allegation or incident pursuant to 20 ILCS 505/3.5 and determines that the facts disclosed merit licensure action, the OIG shall file a complaint with the Board citing the basis for licensure action. Complaints originating from the OIG shall be reviewed in accordance with subsection (a). If the Board accepts the complaint, the OIG shall proceed in accordance with subsections (b)(1) and (2).

Complaints filed directly with the OIG that seek licensure action shall be forwarded to the Board in accordance with subsection (a). ~~The OIG shall forward to the Board its recommendation under subsection (b)(2). Reports to the Board shall be confidential except that they shall be provided to:~~

- ~~A) — members of the Board and its designated staff;~~
- ~~B) — the licensee against whom the report recommends adverse licensure action and the licensee's employer;~~

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- ~~C) — Department or private agency staff involved in the preparation of the hearing;~~
- ~~D) — a law enforcement or regulatory agency to whom the Board or the OIG has referred an investigation;~~
- ~~E) — a juvenile court, upon its finding that access to such records may be necessary for the determination of an issue before it. However, such access shall be limited to an in camera inspection of the records, unless the court determines that disclosure of the information contained in the record is necessary for the resolution of an issue then pending before it; and~~
- ~~F) — any person authorized by the Director, in writing, for audit or bona fide research purposes.~~

c) Notice of Administrative Hearing

When the Office of the Inspector General requests, the Administrative Hearings Unit shall identify the date, time and place for an administrative hearing, and shall assign an Administrative Law Judge to the case. The Office of the Inspector General shall then notify the licensee in writing, at least 30 calendar days before the scheduled hearing date, of the Department's intent to revoke or suspend his or her license and of the right of the licensee to an administrative hearing. The notice shall be sent to the licensee, the ~~Board licensee's employer~~ and the Administrative Hearings Unit. The notice to the licensee shall be served by personal delivery or certified or registered mail.

The notice shall contain the following:

- 1) the date, time, place and nature of the hearing;
- 2) the name of the licensee and the address of the licensee, if not represented by counsel, or the address of the counsel, if represented by counsel;
- 3) the name and business address of the Department's Representative, if any, at the administrative hearing;
- 4) a citation to the provision in the Children and Family Services Act [20 ILCS 505/5c] that grants the Department of Children and Family Services the legal authority and jurisdiction to hold this hearing;
- 5) a reference to the particular Sections of the statutes and administrative rules involved;
- 6) a short and plain statement of the matters that are the basis of the complaint;
- 7) the reasons that may be deemed an abandonment under Section 412.60(o) and the cause for the entry of a final administrative decision before hearing, including the failure to file an answer to the notice of administrative hearing or the failure to appear at a pre-hearing or hearing without having first obtained a continuance;

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- 8) the docket number assigned to this case;
- 9) the name and mailing address of the Administrative Law Judge and any other parties, unless the names or addresses are confidential under the Abused and Neglected Child Reporting Act or Department of Children and Family Services Act, or other applicable statute; ~~and~~
- 10) a statement of the action sought, including but not limited to revocation, suspension or refusal to renew a license; ~~and~~.
- 11) date the notice was filed with the Administrative Hearings Unit.

- d) Answer to the Notice of Administrative Hearing
The respondent shall serve an answer within 15 calendar days after the date on which the notice of administrative hearing is filed with the Administrative Hearings Unit. The answer shall be in writing and signed by the respondent or the respondent's authorized representative. The answer shall admit or deny the charges or shall state that the respondent lacks sufficient information to admit or deny the charges. If the respondent fails to admit, deny or assert that respondent lacks sufficient information to answer, the charge shall be deemed admitted as true.

~~e) Confidentiality During the Hearing Process~~

~~The Department has an affirmative duty to protect the confidentiality of personal information, in accordance with 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services) and the Adoption Assistance and Child Welfare Act (42 USC 671(a)(8)). Confidentiality shall be preserved throughout the administrative hearing, the transmittal of the Administrative Law Judge's recommendation to the Board and the release of the final administrative decision.~~

~~e) f) Rights and Responsibilities in Administrative Hearings~~

- 1) Appearance/Authorization to Represent
 - A) A respondent may bring an authorized representative and witnesses to the hearing. The respondent shall pay expenses of a representative or respondent's witnesses.
 - B) No person shall be allowed to act as an authorized representative in any matter contested before the Administrative Hearings Unit without first filing a written authorization with the Administrative Hearings Unit. The authorization shall be effective only for the particular matter in which it is filed, unless the matter has been consolidated with other proceedings by order of the Chief Administrative Law Judge or the assigned Administrative Law Judge.
 - C) No particular form is required to file a written authorization for representation. However, all authorizations filed with the Administrative Hearings Unit shall be notarized, signed by the

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respondent and authorized representative, and identify:

- i) the name, address, and phone number of the party represented;
- ii) the name, address, and phone number of the authorized representative; and
- iii) the administrative hearing in which representation is authorized.

D) An authorized representative may exercise the rights of the respondent in the hearing process. These rights include the right to:

- i) review and copy material placed in the record during the proceeding;
- ii) receive Department, Board, and administrative hearing notices;
- iii) request and receive discovery materials;
- iv) speak, or otherwise be heard, on behalf of the respondent in the administrative hearing process; and
- v) take any other actions permitted a respondent during the hearing process.

2) During the administrative hearing, the respondent and the Department have the right to:

- A) present and question witnesses;
- B) present any information relevant to the issues;
- C) question or disprove any information, including an opportunity to question opposing witnesses; and
- D) dispose of any disputed issue by stipulation, agreed settlement, consent order, or default.

3) Before and during the administrative hearing:

- A) the respondent may withdraw from the hearing process and relinquish the license; and
- B) the Department may amend the charges.

4) The proceedings shall be tape recorded or conducted before a certified court reporter.

~~1g)~~ Confidentiality During the Hearing Process

1) The Administrative Law Judge has the right to exclude from an administrative hearing any individual or agency who does not have the right of access to the information being presented in accordance with the federal Adoption Assistance and Child Welfare Act, the Children and Family Services Act, the Abused and Neglected Child Reporting Act, and any other pertinent Act.

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- 2) The Administrative Law Judge has the authority to bifurcate the hearing into separate segments that deal with issues of other parties in order to preserve confidentiality as mandated under applicable statutes and rules and to prohibit discussion or introduction of evidence that is outside of the scope of the issues being presented in that segment.

- 3) Confidentiality During the Hearing Process

The Department has an affirmative duty to protect the confidentiality of personal information, in accordance with 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services) and the Adoption Assistance and Child Welfare Act (42 USC 671(a)(8)). Confidentiality shall be preserved throughout the administrative hearing, the transmittal of the Administrative Law Judge's recommendation to the Board and the release of the final administrative decision. None of the documents, including the Administrative Law Judge's recommendation to the Board, shall be subject to the Freedom of Information Act. The final administrative action, however, shall be public information.

~~g)h)~~ The Administrative Hearing and Pre-hearing Conference

- 1) Rules of Evidence

In an administrative hearing the ~~OIG Department~~ carries the burden of proving, by a preponderance of the evidence, grounds for suspension, revocation or refusal to reinstate license as listed in Section 412.50.

- A) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. Evidence not admissible under those rules of evidence may be admitted, however, (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.
- B) Previous statements made by a child relating to abuse or neglect shall be admitted as hearsay exceptions.
- C) In addition to any other hearsay exception that exists in Illinois, a statement may be admitted if it has circumstantial guarantees of trustworthiness, and if the probative value of the statement outweighs any prejudice resulting from an inability to cross examine the declarant.

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- 2) Motions
 - A) Copies of the motion shall be served upon the Administrative Law Judge, the Administrative Hearings Unit, and the opposing party at least 10 days before the date set for hearing.
 - B) The Administrative Law Judge may hear any motion that is consistent with administrative practice and procedure.
 - 3) The Chief Administrative Law Judge or the Administrative Law Judge may schedule a pre-hearing conference.
 - A) The Administrative Law Judge shall address the following issues during the pre-hearing conference:
 - i) whether parties have exchanged lists of the persons who will provide testimony during the administrative hearing;
 - ii) whether witnesses should be scheduled to testify at specific times;
 - iii) whether the parties have or will have exchanged records or documents prior to the administrative hearing;
 - iv) whether the parties can agree upon any facts as true;
 - v) motions filed by any party;
 - vi) the need for an interpreter for a party whose primary language is not English or who requires communication assistance.
 - B) The pre-hearing conference shall be convened by telephone unless the Administrative Law Judge and the parties agree to an in person pre-hearing conference. The Administrative Law Judge shall place all telephone calls. The cost of telephone calls shall be borne by the Department. The Administrative Hearings Unit shall arrange for the respondent to use a telephone at a Department Field Office if the respondent has previously notified the Department that he/she does not have access to a telephone.
 - C) The Administrative Law Judge may order the parties to attend the pre-hearing conference in person without the consent of all parties. If the Administrative Law Judge orders personal attendance, the Administrative Law Judge shall:
 - i) give written notice to the parties of the date, time and place of the pre-hearing conference; and
 - ii) hold the pre-hearing conference at a place and time convenient for the parties.
- h)† The Administrative Law Judge
- 1) Appointment of the Administrative Law Judge
The Chief Administrative Law Judge shall select a trained, impartial

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Administrative Law Judge from the available pool to conduct the administrative hearing. The Administrative Law Judge shall:

- A) be an attorney licensed to practice law in the State of Illinois;
- B) possess knowledge and information acquired through training and/or experience relevant to the field of child and family welfare law and administrative law, including familiarity with Department rules, procedures and functions;
- C) not have been involved in the decision to take the action being contested or have rendered legal advice to the decision-maker on the issue; and
- D) not have a personal or professional interest that interferes with exercising objectivity or have any bias against the parties or issues contested. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.

2) Functions and Authority of the Administrative Law Judge

The Administrative Law Judge shall have all authority allowed under Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100/Art. 10] that includes, but is not limited to, the authority to:

- A) conduct a fair, impartial and formal hearing;
- B) inform participants of their individual rights and their responsibilities;
- C) conduct pre-hearing telephone conferences between the parties or their authorized representatives to provide information about the procedural aspects of the hearing, narrow the issues and discuss possible stipulations and contested points of law, in order to expedite the actual hearing;
- D) take necessary steps to develop a full and fair record that contains all relevant facts;
- E) administer an oath or an affirmation to all witnesses;
- F) quash or modify subpoenas issued by the Administrative Hearings Unit for good cause, including but not limited to, relevance, scope, materiality and emotional harm or trauma to the subpoenaed witness;
- G) preserve all documents and evidence for the record;
- H) rule upon evidentiary issues and contested issues of law at the hearing or take matters under advisement pending issuance of the written opinion and recommendation;
- I) order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or conduct that disrupts the hearing;

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- J) identify the issues, consider all relevant facts and receive or request any additional information necessary to decide the matter in dispute, including but not limited to the submission of briefs, memoranda of law, affidavits or post-hearing briefs;
- K) for good cause shown, the Administrative Law Judge may, on the judge's own motion or the motion of any party, allow a witness to testify at the administrative hearing by telephone.

~~1j~~ Consolidating and Severing Issues and Parties

- 1) When common issues of fact or law are raised in more than one set of charges or involve more than one licensee, the Chief Administrative Law Judge may consolidate the charges into a single group hearing. Individuals shall be permitted to present their own cases separately. Nothing in this Section shall override confidentiality considerations.
- 2) The Chief Administrative Law Judge may also combine all sets of charges, appeals and issues involving a single respondent, whether arising under this Part or any other Part, into one hearing.
- 3) The Chief Administrative Law Judge, if required for the fair and efficient administration of the hearing or to prevent possible prejudice to the respondent, may sever any party or any issue from the consolidated hearing. The party or issue severed from the consolidated hearing shall be heard separately.
- 4) The Chief Administrative Law Judge shall decide the order in which to hear any party, appeal or issue that has been severed.
- 5) The Chief Administrative Law Judge may delegate the power to hear and decide any action to consolidate or sever under this Section to any Administrative Law Judge who has been assigned to hear one or more of the appeals.

~~1k~~ Exchange of Information

- 1) All requests for information must be in writing and sent to the party from whom the information is sought at least 20 calendar days in advance of the hearing. The requestor must send a copy of the request to the Administrative Hearings Unit. A party, without leave of the Administrative Law Judge, may request from any other party:
 - A) a list of witnesses to be called at the hearing; and
 - B) copies of all documents that a party intends to present to the Administrative Law Judge at the hearing.
- 2) Copies of all requests for information shall be filed with the Administrative Hearings Unit. All requests for information shall be answered within 10 calendar days after receipt unless, upon good cause shown, leave is sought for additional time to answer.

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- 3) If a party fails to answer a request for information, the Administrative Law Judge may enter any just and appropriate order to advance the disposition of the matter.
- 4) Hearings shall not be delayed to permit the exchange of information unless timeliness and due diligence is shown by the party seeking the information.

| ~~k)†~~ Continuances

- 1) The Administrative Law Judge shall grant no continuance of a scheduled hearing or pre-hearing conference to any party except for good cause shown. Good cause includes, but is not limited to:
 - A) sickness or death in the immediate family of the respondent, the Department representative or the authorized representative of the respondent;
 - B) court or administrative hearing dates scheduled prior to the issuance of the notice of hearing;
 - C) the unavailability of a witness; and
 - D) adding or amending the charges in the complaint.
- 2) No request for a continuance shall be granted without notice to all parties and an opportunity to object on the record. All motions for continuance shall be disposed of by written order.
- 3) If a continuance is requested due to the lack of a certified court reporter or interpreter, the party seeking a continuance must demonstrate due diligence in seeking such service for the hearing date.
- 4) Notices of a continued hearing date need not include any restatement of the rights of the parties.

| ~~l)m)†~~ Attendance of Witnesses

A party or Administrative Law Judge may subpoena a witness by requesting that the Chief Administrative Law Judge issue a subpoena to compel the attendance of the witness. The request shall be made at least 14 calendar days before the hearing. Requests for subpoenas made less than 14 calendar days before the hearing require the leave of the Chief Administrative Law Judge or the Administrative Law Judge. Witness fees and travel expenses for persons other than Department employees are the responsibility of the party requesting the subpoena.

| ~~m)†~~ Grounds for Entry of a Final Administrative Decision before Hearing

The Chief Administrative Law Judge or the Administrative Law Judge shall recommend licensure action to the Board, without further hearing, when:

- 1) the Department, the Board or a court of competent jurisdiction has already made a final administrative decision on the issue as a result of a previous administrative hearing or court decision;

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- 2) the respondent does not file an answer within 15 calendar days after the day the notice of administrative hearing was filed with the Administrative Hearings Unit;
- 3) the respondent has stated in writing that the respondent does not wish to proceed to administrative hearing;
- 4) the right to an administrative hearing has been abandoned pursuant to subsection ~~(n)(e)~~; or
- 5) the issue is otherwise not within the jurisdiction of the Administrative Hearings Unit.

~~n)(e)~~ Abandonment of Right to Administrative Hearing/Default

- 1) The Administrative Hearings Unit shall find that the respondent has abandoned the right to an administrative hearing when:
 - A) the respondent has not filed an answer to the notice of administrative hearing, within 15 calendar days after the notice of administrative hearing was filed with the Administrative Hearings Unit; or
 - B) the respondent or the respondent's authorized representative has failed to appear at the hearing and failed to respond to the written notification of the finding of abandonment within 30 days, showing good cause why the finding should be vacated; or
 - C) the respondent failed to notify the Chief Administrative Law Judge of a change of address and a notice of the administrative hearing, sent to the respondent's last known address, was returned as "undeliverable," "unclaimed," "refused," "moved," or "no forwarding address".
- 2) The Administrative Hearings Unit shall find that the Department or the respondent has abandoned the right to an administrative hearing when the Department or the respondent or the respondent's authorized representative, without good cause, fails to appear at a hearing or pre-hearing conference without having received a continuance.
- 3) Any party seeking to vacate a finding of abandonment under subsections ~~(n)(1)(A)~~ ~~(e)(1)(A)~~ and (B) shall file a motion within 30 days after notice of the entry of a finding of abandonment or default, showing good cause why the party failed to appear. A recommendation to the Board regarding licensure action will be entered:
 - A) at the end of 30 days if the respondent does not file a motion to vacate; or
 - B) when the Administrative Hearings Unit determines that good cause for the failure to appear does not exist.

~~o)(p)~~ Record of an Administrative Hearing

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The Chief Administrative Law Judge shall maintain the record of the administrative hearing and the final administrative decision. All final administrative decisions shall be available to any party for public inspection during regular business hours. However, confidential information shall be deleted in accordance with 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department of Children and Family Services).

p)q) ~~Board~~ Recommendation of Administrative Law Judge

- 1) The Administrative Law Judge shall prepare a recommendation, with findings of fact, conclusions of law, and whether to suspend the respondent's license, revoke the respondent's license, refuse to restore the respondent's license, let the respondent's license continue in good standing or take any other action regarding the license. The Administrative Law Judge shall submit the hearing record and recommendation to the Board and all parties. The parties shall have 20 calendar days to file exceptions and a brief to the recommendation of the Administrative Law Judge. The parties shall have 20 additional calendar days to respond to the exceptions and brief filed by any other party.
 - ~~A) — The Administrative Law Judge shall prepare a recommendation, with findings of fact, conclusions of law, and whether to suspend the respondent's license, revoke the respondent's license, refuse to restore respondent's license, let the respondent's license continue in good standing or take any other action regarding the license. The Administrative Law Judge shall submit the recommendation to the Board and all parties. The parties shall have 20 calendar days to file exceptions and a brief to the recommendation of the Administrative Law Judge. The parties shall have 20 additional calendar days to respond to the exceptions and brief filed by any other party.~~
 - ~~B) — The Board shall accept the Administrative Law Judge's findings of fact as true unless it finds that the findings of fact are contrary to the manifest weight of the evidence. The Board may issue a final recommendation to the Director asking the Director to suspend the respondent's license, revoke the respondent's license, refuse to restore the respondent's license, let the respondent's license continue in good standing, or take any other action regarding the license.~~
 - ~~C) — The Board may:

 - i) — issue a final recommendation by accepting the recommendation of the Administrative Law Judge; or~~

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- ~~ii) — issue a final recommendation by making its own findings of fact or conclusions of law that shall be based solely on the record; or~~
 - ~~iii) — remand the case to the Administrative Hearings Unit for further proceedings. When the Board remands a case, it shall issue a written order specifying the nature and scope of the additional proceedings. The Administrative Hearings Unit shall schedule a new hearing date that shall be between 15 and 90 calendar days after the date of the remand order. The Administrative Hearings Unit shall notify all parties of the new date. The Administrative Law Judge shall issue a supplemental recommendation and shall serve a copy on all parties. The Board shall review the supplemental recommendation in the same manner as the initial recommendation.~~
- 2) The Board shall accept the Administrative Law Judge's findings of fact as true unless it finds that the findings of fact are contrary to the manifest weight of the evidence. The Board may:
- A) issue a final administrative decision by accepting the recommendation of the Administrative Law Judge; or
 - B) issue a final administrative decision by making its own findings of fact or conclusions of law that shall be based solely on the record; or
 - C) remand the case to the Administrative Hearings Unit for further proceedings. When the Board remands a case, it shall issue a written order specifying the nature and scope of the additional proceedings. The Administrative Hearings Unit shall schedule a new hearing date that shall be between 15 and 90 calendar days after the date of the remand order. The Administrative Hearings Unit shall notify all parties of the new date. The Administrative Law Judge shall issue a supplemental recommendation and shall serve a copy on all parties. The Board shall review the supplemental recommendation in the same manner as the initial recommendation.

~~The Board shall send a copy of the final recommendation to the Director of DCFS, the Office of the Inspector General, the Department's Representative, if any, the respondents, the employer of the licensee, any other parties, the Administrative Hearings Unit, and the Administrative Law Judge.~~

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(Source: Amended at 26 Ill. Reg. 16461, effective Oct 23, 2002)

Section 412.70 Final Administrative Decision

The final administrative decision shall include the name of the person responsible for compliance, if applicable, and shall advise the parties that, under the provisions of the Administrative Review Law [735 ILCS 5/Art. III], they may seek judicial review of the final administrative decision if it is unfavorable to them, within the statutory time frame. ~~Upon receiving the Board's recommendation, the Director must make a final administrative decision. The Director may revoke, suspend or refuse to reissue a license.~~ The ~~Board's~~ Director's final administrative decision must be distributed to the ~~licensee-employee~~, the Office of the Inspector General, the Department's Representative, ~~if any, the respondents~~, the employer of the licensee, ~~the employee's representative, any other parties~~, the Administrative Hearings Unit, and the Administrative Law Judge.

(Source: Amended at 26 Ill. Reg. 16461, effective Oct 23, 2002)

Section 412.80 Revocation and Suspension of License

Upon the ~~Board's final administrative-Director's~~ decision to revoke or suspend a license, the licensee shall immediately surrender his or her license to the Department. Upon failure to do so by the licensee, the Department shall provide for deactivation of licensure. ~~The Board may temporarily suspend a license pursuant to Section 412.50(a)(2) or (12) or Section 412.90 without a full hearing on the charges. A post-suspension hearing will be scheduled within 30 days after the suspension but will be limited to the question of whether temporary suspension is warranted. A full hearing on the charges will be scheduled after the investigation is completed, if appropriate. The Notice of Temporary Action Hearing shall be sent to the licensee and the employer of the licensee.~~

(Source: Amended at 26 Ill. Reg. 16461, effective Oct 23, 2002)

Section 412.90 Imminent Danger to the Public

The ~~Board-Director, upon the Board's recommendation,~~ may temporarily suspend the license of a direct child welfare services employee without a hearing simultaneously with the receipt of a complaint that contains sufficient indications of reliability and suggests that the licensee may pose an imminent danger to the public if allowed to continue practicing direct child welfare services pending licensure action ~~or pursuant to Section 412.50(a)(2) or (12).~~ ~~In the event that the licensee's license is suspended without a hearing, a hearing shall be held within 30 days after the suspension has occurred.~~

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(Source: Amended at 26 Ill. Reg. 16461, effective Oct 23, 2002)

Section 412.100 Restoration of Revoked or Suspended License

A licensee may request the restoration of his or her license by submitting a written request to the Board providing specific reasons to support the request. The Board may not reinstate ~~recommend restoration of~~ a license where it has been determined by investigation and administrative hearing that it is not in the best interest of the public to do so. Considerations that will be reviewed when making a finding of "in the best interest of the public" include, but are not limited to: the nature of the offense for which the license was revoked; the period of time that has elapsed since the revocation; evidence of rehabilitation; and character references.

(Source: Amended at 26 Ill. Reg. 16461, effective Oct 23, 2002)

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- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3)

	<u>Section Numbers:</u>	<u>Adopted Action:</u>
121.26	Amended	
121.151	Amended	
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13]
- 5) Effective Date of Amendments: October 25, 2002
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: July 5, 2002 (26 Ill. Reg. 9563)
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: No substantive changes were made in the text of the proposed amendments.
- 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 amendments replace an emergency currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
120.20	Amendment	26 Ill. Reg. 11706, August 2, 2002
120.59	Amendment	26 Ill. Reg. 11706, August 2, 2002

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121.63

Amendment

26 Ill. Reg. 11706,
August 2, 2002

- 15) Summary and Purpose of Amendments: These amendments are in accordance with final federal regulations, which specify that a 10-year penalty is imposed if a person is convicted of falsifying identity or residence in an attempt to receive multiple food stamp issuances. As a result of an administrative decision, this amendment also adds direction to impose a 6-month sanction for the third or additional violation of the food stamp work provisions.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue, East
Springfield, Illinois 62762
(217) 785-9772

The full text of the adopted amendments begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 121
FOOD STAMPS
SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Service
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt from Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Period of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.30 Unearned Income
- 121.31 Exempt Unearned Income
- 121.32 Education Benefits
- 121.33 Unearned Income In-Kind

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121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder
121.53	Income From Rental Property
121.54	Earned Income In-Kind
121.55	Sponsors of Aliens
121.57	Assets
121.58	Exempt Assets
121.59	Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section	
121.60	Net Monthly Income Eligibility Standards
121.61	Gross Monthly Income Eligibility Standards
121.62	Income Which Must Be Annualized
121.63	Deductions from <u>From</u> Monthly Income
121.64	Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section	
121.70	Composition of the Assistance Unit
121.71	Living Arrangement
121.72	Nonhousehold Members
121.73	Ineligible Household Members
121.74	Strikers
121.75	Students
121.76	Households Receiving AFDC, SSI, Interim Assistance and/or GA – Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section	
121.80	Fraud Disqualification (Renumbered)
121.81	Initiation of Administrative Fraud Hearing (Repealed)
121.82	Definition of Fraud (Renumbered)
121.83	Notification To Applicant Households (Renumbered)

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- 121.84 Disqualification Upon Finding of Fraud (Renumbered)
- 121.85 Court Imposed Disqualification (Renumbered)
- 121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
- 121.91 Monthly Reporting (Repealed)
- 121.92 ~~Retrospective~~ Budgeting
- 121.93 Issuance of Food Stamp Benefits
- 121.94 Replacement of the EBT Card or Food Stamp Benefits
- 121.95 Restoration of Lost Benefits
- 121.96 Uses For Food Coupons
- 121.97 Supplemental Payments
- 121.98 Client Training for the Electronic Benefits Transfer (EBT) System
- 121.105 State Food Program (Repealed)
- 121.107 New State Food Program
- 121.120 Recertification of Eligibility
- 121.130 Residents of Shelters for Battered Women and their Children
- 121.131 Fleeing Felons and Probation/Parole Violators
- 121.135 Incorporation By Reference
- 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
- 121.145 Quarterly Reporting

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

- 121.150 Definition of Intentional Violations of the Program
- 121.151 Penalties for Intentional Violations of the Program
- 121.152 Notification To Applicant Households
- 121.153 Disqualification Upon Finding of Intentional Violation of the Program
- 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

- 121.160 Persons Required to Participate
- 121.162 Program Requirements
- 121.163 Vocational Training
- 121.164 Orientation (Repealed)
- 121.165 Community Work
- 121.166 Assessment and Employability Plan (Repealed)
- 121.167 Counseling/Prevention Services
- 121.170 Job Search Activity
- 121.172 Basic Education Activity

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- 121.174 Job Readiness Activity
- 121.176 Work Experience Activity
- 121.177 Illinois Works Component (Repealed)
- 121.178 Job Training Component (Repealed)
- 121.179 JTPA Employability Services Component (Repealed)
- 121.180 Grant Diversion Component (Repealed)
- 121.182 Earnfare Activity
- 121.184 Sanctions for Non-cooperation with Food Stamp Employment and Training
- 121.186 Good Cause for Failure to Cooperate
- 121.188 Supportive Services
- 121.190 Conciliation
- 121.200 Types of Claims (Recodified)
- 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
- 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
- 121.203 Collecting Claim Against Households (Recodified)
- 121.204 Failure to Respond to Initial Demand Letter (Recodified)
- 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
- 121.206 Determination of Monthly Allotment Reductions (Recodified)
- 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
- 121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section

- 121.220 Work Requirement Components (Repealed)
- 121.221 Meeting the Work Requirement with the Earnfare Component (Repealed)
- 121.222 Volunteer Community Work Component (Repealed)
- 121.223 Work Experience Component (Repealed)
- 121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
- 121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
- 121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173,

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effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; preemptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; preemptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; preemptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding section being codified with no substantive change) at 8 Ill. Reg. 17898; preemptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; preemptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; preemptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; preemptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; preemptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; preemptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; preemptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621,

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effective May 25, 1987; preemptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; preemptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; preemptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; preemptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; preemptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; preemptory amendment at 14 Ill. Reg. 15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; preemptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; preemptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum 150 days; preemptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; preemptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill.

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Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2423, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 3707, effective March 1, 2001, for a maximum of 150 days; emergency expired July 28, 2001; amended at 25 Ill. Reg. 7720, effective June 7, 2001; amended at 25 Ill. Reg. 10823, effective August 12, 2001; amended at 25 Ill. Reg. 11856, effective August 31, 2001; emergency amendment at 25 Ill. Reg. 13309, effective October 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 151, effective January 1, 2002; amended at 26 Ill. Reg. 2025, effective February 1, 2002; amended at 26 Ill. Reg. 13530, effective September 3, 2002; amended at 26 Ill. Reg. 16484, effective Oct 25, 2002.

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 121.26 Period of Sanction

- a) If an individual fails to comply with work registration requirements (Section 121.23), or fails to comply with the FSE&T program requirements (Section 121.184), or voluntarily quits a job or reduces work hours (Section 121.27), sanctions shall be imposed on that individual as follows:
 - 1) two months for the first violation;
 - 2) four months for the second violation; and

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- 3) six months for ~~each additional~~ ~~the third~~ violation.
- b) The period of sanction may end early if:
 - 1) the individual becomes exempt from the requirements; or
 - 2) the individual is no longer a household member. However, if the individual becomes part of another household, the remainder of that sanction period will still be in effect, and that individual's income will be calculated for the new household in accordance with Section 121.73.
- c) Participation may be resumed following the end of the last fiscal month of the sanction period if:
 - 1) an application is filed (if the case was canceled as a result of the sanction), or a request is made to add the individual to an active case (if the case remained eligible when the individual was sanctioned); and
 - 2) the individual complies with the program requirements for which the individual was sanctioned; and
 - 3) all other eligibility requirements are met.
- d) For individuals in GA/FS households who are sanctioned for failure to cooperate with comparable requirements of FSE&T, the food stamp sanction period does not have to coincide with the GA sanction period.

(Source: Amended at 26 Ill. Reg. 16484, effective Oct 25, 2002)

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section 121.151 Penalties for Intentional Violations of the Program

- a) Persons found to have intentionally violated the Food Stamp Program, as set forth in Section 121.153(a), are disqualified as specified by a court decision or for:
 - 1) 12 months for the first violation;
 - 2) 24 months for the second violation; and
 - 3) permanently for the third violation, ~~or 4) as specified by a court decision.~~
- b) A person is permanently disqualified if he or she is convicted of trafficking food stamp benefits of \$500 or more.
- c) A person is disqualified from receiving food stamps for ten years when an Administrative Disqualification Hearing or a federal or State court convicts him or her of making a false statement or representation about his or her identity or residence in order to receive ~~and as a result he or she receives~~ more than one food stamp issuance at the same time.
- d) If the person is currently participating in the Food Stamp Program, disqualification begins no later than the second fiscal month (defined at 89 Ill. Adm. Code 101.20) after the month of the hearing decision. Once the period of

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disqualification is imposed, it continues regardless of the eligibility of the disqualified member's household.

- e) If the person is not participating in the Food Stamp Program, the disqualification begins the month after the month of the hearing decision.
- f) If the individual intentionally failed to report income, the earned income deduction is not applied to that portion of income the individual failed to report (not the entire amount of earned income) when calculating the overpayment amount.

(Source: Amended at 26 Ill. Reg. 16484, effective Oct 25, 2002)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Collections and Recoveries
- 2) Code Citation: 89 Ill. Adm. Code 165
- 3) Section Number: 165.42 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 11-18, 12-4.4 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-18, 12-4.4 and 12-13].
- 5) Effective Date of Amendment: October 28, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 14, 2002 (26 Ill. Reg. 8512)
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between proposal and final version: No changes were made in the text of the proposed amendments.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any amendments pending on this Part: No
- 15) Summary and Purpose of Amendment: These amendments revise the referral of food stamp overpayment provisions. As a result of these amendments, all food stamp overpayments will be referred regardless of the amount or the status of the case at the time the overpayment was discovered. This rulemaking allows the referral of food stamp overpayments calculated to be less than \$125.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER f: COLLECTIONS

PART 165
COLLECTIONS AND RECOVERIES

SUBPART A: GENERAL OVERPAYMENT PROVISIONS

Section

- 165.1 Incorporation By Reference
- 165.10 Overpayments
- 165.20 Determination of Financial Assistance Overpayments
- 165.30 Types of Food Stamp Overpayment Claims
- 165.40 Determination of Food Stamp Overpayments
- 165.42 Establishment of Claims for Food Stamp Overpayments
- 165.44 Acceptable Forms of Food Stamp Payments
- 165.50 Suspension and Termination of Food Stamp Claims

SUBPART B: COLLECTION OF FINANCIAL ASSISTANCE
OVERPAYMENTS FROM CURRENT CASES

Section

- 165.70 Recoupment of Overpayments from Current Temporary Assistance to Needy Families (TANF), Aid to the Aged, Blind or Disabled (AABD) and General Assistance (GA) Cases

SUBPART C: COLLECTION OF FOOD STAMP OVERPAYMENTS FROM
CURRENTLY PARTICIPATING HOUSEHOLDS

Section

- 165.80 Initiating Collection from Currently Participating Households
- 165.82 Methods of Food Stamp Claim Repayment
- 165.84 Determination of Monthly Benefit Reduction Amount
- 165.86 Failure to Respond to Initial Demand Letter
- 165.88 Failure to Comply with Repayment Schedule (Repealed)

SUBPART D: COLLECTION OF OVERPAYMENTS FROM NON-RECIPIENTS

Section

- 165.100 Collection of Overpayments from Persons Not Receiving Financial Assistance or

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	Food Stamps
165.102	Demand for Repayment
165.104	Methods of Involuntary Repayment
165.106	Effect of Return to Active Assistance Status

AUTHORITY: Implementing and authorized by Sections 11-18, 12-4.4 and 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-18, 12-4.4 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 102.100 and 102.110 and 89 Ill. Adm. Code 121.200 through 121.208 at 10 Ill. Reg. 21094; amended at 11 Ill. Reg. 10604, effective May 29, 1987; amended at 12 Ill. Reg. 18192, effective November 4, 1988; amended at 13 Ill. Reg. 3843, effective March 17, 1989; amended at 17 Ill. Reg. 8187, effective May 24, 1993; amended at 17 Ill. Reg. 18113, effective September 29, 1993; emergency amendment at 20 Ill. Reg. 13376, effective October 1, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3151, effective February 28, 1997; emergency amendments at 21 Ill. Reg. 8607, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15502, effective November 26, 1997; amended at 22 Ill. Reg. 18939, effective October 1, 1998; amended at 26 Ill. Reg. 400, effective January 1, 2002; amended at 26 Ill. Reg. 16495, effective Oct 28, 2002.

SUBPART A: GENERAL OVERPAYMENT PROVISIONS

Section 165.42 Establishment of Claims for Food Stamp Overpayments

- All adult (age 18 or over) members of a ~~food stamp~~~~Food Stamp~~ household that receives an overpayment are jointly and severally liable for repayment of the overpayment.
- a) The Department will establish a claim to collect an overpayment against the household that received the overpayment. First priority will be given to collecting claims from currently receiving households.
 - b) If there has been a change in household composition since the overpayment, the Department will establish the claim against a currently receiving household in the following order:
 - 1) The household that now contains the head of the overpaid household; or
 - 2) The household that now contains an adult member of the overpaid household; or
 - 3) The household that now contains an adult member of the overpaid household, which currently receives the highest monthly allotment, or, in the case of a claim for an intentional program violation, the highest monthly entitlement.
 - c) If there ~~is~~ ~~be~~ no currently receiving household against which to establish the claim, the Department will apply the recovery provisions of Subpart D of this Part

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in accordance with subsection (b) of this Section.

- d) ~~If a food stamp overpayment is \$125 or less and the household is no longer participating in the food stamp program, no overpayment claim is established unless the overpayment was discovered in a Quality Control review. (See 7 CFR 275.10-275.14.).~~

(Source: Amended at 26 Ill. Reg. 16495, effective Oct 28, 2002)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Advertising and Sales Promotion of Life Insurance and Annuities
- 2) Code Citation: 50 Ill. Adm. Code 909
- 3) Section Number: 909.10 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Sections 149, 151, 236, 237, 426 and 500-85 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 151, 236, 237, 401, 426 and 500-85].
- 5) Effective Date of Amendment: October 28, 2002
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 19, 2002, 26 Ill. Reg. 5527
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version: Changes: In the listing for Section 909.80 in the table of contents, after "Statements", strike "About" and add "about".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These changes are needed to update all statutory references affected by the enactment of Public Act 92-386.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Mike Teer

DEPARTMENT OF INSURANCE

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Chief Examiner, Producer Regulatory Unit
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-1784

The full text of the adopted amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENT

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 909

ADVERTISING AND SALES PROMOTION OF
LIFE INSURANCE AND ANNUITIES

Section	
909.10	Authority
909.20	Definitions
909.30	Applicability
909.40	Form and Content of Advertisements
909.50	Disclosure Requirements
909.60	Identity of Insurer
909.70	Jurisdictional Licensing and Status of Insurer
909.80	Statements about About an Insurer
909.90	Enforcement Procedures
909.100	Penalties
909.110	Conflict with Other Rules
909.120	Severability Provision

AUTHORITY: Implementing Sections 149, 151, 236, 237, 426 and 500-85 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 151, 236, 237, 401, 426, and 500-85].

SOURCE: Filed April 26, 1976, effective May 7, 1976; codified at 7 Ill. Reg. 3460; amended at 14 Ill. Reg. 13584, effective August 14, 1990; amended at 15 Ill. Reg. 15665, effective October 18, 1991; amended at 22 Ill. Reg. 3027, effective June 1, 1998; amended at 22 Ill. Reg. 16468, effective September 1, 1998; amended at 26 Ill. Reg. 16500, effective Oct 28, 2002.

Section 909.10 Authority

This Part is issued by the Director of Insurance pursuant to Section 401 of the Illinois Insurance Code [215 ILCS 5/401], which empowers the Director *to make reasonable rules and regulations as may be necessary for making effective* the insurance laws of this State. The purpose of this Part is to set forth minimum standards and guidelines to assure a full and truthful disclosure to the public of all material and relevant information in the advertising of life insurance policies and annuity contracts. This Part implements the Illinois Insurance Code [215 ILCS 5] by defining acts and practices which constitute a violation of one or more of the following Sections of the

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Illinois Insurance Code: Sections 149, 151, 236, 237, 426 and ~~500-85502~~ [215 ILCS 5/149, 151, 236, 237, 426 and ~~500-85502~~], which generally relate to the use of false or misleading statements in the sale of insurance and which apply variously to life insurance companies and to insurance producers and solicitors.

(Source: Amended at 26 Ill. Reg. 16500, effective Oct 28, 2002)

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- 1) Heading of the Part: Life Insurance and Annuity Replacement
- 2) Code Citation: 50 Ill. Adm. Code 917
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
917.20	Amendment
917.30	Amendment
917.40	Amendment
917.50	Amendment
917.60	Amendment
917.70	Amendment
917.80	Amendment
EXHIBIT A	Amendment
EXHIBIT B	Amendment
- 4) Statutory Authority: Implementing Sections 149, 151, 224(2), 236 and 500-85 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 151, 224(2), 236, 401 and 500-85].
- 5) Effective Date of Amendments: October 28, 2002
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 19, 2002, 26 Ill. Reg. 5531
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:
Changes:
 - a) In Section 917.40, within the definition of "Existing Life Insurance", a comma was added after "annuity in-force" in the first line; "a" was struck and "an" was added after "conditional receipt or" in the second line.
 - b) A comma was added after "applicant" in the first line of Section 917.60(b)(1).

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- c) A comma was added after “insurance producer” in the second line of Section 917.70(b).
 - d) “Section” was added after “required in” in the third line of Section 917.70(b).
 - e) “Sections” was struck and “Section” was added after “provisions of” in the fifth line of Section 917.80(c)(2).
 - f) A comma was added after “insurer shall” in the second line of Section 917.80(c)(3).
 - g) Below “(Address)” in 917.EXHIBIT B, “(_____)” was struck and “(City, State, Zip Code)” was added.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: These changes are needed to update all statutory references affected by the enactment of Public Act 92-386.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Mike Teer
Chief Examiner, Producer Regulatory Unit
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-1784

The full text of the adopted amendments begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 917

LIFE INSURANCE AND ANNUITY REPLACEMENT ~~REGULATION~~

Section

917.10 ~~Statutory~~ Authority (Repealed)

917.20 Purpose

917.30 Definition of Replacement

917.40 Other Definitions

917.50 Exemptions

917.60 Duties of ~~Insurance Producers~~ Agents

917.70 Duties of Replacing Insurers

917.80 Duties of Insurers With Respect to Direct-Response Sales

917.90 Duties of the Existing Insurer (Repealed)

917.100 Penalties (Repealed)

917.110 Severability

EXHIBIT A ~~Notice Regarding Replacement of Life Insurance or Annuity~~ NOTICE
REGARDING REPLACEMENT OF LIFE INSURANCE OR ANNUITYEXHIBIT B ~~Notice Regarding Proposed Replacement of Life Insurance or Annuity~~
NOTICE REGARDING PROPOSED REPLACEMENT OF LIFE
INSURANCE OR ANNUITYEXHIBIT C ~~To Be Used Where Proposed Policy is a Direct-Response Product~~ TO BE
USED WHERE PROPOSED POLICY IS A DIRECT RESPONSE
PRODUCT (Repealed)EXHIBIT D ~~Comparative Information Form~~ COMPARATIVE INFORMATION FORM
(Repealed)

AUTHORITY: Implementing Sections 149, 151, 224(2), 236, and 500-85 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/149, 151, 224(2), 236, 500-85 and 401].

SOURCE: Filed October 26, 1970, effective January 1, 1971; rules repealed and new rules adopted at 4 Ill. Reg. 15, p. 157, effective July 1, 1980; codified at 7 Ill. Reg. 1048; amended at 8 Ill. Reg. 11365, effective August 1, 1984 ; amended at 26 Ill. Reg. 16504, effective Oct 28, 2002.

Section 917.20 Purpose

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The purpose of this ~~Part Rule~~ is:

- a) To regulate the activities of insurers and ~~insurance producers agents~~ with respect to the replacement of existing life insurance or annuities;
- b) To protect the interests of life insurance and annuity policyowners by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of existing life insurance by:
 - 1) Assuring that the policyowner receives information with which a decision can be made in his or her own best interest;
 - 2) Reducing the opportunity for misrepresentation and incomplete disclosures.

(Source: Amended at 26 Ill. Reg. 16504, effective Oct 28, 2002)

Section 917.30 Definition of Replacement

"Replacement" means any transaction except those exempted by Section 917.50 in which new life insurance or annuity will be purchased, and it is known or should be known to the proposing ~~insurance produceragent~~, or to the proposing insurer if there is no ~~insurance produceragent~~, that by reason of such transaction, existing life insurance or annuity has been or is to be:

- a) Lapsed, forfeited, surrendered, or otherwise terminated;
- b) Converted to reduced paid-up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;
- c) Amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force, or for which benefits would be paid;
- d) Reissued with any reduction in cash value; or
- e) Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding ~~twenty-five percent (25%)~~ of the loan value set forth in the policy.

(Source: Amended at 26 Ill. Reg. 16504, effective Oct 28, 2002)

Section 917.40 Other Definitions

~~"Agent" for the purposes of this Rule shall have the same meaning as "insurance agent" as defined in Section 490 of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, par. 1065.37). Beginning on 1/1/85 and thereafter "Agent" shall have the same meaning as "Insurance Producer" as defined in Section 1 of Public Act 83-801, An Act in relation to insurance producers, limited insurance representatives, temporary insurance producers and registered firms, repealing~~

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~~provisions regarding insurance agents and brokers (Ill. Rev. Stat. 1981, ch. 73, pars. 1065.36 et seq., as amended by P.A. 83-801, effective January 1, 1985).~~

"Buyer's Guide" means a document which contains, and is limited to, the language contained in Exhibit A of 50 Ill. Adm. Code 930.

"Direct-Response Sales" means any sale of life insurance or annuity where the insurer does not utilize an insurance producer agent in the sale or delivery of the policy.

"Existing Insurer" means the insurance company whose policy is or will be changed or terminated in such a manner as described within the definition of "replacement."

"Existing Life Insurance" means any life insurance or annuity in force, including insurance under a binding or conditional receipt or an a insurance policy that is within an unconditional refund period, but excluding life insurance obtained through the exercise of a dividend option.

Insurance Producer, for the purposes of this Part, shall have the same meaning as "insurance producer" as defined in Section 500-10 of the Illinois Insurance Code [215 ILCS 5/500-10].

"Policy Summary" means a written statement describing the elements of the policy as defined in 50 Ill. Adm. Code 930.40(g).

"Registered Contract" means any contract issued by a life insurance company which is registered with the Federal Securities and Exchange Commission.

"Replacing Insurer" means the insurance company that issues a new policy which is a replacement of existing life insurance or annuity.

(Source: Amended at 26 Ill. Reg. 16504, effective Oct 28, 2002)

Section 917.50 Exemptions

Unless otherwise specifically included, this Part Rule shall not apply to:

- a) Credit life insurance;
- b) Group life insurance and group annuities;
- c) Life insurance policies issued in connection with a pension, profit-sharing or other

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- benefit plan qualifying for the tax deductibility of premiums;
- d) Registered contracts except that the appropriate prospectus or offering circular shall be given to the applicant;
 - e) Existing life insurance that is a non-convertible term life insurance policy which will expire in 5 ~~five~~ years or less and cannot be renewed; ~~or~~
 - f) Transactions where the replacing insurer and the existing insurer are the same or are subsidiaries under common ownership or control, provided, however, insurance producers agents proposing replacement shall comply with the requirements of Section 917.60(a); or
 - g) The total cash surrender value of all existing policies which would be affected by the replacement is less than \$500 and the sum of their face amounts is less than \$5,000.

(Source: Amended at 26 Ill. Reg. 16504, effective Oct 28, 2002)

Section 917.60 Duties of Insurance Producers Agents

- a) Each insurance producer agent shall submit to the replacing insurer with or as part of each application for life insurance or annuity:
 - 1) A statement signed by the applicant, as to whether or not such insurance will replace existing life insurance or annuity; and
 - 2) A signed statement as to whether ~~or not~~ the insurance producer agent knows replacement is, or may be, involved in the transaction.
- b) Where a replacement is involved, the insurance producer agent shall:
 - 1) Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement of Life Insurance or Annuity" in the form as described in Exhibit "A" of this Part Rule; with or as part of such ~~notice~~ "Notice," the insurance producer agent shall list the contract number or numbers which are to be replaced. The insurance producer's agent's signature must be affixed to the notice "Notice." A copy of the notice "~~Notice~~" presented to the applicant, together with the "Notice Regarding Proposed Replacement of Life Insurance or Annuity," as described in Exhibit "B" of this Part Rule, signed by the insurance producer agent, shall be submitted to the replacing insurer with the application;
 - 2) Submit to the replacing insurer with the application: a copy of the "Notice Regarding Replacement of Life Insurance or Annuity-annuity," as described in Exhibit A, signed by the insurance producer agent.

(Source: Amended at 26 Ill. Reg. 16504, effective Oct 28, 2002)

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Section 917.70 Duties of Replacing Insurers

Each insurer shall:

- a) Require with or as part of each completed application for life insurance or annuity a statement signed by the insurance producer agent and the applicant as to whether or not such insurance will replace existing life insurance or annuity;
- b) Where a replacement is involved, each replacing insurer shall require from the insurance producer, agent with the application for life insurance or annuity, a copy of the notices "Notices" required in Section 917.60(b);
- c) In the case of a replacement, the insurers shall comply with Section 224(2) of the Illinois Insurance Code [215 ILCS 5/224(2)]-(~~Ill. Rev. Stat. 1981, ch. 73, par. 836(2)~~), and furnish to the applicant a copy of the "Buyer's Guide" pursuant to 50 Ill. Adm. Code 930.50 and forward, to the existing insurer, within 3 ~~three~~ working days after receipt of the application, the "Notice Regarding Proposed Replacement of Life Insurance or Annuity" which is Exhibit B of this Part; and
- d) Each replacing insurer shall maintain, at its home office for at least 3 ~~three~~ years following the date of insurance producer's agent's signature or date of mailing copies of the notices "Notices" as required in Section 917.60(b) for all instances where an insurance producer agent is involved.;

(Source: Amended at 26 Ill. Reg. 16504, effective Oct 28, 2002)

Section 917.80 Duties of Insurers With Respect to Direct-Response Sales

Each insurer shall:

- a) Require with or as part of each completed application for life insurance a statement signed by the applicant as to whether ~~or not~~ such insurance will replace existing life insurance;
- b) Where no replacement is proposed by an insurer in the solicitation of a direct-response sale and a replacement is involved include a "Notice Regarding Replacement of Life Insurance" in a form as described in Exhibit A, at the time the policy is mailed to the applicant;
- c) Where a replacement is proposed by an insurer in the solicitation of a direct-response sale and a replacement is involved:
 - 1) Request from the applicant with or as part of the application a list of all existing life insurance to be replaced. Such existing life insurance shall be requested to be identified by name of insurer;
 - 2) If the applicant furnishes the names of the existing insurers, then the replacing direct-response insurer shall mail the applicant a "Notice Regarding Replacement of Life Insurance" in a form substantially as

DEPARTMENT OF INSURANCE

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described in Exhibit A within 3 ~~three~~-working days after receipt of the application and shall comply with the provisions of ~~Section~~ Sections 224(2) of the Insurance Code, and forward to the existing insurer, within 3 ~~three~~-working days after receipt of the application the "Notice Regarding Proposed Replacement of Life Insurance or Annuity" which is Exhibit B of this Part;

- 3) If the applicant does not furnish the names of the existing insurers, then the replacing direct-response insurer shall, at the time the policy is mailed to the applicant, include a "Notice Regarding Replacement of Life Insurance" in a form as described in Exhibit A.

(Source: Amended at 26 Ill. Reg. 16504, effective Oct 28, 2002)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Section 917. EXHIBIT A Notice Regarding Replacement of Life Insurance or Annuity

NOTICE REGARDING REPLACEMENT OF LIFE INSURANCE OR ANNUITY

REPLACING YOUR LIFE INSURANCE OR ANNUITY?

Are you thinking about buying a new life insurance policy or annuity and discontinuing or changing an existing one? If you are, your decision could be a good one – or a mistake. You will not know for sure unless you make a careful comparison of your existing benefits and the proposed benefits.

Make sure you understand the facts. You should ask the insurance producer agent or company that sold you your existing policy to give you information about it.

Hear both sides before you decide. This way you can be sure you are making a decision that is in your best interest.

We are required by law to notify your existing company that you may be replacing their policy.

List below the identification of policies which are involved in the replacement transaction

Contract Number	<u>Insurance Producer's Agent's</u> Signature
Contract Number	Date
Contract Number	
Contract Number	

(Source: Amended at 26 Ill. Reg. 16504, effective Oct 28, 2002)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

Section 917. EXHIBIT B Notice Regarding Proposed Replacement of Life Insurance or Annuity

~~NOTICE REGARDING PROPOSED REPLACEMENT OF LIFE INSURANCE OR ANNUITY~~

(Name of Existing Insurer)
(Address)
(City, State, Zip Code _____)

(Salutation)

You are herewith given notice that we are in receipt of application(s) for life insurance or annuity(ies) for an individual presently insured with your company.

Identification

Name of Insured	_____	
Address	_____	
Contract Number	_____	_____
" "	_____	_____
" "	_____	_____
" "	_____	_____

This notice is given pursuant to 50 Ill. Adm. Code 917.70(c)

(Insurance Producer's ~~Agent's~~ Signature)

(Closure)

(Source: Amended at 26 Ill. Reg. 16504, effective Oct 28, 2002)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Insurance Producers Doing Business Under an Assumed Name or Firm Name
- 2) Code Citation: 50 Ill. Adm. Code 3109
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
3109.10	Amendment
3109.30	Amendment
- 4) Statutory Authority: Implementing Sections 500-30, 500-40, 500-55 and 500-100 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-30, 500-40, 500-55, 500-100 and 401].
- 5) Effective Date of Amendments: October 28, 2002
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 19, 2002, 26 Ill. Reg. 5540
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Changes:

In the subchapter heading, "REGISTERED FIRMS" was struck and "BUSINESS ENTITIES" was added after "REPRESENTATIVES AND".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of rulemaking: These changes are needed to update all statutory references and terminology affected by the enactment of Public Act 92-0386.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Mike Teer
Chief Examiner, Producer Regulatory Unit
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-1784

The full text of the adopted amendments begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE
REPRESENTATIVES AND BUSINESS ENTITIES-REGISTERED FIRMS

PART 3109

INSURANCE PRODUCERS DOING BUSINESS UNDER AN
ASSUMED NAME OR FIRM NAME

Section

3109.10	Authority
3109.20	Purpose and Scope
3109.30	Procedural Guidelines
3109.40	Effective Date (Repealed)

AUTHORITY: Implementing Sections 500-30, 500-40, 500-55 and 500-100 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-30, 500-40, 500-55, 500-100 and 401].

SOURCE: Filed June 17, 1977, effective July 1, 1977; codified at 7 Ill. Reg. 3013; amended at 9 Ill. Reg. 5327, effective April 12, 1985; amended at 26 Ill. Reg. 16514, effective Oct 28, 2002.

Section 3109.10 Authority

This Part is promulgated pursuant to Section 401 of the Illinois Insurance Code [215 ILCS 5/401] (Ill. Rev. Stat., 1983, ch. 73, par. 1013)-which empowers the Director *to make reasonable rules and regulations as may be necessary for making effective* "~~...to make reasonable rules and regulations as may be necessary for making effective...~~" the insurance laws of this State. This Part implements Sections 500-30, 500-40, 500-55 and 500-100 ~~494.1, 495.1 and 497.1~~ of the Illinois Insurance Code [215 ILCS 5/500-30, 500-40, 500-55 and 500-100] (Ill. Rev. Stat. 1983, ch. 73, pars. ~~1065.41-1, 1065.42-1 and 1065.44-1~~).

(Source: Amended at 26 Ill. Reg. 16514, effective Oct 28, 2002)

Section 3109.30 Procedural Guidelines

- a) Prior to a licensee transacting insurance business in this State under an assumed name, the licensee shall comply with the Assumed Business Name Act [805 ILCS 405] "~~An Act in relation to the use of an assumed name in the conduct of~~

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

- ~~transaction of business in this State" (Ill. Rev. Stat. 1983, ch. 96, pars. 4 et seq.).~~
- b) Applicants operating under an assumed name shall notify the Department in writing of the assumed name under which the individual will be operating prior to doing business in this State. A name is not considered to be an assumed name for the purpose of this Part if it includes the individual's legal name under which the individual transacts business.
 - c) The assumed name of any individual or a firm name shall not be the same as, or deceptively similar to the name or designation adopted by an insurance company authorized to transact business in Illinois or by a licensee of this Department. The standard to be used for determining whether a name is deceptively similar is whether the use of the name is reasonably likely to confuse or mislead the public into the belief that the individual operating under an assumed name or a firm name is one and the same or closely associated with an insurance company licensed to transact insurance business in this State.
 - d) The words "Insurance Department," "Insurance Company," "Policy Department" and other similar words or phrases shall not be used in any assumed name or firm name. The words "Underwriters" and "Insurers" or other similar words or phrases shall not be used in any assumed name or firm name unless the word "agency" is included in the name and is appropriately positioned therein.

(Source: Amended at 26 Ill. Reg. 16514, effective Oct 28, 2002)

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Premium Fund Trust Account
- 2) Code Citation: 50 Ill. Adm. Code 3113
- 3) Section Number: 3113.20 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Sections 500-70, 500-110 and 500-115 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 500-70, 500-110 and 500-115]
- 5) Effective Date of Amendment: October 28, 2002
- 6) Does this amendment contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 19, 2002, 26 Ill. Reg. 5544
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version: Changes:
 - a) In the subchapter header, struck "REGISTERED FIRMS" and added "BUSINESS ENTITIES".
 - b) In the fourth and fifth lines of Section 3113.20(a)(1), struck "herein" and added "in this Part" after "forth".
 - c) In the third and fourth lines of Section 3113.20(a)(2), struck "registered firms" and added "business entities" after "other licenses or".
 - d) In the fourth line of Section 3113.20(b), struck "hereafter" and added "in this Part" after "referred to".
 - e) In the fourth line of Section 3113.20(b), struck "firms registered" and added "business entities licensed" after "and to".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 13) Will this amendment replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: These changes are needed to update all statutory references and terminology affected by the enactment of Public Act 92-386.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Mike Teer
Chief Examiner, Producer Regulatory Unit
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-1784

The full text of the adopted amendment begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER ii: INSURANCE PRODUCERS, LIMITED INSURANCE
REPRESENTATIVES AND BUSINESS ENTITIES ~~REGISTERED FIRMS~~

PART 3113

PREMIUM FUND TRUST ACCOUNT

Section

3113.10	Authority (Repealed)
3113.20	Purpose and Scope
3113.30	Definitions
3113.40	Premium Fund Trust Account
3113.50	Minimum Record Requirements
3113.60	Return Premium
3113.70	Severability
EXHIBIT A	Consent and Authorization Form

AUTHORITY: Implementing Sections 500-70, 500-110 and 500-115 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401, 500-70, 500-110 and 500-115].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 194, effective April 11, 1980; amended at 6 Ill. Reg. 12474, effective September 30, 1982; codified at 6 Ill. Reg. 12471; amended at 8 Ill. Reg. 25007, effective January 1, 1985; amended at 14 Ill. Reg. 2088, effective January 19, 1990; amended at 16 Ill. Reg. 5329, effective March 23, 1992; amended at 26 Ill. Reg. 16518, effective Oct 28, 2002.

Section 3113.20 Purpose and Scope

- a) The purpose of this Part is:
- 1) To implement Sections 500-70, 500-110 and 500-115 ~~505.1, 506.1 and 508.1~~ of Article XXXI of the Illinois Insurance Code [215 ILCS 5/500-70, 500-110 and 500-115] (~~Ill. Rev. Stat. 1983, ch. 73, pars. 1065.52-1, 1065.53-1 and 1065.55-1~~). Failure to adhere to the standards ~~herein~~ set forth in this Part shall subject the offender, in addition to any other penalties or remedies provided by law, to proceedings under Article XXXI of the Illinois Insurance Code [215 ILCS 5/Art. XXXI](~~Ill. Rev. Stat. 1983, ch. 73, par. 1065.37-1 et seq.~~); and
 - 2) To establish minimum standards required of licensees to assure the proper handling of insurance transactions specifically in regard to premiums and other monies received from insurers, insureds, other licensees or business

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- entities registered firms.
- b) This Part applies to all persons, resident and non-resident, who are licensed under the Illinois Insurance Code as insurance producers, limited insurance representatives, temporary insurance producers and surplus lines licensees (~~hereafter~~ referred to in this Part as "licensee") and to business entities licensed firms registered pursuant to Article XXXI of the Illinois Insurance Code.

(Source: Amended at 26 Ill. Reg. 16518, effective Oct 28, 2002)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pre-Licensing and Continuing Education
- 2) Code Citation: 50 Ill. Adm. Code 3119
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3119.30	Amendment
3119.40	Repeal
3119.50	Amendment
- 4) Statutory Authority: Implementing Sections 500-25, 500-30 and 500-35 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-25, 500-30, 500-35 and 401].
- 5) Effective Date of Amendments: October 28, 2002
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 19, 2002, 26 Ill. Reg. 5548
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: Changes:
 - a) In the subchapter heading, struck "REGISTERED FIRMS" and added "BUSINESS ENTITIES" after "REPRESENTATIVES AND".
 - b) In the table of contents listing for Exhibit C, struck "FOR PRE-LICENSING EDUCATION".
 - c) In the table of contents listing for Exhibit D, struck "FOR", added an opening parenthesis before "CONTINUING" and added a closing parenthesis after "EDUCATION".
 - d) In 8th line of Section 3119.30(a), added "the" after "insurance to which".
 - e) In 5th line of Section 3119.30(e), added "and" after "provider;".

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- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will these amendments replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: These changes are needed to update all statutory references and terminology affected by the enactment of Public Act 92-0386. In addition, the text of Section 3119.40 is being repealed again formally because the text was inadvertently left intact when the Department filed its official copy with the Index Department following the previous repealer.
- 16) Information and questions regarding these adopted amendments shall be directed to:

David Murphy
Supervisor, Producer Licensing Unit
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-5415

The full text of the adopted amendments begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF INSURANCE

SUBCHAPTER ii: INSURANCE PRODUCER, LIMITED INSURANCE
REPRESENTATIVES AND BUSINESS ENTITIES ~~REGISTERED FIRMS~~

PART 3119

PRE-LICENSING AND CONTINUING EDUCATION

Section	
3119.10	Purpose
3119.20	Definitions
3119.30	Provider Responsibilities
3119.40	Responsibilities of Applicant for Insurance Producer Licenses and Licensed Insurance Producers Until 1/1/97 <u>(Repealed)</u>
3119.45	Responsibilities of the Applicant for Insurance Producer Licenses and the Licensed Insurance Producers Beginning 1/1/97
3119.50	Pre-Licensing – Course of Study Requirements
3119.60	Continuing Education Requirements
3119.70	Course and Provider Disqualification
3119.80	Severability
EXHIBIT A	REQUEST FOR CERTIFICATION OF A PRE-LICENSING COURSE (Repealed)
EXHIBIT B	REQUEST FOR CERTIFICATION OF A CONTINUING EDUCATION COURSE (Repealed)
EXHIBIT C	PROVIDER LIST – PROOF OF COMPLETION FOR PRE-LICENSING EDUCATION (Repealed)
EXHIBIT D	PROVIDER LIST – PROOF OF COMPLETION FOR (CONTINUING EDUCATION) (Repealed)
EXHIBIT E	COURSE OF STUDY – LIFE
EXHIBIT F	COURSE OF STUDY – ACCIDENT/HEALTH
EXHIBIT G	COURSE OF STUDY – FIRE
EXHIBIT H	COURSE OF STUDY – CASUALTY/MOTOR VEHICLE

AUTHORITY: Implementing Sections 500-25, 500-30 and 500-35 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/500-25, 500-30, 500-35, and 401].

SOURCE: Adopted at 9 Ill. Reg. 80, effective January 1, 1985; amended at 15 Ill. Reg. 69, effective January 1, 1991; amended at 16 Ill. Reg. 126, effective January 1, 1992; amended at 18 Ill. Reg. 16568, effective November 1, 1994; amended at 20 Ill. Reg. 10340, effective July 19,

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1996; amended at 21 Ill. Reg. 13820, effective October 15, 1997; amended at 25 Ill. Reg. 6480, effective May 3, 2001; amended at 26 Ill. Reg. 16522, effective Oct 28, 2002.

Section 3119.30 Provider Responsibilities

- a) Each provider shall submit a certification to the Director for each course it intends to offer for pre-licensing or continuing education credit. Certification must be accompanied by the appropriate fee (see 215 ILCS 5/~~500-35(a)(6) or (7)~~ 509.1(a)(6) or (7)), be signed and dated by the provider, and contain: the provider's name; FEIN and/or Social Security number of the individual provider; contact person and that person's telephone number; published provider telephone number; course title; first date course will be offered; whether the course is for public education; class of insurance to which the course is applicable; and type of course instruction (see 215 ILCS 5/~~500-35(b)(1)-494.1(e)~~). The certification format and content have also been posted to the Department's website at: www.state.il.us/ins/producer/education_provider.htm ~~EduProviderInfo.htm~~ and will be made available upon request from the Department. Use of the NAIC Midwest Zone Form is also permissible for purposes of certification.
- b) Each provider shall submit a new certification when there is a significant change in the course. No provider shall submit the same or substantially the same course content for more than one course.
- c) Each provider shall maintain a copy of all instructional materials for each course. If the provider ceases to offer a course or makes a significant change in the course materials, the provider shall maintain the original material for 1 year from the date such course was terminated or significantly changed.
- d) Each provider shall maintain the following records for 3 years at a central location:
 - 1) Classroom or seminar – roster for each classroom course or seminar identifying the instructor(s), the student, the course, the location, the date and hours of attendance, the completion date, the examinations and the results of any examinations administered.
 - 2) Self-study or interactive computer – name of student, name of course, date of completion, the examinations, the results of examinations, and other applicable proof of completion.
- e) Each provider shall provide to the Director a list of students who have successfully completed a pre-licensing or continuing education course. The list shall contain course number; credit hours; course title; reporting week being

DEPARTMENT OF INSURANCE

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submitted; provider name; FEIN and/or Social Security number for the individual provider; and student data (including student name and Social Security number, date course completed and either class of insurance for pre-licensing or credit hours for continuing education). The information shall be submitted to the Director on computer diskette or other electronic method of transfer prescribed by the Director and in the specifications established by the Director. Each list shall be received by the Director within 10 days following the end of the week in which the course was completed. The list shall be compiled pursuant to the criteria established in Section 3119.50(b) and (d) or Section 3119.60(d) of this Part. The date of completion for a course with an examination shall be the date concurrent with the date the examination is graded by the provider.

- f) Instructors shall meet the following minimum requirements; either a Bachelor's degree or 3 years experience in the course subject matter. Providers must maintain evidence of such qualifications while the instructor is actively engaged in instructing the course and for 1 year thereafter.
- g) Providers shall, upon the request of the Director, provide a copy of all course material, provider records, and evidence of instructor's qualifications to the Director. All such requests shall be subject to a warrant of the Director and for the express purpose of gauging compliance with the Illinois Insurance Code and Departmental regulations pertaining thereto.
- h) The Director may make arrangements, including contracting with an outside service administrator, for the purpose of administrating and collecting the educational data from the providers. Under such an arrangement all, or a portion of the reporting requirements of the provider shall be made to the servicing administrator.

(Source: Amended at 26 Ill. Reg. 16522, effective Oct 28, 2002)

Section 3119.40 Responsibilities of Applicant for Insurance Producer Licenses and Licensed Insurance Producers Until 1/1/97 (Repealed)

- a) ~~Applicants for Insurance Producer Licenses Prior to taking the licensing examination each applicant shall complete the pre-licensing education requirements for each class of insurance for which an examination is being taken. The pre-licensing education course must be used within one year of completion.~~
- b) ~~Licensed Insurance Producers
 - 1) Each producer shall complete at least 25 hours of continuing education requirements prior to requesting an extension of an insurance producer license. The producer should complete the course no later than four weeks prior to the license extension date~~

DEPARTMENT OF INSURANCE

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- ~~to allow time for the provider to submit proof of completion to the Director.~~
- ~~2) Hours taken, course material provided, or presented in whole or in part, or in conjunction with a pre-licensing course which is not certified as pre-licensing education requirement shall not be used to meet continuing education requirements.~~
 - ~~3) Courses initiated or completed prior to the original issue date of the license shall not be used to meet continuing education requirements.~~
 - ~~4) Each producer may carry forward a maximum of 25 credit hours. To qualify for carry over credit the proof of completion must be received by the Department and the credit must be used prior to the second renewal date after completion of the course. The credit hours will be used in the order they are received by the Department.~~
 - ~~5) Each producer shall maintain proof of credits for a period of 5 years after date of original issue.~~

(Source: Repealed at 21 Ill. Reg. 13820, effective October 15, 1997; error in filed page corrected at 26 Ill. Reg. 16522, effective Oct 28, 2002)

Section 3119.50 Pre-Licensing – Course of Study Requirements

- a) The certification form must be received by the Director at least 30 days prior to any course being offered.
- b) A course to be certified by the provider as a pre-licensing course of study shall meet the content requirements of Section 500-30(b) 494.1(a) of the Illinois Insurance Code [215 ILCS 5/500-30(b)-494.1] and time distribution requirements as set forth in Exhibit E, F, G or H of this Part, whichever is applicable.
- c) For purposes of this Section, the minimum number of hours may be made up of any combination of classroom, seminar, self-study or interactive computer hours. A self-study course must have an examination.
- d) No credit shall be given for a self-study course if the student does not successfully complete the examination. If the student fails an examination and successive examinations are given, the successive examinations must be substantially different from each other.
 - 1) No students shall evaluate their own examination.
 - 2) The evaluation of the examination must be completed by the provider.
 - 3) No provider shall furnish the answers to an examination prior to the student completing the examination.

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NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 26 Ill. Reg. 16522, effective Oct 28, 2002)

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NOTICE OF ADOPTED AMENDMENTS

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

<u>Section Numbers</u> :	<u>Adopted Action</u> :
4415.10	Amendment
4415.20	Amendment
4415.30	Amendment
4415.40	Amendment
4415.60	Amendment
4415.70	Amendment
4415.90	Amendment
- 4) Statutory Authority: Implementing Sections 1A-107 and 1A-112, and authorized by Section 1A-103 of the Illinois Pension Code [40 ILCS 5/1A-103, 1A-107 and 1A-112]
- 5) Effective Date of Amendments: October 28, 2002
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department of Insurance's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 12, 2002, 26 Ill. Reg. 5300
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: Changes:
 - a) In the table of contents listing for Illustration B, struck "Fee" and added "Fees".
 - b) In Section 4415.30, removed italics within the definitions for "Basis point", "Department", "Division", and "Pension Fund".
 - c) In Section 4415.30, in the second line of the definition of "State Pension Fund", struck "2-101 through 1-161" and added "Art. 2" after "40 ILCS 5/".

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- d) In Section 4415.30, in the third line of the definition of “State Pension Fund”, struck “14-101 through 14-152” and added “Art. 14” after “40 ILCS 5/”.
 - e) In Section 4415.30, in the fourth line of the definition of “State Pension Fund”, struck “15-101 through 15-197” and added “Art. 15” after “ILCS 5/”.
 - f) In Section 4415.30, in the fifth line of the definition of “State Pension Fund”, struck “16-101 through 16-202” and added “Art. 16” after “ILCS 5/”.
 - g) In Section 4415.30, in the sixth line of the definition of “State Pension Fund”, struck “18-101 through 18-168” and added “Art. 18” after “5/”.
 - h) In Section 4415.70(a)(2), changed “state” to “State”.
 - i) In Section 4415.70(a)(3), after “By utilizing”, changed “the” to “an”; after “ACH”, added “payment process that is compatible with the State accounting systems. This option can not be utilized without first obtaining specific written acceptance from the Department.”.
 - j) In the first line of Section 4415.70(b), changed “electing” to “seeking approval”.
 - k) In the first line of Section 4415.70(b), after “utilizing the ACH”, added “must first obtain the written approval of the Department. Upon receipt of such approval and at least 30 days prior to the payment due date, the Pension fund” and struck “at least 30 days prior to the payment due date”.
 - l) In the second line of Section 4415.70(c), struck “Pension Division” and added “Administrative Services Division, Tax and Fiscal Services Section, Tax and Audit Unit” after “Department of Insurance”.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No. In these agreements, JCAR requested a change within 4415.Illustration B, which was not opened for amendments at First Notice or Second Notice. To open the Section for amendments subsequent to Second Notice submission would be in violation of the procedures set forth in the IAPA. Therefore, the Department declines to make this change.
- 13) Will these amendments replace an emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of rulemaking: These changes are being made so that pension funds will no longer be required to utilize the Automated Clearing House (ACH) method for payment of annual compliance fees. The court in Board of Trustees of the Chicago Heights Police Pension Fund v. Department of Insurance (1-99-1589) held that the requirement was void, and JCAR has identified this as an issue that the Department should address by rulemaking. The proposed changes make use of the ACH method optional and present alternative methods for payment of the annual compliance fees.
- 16) Information and questions regarding these adopted amendments shall be directed to:
- Jim Orr
Public Pensions Section
Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 785-2162

The full text of the adopted amendments begins on the next page.

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER aaa: PENSIONS

PART 4415

PAYMENT OF ANNUAL COMPLIANCE FEES FOR PENSION FUNDS

Section

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

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

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

Section 4415.10 Purpose

This Part sets forth the procedural requirements for the submission of the annual compliance fee by pension funds to the Department of Insurance as required by Section 1A-112 of the Illinois Pension Code [40 ILCS 5/1A-112] ~~(see P.A. 90-507, effective August 22, 1997)~~. Additionally, this Part will further the directive of the Legislature given to the Public Pension Division of the Department of Insurance to automate its operations as set forth in Section 1A-107 of the Illinois Pension Code [40 ILCS 5/1A-107] ~~(see P.A. 90-507, effective August 22, 1997)~~.

(Source: Amended at 26 Ill. Reg. 16529, effective Oct 28, 2002)

Section 4415.20 Applicability

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This Part applies to every pension fund that is required to file an annual statement with the Department pursuant to Section 1A-109 of the Code [40 ILCS 5/1A-109] (~~see P.A. 90-507, effective August 22, 1997~~).

(Source: Amended at 26 Ill. Reg. 16529, effective Oct 28, 2002)

Section 4415.30 Definitions

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

ACH Debit means the electronic transfer of funds from the pension fund's account for deposit in the Public Pension Regulation Fund pursuant to Section 8(f) of the State Finance Act [30 ILCS 105/8(f)] (~~see P.A. 90-507, effective August 22, 1997~~).

Annual compliance fee means the fee required to be paid by pension funds pursuant to Section 1A-112 of the Illinois Pension Code [40 ILCS 5/1A-112] (~~see P.A. 90-507, effective August 22, 1997~~).

Basis point means 1/100th of one percent [40 ILCS 5/1A-102] (~~see P.A. 90-507, effective August 22, 1997~~).

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

Department means the Department of Insurance of the State of Illinois [40 ILCS 5/1A-102] (~~see P.A. 90-507, effective August 22, 1997~~).

Division means the Public Pension Division of the Department of Insurance [40 ILCS 5/1A-102] (~~see P.A. 90-507, effective August 22, 1997~~).

Payment information means the data which the Department requires from a

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pension fund for the purpose of making an ACH Debit transaction.

Pension Fund means any public pension fund, annuity and benefit fund, or retirement system established under the Illinois Pension Code [40 ILCS 5/1A-102] ~~(see P.A. 90-507, effective August 22, 1997).~~

State Pension Fund means any of the following pension funds: General Assembly Retirement System [40 ILCS 5/~~Art. 2 2-101 through 2-161~~], State Employees' Retirement System [40 ILCS 5/~~Art. 14 14-101 through 14-152~~], State Universities Retirement System [40 ILCS 5/~~Art. 15 15-101 through 15-197~~], Teachers' Retirement System of the State of Illinois [40 ILCS 5/~~Art. 16 16-101 through 16-202~~], and Judges Retirement System of Illinois [40 ILCS 5/~~Art. 18 18-101 through 18-168~~].

(Source: Amended at 26 Ill. Reg. 16529, effective Oct 28, 2002)

Section 4415.40 Annual Compliance Fee Amount

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

- a) *In the case of a pension fund under Article 3 or 4 of the Code, the annual compliance fee is 0.007% (0.7 basis points) of the total assets of the pension fund, as reported in the most current annual statement of the fund, but no more than \$6,000; or*
- b) *In the case of all other pension funds and retirement systems, the annual compliance fee shall be \$6,000 [40 ILCS 5/1A-112(a)] ~~(see P.A. 90-507, effective August 22, 1997).~~*

(Source: Amended at 26 Ill. Reg. 16529, effective Oct 28, 2002)

Section 4415.60 Annual Compliance Fee Payment Date

The annual compliance fee shall be due on June 30 for the following State fiscal year... ~~except that the fee payable for fiscal year 1998 shall be due as determined by the Division, but no later than June 30, 1998~~ [40 ILCS 5/1A-112(b)] ~~(see P.A. 90-507, effective August 22, 1997).~~

(Source: Amended at 26 Ill. Reg. 16529, effective Oct 28, 2002)

Section 4415.70 Payment Method

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- a) Payment of the annual compliance fee may be made by any of the following methods:
- 1) By check or money order in U.S. funds, made payable to the Director of Insurance and mailed to the Department of Insurance, Administrative Services Division, Tax and Fiscal Services Section, Tax and Audit Unit, 320 West Washington Street, Springfield, Illinois 62767-0001;
 - 2) By State voucher, submitted to the address in subsection (a)(1) above; or
 - 3) By utilizing an ACH payment process that is compatible with the State accounting systems. This option can not be utilized without first obtaining specific written acceptance from the Department.
- b)a) Pension funds seeking approval to make payment utilizing the ACH must first obtain the written approval of the Department. Upon receipt of such approval and at least 30 days prior to the payment due date, the Pension fund shall file with the Division~~at least 30 days prior to the payment due date~~, as set forth in Section 4415.60 of this Part, the appropriate information of either:
- 1) If a State pension fund, payment information as shown in Illustration A of this Part, which must contain at least the following information:
 - A) Fund account number from which the annual compliance fee may be withdrawn; and
 - B) State pension fund name; or
 - 2) If not a State pension fund, payment information as shown in Illustration B of this Part, which must contain at least the following information:
 - A) Banking account number from which the annual compliance fee payment may be withdrawn;
 - B) Routing number for the financial institution in which the bank account is held;
 - C) The pension fund name; and
 - D) Financial institution's name where the pension fund's account is located.
- c)b) Filings ~~Either filing~~ made pursuant to subsection ~~(b)(a)~~ of this Section shall be addressed to the Department of Insurance, Administrative Services Division, Tax and Fiscal Services Section, Tax and Audit Unit Pension Division, 320 West Washington, Springfield, Illinois 62767-0001.
- d)e) Pension funds electing to make payment utilizing the ACH are not required to file the payment information pursuant to subsection ~~(b)(a)~~ of this Section if the payment information has been previously submitted and such payment information has not changed since the previous submittal.
- e)d) Based on the payment information provided by the pension funds in subsection ~~(b)(a)~~ of this Section, the Division will initiate an ACH Debit transfer or account transfer on the payment due date, or the first business day thereafter, in an amount

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equal to the annual compliance fee as calculated pursuant to Section 4415.40 of this Part and as stated in the notification sent pursuant to Section 4415.50 of this Part.

(Source: Amended at 26 Ill. Reg. 16529, effective Oct 28, 2002)

Section 4415.90 Penalties

Every pension fund required to pay an annual compliance fee pursuant to Section 4415.20 ~~4415.60~~ may also be subject to a late penalty fee and a noncompliance penalty as set forth in 50 Ill. Adm. Code ~~Part~~ 4435 if the pension fund fails to comply by the payment due date as set forth in with Section ~~4415.60~~4415.70 of this Part.

(Source: Amended at 26 Ill. Reg. 16529, effective Oct 28, 2002)

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- 1) Heading of the Part: Ginseng Harvest and Commerce Regulations
- 2) Code Citation: 17 Ill. Adm. Code 1580
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1580.10	Amendment
1580.20	Repeal
1580.30	Amendment
1580.40	Amendment
1580.70	Amendment
- 4) Statutory Authority: Implementing and authorized by the Ginseng Harvesting Act [525 ILCS 20].
- 5) Effective Date of Amendments: October 28, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including all material incorporated by reference is on file in the Department of Natural Resource's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 2, 2002, 26 Ill. Reg. 11721
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version:

Section 1580.40(a)(1) - for clarification purposes, changed to read "name and address of seller and seller's harvester, dealer or grower license number,".

Section 1580.40(c) - following "...any other information required by the Department", added "as prescribed on the form".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rulemaking currently in effect? No

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- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part is being amended to update the Department's address, repeal unnecessary language, change harvest season dates and to clarify recordkeeping, certification and reporting requirements.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271
217/782-1809

The full text of the adopted amendments begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER d: FORESTRYPART 1580
GINSENG HARVEST AND COMMERCE REGULATIONS

Section

1580.10	Licensing Procedure
1580.20	Revocation of License (<u>Repealed</u>)
1580.30	Harvest Season
1580.40	Records of Dealers
1580.50	Records of Growers
1580.60	Reports of Growers
1580.70	Certification of Ginseng Shipments

AUTHORITY: Implementing and authorized by the Ginseng Harvesting Act [525 ILCS 20].

SOURCE: Emergency rule adopted at 7 Ill. Reg. 15888, effective November 16, 1983, for a maximum of 150 days; adopted at 8 Ill. Reg. 3670, effective March 8, 1984; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 26 Ill. Reg. 16537, effective Oct 28, 2002.

Section 1580.10 Licensing Procedure

- a) Ginseng dealer and grower licenses are available only through a mail application addressed to Ginseng Program, License Unit, Illinois Department of Natural Resources, One Natural Resources Way, P.O. Box 19458524 South 2nd Street, Springfield, IL 62794-945862706. Applications must include name and address of applicant and must be accompanied by a check or money order payable to Illinois Department of Natural Resources in the amounts of \$25.~~00~~ for growers license, \$50.~~00~~ for resident dealers license and \$100.~~00~~ for non-resident dealers license.
- b) Ginseng harvester licenses are area-available from the Department of Natural Resources, License Unit, One Natural Resources Way, P.O. Box 19458524 South Second Street, Rm 210, Springfield IL, Illinois 62794-945862706. The fee is \$7.~~00~~ plus \$.50 ~~50¢~~ issuing fee. Ginseng harvester licenses may be consigned by the Department pursuant to the provision of 17 Ill. Adm. Code 2520.
- c) Persons who purchase one and two year old live cultivated ginseng plants for the purpose of propagation are not required to obtain a dealers license.

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(Source: Amended at 26 Ill. Reg. 16537, effective Oct 28, 2002)

Section 1580.20 Revocation of License (Repealed)

~~Any license issued pursuant to this Act may be revoked for any violation of the Act or this part and future applications denied for a period of up to three years pursuant to the procedures in 17 Ill. Adm. Code 2530.~~

(Source: Repealed at 26 Ill. Reg. 16537, effective Oct 28, 2002)

Section 1580.30 Harvest Season

The season for harvesting wild ginseng is from the first Saturday in September ~~last Saturday in August~~ through November 1 in all counties.

(Source: Amended at 26 Ill. Reg. 16537, effective Oct 28, 2002)

Section 1580.40 Records of Dealers

- a) Dealers must keep a written record of their purchases on forms provided by the Department of Natural Resources including:
 - 1) name, and address of seller and seller's harvester, dealer or grower license number ~~of seller~~,
 - 2) counties ~~county(s)~~ and states ~~state(s)~~ where the ginseng was harvested (when purchase is from two or more states or counties a separate entry must be made for each state and Illinois county),
 - 3) weight in pounds and ounces of purchased ginseng,
 - 4) whether ginseng was wet or dry,
 - 5) date ginseng was purchased,
 - 6) whether ginseng was certified as to origin by a previous dealer (if so give name of dealer and date of certification),
 - 7) whether ginseng was wild or cultivated.
- b) The purchase record must be made in duplicate and copies ~~copy(s)~~ mailed to the Department of Natural Resources on the last business day of each month in which purchases are made. The purchase record must be available for inspection by agents of the Department of Natural Resources upon request and must be available to support origin of ginseng being certified for sale and shipment. These records shall be maintained by the dealer for a minimum period of three years.
- c) Dealers shall submit an annual report, on forms provided by the Department of

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Natural Resources, by May 1 of the year following the ginseng harvesting season. This report shall include the number of pounds purchased, certified and sold, the locations to which the ginseng was shipped, and any other information required by the Department as prescribed on the form.

(Source: Amended at 26 Ill. Reg. 16537, effective Oct 28, 2002)

Section 1580.70 Certification of Ginseng Shipments

- a) All ginseng roots harvested in the State of Illinois shall be certified as to origin and legal taking by an agent of the State prior to their being shipped or transported outside of the boundaries of the State.
- b) Only Illinois licensed dealers or growers may have ginseng certified within the State.
- ~~c)a) Ginseng roots harvested in Illinois and offered for sale by a licensed dealer or grower must be certified as to origin and legal taking by an agent of the State of Illinois prior to sale.~~ The certification will be on forms provided by the certifying agent and will include:
- 1) the name and address of the dealer or grower,
 - 2) the weight in pounds and ounces of dried root of both cultivated and wild ginseng,
 - 3) the date of certification,
 - 4) year of harvest,
 - 5) shipment number of dealer or grower for the year,
 - 6) signature of the dealer,
 - 7) signature of the state certifying official,
 - 8) dealer's or grower's State ~~dealers or growers state~~ license number.
- ~~d)b)~~ Certification will be in triplicate with the original certificate accompanying the shipment, the dealer or grower retaining one copy for their records and the third copy being retained by the Department of Natural Resources.
- ~~e)e)~~ Licensed dealers and growers will be notified by mail of the times and locations where state certification officers will be available to certify ginseng. Other persons can obtain information on certification by writing Ginseng Program, Illinois Department of Natural Resources, Office of Law Enforcement, One Natural Resources Way 524 South 2nd Street, Springfield, IL 62702-1271 62706 (Phone 217/782-64312361).
- ~~f)d)~~ Live one and two year old cultivated ginseng plants sold by growers for propagation purposes within the United States are not regarded as harvested and are exempt from the certification requirement.

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(Source: Amended at 26 Ill. Reg. 16537, effective Oct 28, 2002)

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- 1) Heading of the Part: Illinois Orthotics, Prosthetics and Pedorthics Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1325
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1325.45	Amendment
1325.50	Amendment
1325.55	Amendment
1325.75	New Section
1325.80	New Section
- 4) Statutory Authority: Illinois Orthotics, Prosthetics and Pedorthics Practice Act [225 ILCS 5]
- 5) Effective Date of Amendments: October 28, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: May 31, 2002, at 26 Ill. Reg. 7966.
- 10) Has JCARE issued a Statement of Objection to these amendments? No
- 11) Difference between proposal and final version: A few nonsubstantive technical changes have been made.
- 12) Have all the changes agreed upon by the agency and JCARE been made as indicated in the agreement letter issued by JCARE? Yes
- 13) Will these amendments replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Public Act 91-590, effective January 1, 2000, provides for the licensure of orthotists, prosthetists, and pedorthists by the Department of Professional Regulation; implementation began following adoption of this Part on March 1,

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2001. These amendments continue the initial implementation by providing for the restoration of licenses (Section 1325.75) and continuing education (Section 1325.80). Several technical changes are also included.

16) Information and questions regarding this amended Part shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813 Fax: 217/782-7645

The full text of the adopted amendments begins on the next page:

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

PART 1325

ILLINOIS ORTHOTICS, PROSTHETICS AND PEDORTHICS PRACTICE ACT

Section

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

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

SOURCE: Adopted at 25 Ill. Reg. 3883, effective March 1, 2001; amended at 26 Ill. Reg. 16543, effective Oct 28, 2002.

Section 1325.45 Classification of Devices

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

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- 1) "Custom fabricated and fitted device" means an orthosis, prosthesis, or pedorthic device fabricated to original measurements and/or a mold for use by a patient in accordance with a prescription and that requires substantial clinical and technical judgment in its design and fitting. Licensees or non-licensed caregivers under direct or close supervision of a licensee should provide custom fabricated and fitted devices.
 - 2) "Custom fitted device" means a prefabricated orthosis, prosthesis, or pedorthic device sized and/or modified for use by the patient in accordance with a prescription, and that requires substantial clinical judgment and substantive alteration for appropriate use. Licensees or non-licensed caregivers under close or indirect supervision of a licensee should provide custom fitted devices. Custom fitted devices are sub-classified as "high complexity" or "low complexity".
 - A) Custom fitted device (high complexity): A prefabricated orthosis, prosthesis, or pedorthic device sized and/or modified for use by the patient in accordance with a prescription and that requires substantial clinical judgment (involving high clinical assessment and patient management skills) or substantive alteration (involving medium technical implementation skills) for appropriate use.
 - B) Custom fitted device (low complexity): A prefabricated orthosis, prosthesis, or pedorthic device sized and/or modified for use by the patient in accordance with a prescription and that requires substantial clinical judgment (involving medium clinical assessment and patient management skills) or substantive alteration (involving low technical implementation skills) for appropriate use.
 - 3) "Off-the-shelf device" means a prefabricated orthosis, prosthesis or pedorthic device sized and/or modified for use by the patient in accordance with a prescription and that does not require substantial clinical judgment and substantive alteration for appropriate use. Licensees or non-licensed caregivers under indirect supervision of a licensee may provide off-the-shelf devices.
 - 4) "Over-the-counter device" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgement in either size selection or use, including fabric or elastic supports, corsets, generic insoles, elastic hose. Over-the-counter devices do not require the supervision of a licensee.
- b) The Department hereby incorporates by reference the Categorization of Orthotic and Prosthetic HCPCS Payment Codes, American Orthotic & Prosthetic Association, 330 John Carlyle Street, Suite 200, Alexandria VA 22314, January 2002, Orthotics and Prosthetics National Office, Inc., 1650 King Street, Suite 500, Alexandria VA 22314-2747, August 2000, with no later amendments or editions.

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(Source: Amended at 26 Ill. Reg. 16543, effective Oct 28, 2002)

Section 1325.50 Fees

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

- a) Application fees
 - 1) The fee for application for a license as an orthotist, prosthetist or pedorthist is \$400.
 - 2) The fee for application as a continuing education sponsor is \$500.
- b) Renewal fees
 - 1) The fee for renewal of an orthotist, prosthetist or pedorthist license is \$125 per year.
 - 2) The fee for renewal as a continuing education sponsor is \$250.
- c) General fees
 - 1) The fee for restoration of a license other than from inactive status is \$20 plus payment of all lapsed renewal fees.
 - 2) ~~d)~~ The fee for issuance of a duplicate license or for the issuance of a replacement license for a license that has been lost or destroyed is \$20.
 - 3) ~~e)~~ The fee for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Department records when no duplicate license is printed.
 - 4) ~~f)~~ The fee for certification of a license for any purpose is \$20.
 - 5) ~~g)~~ The fee for a wall certificate showing licensure is the actual cost of producing the certificate.
- h) The fee for a roster of persons licensed under the Act is the actual cost of producing the roster.

(Source: Amended at 26 Ill. Reg. 16543, effective Oct 28, 2002)

Section 1325.55 Renewals

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

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change of address. Failure to receive a renewal form from the Department shall not constitute an excuse for failure to pay the renewal fee.

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

(Source: Amended at 26 Ill. Reg. 16543, effective Oct 28, 2002)

Section 1325.75 Restoration

- a) A person seeking restoration of a license that has expired for less than 5 years shall have the license restored upon payment of \$20 plus all lapsed renewal fees as set forth in Section 1325.45 of this Part. A person seeking restoration of a license shall provide evidence of successful completion of 30 hours of continuing education in accordance with Section 1325.75 earned within the 2 years immediately preceding the restoration.
- (b) A person seeking restoration of a license that has been placed on inactive status for less than 5 years shall have the license restored upon payment of the current renewal fee specified in Section 1325.45 of this Part. A person seeking restoration of a license shall provide evidence of successful completion of 30 hours of continuing education in accordance with Section 1325.75 earned within the 2 years immediately preceding the restoration.
- c) A person seeking restoration of a license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Department, together with the fees set forth in subsections (a) and (b). The application shall also include one of the following documents:
- 1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of active practice; or
 - 2) An affidavit attesting to military service as provided in Section 60 of the Act; or
 - 3) Other evidence of continued active participation in orthotics, prosthetics or pedorthics for at least the last 2 years. The evidence shall show that he/she:
 - A) Has been:
 - i) Employed in a responsible capacity under the supervision of a licensed orthotist, prosthetist, or pedorthist; or
 - ii) An officer or employee of the United States government as an orthotist, prosthetist, or pedorthist; or
 - iii) Teaching orthotics, prosthetics, or pedorthics in a college or university; and

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B) Has attended, during the 2 years preceding application for restoration, orthotics, prosthetics, or pedorthics educational programs conducted by an accredited college or university or a professional orthotics, prosthetics, or pedorthics association or similar program approved by the Department upon recommendation of the Illinois Orthotics, Prosthetics, and Pedorthics Board. An applicant shall submit proof of 30 hours of continuing education in accordance with Section 1325.80 of this Part.

d) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Department because of lack of information, discrepancies or conflicts in information given or a need for clarification, the person seeking restoration of a license shall be required to:

- 1) Provide any information as may be necessary; and/or
- 2) Appear for interviews before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Department, an applicant shall have the license restored.

(Source: Added at 26 Ill. Reg. 16543, effective Oct 28, 2002)

Section 1325.80 Continuing Education

- a) Continuing Education Hour Requirements
 - 1) Renewal applicants shall complete 30 hours of Continuing Education (CE) relevant to the practice of orthotics, prosthetics, or pedorthics during each pre-renewal period. The Department shall conduct audits to verify compliance with this Section. The pre-renewal period is the 24 months preceding the expiration date of the license.
 - 2) Orthotists, prosthetists, or pedorthists licensed in Illinois but residing and practicing in another state must comply with the CE requirements set forth in this Section.
- b) Activities for which CE credit may be earned are as follows:
 - 1) Verified attendance or participation in any continuing education approved by the American Board for Certification in Orthotics and Prosthetics, Inc. or the Board for Certification in Pedorthics, Inc.
 - 2) Verified attendance at or participation in a program given by a sponsor as set forth in subsections (c)(1) and (2) of this Section.
 - 3) A maximum of 15 hours per pre-renewal period for:
 - A) Papers prepared for or delivered before recognized orthotic, prosthetic, or pedorthic organizations;
 - B) Papers published in nationally recognized orthotic, prosthetic, or pedorthic journals;

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- C) Writing a chapter in a book about orthotics, prosthetics, or pedorthics;
 - D) Self-study courses taken through an accredited college or university or an approved sponsor; and
 - E) Training taken via teleconferencing with a live moderator through an accredited college or university or an approved sponsor.
- 4) A licensee who serves as an instructor, speaker or discussion leader of a course given by an approved sponsor will be allowed CE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for presentations of the same course. In no case shall credit for actual time of presentation and preparation be given for more than 9 hours during any renewal period.
- 5) The continuing education hours used to satisfy the CE requirements for renewal of an orthotic, prosthetic, or pedorthic license held in another jurisdiction shall be applied toward the CE requirements for renewal of an Illinois orthotic, prosthetic, or pedorthic license.
- 6) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.
- 7) A CE hour equals 60 minutes. After completion of the initial CE hour, credit may be given in one-quarter hour increments.
- 8) Cardiopulmonary resuscitation (CPR) certification by the American Red Cross, American Heart Association, National Safety Council, or their international affiliates, or automated external defibrillation (AED) certification by the American Red Cross or other qualified organization as authorized by the Automated External Defibrillator Act. Five hours of continuing education may be earned for one CPR or AED certification. No more than one certification may be submitted per renewal.
- c) CE Sponsors and Programs
 - 1) Sponsor, as used in this Section, shall mean:
 - A) The American Academy of Orthotists and Prosthetists, or its affiliates;
 - B) The American Orthotic & Prosthetic Association, or its affiliates;
 - C) The Pedorthic Footwear Association, or its affiliates;
 - D) The International Society of Prosthetics and Orthotics, or its affiliates;
 - E) Illinois Society of Orthotics and Prosthetics;
 - F) The American Academy of Orthopaedic Surgeons, or its affiliates;

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- G) The Association of Children's Orthotic-Prosthetic Clinics, or its affiliates;
 - H) The Illinois Podiatric Medical Society;
 - I) The American Podiatric Medical Society and its affiliates;
 - J) American Academy of Physical Medicine and Rehabilitation, and its affiliates;
 - K) Association of Academic Physiatrists, and its affiliates;
 - L) Any other school, college or university, State agency, or any other person, firm or association that has been approved and authorized by the Department to coordinate and present continuing education courses and programs in conjunction with this Section.
- 2) Entities seeking a license as a CE sponsor pursuant to subsection (c)(1)(L) shall file a sponsor application, along with the required fee set forth in Section 1325.50 of this Part. The applicant shall certify to the following:
- A) Certification:
 - i) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (c) of this Section and all other criteria in this Section. The applicant shall be required to submit a sample 3 hour CE program with course materials, presenter qualifications and course outline for review prior to being approved as a CE sponsor;
 - ii) That the sponsor will be responsible for verifying attendance at each course or program and provide a certificate of completion as set forth in subsection (c)(8); and
 - iii) That, upon request by the Department, the sponsor will submit evidence as is necessary to establish compliance with this Section. Evidence shall be required when the Department has reason to believe that there is not full compliance with the Act and this Part and that this information is necessary to ensure compliance;
 - B) A copy of a certificate of attendance or participation that meets the requirements set forth in subsection (c)(8); and
 - C) A sample of a CE course that includes, but is not limited to, course materials, books, and instructor credentials.
- 3) Each sponsor shall submit a written notice to the Department of a course offering at least 30 days prior to the course date. The notice shall include a course outline and the location, date and time the course is to be offered. The notice shall also contain the credit hours earned upon successful

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- completion of the course.
- 4) Each sponsor shall submit by August 31 of odd numbered years a renewal application, along with the required renewal fee set forth in Section 1325.50 of this Part. With the application the sponsor shall be required to submit to the Department a list of all courses and programs offered in the past 2 years, which includes a description, location, date and time the course was offered.
- 5) State agencies, State colleges and State universities in Illinois shall submit a sponsor application in accordance with subsections (c)(2) and (3) above; however, they shall be exempt from payment of the fee.
- 6) All courses and programs shall:
- A) Contain materials that contribute to the advancement, extension and enhancement of professional skills and knowledge in the practice of orthotics, prosthetics, or pedorthics;
 - B) Specify the course objectives, course content and teaching methods to be used;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
 - D) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal; and
 - E) Include some mechanism by which participants evaluate the overall quality of the program.
- 7) All programs given by approved sponsors shall be open to all licensed orthotists, prosthetists, or pedorthists and not be limited to the members of a single organization or a group and shall specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.
- 8) It shall be the responsibility of the sponsor to provide each participant in an approved program or course with a certificate of attendance or participation, which shall contain the following information:
- A) The name, address and license number of the sponsor;
 - B) The name and license number of the participant;
 - C) A brief statement of the subject matter;
 - D) The number of clock hours actually attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor.
- 9) The sponsor shall maintain course materials and attendance records containing all information in subsection (c)(8) for not less than 5 years, except for the signature of the sponsor.
- 10) The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.

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- 11) The Department, upon recommendation of the Board, shall withdraw, suspend or place on probation the approval of a CE sponsor when, at any time, the quality of the CE fails to meet the established criteria set forth in this Section or if the sponsorship approval was based upon false or deceptive information or if any other related license of the sponsor or instructor is suspended, revoked or otherwise disciplined.
 - 12) Notwithstanding any other provision of this Section, the Department or Board may evaluate any sponsor of any continuing education program at any time.
 - 13) The Department shall maintain a list of all approved continuing education sponsors.
- d) Continuing Education Earned in Other Jurisdictions
- 1) If a renewal applicant will be earning or has earned CE hours in another jurisdiction, the applicant is not licensed in that jurisdiction and the course is not presented by an approved sponsor, the applicant shall submit an individual program approval request form, along with a \$20 processing fee, to have the program reviewed. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(6) of this Section. Applicants may seek individual program approval prior to participation in the course or program. All individual program approval requests shall be submitted at least 90 days prior to the expiration date of the license.
 - 2) If a licensee fails to submit an out of state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the \$20 processing fee plus a \$10 per CE hour late fee not to exceed \$150. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3) of this Section.
- e) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsection (a).
 - 2) The Department may require additional documentation in order to demonstrate compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance. A licensee shall be required to keep his/her CE records for 5 years. This additional documentation will be required in the context of a Department audit.
 - 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal

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disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

f) Waiver of CE Requirements

- 1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Department a renewal application, the renewal fee set forth in Section 75(d) of the Act, a statement setting forth the facts concerning the non-compliance, and a request for waiver of the CE requirements on the basis of those facts. If the Department, upon the written recommendation of the Board, finds from this affidavit or any other evidence submitted that good cause has been shown for granting a waiver, the Department shall waive enforcement of the requirements for the renewal period for which the applicant has applied.
- 2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable pre-renewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of such period; or
 - B) Extreme hardship, which shall be determined on an individual basis by the Board, and shall be limited to documentation of:
 - i) An incapacitating illness documented by a currently licensed physician;
 - ii) A physical inability to travel to the sites of approved programs; or
 - iii) Any other similar extenuating circumstances.
- 3) If an interview with the Board is requested at the time the request for the waiver is filed with the Department, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.
- 4) Any renewal applicant who submits a request for a waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Department's final decision on the application has been made.

(Source: Added at 26 Ill. Reg. 16543, effective Oct 28, 2002)

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- 1) Heading of the Part: Ambulatory Surgical Treatment Center Licensing Requirements
- 2) Code Citation: 77 Ill Adm. Code 205
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
205.110	Amendment
205.115	Amendment
205.135	New Section
205.1400	Amendment
205.1410	Amendment
205.1540	Amendment
205.1760	Amendment
205.1770	Amendment
- 4) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- 5) Effective Date of Rulemaking: October 25, 2002
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 29, 2002-26 Ill. Reg. 4572
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice of public comment period:
 1. In the definition of "Qualified Anesthesiologist" in Section 205.110, "posses" was stricken and "possesses" was added.
 2. In Section and 205.115(a)(1)(B)(ix), "Code" was stricken.

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3. In Section 205.115(a)(1)(E), "Cardiac Catheterization Laboratory Standards: a report of the American College of Cardiology Task Force on" and "Expert Consensus Documents (ACC/ACA&I Committee to Develop" were deleted.
4. In Section 205.135(b) and (c), "Clinical" was added before "Expert".
5. In Section 205.1400(b)(1), line 2, "which" was stricken and "that" was added.

The following changes were made in response to comments and suggestions to the JCAR:

1. In the definition of "Ambulatory Surgical Treatment Center" in Section 205.110 and in Section 205.115(a)(2), "Health Care Financing Administration" was stricken and "Centers for Medicare & Medicaid Services" was added.
2. In Section 205.115(a)(2) "2000" was changed to "2001".
3. In Section 205.115(a)(2), "Sections 1832(a) (2) and 1833 of" was stricken.
4. In Section 205.115(a)(2), "(a)(2) and 13951" was stricken.

In addition, various typographical, grammatical and form changes were change made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Section 205.110 (Definitions) is being amended to update statutory references.

Section 205.115 (Incorporated and Reference Materials) is being amended to update incorporated materials and add new material concerning cardiac catheterization. Incorporation of the National Fire Protection Association (NFPA) Life Safety Code is updated to the 2000 edition.

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A new Section 205.1400 (Details and Finishes) 205.1410 (Construction, Including Fire Resistive Requirements, and Life Safety), 205.1540 (Air Conditioning, Heating and Ventilating Systems), 205.1760 (Grounding), and 205.1770 (Equipment Installation in Special Areas) are being amended to update incorporated and referenced materials. Dates for incorporated materials will be listed only in Section 205.115.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Peggy Snyder
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
rules@idph.state.il.us

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: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 205

AMBULATORY SURGICAL TREATMENT CENTER LICENSING REQUIREMENTS

SUBPART A: GENERAL

Section

- 205.110 Definitions
- 205.115 Incorporated and Referenced Materials
- 205.118 Conditions of Licensure
- 205.120 Application for Initial Licensure
- 205.125 Application for License Renewal
- 205.130 Approval of Surgical Procedures
- 205.135 [Diagnostic Cardiac Catheterization Procedures](#)

SUBPART B: OWNERSHIP AND MANAGEMENT

Section

- 205.210 Ownership, Control and Management
- 205.220 Organizational Plan
- 205.230 Standards of Professional Work
- 205.240 Policies and Procedures Manual

SUBPART C: PERSONNEL

Section

- 205.310 Personnel Policies
- 205.320 Presence of Qualified Physician
- 205.330 Nursing Personnel
- 205.340 Basic Life Support
- 205.350 Laboratory Services

SUBPART D: EQUIPMENT, SUPPLIES, AND FACILITY MAINTENANCE

Section

- 205.410 Equipment
- 205.420 Sanitary Facility

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SUBPART E: GENERAL PATIENT CARE

Section

- 205.510 Emergency Care
- 205.520 Preoperative Care
- 205.530 Operative Care
- 205.540 Postoperative Care

SUBPART F: RECORDS AND REPORTS

Section

- 205.610 Clinical Records
- 205.620 Statistical Data

SUBPART G: LIMITED PROCEDURE SPECIALTY CENTERS

Section

- 205.710 Pregnancy Termination Specialty Centers
- 205.720 Personnel (Repealed)
- 205.730 General Patient Care (Repealed)
- 205.740 Preoperative Requirements (Repealed)
- 205.750 Postoperative Requirements (Repealed)
- 205.760 Reports (Repealed)

SUBPART H: LICENSURE PROCEDURES

Section

- 205.810 Complaints
- 205.820 Notice of Violation
- 205.830 Plan of Correction
- 205.840 Adverse Licensure Action
- 205.850 Fines and Penalties
- 205.860 Hearings

SUBPART I: BUILDING DESIGN, CONSTRUCTION STANDARDS, AND PHYSICAL
REQUIREMENTS

Section

- 205.1310 Plant and Service Requirements

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205.1320	General Considerations
205.1330	New Construction, Additions and Major Alterations
205.1340	Minor Alterations and Remodeling Changes
205.1350	Administration Department and Public Areas
205.1360	Clinical Facilities
205.1370	Support Service Areas
205.1380	Diagnostic Facilities
205.1390	Other Building Services
205.1400	Details and Finishes
205.1410	Construction, Including Fire-Resistive Requirements, and Life Safety

SUBPART J: MECHANICAL

Section

205.1510	General
205.1520	Thermal and Acoustical Insulation
205.1530	Steam and Hot Water Systems
205.1540	Air Conditioning, Heating and Ventilating Systems

SUBPART K: PLUMBING AND OTHER PIPING SYSTEMS

Section

205.1610	General
205.1620	Plumbing Fixtures
205.1630	Water System
205.1640	Drainage Systems
205.1650	Identification

SUBPART L: ELECTRICAL

Section

205.1710	General
205.1720	Switchboards and Power Panels
205.1730	Panelboards
205.1740	Lighting
205.1750	Receptacles (Convenience Outlets)
205.1760	Grounding
205.1770	Equipment Installation in Special Areas
205.1780	Emergency Electric Service
205.1790	Fire Alarm System

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TABLE A General Pressure Relationships and Ventilation Rates of Ambulatory Surgery Area

AUTHORITY: Implementing and authorized by the Ambulatory Surgical Treatment Center Act [210 ILCS 5].

SOURCE: Amended July 18, 1974; emergency amendment at 3 Ill. Reg. 10, p. 43, effective February 23, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 30, p. 371, effective July 23, 1979; amended at 5 Ill. Reg. 12756, effective November 4, 1981; amended at 6 Ill. Reg. 6220, 6225, and 6226, effective May 17, 1982; amended at 6 Ill. Reg. 10974, effective August 30, 1982; amended at 6 Ill. Reg. 13337, effective October 20, 1982; amended at 7 Ill. Reg. 7640, effective June 14, 1983; codified at 8 Ill. Reg. 9367; amended at 9 Ill. Reg. 12014, effective July 23, 1985; amended at 10 Ill. Reg. 8806, effective June 1, 1986; amended at 10 Ill. Reg. 21906, effective January 15, 1987; amended at 11 Ill. Reg. 14786, effective October 1, 1987; amended at 12 Ill. Reg. 3743, effective February 15, 1988; amended at 12 Ill. Reg. 15573, effective October 1, 1988; amended at 13 Ill. Reg. 16025, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5596, effective March 26, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13802, effective August 15, 1990; amended at 15 Ill. Reg. 17770, effective December 1, 1991; amended at 17 Ill. Reg. 3507, effective March 3, 1993; amended at 18 Ill. Reg. 11939, effective July 22, 1994; amended at 18 Ill. Reg. 17250, effective December 1, 1994; amended at 22 Ill. Reg. 9335, effective May 20, 1998; amended at 22 Ill. Reg. 22019, effective December 4, 1998; amended at 24 Ill. Reg. 2691, effective February 18, 2000; amended at 25 Ill. Reg. 7471, effective May 31, 2001; amended at 26 Ill. Reg. 16556, effective Oct 25, 2002.

SUBPART A: GENERAL

Section 205.110 Definitions

"Act" for the purposes of this Part means the Ambulatory Surgical Treatment Center Act [210 ILCS 5] (~~Ill. Rev. Stat. 1987, ch. 111 1/2, par. 157-8.1 et seq.~~).

"Ambulatory Surgical Treatment Center"

The term "Ambulatory Surgical Treatment Center" for the purposes of this Part includes:

Any institution or building devoted primarily to the maintenance and operation of facilities for the performance of surgical procedures, as evidenced by use of the facilities by physicians or podiatrists in the performance of surgical procedures which

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constitutes more than 50 percent of the activities at that location.

Any place, located within an institution or building, such as a surgical suite or an operating room with related facilities in a physician's office or group practice clinic, *devoted primarily to the performance of surgical procedures*. This provision shall apply regardless of whether or not the institution or building in which the place is located is devoted primarily to the maintenance and operation of facilities for the performance of surgical procedures. This provision shall include any place which meets the definition of an ambulatory surgical center under the rules of the federal Centers for Medicare & Medicaid Services) Health Care Financing Administration (42 CFR 416). However, when such a place is located within and operated in conjunction with the offices of a single physician or podiatrist, or a group of physicians or podiatrists, it shall not be considered an ambulatory surgical treatment center, unless: it meets the definition of and has expressed an intent to apply for certification as an ambulatory surgical center under the rules of the federal Centers for Medicare & Medicaid Services Health Care Financing Administration (42 CFR 416); or it is used by physicians or podiatrists who are not part of the practice; or it is utilized by the physicians or podiatrists for surgical procedures which constitute more than 50 percent of the activities at that location.

The term "Ambulatory Surgical Treatment Center" for the purposes of this Part does not include:

Hospitals: *Any institution, place, building or agency required to be licensed pursuant to the Hospital Licensing Act [210 ILCS 85].* (~~Ill. Rev. Stat. 1987, ch. 111 1/2, par. 142 et seq.~~)

Long-Term Care Facilities: *Any person or institution required to be licensed pursuant to the Nursing Home Care Reform Act of 1979 [210 ILCS 45]* (~~Ill. Rev. Stat. 1987, ch. 111 1/2, par. 4151-101 et seq.~~).

State Facilities: *Hospitals or ambulatory surgical treatment centers maintained by the State or any Department or agency thereof, where such department or agency has authority under law*

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to establish and enforce standards for the hospitals or ambulatory surgical treatment centers under its management and control.

Federal Facilities: *Hospitals or ambulatory surgical treatment centers maintained by the federal government or agencies thereof.*

Dental Surgery Facilities: *Any place, agency, clinic, or practice, public or private, whether organized for profit or not, devoted exclusively to the performance of dental or oral surgical procedures. (Section 3(A) of the Act)*

"Certified Registered Nurse Anesthetist" means a registered professional nurse who has been certified as a nurse anesthetist by the American Association of Nurse Anesthetists.

"Department" means the Department of Public Health of the State of Illinois. (Section 3(C) of the Act)

"Licensed Practical Nurse" means a person licensed under ~~the~~ The Illinois Nursing and Advanced Practice Nursing Act [225 ILCS 65] of 1987 (Ill. Rev. Stat. 1987, ch. 111, par. 3501 et seq.) to practice practical nursing.

"Qualified Anesthesiologist" means a physician who is licensed to practice medicine in all its branches in the State of Illinois and who is a Diplomate of the American Board of Anesthesiology; or American College of Anesthesiology; or who is a Diplomate of the American Osteopathic Board of Anesthesiology; or who is Board eligible or ~~possesses~~ possess-training and experience equivalent to such eligibility; or who ~~possesses~~ possess training and experience acceptable to the Department and whose primary practice is anesthesiology.

"Qualified Consulting Committee" means a committee whose members are qualified Surgeons, Obstetricians, Gynecologists, Anesthesiologists or Pathologists or other Consulting Physicians consisting of not less than 3 members who shall establish the required standards commensurate with the size, scope, extent and complexity of service programs and procedures for which the facility is licensed. The consulting committee or other committee designated by the consulting committee shall act as the credentials committee.

"Qualified Consulting Surgeon, Obstetrician, Gynecologist, Anesthesiologist, Pathologist, or other Consulting Physician" means a physician who is licensed in

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the State of Illinois and who is a Diplomate of an appropriate specialty board or who has completed the training and experience required for specialty board certification.

"Qualified Physician" means an individual who is licensed to practice medicine in all its branches in the State of Illinois under the Medical Practice Act of 1987 ~~[225 ILCS 60] (Ill. Rev. Stat. 1987, ch. 111, par. 4400-1 et seq.)~~.

"Qualified Dentist" means a dentist who is licensed to practice under the Illinois Dental Practice Act ~~[225 ILCS 25] (Ill. Rev. Stat. 1987, ch. 111, pars. 2301 et seq.)~~.

"Qualified Podiatrist" means a podiatrist who is licensed to practice under the Podiatric Medical Practice Act of 1987 ~~[225 ILCS 100] (Ill. Rev. Stat. 1987, ch. 111, pars. 4251 et seq.)~~.

"Registered Professional Nurse" means a registered nurse or a registered professional nurse who is licensed under the ~~Illinois~~ Nursing and Advanced Practice Nursing Act ~~[225 ILCS 65] of 1987 (Ill. Rev. Stat. 1987, ch. 111, pars. 3501 et seq.)~~ and practices professional nursing.

"Student Nurse" means a person enrolled in a course of instruction at an approved school of professional or practical nursing and who is supervised by a nursing instructor of the school.

(Source: Amended at 26 Ill. Reg. 16556, effective Oct 25, 2002)

Section 205.115 Incorporated and Referenced Materials

- a) The following regulations and standards are incorporated in this Part:
 - 1) Private and professional association standards:
 - A) The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), ~~Standard No. 52.1: Gravimetric and Dust Spot Procedures for Testing Air Cleaning Devices Used in General Ventilation for Removing Particulate Matter (1992) (see Section 205.1540(i)) and Handbook of Fundamentals (1997) (see Section 205.1540(p))~~, which may be obtained from the National Association of American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329.;

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- i) Standard No. 52.1: Gravimetric and Dust Spot Procedures for Testing Air Cleaning Devices Used in General Ventilation for Removing Particulate Matter (1992) (see Section 205.1540(i)).
 - ii) Standard No. 52.2: Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle Size (1999) (see Section 205.1540(i)).
 - iii) Standard No. 55: Thermal Environmental Conditions for Human Occupancy and Addendum (1992) (see Section 205.1540(i)).
 - iv) Standard No. 58: Method of Testing for Rating Room Air Conditioner and Packaged Terminal Air Conditioner Heating Capacity (1986) (see Section 205.1540(i)).
 - v) Standard No. 62: Ventilation for Acceptable Indoor Air Quality (1999) (see Section 205.1540(i)).
 - vi) Standard No. 63.1: Method of Testing Liquid Line Refrigerant Driers (1995) (see Section 205.1540(i)).
 - vii) Standard No. 63.2: Methods of Testing the Filtration Capability of Refrigerant Liquid Line Filters and Filter-Driers (1996) (see Section 205.1540(i)).
 - viii) Standard No. 64: Methods of Testing Remote Mechanical-Draft Evaporative Refrigerant Condensers (1995) (see Section 205.1540(i)).
 - xi) Standard No. 68: Laboratory Method of Testing to Determine the Sound Power in a Duct (1997) (see Section 205.1540(i)).
 - x) Handbook of Fundamentals (2001) (see Section 205.1540(p)).
- B) The following National Fire Protection Association (NFPA) standards, ~~Standard No. 101: Life Safety Code (1997)~~, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:
- i) No. 101: Life Safety Code (2000), Chapters 20 and 21 (New and Existing Ambulatory Health Care Occupancies).
 - iii) No. 99 (~~2002~~1990): ~~Standard Standards~~ for Health Care Facilities. (See Section 205.1410.)
 - iii#) No. 70 (~~2002~~1996): National Electrical Code. (See Sections 205.1760, 205.1770 and 205.1780.)
 - iviii) No. 80 (~~1999~~1995): Standard for Fire Doors and Fire Windows. (See Section 205.1400(f).)

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- ~~vii~~) No. 90A (~~1999~~1996): Standard for the Installation of Air-Conditioning and Ventilating Systems. (See Section 205.1540.)
- No. 90B (~~1999~~1989): Standard for the Installation of Warm Air Heating and Air-Conditioning Systems. (See Section 205.1540.)
- ~~viii~~) No. 255 (~~2000~~1996): Standard Method of Test of Surface Burning Characteristics of Building Materials. (See Sections 205.1410 and 205.1520.)
- ~~viii~~) No. 701 (~~1999~~1996): Standard Methods of Fire Tests for Flame Propagation of-Resistant Textiles and Films. (See Section 205.1400(j).)
- ~~ix~~) No. 101A (~~2001~~1995): Guide on Alternative Approaches to Life Safety ~~Code~~.
- ~~xix~~) No. 72 (~~1999~~1996): National Fire Alarm Code.
- ~~x~~) ~~No. 99 (1996): Healthcare Facilities Handbook.~~
- xi) No. 241 (~~2000~~1996): Standard for Safeguarding Construction, Alteration, and Demolition ~~of~~ Operations ~~Code~~.
- C) The following standards of the National Council on Radiation Protection (NCRP), ~~Report No. 102: Medical X-ray, Electron Beam and Gamma Ray Protection for Energies up to 50 MeV (Equipment Design, Performance and Use (June, 1989)), and Report No. 49: Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to 10 MeV (September, 1976),~~ which may be obtained from the National Council on Radiation Protection and ~~Measurements~~ Measurement, 7910 Woodmont Avenue, Suite 800, Bethesda, Maryland 20814-3095. (See Section 205.1400(g).):
- i) Report No. 102: Medical X-ray, Electron Beam and Gamma-Ray Protection for Energies up to 50 MeV (Equipment Design, Performance, and Use (1989)).
- ii) Report No. 49: Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma-rays of Energies up to MeV (1976).
- D) Underwriters Laboratories, Inc. (UL), Publication No. 181 (~~1996~~1994): Factory-Made Air Ducts and Air Connectors, which may be obtained from Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, Illinois 60062. (See Section

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205.1710.)

- E) American College of Cardiology/Society for Cardiac Angiography and Interventions, Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards, published in the Journal of the American College of Cardiology, 2001; 37:2170-2214, which may be obtained from the American College of Cardiology, Educational Services, 9111 Old Georgetown Road, Bethesda, Maryland 20814-1699.
- 2) Federal regulations: Rules of the Centers for Medicare & Medicaid Services Health Care Financing Administration governing Medicare program coverage of Ambulatory Surgical Services (42 CFR 416, October 1, ~~2001~~ ~~1997~~) under ~~Sections 1832(a)(2) and 1833~~ of the Social Security Act (42 USC ~~1395(a)(2) and 1395f~~). (See definition of "Ambulatory Surgical Treatment Center" in Section 205.110 and Section 205.130(d).)
- b) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the dates specified and do not include any amendments or editions ~~additions or deletions~~ subsequent to the date specified.
- c) The following statutes and State regulations are referenced in this Part:
- 1) State of Illinois statutes:
- A) Ambulatory Surgical Treatment Center Act [210 ILCS 5]
 - B) Illinois Dental Practice Act [225 ILCS 25]
 - C) Nursing and Advanced Practice Nursing Act [225 ILCS 65]
 - D) Podiatric Medical Practice Act of 1987 [225 ILCS 100]
 - E) Safety Glazing Materials Act [430 ILCS 60]
 - F) Hospital Licensing Act [210 ILCS 85]
 - G) Nursing Home Care Act [210 ILCS 45]
 - H) Illinois Health Facilities Planning Act [20 ILCS 3906]
 - I) Illinois Administrative Procedure Act [5 ILCS 100]
 - J) Laser System Act [420 ILCS 56]
 - K) Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25]
 - L) Physician Assistant Practice Act of 1987 [225 ILCS 95]
 - M) Administrative Review Law [735 ILCS 5/Art. III]
- 2) State of Illinois rules:
- A) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890)
 - B) Department of Nuclear Safety, Radiation Protection (32 Ill. Adm. Code: Chapter I, Subchapter b)
 - C) Department of Public Health, Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)

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- D) Pollution Control Board, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
- E) Pollution Control Board, Nonhazardous Special Waste Handling and the Uniform Program (35 Ill. Adm. Code 809)
- F) Department of Public Health, Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- G) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)

(Source: Amended at 26 Ill. Reg. 16556, effective Oct 25, 2002)

Section 205.135 Diagnostic Cardiac Catheterization Procedures

Diagnostic cardiac catheterization procedures may be performed in an ambulatory surgical treatment center in accordance with the following requirements:

- a) The procedure shall be approved by the facility's consulting committee in accordance with Section 205.130 of this Part.
- b) The procedure shall meet the general exclusion criteria for invasive cardiac procedures in settings without cardiac surgery in Table 2 of the Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards (see Section 205.115(a)(1)(E)).
- c) The facility shall meet Criteria C: Cardiac Catheterization and Diagnostic Procedures in the Freestanding Laboratory and Criteria D: Candidates for Same-Day or Ambulatory Cardiac Catheterization of the Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards.

(Source: Added at 26 Ill. Reg. 16556, effective Oct 25, 2002)

SUBPART I: BUILDING DESIGN, CONSTRUCTION STANDARDS, AND PHYSICAL REQUIREMENTS**Section 205.1400 Details and Finishes**

- a) Corridors and Exits
 - 1) Minimum public corridor width shall be 5'-0", except those corridors where patients are transported in stretchers or carts shall be 8'-0".
 - 2) The facility or section shall have at least two exits remote from each other.
 - 3) Items such as drinking fountains, telephone booths, vending machines, and portable equipment shall be located so as not to restrict corridor traffic or

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reduce the corridor width below the required minimum.

- b) Doors
 - 1) All doors to toilets ~~that-which~~ may be used by patients shall be equipped with hardware ~~that-which~~ will permit access in any emergency.
 - 2) The minimum width of doors for patient access to examination and treatment rooms shall be 3'-0".
 - 3) The minimum width of doors to rooms needing access for stretchers (procedure rooms, recovery) shall be 3'-8".
 - 4) Doors on all openings between corridors and rooms or spaces subject to occupancy, except elevator doors, shall be swing type.
- c) Doors, sidelights, borrowed lights, and windows in which the glazing extends down to within 18 inches of the floor (thereby creating possibility of accidental breakage by pedestrian traffic) shall be glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting edges when broken, in accordance with the ~~State of Illinois~~ Safety Glazing Materials Act (~~Ill. Rev. Stat. 1991, ch. 111 1/2, par. 3101 et seq.~~) [430 ILCS 60]. Similar materials shall be used in wall openings unless required otherwise for fire safety.
- d) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use of wheelchairs and carts.
- e) Air dryers, or paper towel dispensers and waste receptacles shall be provided at all handwashing fixtures.
- f) Where labeled fire doors are required, these shall be certified by an independent testing laboratory as meeting the construction requirements equal to those for fire doors in National Fire Protection Association (NFPA) Standard No. 80: "Standard for Fire Doors and Fire Windows" (~~1990~~). Reference to a labeled fire door shall be construed to include labeled frame and hardware.
- g) Radiation protection requirements of X-ray and gamma-ray installations shall conform to the requirements of the Department of Nuclear Safety's ~~radiation protection~~ rules titled Radiation Protection (32 Ill. Adm. Code: Chapter II, Subchapter b) and should follow guidelines of the National Council on Radiation Protection and Measurements (NCRP) reports No. 102 ("Medical X-ray, Electron Beam and Gamma-Ray Protection for Energies up to 50 MeV (Equipment Design, Performance and Use)") ~~dated June, 1989~~, and No. 49 ("Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma-Rays of Energies up to 10 MeV") ~~dated September, 1976~~. Provisions shall be made for testing and completed installation before use, and all defects must be corrected before use.
- h) The minimum ceiling height shall be 8'-0" with the following exceptions:
 - 1) Boiler rooms, if provided, shall have ceiling clearance not less than 2'-6" above the main boiler header and connecting piping.
 - 2) Radiographic and other rooms containing ceiling-mounted equipment and

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including those with ceiling-mounted surgical light fixtures shall have height required to accommodate the equipment and/or fixture.

- 3) Ceilings in corridors, storage rooms, toilet rooms, and other minor rooms may be not less than 7'-8".
- 4) Suspended tracks, rails, and pipes located in path of normal traffic shall be not less than 6'-8" above the floor.
- i) Flammable ~~anesthetics~~ ~~Anesthetics~~ are prohibited.
- j) Cubicle curtains and draperies shall be noncombustible or rendered flame retardant and shall pass both the large and small scale tests of NFPA Standard No. 701: "~~Standard Methods of Fire Tests for Flame~~ Propagation of ~~Resistant~~ Textiles and Films" ~~(1989)~~.
- k) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved.
 - 1) In all areas frequently subject to wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions.
 - 2) Floors that are subject to traffic while wet, shall have a nonslip surface.
- l) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant.
- m) Floor and wall penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize entry of rodents and insects. Joints of structural elements shall be similarly sealed.
- n) Ceiling Finishes
 - 1) Ceilings shall be cleanable, and those in sensitive areas such as surgical rooms shall be readily washable and without crevices that can retain dirt particles. These sensitive areas shall have a finished ceiling, covering all overhead ductwork and piping.
 - 2) Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas, and similar spaces, unless required for fire-resistive purposes.
 - 3) Acoustical ceilings are recommended in corridors, multipurpose rooms, and waiting areas.
- o) For dates of materials incorporated by reference, see Section 205.115.

(Source: Amended at 26 Ill. Reg. 16556, effective Oct 25, 2002)

Section 205.1410 Construction, Including Fire-Resistive Requirements, and Life Safety

Buildings shall meet the construction requirements and life safety requirements established in chapters 20 and 21 Sections 12-6 and 13-6 "(New and Existing Ambulatory Health Care Occupancies) ~~Centers~~" ~~of the 1991 Edition~~ of the NFPA Life Safety Code (see Section

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205.115(a)(1)(B)-(no later editions or amendments included).

(Source: Amended at 26 Ill. Reg. 16556, effective Oct 25, 2002)

SUBPART J: MECHANICAL

Section 205.1540 Air Conditioning, Heating and Ventilating Systems

- a) The systems shall be designed to provide the comfort temperatures and humidities as recommended by American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) Standards.
- b) Air handling systems shall conform to NFPA 90A: Standard for the Installation of Air-Conditioning and Ventilating Systems, ~~"NFPA 90A-1976~~.
- c) For spaces not exceeding 25,000 cubic feet in volume, heating, air conditioning, and ventilating systems shall conform to NFPA 90B: Standard for the Installation of Warm Air Heating and Air-Conditioning Systems, ~~NFPA 90-B, 1973~~, except that return ducts shall be constructed of materials equal to that specified for supply ducts, ~~Chapter Chap-~~2, paragraph 1.1., Duct Materials.
- d) Outdoor air intakes shall be located as far as practical, but not less than 15 feet, from exhaust outlets of ventilation systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vent stacks or from areas that-which may collect vehicular exhaust and other noxious fumes.
- e) All ventilation air outlets and inlets shall conform to NFPA 90A-Chapter 2, paragraph 3.2., Location of Outlets and Inlets.
- f) The ventilation systems shall be designed and balanced to provide the ventilation and pressure relationships as shown in Table A.
- g) The ventilation air supplied to the procedure rooms shall be delivered at or near the ceiling of the area served, and all exhaust or return air from the area shall be removed near the floor level. At least two exhaust outlets shall be used in each procedure room.
- h) All central ventilation or air conditioning systems shall be equipped with filters having efficiencies not less than those specified in the following table:

TABLE A
 FILTER EFFICIENCIES FOR CENTRAL VENTILATION AND AIR
 CONDITIONING SYSTEMS IN AMBULATORY SURGICAL
 TREATMENT FACILITIES

Filters Efficiencies
(Percent)

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<u>Area Designation</u>	<u>Minimum Number of Filter Beds</u>	<u>Filter Bed No. 1</u>	<u>Filter Bed No. 2</u>
Procedure and Recovery Rooms	2	25	90
All Other Areas	1	25	--

- i) All filter efficiencies shall be average atmospheric dust spot efficiencies tested in accordance with the ~~American Society of Refrigeration and Heating, Air Conditioning Engineers~~ (ASHRAE) Standards 52.1, 52.2, 55, 58, 62, 63.1, 63.2, 64, and 68.
- j) For systems serving procedure and recovery rooms, filter bed No. 1 shall be located upstream of the conditioning equipment, and filter bed No. 2 shall be located downstream of the supply fan and conditioning equipment, including humidifiers.
- k) Filter frames shall be durable and shall provide an airtight fit with the enclosing duct work. All joints between filter segments and enclosing duct work shall be gasketed or sealed to provide a positive seal against air leakage.
- l) A manometer shall be installed across each filter bed serving procedure and recovery rooms.
- m) Fire and smoke dampers shall be constructed, located and installed in accordance with the requirements of NFPA 90A.
- n) All systems, regardless of size, ~~that which~~ serve more than one smoke or fire zone, shall be equipped with smoke detectors to shut down fans automatically as specified in paragraph 4-3.1 of NFPA 90A.
- o) The ventilation system for anesthesia storage rooms shall conform to the requirements of NFPA 99: Standard for Health Care Facilities ~~"Standard for Inhalation Anesthetics" NFPA 56A~~, including the gravity option ventilation system.
- p) Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and limit temperatures in working stations to 97° F Effective Temperature as defined by the ASHRAE Handbook of Fundamentals.
- q) Rooms containing heat-producing equipment, such as boiler rooms and heater rooms, shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of 100° F.
- r) For dates of materials incorporated by reference, see Section 205.115.

(Source: Amended at 26 Ill. Reg. 16556, effective Oct 25, 2002)

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SUBPART L: ELECTRICAL

Section 205.1760 Grounding

In areas used for patient care or treatment, all receptacles operating at over 100 volts shall be grounded by an insulated copper conductor, sized in accordance with Table 250-95 of NFPA 70:the 1993 National Electrical Code (see Section 205.115(a)(1)(B)), and installed with the branch conductors supplying these receptacles.

(Source: Amended at 26 Ill. Reg. 16556, effective Oct 25, 2002)

Section 205.1770 Equipment Installation in Special Areas

- a) X-ray Installations. Fixed and mobile X-ray equipment installations, if installed, shall conform to Article 660 of NFPA ~~Standards-70~~: National Electrical Code (see Section 205.115(a)(1)(B)), ~~1996 Edition~~.
- b) Installation in non-flammable anesthetizing locations of all electrical equipment and devices, receptacles, and wiring shall comply with NFPA ~~Standard-70~~, ~~1996 Edition~~. Exception: Isolated electrical systems are not required.
- c) An "In Use" warning light or sign ~~shall~~ ~~must~~ be installed immediately outside of the entrance to a procedure room in which laser equipment is used when such warning light or sign is required by the manufacturer's specifications.

(Source: Amended at 26 Ill. Reg. 16556, effective Oct 25, 2002)

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- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1540.150	Amendment
1540.255	Amendment
- 4) Statutory Authority: 40 ILCS 5/14-135.03
- 5) Effective Date of Amendments: October 22, 2002
- 6) Do these amendments contain an automatic repeal date? No
- 7) Do the amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 26 Ill Reg 11213 - 07/19/02
- 10) Has JCAR issued a Statement of Objection to the amendments? 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 agreement letter issued by JCAR? Yes
- 13) Will the amendments replace any emergency amendments currently in effect? Yes. The amendment to 1540.255 will replace emergency amendments published 26 Ill Reg 11133 - 7/12/02.
- 14) Are there any amendments pending on the Part? No
- 15) Summary and Purpose of Amendments:

Section 1540.150 is being amended for clarification of a dependent for purposes of receiving a reversionary annuity.

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Section 1540.255 is being amended to permit trustee-to-trustee transfer after the end of the irrevocable payroll deduction election.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Michael L. Mory
Executive Secretary
State Employees' Retirement System of Illinois
P.O. Box 19255 - 2101 South Veterans Parkway
Springfield, Illinois 62794-9255
1-217-785-7444

The full text of the adopted amendments begins on the next page.

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NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

PART 1540

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

Section

1540.5	Introduction
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits
1540.80	Disability Claims
1540.90	Benefit Offset
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.200	Removal From the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions By the State (Repealed)
1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted
1540.255	Pick-up Option for Optional Service Contributions
1540.260	Contributions and Service Credit During Nonwork Periods
1540.270	Written Appeals and Hearings

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1540.280	Availability for Public Inspection (Recodified)
1540.290	Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
1540.300	Organization of the State Employees' Retirement System (Recodified)
1540.310	Amendments
1540.320	Optional Forms of Benefits – Basis of Computation
1540.330	Board Elections
1540.340	Excess Benefit Arrangement
1540.350	Qualified Illinois Domestic Relations Orders (QILDRO)

TABLE A Optional Forms of Benefits – Basis of Computation

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

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677, effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency

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amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective Oct 22, 2002.

Section 1540.150 Proof of Dependency

In consideration of the payment of an occupational death benefit, survivors annuity or reversionary annuity, person or persons claiming such benefits as a dependent shall submit acceptable proof to the Board that the member was contributing at least one-half of the dependent's support at the time of the member's death, or in the case of a reversionary annuity, at the time of retirement. A copy of the deceased member's income tax filing for the year of event claiming the person as a dependent shall be accepted as proof of dependency. For the reversionary annuity, a spouse will be deemed to be a dependent of the member.

(Source: Amended at 26 Ill. Reg. 16575, effective Oct 22, 2002)

Section 1540.255 Pick-up Option for Optional Service Contributions

- a) "Member" as used in this Section means any person who is entitled to reinstate past service credits previously refunded or purchase permissive service credits under the Act creating the State Employees' Retirement System of Illinois.
- b) A member choosing to make contributions for the reinstatement (purchase) of past service credits previously refunded or the purchase of permissive service credits shall have the option to have those contributions treated as either after-tax or before-tax (picked up) contributions. In order for contributions for the reinstatement of past service credits or purchase of permissive service credits to be considered as picked up (before-tax) contributions under Section 414(h)(2) of the Internal Revenue Code (Code), the member must make an irrevocable election to have the contributions made by payroll deduction through the Comptroller's office by providing a copy of the election to the member's payroll officer. Any contributions for the purchase of past service credits or permissive service credits which are made directly by the member or when the payroll deduction election is not irrevocable will be considered as after-tax contributions (not picked up).
- c) The member wishing to make contributions for the purchase of past service credits previously refunded or permissive service credits shall have the following contribution options:
 - 1) The contributions may be made directly by the member in installments or by a lump sum payment and the contributions may be terminated by the member at any time;
 - 2) If the member is receiving compensation for personal services rendered, on a warrant issued pursuant to a payroll voucher and which is drawn by

STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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the State Comptroller upon the State Treasurer, the contributions may be made by voluntary payroll deduction and the payroll deduction may be terminated by the member at any time; or

- 3) If the member is receiving compensation for personal services rendered, on a warrant issued pursuant to a payroll voucher drawn by the State Comptroller upon the State Treasurer, the contribution may be made by an irrevocable payroll deduction by which the member chooses to have the contributions picked up by the employer under the Code.

Only the contribution method described in subsection (c)(3) will qualify the contributions as contributions picked up by the employer for Code purposes. Those members electing to make such contributions pursuant to subsection (c)(3) shall complete and sign an irrevocable payroll authorization form provided by the State Employees' Retirement System (System). That form must be provided to both the System and the member's payroll officer.

- d) The irrevocable payroll deduction form must indicate:

- 1) the total amount to be deducted;
- 2) the amount per pay period to be deducted; and
- 3) the total number of pay periods (one or more) over which the designated amount is to be deducted.

All payroll deduction payments must be completed no later than the final payroll payment made to the member in conjunction with the member's retirement or termination from employment. The payroll deduction form when executed must be on such terms as would result in the payment, by the member's anticipated retirement date, of the necessary amounts to purchase the permissive service credit or the service credits previously refunded. During the period of the irrevocable payroll deduction no voluntary payments will be accepted by the System from the member towards the purchase of past service credits or for the purchase of permissive service credits for which an irrevocable payroll deduction is in place. The amount to be withheld per pay period need not be the same amount for each pay period.

- e) The irrevocable payroll deduction election of the member shall remain in effect until the earlier of:
 - 1) the payroll deductions or the purchase of the service credits as indicated in the form are completed;
 - 2) the death of the member;
 - 3) the member is disabled from performing his/her services as an employee for more than one year;
 - 4) the member is absent from employment due to layoff or strike for more than one year;
 - 5) employment is terminated either voluntarily or involuntarily; or

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- 6) the payroll deduction is 120 days delinquent, either in whole or in part.
- f) If an irrevocable payroll deduction becomes delinquent, then the member shall bring the payments current, by payroll deduction, within 120 days after the original delinquency. Absence from employment due to layoff, strike or disability will not be construed as a delinquency in the payroll deduction. Failure to bring a delinquent payment current within 120 days after the original delinquency will result in termination of the member's irrevocable election with all contributions made by the member under the irrevocable payroll deduction being refunded to the member less the appropriate tax withholding. The right to make up a delinquency cannot be used for the purpose of amending or modifying the terms of the original irrevocable payroll deduction election.
- g) In the case of the death of a member, the irrevocable payroll deduction will terminate and the member's account will be granted partial service credit based upon contributions made to the date of death as described in Section 1540.250.
- h) In the case of retirement, termination of employment of the employee or absence from employment in excess of one year due to layoff, strike, or disability, the member will have the choice of:~~In case of retirement, termination of employment of the employee or absence from employment in excess of one year due to layoff, strike, or disability, the member will have the choice of making an after-tax lump-sum payment in the amount of the balance due to complete the purchase of the service credits originally intended or, in the alternative, the amounts contributed to date under the irrevocable payroll authorization will be refunded, less appropriate tax withholding. Any such after-tax lump-sum payment must be made no later than 30 days after the member has been notified by the System of the amount of the lump-sum payment.~~
- 1) Making an after-tax lump-sum payment in the amount of the balance due to complete the purchase of the service credits originally intended;
 - 2) Electing to make an eligible trustee-to-trustee transfer or other eligible rollover in the amount of the balance due to complete the purchase of the service credits originally intended; or
 - 3) The amounts contributed to date under the irrevocable payroll authorization will be refunded, less appropriate tax withholding.
- i) A member shall be considered as being "disabled from performing his/her services as an employee" when the member has been granted a leave by the employer because the member is physically or mentally unable to perform the duties of the job.
- j) A member who is changing job positions but will still be employed by the State of Illinois may substitute an irrevocable payroll deduction in the new position for the irrevocable payroll deduction effective in the former position so long as the terms of the new payroll deduction are not changed, except to make up any delinquency

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resulting from a break in service between positions. In such a case the irrevocable payroll deduction election will not terminate as provided for in subsection (e)(4) of this Section unless the provisions of subsection (e)(5) of this Section would require termination of the election.

(Source: Amended at 26 Ill. Reg. 16575, effective Oct 22, 2002)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: APPENDIX G Emergency Action: Amendment
- 4) The specific statutory citation upon which the rulemaking is based and authorized: 20 ILCS 415/8 and 8a.
- 5) The effective date of this rulemaking: October 24, 2002
- 6) If this emergency rulemaking is to expire before the end of the 150 days period, please specify the date: The emergency amendment will extend to the full 150 days.
- 7) Date filed in Agency's principal office: October 24, 2002
- 8) The reason for the emergency: This emergency filing is necessary to implement the new Health Information Administrator title which is being developed to replace the existing Medical Records Director I and II position titles.

This new classification more accurately portrays the functions pertaining to those positions providing professional direction to the overall health information services program which includes planning, budgeting, organizing and supervising the maintenance of a health information records department.

- 9) A Complete Description of the Subjects and Issues Involved: In Appendix G, Broad-Band Pay Range Classes Salary Schedule, the Health Information Administrator title is being added with the monthly salary range of \$2571 - \$5125 at the request of the Department of Human Services. (Salary ranges shown in the text for other broad-banded titles reflect Fiscal Year 2002 until emergency filing of July 12, 2002 is adopted.)

This new classification was developed from a class study conducted on the Medical Records Director I and II titles in the analysis of their current duties and the present requirements for registered health information administrators.

- 10) Are there any proposed amendments pending to this part? Yes

Section Numbers

Proposed Action

Ill. Reg. Citation

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

TABLE AA	Amend	26 Ill. Reg. 1774; 02/15/02
310.110	Amend	26 Ill. Reg. 10094; 07/12/02
310.130	Amend	26 Ill. Reg. 10094; 07/12/02
310.230	Amend	26 Ill. Reg. 10094; 07/12/02
310.290	Amend	26 Ill. Reg. 10094; 07/12/02
310.490	Amend	26 Ill. Reg. 10094; 07/12/02
310.510	Amend	26 Ill. Reg. 10094; 07/12/02
310.530	Amend	26 Ill. Reg. 10094; 07/12/02
310.540	Amend	26 Ill. Reg. 10094; 07/12/02
APPENDIX B	Amend	26 Ill. Reg. 10094; 07/12/02
APPENDIX C	Amend	26 Ill. Reg. 10094; 07/12/02
APPENDIX D	Amend	26 Ill. Reg. 10094; 07/12/02
APPENDIX G	Amend	26 Ill. Reg. 10094; 07/12/02
TABLE AA	Amend	26 Ill. Reg. 13128; 09/06/02
TABLE AB	Amend	26 Ill. Reg. 13128; 09/06/02
310.280	Amend	26 Ill. Reg. 13735; 09/20/02
310.280	Amend	26 Ill. Reg. 13901; 09/27/02
310.280	Amend	26 Ill. Reg. 15154; 10/25/02
TABLE O	Amend	26 Ill. Reg. 15360, 11/01/02

- 11) Statement of Statewide Policy Objective: This rulemaking does not affect local government units.
- 12) The name, address and telephone number of the person to whom information and questions regarding this adopted rule shall be directed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
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The full text of the Emergency Amendment begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF EMERGENCY AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

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310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 2002
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

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310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
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310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate

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310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section

310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 2002
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A	Negotiated Rates of Pay
TABLE A	HR-190 (Department of Central Management Services – State of Illinois Building – SEIU)
TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
TABLE AB	VR-007 (Plant Maintenance Engineers, Operating Engineers)
TABLE B	HR-200 (Department of Labor - Chicago, Illinois – SEIU) (Repealed)
TABLE C	RC-069 (Firefighters, AFSCME) (Repealed)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IFPE)

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TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
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TABLE Q	RC-033 (Meat Inspectors, IFPE)
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TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)
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APPENDIX B	Schedule of Salary Grades – Monthly Rates of Pay for Fiscal Year 2002
APPENDIX C	Medical Administrator Rates for Fiscal Year 2002
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APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2002

EMERGENCY

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150

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days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at

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12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective

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October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill.

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Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; preemptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; preemptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; preemptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; preemptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; preemptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; preemptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223,

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effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; peremptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days

Section 310.APPENDIX G Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2002

EMERGENCY

<u>Title</u>	<u>Minimum Salary</u>	<u>Maximum Salary</u>
<u>Health Information Administrator</u>	<u>2571</u>	<u>5125</u>
Human Resources Representative	2154	4156
Human Resources Specialist	2478	4940
Public Service Administrator	2888	6320
Residential Services Supervisor	2154	4156
Senior Public Service Administrator	3981	9354
Site Superintendent	2478	4940

(Source: Amended by emergency rulemaking at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days)

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.21 Emergency Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 92-597
- 5) Effective Date of amendment: October 22, 2002
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment repeals an emergency rulemaking currently in effect.
- 7) Date Filed with the Index Department: October 21, 2002
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This emergency amendment repeals an emergency rulemaking currently in effect. The emergency amendment that provided certain changes concerning Qualified Medicare Beneficiaries, effective July 29, 2002, is being superseded by new emergency provisions, effective October 1, 2002. In order to avoid any conflict between the texts of the two emergency rulemakings, the earlier emergency amendment is being repealed by this emergency rulemaking.
- 10) A Complete Description of the Subjects and Issues Involved: An emergency amendment to 89 Ill. Adm. Code 140.21, effective July 29, 2002 (26 Ill. Reg. 12461), affects the amount of reimbursement provided for services approved by Medicare, but not covered by Medicaid, that is paid to providers of medical services for Qualified Medicare Beneficiaries (QMBs). The changes are a component of the Department's fiscal year 2003 cost containment efforts. Subsequently, it was determined that additional changes concerning reimbursement for services provided to QMBs would further enhance cost savings and Section 140.21 was again amended by emergency action, effective October 1, 2002. In order to avoid any conflict between the texts of the two emergency rulemakings, the earlier emergency provisions are reflected in the new emergency rulemaking and the emergency amendment that became effective on July 29, 2002, is being repealed by this emergency rulemaking.

DEPARTMENT OF PUBLIC AID

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- 11) Are there any proposed amendments to this Part pending?

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
140.3	Amendment	October 18, 2002 (26 Ill. Reg. 14948)
140.13	Amendment	September 13, 2002 (26 Ill. Reg. 13450)
140.21	Amendment	August 9, 2002 (26 Ill. Reg. 12126)
140.21	Amendment	October 18, 2002 (26 Ill. Reg. 14948)
140.24	Amendment	September 13, 2002 (26 Ill. Reg. 13450)
140.71	Amendment	August 9, 2002 (26 Ill. Reg. 12545)
140.402	Amendment	July 19, 2002 (26 Ill. Reg. 11210)
140.445	Amendment	July 19, 2002 (26 Ill. Reg. 11210)
140.450	Amendment	June 7, 2002 (26 Ill. Reg. 8243)
140.481	Amendment	July 19, 2002 (26 Ill. Reg. 11210)
140.492	Amendment	July 19, 2002 (26 Ill. Reg. 11210)
140.493	Amendment	July 19, 2002 (26 Ill. Reg. 11210)
140.523	Amendment	July 19, 2002 (26 Ill. Reg. 10243)
140.530	Amendment	August 30, 2002 (26 Ill. Reg. 13026)
140.860	New Section	September 6, 2002 (26 Ill. Reg. 13146)

- 12) Statement of Statewide Policy Objectives: This emergency amendment neither creates nor expands any State mandate affecting units of local government.

- 13) Information and questions regarding this amendment shall be directed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Ave. East, Third Floor
Springfield, Illinois 62763-0002
217/524-0081

The full text of the emergency amendment begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF EMERGENCY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination on Individuals Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring

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- 140.20 Submittal of Claims
- 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs)
~~Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients~~
- EMERGENCY
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Terminated, Suspended or Barred Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for items or Services When Prior Approval Cannot Be Obtained
- 140.55 Recipient Eligibility Verification (REV) System
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher
Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust
Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
- 140.95 Hospital Services Trust Fund
- 140.96 General Requirements (Recodified)
- 140.97 Special Requirements (Recodified)
- 140.98 Covered Hospital Services (Recodified)
- 140.99 Hospital Services Not Covered (Recodified)

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

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SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986;

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April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 26, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150

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days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455,

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effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November

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28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2000, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.21 Covered Medicaid Services for Qualified Medicare Beneficiaries (QMBs) Reimbursement for QMB-Eligible Medical Assistance Recipients and QMB-Eligible-Only Recipients
EMERGENCY

- a) In order to be qualified to receive reimbursement for services provided to QMB ~~(Qualified Medicare Beneficiary)-eligible medical assistance recipients-clients~~ (see 89 Ill. Adm. Code 120.72), providers must be enrolled in the Medical Assistance Program. Providers must also accept assignment of Medicare benefits for QMB ~~eligible medical assistance~~-recipients, when payment for services to such persons is sought from the Department.
- b) For Medicaid covered services, the Department will reimburse qualified providers who render services to QMBs ~~QMB-eligible medical assistance recipients~~ in accordance with Department standards for the service(s) provided. For services approved by Medicare but not covered by Medicaid, the Department will reimburse qualified providers who render services to QMBs at the full Medicare deductible and coinsurance rate.
- c) ~~For services approved by Medicare but not covered by Medicaid, the maximum allowable rate payable to qualified providers who render services to QMB-eligible medical assistance recipients and recipients who are QMB-eligible only is 80 percent of the full Medicare rate when determining the Department's liability for deductible and coinsurance amounts.~~
- cd) Licensed and Medicare certified nursing facilities that enroll for the sole purpose

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of receiving payment for services to QMB ~~eligible~~-only residents of the facility, then disenroll, are not subject to the provisions found in Section 140.506 governing voluntary withdrawal from the Medical Assistance Program.

(Source: Amended by emergency rulemaking at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed 26 Ill. Reg. 16593, effective October 22, 2002)

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.295 Emergency Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 92-597
- 5) Effective Date of amendment: October 22, 2002
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency amendment repeals an emergency rulemaking currently in effect.
- 7) Date Filed with the Index Department: October 21, 2002
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The emergency amendment that provided certain Critical Hospital Adjustment Payment (CHAP) increases, effective July 1, 2002, is being superseded by new emergency provisions that were adopted by emergency rulemaking on October 1, 2002. In order to avoid any conflict between the texts of the two emergency rulemakings, the earlier emergency amendment is being repealed by this emergency rulemaking.
- 10) A Complete Description of the Subjects and Issues Involved: The Department's administrative rule concerning Critical Hospital Payment Adjustments (CHAP) (89 Ill. Adm. Code 148.295) was amended by emergency action, effective July 1, 2002, to provide certain rate increases and mitigate the overall impact of recent hospital budgetary reductions. Subsequently, the fiscal year 2003 budget implementation plan called for additional rate increases for some Direct Hospital Adjustment (DHA) rates under CHAP. A new emergency rulemaking concerning the same Section, which reflects the earlier emergency amendment as well as the additional rate increases, was adopted by emergency action on October 1, 2002. Therefore, the earlier emergency amendment that became effective on July 1, 2002, is being repealed by this emergency rulemaking.
- 11) Are there any proposed amendments to this Part pending? Yes.

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<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation Sections</u>
148.105	New Section	August 30, 2002 (26 Ill. Reg.13046)
148.115	New Section	August 30, 2002 (26 Ill. Reg.13046)
148.126	New Section	July 12, 2002 (26 Ill. Reg.10262)
148.140	Amendment	July 12, 2002 (26 Ill. Reg.10262)
148.295	Amendment	August 30, 2002 (26 Ill. Reg.13046)
148.296	Amendment	July 12, 2002 (26 Ill. Reg.10262)
148.297	Amendment	July 12, 2002 (26 Ill. Reg.10262)
148.298	Amendment	July 12, 2002 (26 Ill. Reg.10262)
148.310	Amendment	July 12, 2002 (26 Ill. Reg.10262)
148.310	Amendment	August 30, 2002 (26 Ill. Reg.13046)

- 12) Statement of Statewide Policy Objectives: This emergency amendment neither creates nor expands any State mandate affecting units of local government.
- 13) Information and questions regarding this amendment shall be directed to:

Joanne Scattoloni
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Ave East, Third Floor
Springfield, Illinois 62763-0002
217/524-0081

The full text of the emergency amendment begins on the next page:

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TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF PUBLIC AID
SUBCHAPTER d: MEDICAL PROGRAMSPART 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

- 148.80 Organ Transplants Services Covered Under Medicaid (Repealed)
- 148.82 Organ Transplant Services
- 148.90 Heart Transplants (Repealed)
- 148.100 Liver Transplants (Repealed)
- 148.105 Psychiatric Adjustment Payments
- 148.110 Bone Marrow Transplants (Repealed)
- 148.115 Rural Adjustment Payments
- 148.120 Disproportionate Share Hospital (DSH) Adjustments
- 148.130 Outlier Adjustments for Exceptionally Costly Stays
- 148.140 Hospital Outpatient and Clinic Services
- 148.150 Public Law 103-66 Requirements
- 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
- 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting

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- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991 Admissions
- 148.230 Admissions Occurring on or after September 1, 1991
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 148.270 Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- EMERGENCY
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services
- 148.380 Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.390 Hearings
- 148.400 Special Hospital Reporting Requirements

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

- 148.500 Definitions
- 148.510 Reimbursement

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SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

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

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

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

SOURCE: 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

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days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amendment 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 on 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 repealed at 26 Ill. Reg. 7786, effective

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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. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.295 Critical Hospital Adjustment Payments (CHAP)**EMERGENCY**

Critical Hospital Adjustment Payments (CHAP) shall be made to all eligible hospitals excluding county-owned hospitals, as described in Section 148.25(b)(1)(A), unless otherwise noted in this Section, and hospitals organized under the University of Illinois Hospital Act, as described in Section 148.25(b)(1)(B), for inpatient admissions occurring on or after July 1, 1998, in accordance with this Section. The provisions described in this Section will be effective through June 30, 2002.

a) Trauma Center Adjustments (TCA)

The Department shall make a trauma center adjustment (TCA) to Illinois hospitals recognized, as of the first day of July in the CHAP rate period, as a Level I or Level II trauma center by the Illinois Department of Public Health (IDPH) in accordance with the provisions of subsections (a)(1) through (a)(3) of this Section.

1) Level I Trauma Center Adjustment (TCA).

A) Criteria. Illinois hospitals that, on the first day of July in the CHAP rate period, are recognized as a Level I trauma center by the Illinois Department of Public Health shall receive the Level I trauma center adjustment.

B) Adjustment. Illinois hospitals meeting the criteria specified in subsection (a)(1)(A) of this Section shall receive an adjustment as follows:

i) Hospitals with Medicaid trauma admissions equal to or greater than the mean Medicaid trauma admissions, for all hospitals qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$21,365.~~00~~ per Medicaid trauma admission in the CHAP base period.

ii) Hospitals with Medicaid trauma admissions less than the mean Medicaid trauma admissions, for all hospitals

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- qualifying under subsection (a)(1)(A) of this Section, shall receive an adjustment of \$14,165.~~00~~ per Medicaid trauma admission in the CHAP base period.
- 2) Level II Rural Trauma Center Adjustment (TCA). Illinois rural hospitals, as defined in Section 148.25(g)(3), that, on the first day of July in the CHAP rate period, are recognized as a Level II trauma center by the Illinois Department of Public Health shall receive an adjustment of \$11,565.~~00~~ per Medicaid trauma admission in the CHAP base period.
- 3) Level II Urban Trauma Center Adjustment (TCA). Illinois urban hospitals, as described in Section 148.25(g)(4), that, on the first day of July in the CHAP rate period, are recognized as Level II trauma centers by the Illinois Department of Public Health shall receive an adjustment of \$11,565 per Medicaid trauma admission in the CHAP base period, provided that such hospital meets the criteria described below:
- A) The hospital is located in a county with no Level I trauma center; and
- B) The hospital is located in a Health Professional Shortage Area (HPSA) (42 CFR 5), as of the first day of July in the CHAP rate period, and has a Medicaid trauma admission percentage at or above the mean of the individual facility values determined in subsection (a)(3) of this Section; or the hospital is not located in an HPSA (42 CFR 5) and has a Medicaid trauma admission percentage that is at least the mean plus one standard deviation of the individual facility values determined in subsection (a)(3) of this Section.
- b) Rehabilitation Hospital Adjustment (RHA)
Illinois hospitals that, on the first day of July in the CHAP rate period, qualify as rehabilitation hospitals, as defined in 89 Ill. Adm. Code 149.50(c)(2), and that are accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF), shall receive a rehabilitation hospital adjustment in the CHAP rate period that consists of the following three components:
- 1) Treatment Component. All hospitals defined in subsection (b) of this Section shall receive \$3,886 ~~\$4,215.00~~ per Medicaid Level I rehabilitation admission in the CHAP base period.
- 2) Facility Component. All hospitals defined in subsection (b) of this Section shall receive a facility component that shall be based upon the number of Medicaid Level I rehabilitation admissions in the CHAP base period as follows:
- A) Hospitals with fewer than 60 Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility

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- component of ~~\$211,450~~ ~~\$229,360.00~~ in the CHAP rate period.
- B) Hospitals with 60 or more Medicaid Level I rehabilitation admissions in the CHAP base period shall receive a facility component of ~~\$486,335~~ ~~\$527,528.00~~ in the CHAP rate period.
- 3) Health Professional Shortage Area Adjustment Component. Hospitals defined in subsection (b) of this Section that are located in an HPSA (42 CFR 5) on July 1, 1999, shall receive ~~\$254~~ ~~\$276.00~~ per Medicaid Level I rehabilitation inpatient day in the CHAP base period.
- c) Direct Hospital Adjustment (DHA) Criteria
- 1) Qualifying Criteria
- Hospitals may qualify for the DHA under this subsection c) under the following categories:
- A) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals and long term stay hospitals, all other hospitals located in Health Service Area (HSA) 6 that either:
- i) were eligible for Direct Hospital Adjustments under the CHAP program as of July 1, 1999, and had a Medicaid inpatient utilization rate (MIUR) equal to or greater than the statewide mean in Illinois on July 1, 1999;
- ii) were eligible under the Supplemental Critical Hospital Adjustment Payment (SCHAP) program as of July 1, 1999, and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999; or
- iii) were county owned hospitals as defined in 89 Ill. Adm. Code 148.25(b)(1)(A), and had an MIUR equal to or greater than the statewide mean in Illinois on July 1, 1999.
- B) Illinois hospitals located outside of HSA 6 that had an MIUR greater than 60 percent on July 1, 1999, and an average length of stay less than ten days. The following hospitals are excluded from qualifying under this subsection (c)(1)(B): children's hospitals; psychiatric hospitals; rehabilitation hospitals; and long term stay hospitals.
- C) Children's hospitals, as defined under ~~89 Ill. Adm. Code Section 149.50(c)(3)~~, on July 1, 1999.
- D) Illinois teaching hospitals, with more than 40 graduate medical education programs on July 1, 1999, not qualifying in subsection (c)(1)(A), (B), or (C) of this Section.
- E) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals,

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long term stay hospitals and hospitals qualifying in subsection (c)(1)(A), (B), (C) or (D) of this Section, all other hospitals located in Illinois that had an MIUR equal to or greater than the mean plus one-half standard deviation on July 1, 1999, and provided more than 15,000 Total days.

- F) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A), (B), (C), (D) or (E) of this Section, all other hospitals that had an MIUR greater than 20.25 percent on July 1, 1999, and provided more than 20,000 Total days.
- G) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A), (B), (C), (D), (E) or (F) of this Section, all other hospitals that had an MIUR greater than 50 percent on July 1, 1999, and provided more than 10,000 Total days.
- HF) Except for hospitals operated by the University of Illinois, children's hospitals, psychiatric hospitals, rehabilitation hospitals, long term stay hospitals and hospitals otherwise qualifying in subsection (c)(1)(A), (B), (C), (D), ~~or (E), (F) or (G)~~ of this Section, all other hospitals that had an MIUR greater than 40 percent on July 1, 1999, and provided more than 7,500 Total days and provided obstetrical care as of July 1, 2001.

2) DHA Rates

- A) For hospitals qualifying under subsection (c)(1)(A) of this Section, the DHA rates are as follows:
- i) Hospitals that have a Combined MIUR that is equal to or greater than the Statewide mean Combined MIUR, but less than one standard deviation above the Statewide mean Combined MIUR, will receive ~~\$63 \$69.00~~ per day for hospitals that do not provide obstetrical care and ~~\$97 \$105.00~~ per day for hospitals that do provide obstetrical care.
- ii) Hospitals that have a Combined MIUR that is equal to or greater than one standard deviation above the Statewide mean Combined MIUR, but less than one and one-half standard deviation above the Statewide mean Combined MIUR, will receive ~~\$97 \$105.00~~ per day for hospitals that do not provide obstetrical care and ~~\$131 \$142.00~~ per day

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- for hospitals that do provide obstetrical care.
- iii) Hospitals that have a Combined MIUR that is equal to or greater than one and one-half standard deviation above the Statewide mean Combined MIUR, but less than two standard deviations above the Statewide mean Combined MIUR, will receive \$114 ~~\$124.00~~ per day for hospitals that do not provide obstetrical care and \$148 ~~\$160.00~~ per day for hospitals that do provide obstetrical care.
 - iv) Hospitals that have a Combined MIUR that is equal to or greater than two standard deviations above the Statewide mean Combined MIUR will receive \$131 ~~\$142.00~~ per day for hospitals that do not provide obstetrical care and \$165 ~~\$179.00~~ per day for hospitals that do provide obstetrical care.
- B) Hospitals qualifying under subsection (c)(1)(A) of this Section will also receive the following rates:
- i) County owned hospitals as defined in Section 148.25 with more than 30,000 Total days will have their rate increased by ~~\$455.00~~ per day.
 - ii) Hospitals that are not county owned with more than 30,000 Total days will have their rate increased by \$292 ~~\$316.00~~ per day.
 - iii) Hospitals with more than 80,000 Total days will have their rate increased by an additional \$434 ~~\$423.00~~ per day.
 - iv) Hospitals with more than 4,500 Obstetrical days will have their rate increased by \$93 ~~\$101.00~~ per day.
 - v) Hospitals with more than 5,500 Obstetrical days will have their rate increased by an additional \$202 ~~\$194.00~~ per day.
 - vi) Hospitals with an MIUR rate greater than 74 percent will have their rate increased by \$135 ~~\$147.00~~ per day.
 - vii) Hospitals with an average length of stay less than 3.9 days will have their rate increased by \$38 ~~\$41.00~~ per day.
 - viii) Hospitals with an MIUR greater than the statewide mean plus one standard deviation that are designated a Perinatal Level 2 Center and have one or more obstetrical graduate medical education programs as of July 1, 1999, will have their rate increased by \$76 ~~\$83.00~~ per day.
 - ix) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an average length of stay less than four days will have their rate increased by \$38 ~~\$41.00~~ per

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- day.
- x) Hospitals receiving payments under subsection (c)(2)(A)(ii) of this Section that have an MIUR greater than 60 percent will have their rate increased by ~~\$186~~ ~~\$202.00~~ per day.
 - xi) Hospitals receiving payments under subsection (c)(2)(A)(iv) of this Section that have a Medicaid inpatient utilization rate greater than 70 percent and have more than 20,000 days will have their rate increased by ~~\$4~~ ~~\$5.00~~ per day.
- C) Hospitals qualifying under subsection (c)(1)(B) of this Section will receive the following rates:
- i) Qualifying hospitals will receive a rate of ~~\$279~~ ~~\$303.00~~ per day.
 - ii) Qualifying hospitals with the more than 1,500 Obstetrical days will have their rate increased by ~~\$190~~ ~~\$206.00~~ per day.
- D) Hospitals qualifying under subsection (c)(1)(C) of this Section will receive the following rates:
- i) Hospitals will receive a rate of ~~\$25~~ ~~\$28.00~~ per day.
 - ii) Hospitals located in Illinois and outside of HSA 6, that have a Medicaid inpatient utilization rate greater than 60 percent, will have their rate increased by ~~\$51~~ ~~\$55.00~~ per day.
 - iii) Hospitals located in Illinois and inside HSA 6, that have a Medicaid inpatient utilization rate greater than 80 percent, will have their rate increased by ~~\$364~~ ~~\$394.00~~ per day.
 - iv) Hospitals that are not located in Illinois that have a Medicaid inpatient utilization rate greater than 45 percent will have their rate increased by ~~\$30~~ ~~\$32.00~~ per day.
 - v) Hospitals with more than 3,200 Total admissions will have their rate increased by ~~\$228~~ ~~\$248.00~~ per day.
- E) Hospitals qualifying under subsection (c)(1)(D) of this Section will receive the following rates:
- i) Hospitals will receive a rate of ~~\$38~~ ~~\$41.00~~ per day.
 - ii) Hospitals with an MIUR between 18 percent and 19.75 percent will have their rate increased by an additional ~~\$13~~ ~~\$14.00~~ per day.
 - iii) Hospitals with an MIUR equal to or greater than 19.75 percent will have their rate increased by an additional ~~\$31~~ ~~\$87.00~~ per day.

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- iv) Hospitals with a combined MIUR that is equal to or greater than 35 percent will have their rate increased by an additional ~~\$83~~ ~~\$41.00~~ per day.
- F) Hospitals qualifying under subsection (c)(1)(E) of this Section will receive ~~\$173~~ ~~\$188.00~~ per day.
- G) Hospitals qualifying under subsection (c)(1)(F) of this Section will receive a rate of \$135 per day.
- H) Hospitals qualifying under subsection (c)(1)(G) of this Section will receive a rate of \$38 per day.
- IG) Hospitals qualifying under subsection (c)(1)(H)(F) of this Section will receive a rate of \$51 ~~\$55.00~~ per day.
- JH) Hospitals that qualify under subsection (c)(1)(A)(iii) of this Section will have their rates multiplied by a factor of two.
- 3) DHA Payments
 - A) Payments under this subsection (c) will be made at least quarterly, beginning with the quarter ending December 31, 1999.
 - B) Payment rates will be multiplied by the Total days.
- d) Rural Critical Hospital Adjustment Payments (RCHAP)

Rural Critical Hospital Adjustment Payments (RCHAP) shall be made to rural hospitals, as described in 89 Ill. Adm. Code 140.80(j)(1), for certain inpatient admissions. The hospital qualifying under this subsection that has the highest number of Medicaid obstetrical care admissions during the CHAP base period shall receive ~~\$338,320~~ ~~\$367,179.00~~ per year. The Department shall also make an RCHAP adjustment payment to hospitals qualifying under this subsection at a rate that is the greater of:

 - 1) the product of ~~\$1,260~~ ~~\$1,367.00~~ multiplied by the number of RCHAP Obstetrical Care Admissions in the CHAP base period, or
 - 2) the product of ~~\$127~~ ~~\$138.00~~ multiplied by the number of RCHAP General Care Admissions in the CHAP base period.
- e) Total CHAP Payment Adjustments

For the remainder of the CHAP rate period occurring in State fiscal year 2002, each ~~Each~~-eligible hospital's critical hospital adjustment payment for the programs shall equal the sum of the amounts described in subsections (a), (b), (c) and (d) of this Section, shall equal the result of the following calculation:

 - 1) The total payments resulting from payment methodologies in effect on January 1, 2002, will be reduced by the total payments calculated from the payment methodologies that were in effect on December 31, 2001.
 - 2) The difference from subsection (e)(1) of this Section will be divided by two and added to the total payments calculated from the payment methodologies that were in effect on December 31, 2001.

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- 3) The result of the calculation in subsection (e)(2) of this Section will be reduced by the actual payments each hospital already received for the period beginning July 1, 2001, and ending December 31, 2001, to produce the total payments for the remainder of State fiscal year 2002.
- 4) The critical hospital adjustment payments shall be paid at least quarterly.
- f) Critical Hospital Adjustment Limitations
Hospitals that qualify for trauma center adjustments under subsection (a) ~~of this Section~~ shall not be eligible for the total trauma center adjustment if, during the CHAP rate period, the hospital is no longer recognized by the Illinois Department of Public Health as a Level I trauma center as required for the adjustment described in subsection (a)(1) of this Section, or a Level II trauma center as required for the adjustment described in subsection (a)(2) or (a)(3) of this Section. In these instances, the adjustments calculated shall be pro-rated, as applicable, based upon the date that such recognition ceased.
- g) Critical Hospital Adjustment Payment Definitions
The definitions of terms used with reference to calculation of the CHAP required by this Section are as follows:
- 1) "CHAP base period" means State Fiscal Year 1994 for CHAP payments calculated for the July 1, 1995, CHAP rate period; State Fiscal Year 1995 for CHAP payments calculated for the July 1, 1996, CHAP rate period; etc.
 - 2) "CHAP rate period" means, beginning July 1, 1995, the 12 month period beginning on July 1 of the year and ending June 30 of the following year.
 - 3) "Combined MIUR" means the sum of Medicaid Inpatient Utilization Rate (MIUR) as of July 1, 1999, and as defined in Section 148.120(k)(5), plus the Medicaid obstetrical inpatient utilization rate, as described in Section 148.120(k)(6), as of July 1, 1999.
 - 4) "Medicaid general care admission" means hospital inpatient admissions which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of the Social Security Act, excluding admissions for normal newborns, Medicare/Medicaid crossover admissions, psychiatric and rehabilitation admissions.
 - 5) "Medicaid Level I rehabilitation admissions" means those claims billed as Level I admissions which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 054.3, 310.1 through 310.2, 320.1, 336.0 through 336.9, 344.0 through 344.2, 344.8 through 344.9, 348.1,

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801.30, 803.10, 803.84, 806.0 through 806.19, 806.20 through 806.24, 806.26, 806.29 through 806.34, 806.36, 806.4 through 806.5, 851.06, 851.80, 853.05, 854.0 through 854.04, 854.06, 854.1 through 854.14, 854.16, 854.19, 905.0, 907.0, 907.2, 952.0 through 952.09, 952.10 through 952.16, 952.2, and V57.0 through V57.89, excluding admissions for normal newborns.

- 6) "Medicaid Level I rehabilitation inpatient day" means the days associated with the claims defined in subsection (g)(5) of this Section.
- 7) "Medicaid obstetrical care admission" means hospital inpatient admissions which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, for recipients of medical assistance under Title XIX of Social Security Act, with Diagnosis Related Grouping (DRG) of 370 through 375; and specifically excludes Medicare/Medicaid crossover claims.
- 8) "Medicaid trauma admission" means those claims billed as admissions which were subsequently adjudicated by the Department through the last day of June preceding the CHAP rate period and contained within the Department's paid claims data base, with an ICD-9-CM principal diagnosis code of: 800.0 through 800.99, 801.0 through 801.99, 802.0 through 802.99, 803.0 through 803.99, 804.0 through 804.99, 805.0 through 805.98, 806.0 through 806.99, 807.0 through 807.69, 808.0 through 808.9, 809.0 through 809.1, 828.0 through 828.1, 839.0 through 839.3, 839.7 through 839.9, 850.0 through 850.9, 851.0 through 851.99, 852.0 through 852.59, 853.0 through 853.19, 854.0 through 854.19, 860.0 through 860.5, 861.0 through 861.32, 862.8, 863.0 through 863.99, 864.0 through 864.19, 865.0 through 865.19, 866.0 through 866.13, 867.0 through 867.9, 868.0 through 868.19, 869.0 through 869.1, 887.0 through 887.7, 896.0 through 896.3, 897.0 through 897.7, 900.0 through 900.9, 902.0 through 904.9, 925, 926.8, 929.0 through 929.99, 958.4, 958.5, 990 through 994.99.
- 9) "Medicaid trauma admission percentage" means a fraction, the numerator of which is the hospital's Medicaid trauma admissions and the denominator of which is the total Medicaid trauma admissions in a given 12 month period for all Level II urban trauma centers.
- 10) "RCHAP general care admissions" means Medicaid General Care Admissions, as defined in subsection (g)(4) of this Section, less RCHAP Obstetrical Care Admissions, occurring in the CHAP base period.
- 11) "RCHAP obstetrical care admissions" means Medicaid Obstetrical Care Admissions, as defined in subsection (g)(7) of this Section, with a

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Diagnosis Related Grouping (DRG) of 370 through 375, occurring in the CHAP base period.

- 12) "Total admissions" means total paid admissions contained in the Department's paid claims database, including obstetrical admissions multiplied by two and excluding Medicare crossover admissions, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.
- 13) "Total days" means total paid days contained in the Department's paid claims database, including obstetrical days multiplied by two and excluding Medicare crossover days, for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999.
- 14) "Total obstetrical days" means hospital inpatient days for dates of service occurring in State fiscal year 1998 and adjudicated through June 30, 1999, with an ICD-9-CM principal diagnosis code of 640.0 through 648.9 with a 5th digit of 1 or 2; 650; 651.0 through 659.9 with a 5th digit of 1, 2, 3, or 4; 660.0 through 669.9 with a 5th digit of 1, 2, 3, or 4; 670.0 through 676.9 with a 5th digit of 1 or 2; V27 through V27.9; V30 through V39.9; or any ICD-9-CM principal diagnosis code that is accompanied with a surgery procedure code between 72 and 75.99; and specifically excludes Medicare/Medicaid crossover claims.

(Source: Amended by emergency rulemaking 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)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of October 22, 2002 through October 28, 2002 and have been scheduled for review by the Committee at its November 19, 2002 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
12/4/02	<u>Department of Transportation</u> , Official Testing Stations (92 Ill. Adm. Code 448)	8/30/02 26 Ill. Reg. 13078	11/19/02
12/5/02	<u>Illinois Gaming Board</u> , Riverboat Gambling (86 Ill. Adm. Code 3000)	7/12/02 26 Ill. Reg. 10171	11/19/02
12/5/02	<u>Pollution Control Board</u> , Introduction (35 Ill. Adm. Code 301)	7/5/02 26 Ill. Reg. 9573	11/19/02
13/5/02	<u>Pollution Control Board</u> , Water Quality Standards (35 Ill. Adm. Code 302)	7/5/02 26 Ill. Reg. 9580	11/19/02
12/5/02	<u>Pollution Control Board</u> , Effluent Standards (35 Ill. Adm. Code 304)	7/5/02 26 Ill. Reg. 9602	11/19/02
12/5/02	<u>Pollution Control Board</u> , Permits (35 Ill. Adm. Code 309)	7/5/02 26 Ill. Reg. 9609	11/19/02
12/6/02	<u>Illinois Liquor Control Commission</u> , The Illinois Liquor Control Commission (11 Ill. Adm. Code 100)	9/6/02 26 Ill. Reg. 13112	11/19/02

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

12/6/02	<u>Department of Public Health</u> , Private Sewage Disposal Code (77 Ill. Adm. Code 905)	4/12/02 26 Ill. Reg. 5306	11/19/02
12/6/02	<u>Department of Public Health</u> , Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)	7/26/02 26 Ill. Reg. 11363	11/19/02
12/8/02	<u>Department of Public Aid</u> , Practice in Administrative Hearings (89 Ill. Adm. Code 104)	7/12/02 26 Ill. Reg. 10239	11/19/02
12/8/02	<u>Department of Public Aid</u> , Child Support Enforcement (89 Ill. Adm. Code 160)	7/12/02 26 Ill. Reg. 10267	11/19/02
12/8/02	<u>Department of Public Aid</u> , Medical Payment (89 Ill. Adm. Code 140)	7/19/02 26 Ill. Reg. 11210	11/19/02
12/8/02	<u>Department of Revenue</u> , Cigarette Tax Act (86 Ill. Adm. Code 440)	6/21/02 26 Ill. Reg. 8760	11/19/02
12/8/02	<u>Department of Revenue</u> , Cigarette Use Tax Act (86 Ill. Adm. Code 450)	6/21/02 26 Ill. Reg. 8762	11/19/02

PROCLAMATIONS**2002-540****October 30 2002 as Naper Settlement Day**

WHEREAS, the Accreditation Commission of the American Association of Museums, in accordance with the highest standards of excellence, awarded the Accreditation to Naper Settlement; and

WHEREAS, the Naper settlement is being accredited because of its professional operation and adherence to current and evolving standards and best practices. The Naper Settlement has shown its commitment to continue institutional improvement; and

WHEREAS, of the nearly 8,500 museums nationwide, only 770 are accredited; and

WHEREAS, the Naper Settlement is the first accredited outdoor museum in Illinois; and

WHEREAS, accreditation certifies that a museum operates according to standards set forth by the museum profession, manages its collections responsibly, and provides quality service to the public; and

WHEREAS, the Naper Settlement, located in Naperville, Illinois, has been serving visitors for 33 years, by preserving Naperville's past and sharing its history through education;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 30, 2002, as NAPER SETTLEMENT DAY in Illinois.

Issued by the Governor October 23, 2002

Filed by the Secretary of State October 28, 2002

2002-541**October 29, 2002 as Republic of Turkey Day**

WHEREAS, on October 29, 1923, the Modern Turkish Republic was founded from the ashes of the Ottoman Empire by the strong will and vision of Mustafa Kemal Ataturk and the Turkish people that followed him; and

WHEREAS, the Republic of Turkey will be celebrating the 79th Anniversary of the Turkish Republic on October 29, 2002; and

WHEREAS, this event has a special significance for all Turks and the Turkish American Community in Illinois; and

WHEREAS, Turkish Americans have contributed greatly to Illinois in all areas of life including education, business, science, medicine, arts and entertainment; and

WHEREAS, Turkish Americans have proudly shared their culture, heritage and talents with our State;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 29, 2002, as REPUBLIC OF TURKEY DAY in Illinois.

Issued by the Governor October 23, 2002

Filed by the Secretary of State October 28, 2002

2002-542

PROCLAMATIONS**Referendum for the City of Sycamore to provide Hospital Insurance (Medicare) coverage**

WHEREAS, the City of Sycamore desires to provide Hospital Insurance (Medicare) coverage for its Police Officers and Firefighters not mandatorily covered for Hospital Insurance pursuant to Public Law 99-272 and to Public Law 101-508; and

WHEREAS, a referendum must be conducted in accordance with the Federal Social Security Act and Illinois Pension Code, Article 21, as amended, which requires that each eligible employee who is a participant in the City of Sycamore's retirement plan be given the opportunity to register his/her personal choice by written ballot as to whether he/she elects Hospital Insurance coverage; and

WHEREAS, the referendum procedure requires that each eligible employee shall be given a detailed description of the two choices available to him/her and allowed 90 days notice prior to the exercise of his/her right to choose; and

WHEREAS, I hereby designate the Executive Secretary of the State Employees' Retirement System and the City Administrator of the City of Sycamore as the officials who are jointly responsible for the distribution of the details of the proclamation pursuant to the provisions of the Federal Social Security Act and the Illinois Pension Code, Article 21, as amended. I hereby confer upon such officials the authority to jointly certify the results of the referendum to be conducted as herein proclaimed in accordance with said statutes; to allocate their other duties under this proclamation among themselves; and to delegate such other duties to others as they shall deem appropriate;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, do hereby proclaim a period of at least 90 days notice between the dates of November 1, 2002, through January 31, 2003, to eligible employees of the City of Sycamore that their choice shall be expressed by written ballot in conformity with the referendum procedure under the Federal Social Security Act and the Illinois Pension Code. The ballots shall be returned to the City Administrator and the referendum concluded not later than January 31, 2003.

Issued by the Governor October 23, 2002

Filed by the Secretary of State October 28, 2002

2002-543**November 25-29, 2002 as High Tech Week**

WHEREAS, the State of Illinois supports the creation of a climate for business growth so that Illinois citizens will enjoy more jobs, better pay, and a stronger economy; and

WHEREAS, Illinois is recognized nationally for its renowned research institutes and universities including the Fermi National Accelerator Laboratory, University of Illinois, Northwestern University, Illinois Institute of Technology, University of Chicago and Argonne National Laboratory; and

WHEREAS, VentureTECH, a nearly \$2 billion, five year commitment to technology investment in Illinois, is the largest single commitment ever made to technology development, especially infrastructure; and

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WHEREAS, Illinois Technology Enterprise Corporations (ITECs), one essential aspect of VentureTECH, help create more technology-based enterprises in Illinois. Eight new ITECs have recently been announced; and

WHEREAS, Illinois is being recognized as a leader in biotechnology, as evidenced by the announcement that BIO 2006, the international biotech forum, will be held in Chicago; and

WHEREAS, Illinois is also emerging as a world leader in the area of nanotechnology, again with significant investments through VentureTECH, such as the Argonne Center for Nanoscale Materials and Northwestern University's Nanotech Center; and

WHEREAS, the Chicago metropolitan region has more high tech jobs than any other urban area in the country, lending credence to Illinois' leadership role and the driving force behind the rising technology economy in the Midwest; and

WHEREAS, on November 25, 2002, the annual High Tech Awards ceremony will be held;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 25-29, 2002, as HIGH TECH WEEK in Illinois.

Issued by the Governor October 23, 2002

Filed by the Secretary of State October 28, 2002

2002-544**September 27, 2002 as Lou and Sybil Mervis Day**

WHEREAS, Lou Mervis is President and Chief Executive Officer of Mervis Industries, Inc.; and

WHEREAS, Lou Mervis has received many civic awards, which include: Danville's First Citizen, The Jaycee's Distinguished Service Award, the Danville Education Association Citizen Participation, The Vocational Service Person of the Year, The Lou Mervis Distinguished Service to Illinois Educators (an award which was created by the State Board of Education), and the National Association of State School Boards named him as one of three outstanding state board members in the United States; and

WHEREAS, Lou Mervis purchased the local ice hockey team and renamed it the Danville Wings in 1995. The Wings have sent more boys to colleges and universities on scholarships as Division I players than anyone else in the United States. He currently is chairman of the North American Hockey League; and

WHEREAS, Sybil Mervis has been active in politics at the local, State, and national levels, and

WHEREAS, Sybil Mervis received the "Woman of the Year" from the Business & Professional Women's Organization, the "Woman of Distinction" awarded by the Girl Scout of Champaign-Danville, and the "Woman of Achievement" award from the Danville branch of the American Association of University Women; and

WHEREAS, Sybil Mervis has been actively involved in the following organizations: Congregation Israel Synagogue, Leadership Danville, Vermilion County Museum Board of Trustees, The Rubella Inoculation Program, and Board of Trustees for the Danville Public

PROCLAMATIONS

Library; and

WHEREAS, Lou and Sybil Mervis have five children and seven grandchildren. They have helped many more children to obtain scholarships to further their education and have worked tirelessly to ensure that the children of Danville have the best possible educational opportunities; and

WHEREAS, Lou and Sybil Mervis have embraced their local community and are determined to make it a better place in which to live;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 27, 2002, as LOU AND SYBIL MERVIS DAY in Illinois.

Issued by the Governor October 23, 2002

Filed by the Secretary of State October 28, 2002

2002-545**November 3, 2002 as Hellenic Society of Kastritans "St. George" Day**

WHEREAS, Illinois residents of Greek ancestry have been closely identified with the educational, professional, economic, religious, and cultural progress of our State since its earliest days; and

WHEREAS, the nation of Greece has contributed immeasurably to the ideals of freedom and democracy and to the rich heritage that forms the foundation of western civilization; and

WHEREAS, the Hellenic Society of Kastritans ASt. George@ was founded in 1902 and is one of the oldest Hellenic organizations in Illinois; and

WHEREAS, the Hellenic Society of Kastritans ASt. George@ is to be commended for their dedication and commitment to Hellenic causes and promotion of Hellenic heritage and culture; and

WHEREAS, George Gritsonis, President the Hellenic Society of Kastritans "St. George" and Manny A. Gianakakos, General Chairman of the Centennial Celebration Committee, announce the Centennial Grand Banquet will take place November 3, 2002, at the Chateau Ritz, in Niles, Illinois;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 3, 2002, as HELLENIC SOCIETY OF KASTRITANS AST. "St. GEORGE" DAY in Illinois.

Issued by the Governor October 23, 2002

Filed by the Secretary of State October 28, 2002

2002-546**July 9, 2002 as the date of establishment of the Julie K. Hughes Memorial Externship**

WHEREAS, Julie K. Hughes was born in Des Moines, Iowa, and graduated from Drake University in 1972; and

WHEREAS, she demonstrated her commitment to education and her zeal for learning by teaching high school journalism in Council Bluffs, Iowa, while obtaining her masters degree in education; and

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WHEREAS, she pursued further education by attending and graduating from the Creighton University College of Law in 1978; and

WHEREAS, she began her formal work with the labor relations community when she took a position at the National Labor Relations Board in Kansas City and later in Chicago; and

WHEREAS, she became General Counsel to the Illinois Educational Labor Relations Board and introduced her principled work ethic to the educational labor relations community by clearing out a backlogged docket within one year; and

WHEREAS, she demonstrated leadership as a chairman of the Education Law Section Council of the Illinois State Bar Association and as a member of the advisory board for the annual Public Sector Labor Law Conference; and

WHEREAS, she continued her dedication to education by serving as an adjunct professor at DePaul University College of Law and as a 12-year board member and a president of the Evanston Township High School Booster Club; and

WHEREAS, she served as a leader, mentor, and mediator not only as General Counsel for the Illinois Educational Labor Relations Board but also as president of the Association of Labor Relations Agencies; and

WHEREAS, she dedicated her life to public service and improving diverse relationships; and

WHEREAS, she carried out her professional and personal commitments with grace, and had an extraordinary ability to make and maintain friendships, putting the needs of others before her own; and

WHEREAS, so many who loved, respected and admired her have been affected by her untimely death and want her exemplary life to be remembered; and

WHEREAS, the Illinois Educational Labor Relations Board has established an externship in her memory;

THEREFORE, I, Governor George H. Ryan, wish to honor Julie Hughes for her outstanding commitment to the State of Illinois, and proclaim July 9, 2002 as the date of the establishment of the Julie K. Hughes Memorial Externship.

Issued by the Governor October 23, 2002

Filed by the Secretary of State October 28, 2002

2002-547**November 1-3, 2002 as Phi Theta Kappa Days**

WHEREAS, Phi Theta Kappa was founded in 1918 at Stephens College in Columbia, Missouri, to promote scholarship, leadership, fellowship and service among students in two-year community colleges; and

WHEREAS, Phi Theta Kappa is the only International Honor Society for two-year colleges with memberships extending as far as Alaska, Hawaii, Puerto Rico, Western Europe, Japan and the Canal Zone; and

WHEREAS, Phi Theta Kappa is a fellowship of students pursuing the ideals of scholarship, leadership and service that extends beyond a particular campus to regional and

PROCLAMATIONS

international networks; and

WHEREAS, Phi Theta Kappa serves to nurture the members and associates by sponsoring meetings that educate, stimulate and enrich, according international recognition to students of distinguished achievement and providing a vehicle that reflects the academic integrity of the associated degree program; and

WHEREAS, from November 1-3, 2002, the Theta Omega Chapter of Phi Theta Kappa at Wilbur Wright College will host the Regional Convention for the State of Illinois, with the theme of "Dimensions and Directions of Health: Choices in the Maze with a Focus on Cancer;"

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 1-3, 2002, as PHI THETA KAPPA DAYS in Illinois.

Issued by the Governor October 22, 2002

Filed by the Secretary of State October 28, 2002

2002-548**October 19, 2002 as Provident Foundation Day**

WHEREAS, on October 19, 2002, the Provident Foundation will host its 111th Anniversary Gala Celebration of the Provident Hospital at the DuSable Museum of African American history; and

WHEREAS, the mission of the Provident Foundation is to perpetuate the legacy of the historic Provident Hospital and its founder, Dr. Daniel Hale Williams; and

WHEREAS, in 1890, Reverend Louis Reynolds, pastor of St. Stephen AME Church, approached Dr. Daniel Hale Williams to help his sister Emma Reynolds attend a nursing school; and

WHEREAS, in 1891, Provident Hospital and Training School was established to provide "proper care of sick and injured without regard to race, creed or color"; and

WHEREAS, ComEd and Provident Foundation will award scholarships to seven students who are pursuing careers in a medical or healthcare profession; and

WHEREAS, the Provident Foundation will recognize the contribution of Katherine Williams, M.D. to receive the Provident Foundation Lifetime Achievement Award; Niva Lubin-Johnson, M.D., Maurice Rabb, M.D., Reggie Williams, Ph.D, Albert L. Gunn, D.N., and Linda Murray, M.D. to receive Provident Foundation 2002 Living Legacy Awards; and all have exemplified excellence in the fields of medicine and healthcare while unselfishly giving their time and resources to serve their community;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 19, 2002, as PROVIDENT FOUNDATION DAY in Illinois, and commend the Provident Foundation Board of Trustees and staff for their commitment to the health and welfare of the citizens of Chicago.

Issued by the Governor October 22, 2002

Filed by the Secretary of State October 28,2002

2002-549

PROCLAMATIONS**October 31, 2002 as Eight Blackbird Day**

WHEREAS, eight blackbird, hailed as ambassadors of new music, has a growing reputation for its astounding musical versatility as well as for its dedication to the works of today's composers. "Round Nut Tool," its debut CD, was released in 1999; and

WHEREAS, eight blackbird is active in teaching young artists about contemporary music and has taught master classes and conducted outreach activities in the art of contemporary performance and interpretation; and

WHEREAS, in 1996, the year it was founded at the Oberlin Conservatory, eight blackbird was awarded first prize at the Fischhoff National Chamber Music Competition and shortly afterward received first prize at the Coleman Chamber Music Competition; and

WHEREAS, in 1998, eight blackbird became the first contemporary ensemble to win first prize at the Concert Artists Guild International Competition, where it also was awarded the Rockport Chamber Musical First Prize; and

WHEREAS, eight blackbird, currently ensemble-in-residence at Northwestern University and the University of Chicago, was honored in 2000 with the prestigious Naumburg Chamber Music Award and the first BMI/Boudleaux-Bryant Fund Commission. The sextet has also claimed the 1998 and 2000 CMA/ASCAP Award for Adventurous Programming;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 31, 2002, as eight blackbird DAY in Illinois.

Issued by the Governor October 22, 2002

Filed by the Secretary of State October 28, 2002

2002-550**October 31, 2002 as Mike McFerron Day**

WHEREAS, Mike McFerron, assistant professor of music and composer-in-residence at Lewis University, received a doctoral of musical arts in composition from the Conservatory of Music at the University of Missouri Kansas City in 2000; and

WHEREAS, Mike McFerron is founder and co-director of Electronic Music Midwest, a festival of electroacoustic music (formerly "Electronic Music at Lewis"), and in 2000 hosted the Kansas City Festival of Electronic Music; and

WHEREAS, Mike McFerron won the Louisville Orchestra Composition Competition in 2002 and was a recipient of the Chicago Symphony Orchestra's "First Hearing" Program in 2001. Recently, he was chosen the winner of the Cantus commissioning residency program; and

WHEREAS, Mike McFerron's music has been featured at the 2001 SCI National Conference, SEAMUS National Conferences, the 9th Annual Florida Electroacoustic Music Festival, Spring in Havana-2000 in Cuba, the MAVERICK Festival, several SCI regional conferences, and concerts and radio broadcasts across the United States; and

WHEREAS, Mike McFerron is the winning composer of Indiana State University's annual orchestral composition contest for 2002. His orchestral work, "Perspectives for Orchestra," will be performed by the Louisville Orchestra during ISU's 36th Contemporary

PROCLAMATIONS

Music Festival October 30-November 1;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 31, 2002, as MIKE MCFERRON DAY in Illinois.

Issued by the Governor October 22, 2002

Filed by the Secretary of State October 28, 2002

2002-551**October 13-19, 2002 as Diversity Week**

WHEREAS, diversity is the backbone of our nation and it is essential that we, as individuals and communities, continue to advance and promote our time-honored traditions, cultures, and heritages; and

WHEREAS, as we strive for a future in which all people recognize and appreciate the invaluable treasure of diversity and the intrinsic capacity of difference, let us remember that the future lies in the unity of our vision; and

WHEREAS, at the dawn of the 21st Century, we seek to increase awareness, educate and celebrate the diversity of America;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 13-19, 2002, as DIVERSITY WEEK in Illinois, in special recognition of the diversity of our state and I encourage all citizens to recognize this important observance.

Issued by the Governor October 22, 2002

Filed by the Secretary of State October 28, 2002

2002-552**November 9, 2002 as Hispanocare Day**

WHEREAS, formed in 1988 by the Illinois Masonic Medical Center, HISPANOCARE is a not-for-profit PPO network of nearly 300 bilingual providers; and

WHEREAS, the goal of HISPANOCARE is to provide quality, cost-effective healthcare to Chicago's Latino Community in a culturally sensitive manner; and

WHEREAS, to fulfill its mission of community outreach and provide health care in a bilingual, bicultural, user friendly and quality atmosphere, HISPANOCARE coordinates community health fairs where preventative services such as mammography, HIV testing, diabetes testing, cholesterol checks, eye exams, foot exams, and thyroid screenings are offered free of charge; and

WHEREAS, another major component of HISPANOCARE's community outreach effort is educating the Latino community about health and means of promoting wellness and disease prevention; and

WHEREAS, HISPANOCARE's success is based upon an intimate understanding of Chicago's diverse Latino community and its ability to partner with hospitals, physicians, and other health care providers; and

WHEREAS, on November 9, 2002, HISPANOCARE, Inc. will celebrate its 14th annual

PROCLAMATIONS

gala “Nuestro Compromiso” at the Chicago Downtown Marriott;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 9, 2002, as HISPANOCARE DAY in Illinois.

Issued by the Governor October 16, 2002

Filed by the Secretary of State October 28, 2002

2002-553**Certificate of commendation to Bruce Finne for his devotion to public service**

WHEREAS, Bruce J. Finne has been a dedicated, hard working State employee for more than 33 years, and has served under five Governors; and

WHEREAS, Bruce has always served with the highest degree of professionalism in an uncomplaining manner, bolstered by a deep integrity and ethical sense framed by a steady moral compass; and

WHEREAS, Bruce has been employed by the Illinois Civil Service Commission since August 1970 and has been the Executive Director of the Commission since October 1973; and

WHEREAS, Bruce has provided leadership to the Commission, firmly believing in the principles and Merit of the Civil Service system for the benefit of employees and the State of Illinois; and

WHEREAS, Bruce has served his community by committing his time and energies to several organizations including the Rotary Club and the Ball Chatham School Board; and

WHEREAS, Bruce has announced his retirement from the Illinois Civil Service Commission and the State of Illinois; and

WHEREAS, Bruce is leaving State service to follow his love of travel and exploration, to spend more time with his wife Karen, his son Chris, daughter Jennifer and his granddaughter;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, do hereby issue this certificate of commendation to Bruce Finne for his devotion to public service, his inviolate principles and his contributions to state government.

Issued by the Governor October 16, 2002

Filed by the Secretary of State October 28, 2002

2002-554**November 8-10, 2002 as Zeta Phi Beta Sorority Days**

WHEREAS, the Zeta Phi Beta Sorority was founded in 1920 on the campus of Howard University; and

WHEREAS, Zeta Phi Beta Inc. encourages the highest standards of scholarship through scientific, literary, cultural and educational programs; promotes service projects on college campuses and in the community; fosters sisterhood; and exemplifies the ideal of finer womanhood; and

WHEREAS, a private nonprofit organization, Zeta Phi Beta Sorority is incorporated in Washington, D.C. and in the State of Illinois; and

PROCLAMATIONS

WHEREAS, Zeta Phi Beta Sorority was the first to charter international chapters, like those in West Africa and Germany, and formed adult and youth auxiliary groups, the Amicae Archonettes, Amicettes and Pearlettes; and

WHEREAS, Zeta Phi Beta's purpose is to foster the ideals of service, charity, scholarship, civic and cultural endeavors, sisterhood, and finer womanhood. These ideals are reflected in the sorority's national programs for which its members and auxiliary groups provide untold hours of voluntary service to community outreach programs, scholarship funds, organized charities and legislation for social and raising civic change; and

WHEREAS, Zeta sponsors a state conference each year to allow members the opportunity to generate ideas and create programs to carry on the tradition of the organization's founding principles. This year's conference will take place on November 8-10 at the Sheraton Hotel in Chicago;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 8-10, 2002, as ZETA PHI BETA SORORITY DAYS in Illinois.

Issued by the Governor October 18, 2002

Filed by the Secretary of State October 28, 2002

2002-555**December 7, 2002 as Pearl Harbor Remembrance Day**

WHEREAS, on December 7, 1941, the Imperial Japanese Navy and Air Force attacked units of the Armed Forces of the United States stationed at Pearl Harbor, Hawaii; and

WHEREAS, more than 2,000 citizens of the United States were killed and more than 1,000 citizens of the United States were wounded in the attack on Pearl Harbor; and

WHEREAS, the attack on Pearl Harbor marked the entry of the United States into World War II; and

WHEREAS, the veterans of World War II and all other people of the United States commemorate December 7 in the remembrance of the attack on Pearl Harbor; and

WHEREAS, commemoration of the attack on Pearl Harbor will instill in all people of the United States a greater understanding and appreciation of the selfless sacrifice of the individuals who served in the Armed Forces of the United States during World War II;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim December 7, 2002, as PEARL HARBOR REMEMBRANCE DAY in Illinois and call upon the people of our state to observe this solemn occasion with appropriate ceremonies.

Issued by the Governor October 18, 2002

Filed by the Secretary of State October 28, 2002

2002-556**October 28-November 1, 2002 as Surveyor Recognition Week**

WHEREAS, the Illinois Department of Public Health's 267 health and safety surveyors have the important task of visiting hospitals, nursing homes, hospice centers, dialysis centers,

PROCLAMATIONS

home health agencies, prisons, blood centers, laboratories, group homes and other facilities for the developmentally disabled to ensure that they are complying with state and federal regulations; and

WHEREAS, each day a surveyor may be found in any one of the more than 10,000 health care facilities across the state talking with residents and patients, staff and family; observing the administration of medications; watching meal preparations; reviewing clinical records; and examining laboratory protocols; and

WHEREAS, these surveyors have diverse backgrounds, including social work, nutrition, psychiatry, life safety, administration and nursing; and

WHEREAS, these surveyors travel to all corners of the state at all hours of the day to visit health care facilities; and

WHEREAS, October 28-November 1, 2002 has been designated National Surveyor Recognition Week;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 28-November 1, 2002, as SURVEYOR RECOGNITION WEEK in Illinois and urge my fellow citizens to join me in recognizing the state's surveyors for their dedication to the health, safety, rights and well-being of patients and residents in health care facilities.

Issued by the Governor October 18, 2002

Filed by the Secretary of State October 28, 2002

2002-557**November 2002 as Arab American Month**

WHEREAS, there are more than 400,000 Illinois residents of Arab descent, both Muslim and Christian faiths, who have chosen Illinois as their home and have proudly shared their culture, heritage and talents with our State; and

WHEREAS, citizens of Arab descent have contributed in all walks of life, including government, education, science, culture, business, medicine and the civic well-being of our nation and of our community; and

WHEREAS, Arab Americans have made contributions to our society and have included among their ranks such notable Americans as Michael DeBakey, the first heart transplant surgeon; John Sununu, Chief of Staff to President George H.W. Bush; Senator George Mitchell, former majority leader and chief negotiator for Ireland's Peace Conference; the late Sharon Christa McAuliffe, teacher and American patriot who was among the victims of the Space Shuttle Challenger disaster; Casey Kassem, popular music radio host; Danny Thomas, well known TV sitcom actor, entertainer and founder of St. Jude Children's Research Hospital; Kathy Najimy, movie actress; and many other Arab Americans who serve as positive role models in our society; and

WHEREAS, many Arab Americans have also served in the Armed Forces of the United States, including World War II, the Korean War and the Vietnam War; and

WHEREAS, the State of Illinois is a diverse community composed of many ethnic cultures including the rich Arab American culture;

PROCLAMATIONS

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim November 2002 as ARAB AMERICAN MONTH in Illinois.

Issued by the Governor October 18, 2002

Filed by the Secretary of State October 28, 2002

OFFICE OF BANKS AND REAL ESTATE

NOTICE OF PUBLIC INFORMATION

**NOTICE OF FINE IMPOSED UNDER
THE RESIDENTIAL MORTGAGE LICENSE ACT OF 1987**

Please be advised that the fine issued against Creative Mortgage U.S.A., Inc., License No. 0744 of Lansing IL., on June 7, 2000, has been rescinded by the Commissioner of Banks & Real Estate effective October 16, 2002.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

ILLINOIS RACING BOARD

- 1) Heading of the Part: Superfecta
- 2) Code Citation: 11 Ill. Adm. Code 311
- 3) Register citation of adopted rulemaking: 26 Ill. Reg. 14702; 10/4/02
- 4) Explanation: In Issue 40 (10/4/02) of the *Illinois Register*, this emergency rulemaking was printed inadvertently striking Section 311.40(c). The notice pages accurately summarized the rulemaking, the effective date was accurate, and the proposed permanent rulemaking was published accurately in the same issue of the *Illinois Register*. To fully inform the public of the text changes, this emergency rulemaking is reprinted below. JCAR regrets any inconvenience the initial printing error may have caused.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

ILLINOIS RACING BOARD

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER a: GENERAL RULES

PART 311

SUPERFECTA

Section

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

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

SOURCE: Adopted at 18 Ill. Reg. 7440, effective May 8, 1994; amended at 19 Ill. Reg. 6663, effective May 1, 1995; amended at 26 Ill. Reg. 4903, effective March 20, 2002; amended at 26 Ill. Reg. 12357, effective August 1, 2002; emergency amendment at 26 Ill. Reg. 14702, effective September 16, 2002, for a maximum of 150 days.

Section 311.40 Entries

- a) For thoroughbred racing, entries, either coupled or uncoupled, shall be allowed in a superfecta race under the following conditions:
- 1) one entry requires at least seven betting interests at the start of the race.
 - 2) two entries requires at least eight betting interests at the start of the race.
 - 3) more than two entries shall require approval from the Executive Director or the State Director of Mutuels.
- ~~a) Only one entry (i.e., two or more horses with a common interest) either coupled or uncoupled (see 11 Ill. Adm. Code 1312.265 and 1413.48) shall be allowed in a superfecta race so long as it is a stakes race with a minimum purse of \$25,000.~~
- ~~b) For overnight thoroughbred races, one coupled entry shall be allowed.~~
- ~~b)e) This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in~~

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

ILLINOIS RACING BOARD

11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of \$250,000 or more.

(Source: Amended by emergency rulemaking at 26 Ill. Reg. 14702, effective September 16, 2002, for a maximum of 150 days)

ILLINOIS ADMINISTRATIVE CODE

Issue Index

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