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REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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INTRODUCTION

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

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

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

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

2008 REGISTER SCHEDULE VOLUME #32

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 21, 2007*	January 4, 2008
2	December 31, 2007	January 11, 2008
3	January 7, 2008	January 18, 2008
4	January 14, 2008	January 25, 2008
5	January 22, 2008	February 1, 2008
6	January 28, 2008	February 8, 2008
7	February 4, 2008	February 15, 2008
8	February 11, 2008	February 22, 2008
9	February 19, 2008	February 29, 2008
10	February 25, 2008	March 7, 2008
11	March 3, 2008	March 14, 2008
12	March 10, 2008	March 21, 2008
13	March 17, 2008	March 28, 2008
14	March 24, 2008	April 4, 2008
15	March 31, 2008	April 11, 2008
16	April 7, 2008	April 18, 2008
17	April 14, 2008	April 25, 2008
18	April 21, 2008	May 2, 2008
19	April 28, 2008	May 9, 2008
20	May 5, 2008	May 16, 2008
21	May 12, 2008	May 23, 2008
22	May 19, 2008	May 30, 2008
23	May 27, 2008	June 6, 2008

24	June 2, 2008	June 13, 2008
25	June 9, 2008	June 20, 2008
26	June 16, 2008	June 27, 2008
27	June 23, 2008	July 7, 2008
28	June 30, 2008	July 11, 2008
29	July 7, 2008	July 18, 2008
30	July 14, 2008	July 25, 2008
31	July 21, 2008	August 1, 2008
32	July 28, 2008	August 8, 2008
33	August 4, 2008	August 15, 2008
34	August 11, 2008	August 22, 2008
35	August 18, 2008	August 29, 2008
36	August 25, 2008	September 5, 2008
37	September 2, 2008	September 12, 2008
38	September 8, 2008	September 19, 2008
39	September 15, 2008	September 26, 2008
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41	September 29, 2008	October 10, 2008
42	October 6, 2008	October 17, 2008
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47	November 10, 2008	November 21, 2008
48	November 17, 2008	December 1, 2008
49	November 24, 2008	December 5, 2008
50	December 1, 2008	December 12, 2008
51	December 8, 2008	December 19, 2008
52	December 15, 2008	December 26, 2008
53	December 22, 2008	January 2, 2009

Editor's Note: This is a reminder that July 2, 2008 is the final day to submit your Agency's Regulatory Agenda for the July 2008 filing period.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Storage, Transportation, Sale, and Use of Liquefied Petroleum Gases
- 2) Code Citation: 41 Ill. Adm. Code 200
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
200.5	Amendment
200.7	Amendment
200.10	Amendment
200.20	Amendment
200.30	Amendment
200.40	Amendment
200.50	Amendment
200.55	New
200.60	Amendment
200.70	Amendment
200.190	Repeal
- 4) Statutory Authority: Authorized by and implementing Section 3 of the Liquefied Petroleum Gas Regulation Act [430 ILCS 5/3]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking amends the rules to adopt the current national standards.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? Yes, in Section 200.7.
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons wishing to comment on this proposed rulemaking may submit comments no later than 45 days after the publication of this Notice to:

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Joseph August, Deputy Director
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

Facsimile: 217/785-1002

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Those small businesses that store and handle Liquefied Petroleum Gases and install gas appliances and gas piping.
 - 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: the need for the rulemaking was not anticipated at the time that the agendas were published.

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

TITLE 41: FIRE PROTECTION
CHAPTER I: OFFICE OF THE STATE FIRE MARSHALPART 200
STORAGE, TRANSPORTATION, SALE, AND USE
OF LIQUEFIED PETROLEUM GAS

Section

200.5	Introduction
200.7	Incorporations by Reference
200.10	Storage and Handling of Liquefied Petroleum Gases
200.20	Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants
200.30	Rules for For Installation of Gas Appliances and And Gas Piping
200.40	Storage and Handling of Liquefied Petroleum Gas at Gas Processing Plants
200.50	Installations Must Be in In Compliance
<u>200.55</u>	<u>Conversion of Anhydrous Ammonia Storage Tanks to LPG Storage</u>
200.60	Submittal of Of Plans
200.70	Applications, Plans and Blueprints; Fencing Standards Must Be Filed in Triplicate —What Applications and Drawings Must Show
200.80	Operation of Installation Prohibited Until Final Inspection and Approval
200.90	No Supplier Shall Service Any Installation Not In Compliance With Law
200.100	Personnel Must be Properly Trained
200.110	No Self Service Permitted
200.120	Interstate Commerce Commission or Department of Transportation Containers (Repealed)
200.160	Cylinder System Installations (Bottled Gas) (Repealed)
200.170	Minimum Safety Requirements for Manifolding American Society of Mechanical Engineers Containers (Repealed)
200.180	Location of Containers (Repealed)
200.190	Abandoned Tanks (<u>Repealed</u>)
200.200	Marking of Tank Trucks and Trailers (Repealed)
200.210	Lighting Requirements on Trucks and Trailers (Repealed)
200.230	Drivers of Trucks and Trailers Must Be Properly Trained (Repealed)
200.240	When Tank Truck May Not Be Left Unattended (Repealed)
200.250	Tank Trucks and Tractors Must Be In Good Repair (Repealed)
200.260	Parking In Congested Areas Prohibited (Repealed)
200.270	Travel In Heavy Traffic Districts To Be Avoided (Repealed)
200.280	Gear Shift Requirements for Loaded Tank Trucks (Repealed)
200.290	Semi-Trailers Loading and Unloading (Repealed)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 200.300 Fire Extinguisher Requirements (Repealed)
- 200.310 Excess Flow Valves Not To Be Tampered With (Repealed)
- 200.320 When Transportation and Sale Prohibited (Repealed)
- 200.330 Containers To Be Transported In Upright Position (Repealed)
- 200.340 Fireworks Prohibited
- 200.350 Additional Safety Measures Authorized

AUTHORITY: Authorized by and implementing Section 3 of the Liquefied Petroleum Gas Regulation Act [430 ILCS 5/3].

SOURCE: Rules for the Storage, Transportation, Sale and Use of Liquefied Petroleum Gases, filed October 15, 1971; codified at 5 Ill. Reg. 10697; amended at 8 Ill. Reg. 2467, effective June 1, 1984; amended at 19 Ill. Reg. 11455, effective August 1, 1995; amended at 21 Ill. Reg. 4999, effective April 15, 1997; amended at 23 Ill. Reg. 4227, effective April 1, 1999; amended at 25 Ill. Reg. 3655, effective March 1, 2001; amended at 26 Ill. Reg. 10814, effective July 1, 2002; amended at 30 Ill. Reg. 9325, effective May 2, 2006; amended at 32 Ill. Reg. _____, effective _____.

Section 200.5 Introduction

Pursuant to the authority conferred upon the Office of the State Fire Marshal ([OSFM](#)) by Section 3 of the Liquid Petroleum Gas Regulation Act [430 ILCS 5/3], ~~OSFM~~[the Office of the State Fire Marshal](#) is adopting this Part in relation to the storage, transportation, sale and use of liquefied petroleum gases.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 200.7 Incorporations by Reference

- a) The following materials are incorporated by reference in this Part:
 - 1) The American Petroleum Institute (API), 1220 L Street, NW, Washington, DC 20005-4070.

API 2510	Design and Construction of LPG Installations Installation
----------	---
 - 2) The National Fire Protection Association (NFPA); 1 Batterymarch Park, Quincy MA 02169-7471.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- A) NFPA 54: National Fuel Gas Code
- B) NFPA 58: Liquefied Petroleum Gas Code
- C) NFPA 59: Utility LP-Gas Plant Code
- D) NFPA 1192 Standard on Recreational Vehicles

- b) No incorporation by reference in this Part includes any later amendment or edition beyond the date stated in the text of this Part.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 200.10 Storage and Handling of Liquefied Petroleum Gases

RequirementsStandards for the storageStorage and handlingHandling of liquefied petroleum gasesLiquefied Petroleum Gases as contained in the 20082004 Edition (~~except that Section 5.2.3, regarding the requalification of cylinders filled on site, will not be effective until January 1, 2008~~) of NFPA 58 (Liquefied Petroleum Gas Code) are mandatory.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 200.20 Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants

RequirementsStandards for the storageStorage and handlingHandling of liquefied petroleum gasesLiquefied Petroleum Gases at utility gas plantsUtility Gas Plants as published in the 20082004 Edition of NFPA 59 (Utility LP-Gas Plant Code) are mandatory.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 200.30 Rules ~~for~~ Installation of Gas Appliances and Gas Piping

RequirementsStandards for the installationInstallation of gas appliancesGas Appliances and gas pipingGas Piping as published in the 20062002 Edition of NFPA 54 (National Fuel Gas Code) are mandatory. Standards for fuel systemsFuel Systems and equipmentEquipment in recreational vehiclesRecreational Vehicles as published in the 20082002 Edition of NFPA 1192 (StandardStandards on Recreational Vehicles) are mandatory.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 200.40 Storage and Handling of Liquefied Petroleum Gas at Gas Processing Plants

Storage and handling of liquefied petroleum gas at natural gas processing plants, refineries, and petrochemical plants shall comply with the ~~8th1995~~ Edition ~~(2001)~~ of Standard API 2510 ~~of the American Petroleum Institute~~ (Design and Construction of Liquefied Petroleum Gas Installations (LPG) Installation).

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 200.50 Installations Must Be ~~in~~ Compliance

The installations of containers by every person, firm or corporation making ~~thesueh~~ installation, and the design, construction and location of ~~thesueh~~ containers and pertinent equipment, shall be in compliance with ~~this Partthese rules and regulations.~~ ~~In any instance where a container of approved construction and design has been used to contain anhydrous ammonia or any other product, the container shall be thoroughly purged of the other product before it is placed into service for liquefied petroleum gas and a tag attesting to the thorough purging of the container shall be placed near the fill valve of the container before liquefied petroleum gas is placed into the container.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 200.55 Conversion of Anhydrous Ammonia Storage Tanks to LPG Storage

Except for containers used in cargo tank vehicle service, ASME containers of 3,000 gallons water capacity or less used to store anhydrous ammonia shall not be converted to LP-Gas fuel service. For other size containers, when a container of approved construction and design has been used to contain anhydrous ammonia or any other product, the container shall be thoroughly purged of the other product before it is placed into service for LP-Gas and a tag attesting to the thorough purging of the container shall be placed near the fill valve of the container before LP-Gas is placed into the container.

(Source: Added at 32 Ill. Reg. _____, effective _____)

Section 200.60 Submittal ~~of~~ Plans

Plans and applications for fixed installations shall be submitted to ~~the~~ OSFM before construction

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

when utilizing storage containers of over 2,000 gallons individual water capacity or when the aggregate water capacity exceeds 4,000 gallons, and ~~for~~ container filling ~~locations~~ plants regardless of tank capacity. Temporary (not to exceed 6 months) installations, although required to comply with all applicable installation and operating requirements prescribed by adopted codes, are not required to submit plans and applications or undergo an on-site inspection by OSFM.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 200.70 Applications, Plans and Blueprints; Fencing Standards Must Be Filed in Triplicate — ~~What Applications and Drawings Must Show~~

Applications for approval of installations shall be made out in triplicate on blanks furnished by ~~OSFM~~ the Office of the State Fire Marshal (OSFM) and shall be accompanied by drawings or blueprints in triplicate made to scale, with all dimensions indicated on the plans. These applications, drawings, or blueprints must be approved by ~~the~~ OSFM before any new construction or addition is undertaken. Approval will be granted if all requirements of this ~~as specified in~~ Part ~~200~~ are met. Drawings or blueprints shall bear the name of the person, firm or corporation proposing the installation, ~~the location with reference to city, village or incorporated town, and shall in~~ In addition, drawings or blueprints shall ~~there~~ show the following:

- a) The plot of ground to be utilized and its immediate surroundings on all sides, the complete layout of the tanks, the capacity of each tank, the type of tank supports, type of construction of each building and all clearances as required by NFPA ~~Standard No. 58~~ (see Section 41 Ill. Adm. Code 200.10).
- b) The location with respect to city, village or incorporated town, ~~naming and shall name~~ adjacent railroads and side tracks and ~~showings shall show~~ the clearance between tanks and closest passenger train tracks, between tracks at the point where the tank car will be placed for unloading and the nearest passenger train tracks, and between unloading docks and closest passenger train tracks.
- c) Whether ~~or not~~ the surrounding area is congested or heavily populated.
- d) Fencing and enclosures.
 - 1) The method and location of fencing or other devices used to protect the LP-Gas container ~~At fixed installations utilizing storage containers of over 2,000 gallons individual water capacity or when the aggregate water~~

OFFICE OF THE STATE FIRE MARSHAL

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~~capacity exceeds 4,000 gallons and at locations where containers are filled, the facilities shall be protected~~ against collision and tampering, as specified in NFPA 58 ~~(see 41 Ill. Adm. Code 200.10)~~. Facilities existing on January 1, 1984 shall comply with this Part~~these rules~~ or the prior~~rules~~ in existence at the time of construction. Where LP-Gas containers~~these facilities~~ are located at an establishment completely enclosed by fencing equivalent to that required by NFPA 58~~hereinafter set forth~~, an additional enclosure for containers installed~~facilities~~ within the fencing establishment shall not be required, except that, if containers are accessible to vehicular traffic, the containers~~such container facilities~~ shall be enclosed or encircled by a guard rail, or by posts six (6)~~six (6)~~ inches or more in diameter set in firm ground to a depth of at least twenty-four (24)~~twenty-four (24)~~ inches and rising aboveground to a height of thirty (30)~~thirty (30)~~ inches or more set at intervals of not more than six (6)~~six (6)~~ feet.

- 2) Walls~~Building walls~~ of buildings that are part of the establishment and have~~are so located together with~~ adjacent fencing to enclose the facilities shall be acceptable as a portion of any necessary fencing. There shall be no gap or opening between the building wall and the adjacent fencing. Walls of buildings shall not form more than two sides of enclosures for LP-Gas containers. Required means of egress from buildings shall not pass through enclosures for LP-Gas. When building walls are used as part of enclosures, the separation distance from the LP-Gas container to the building shall comply with NFPA 58.~~Such building walls may be used as a part of such enclosure only when the same does not contain any direct means of ingress or egress from the street or other portions of the building to the storage area to be enclosed.~~

- e) The location and type of~~That~~ lights conforming to NFPA 58 ~~(see 41 Ill. Adm. Code 200.10)~~ will be provided to illuminate storage containers, control valves and other equipment, if loading or unloading is~~are~~ normally done during other than daylight hours.

- f) The location of any container~~Container~~ filling or LP-Gas dispensing devices.

- 1) ~~That the container filling plant and motor fuel dispensing facilities will conform to the following:~~

A) ~~The container filling or motor fuel dispensing facilities shall be~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

~~located not less than:~~

- ~~i) 10 ft. from bulk storage containers.~~
 - ~~ii) 10 ft. from pumps and compressors.~~
 - ~~iii) 25 ft. from line of adjoining property which may be built upon based on existing zoning. However, the distance may be reduced to 10 feet where permitted in NFPA 58 (see 41 Ill. Adm. Code 200.10).~~
- ~~B) The pumps and compressors may be located in the container filling room or separate buildings located not less than:~~
- ~~i) 10 ft. from bulk storage tanks.~~
 - ~~ii) 25 ft. from line of adjoining property which may be built upon.~~
 - ~~iii) 25 ft. from sources of ignition based on existing zoning. However, the distance may be reduced where permitted in NFPA 58 (see 41 Ill. Adm. Code 200.10).~~
- ~~2) Where a part of the container filling building is to be used for a boiler room, or where open flames or similar sources of ignition exist or are employed, the space to be so occupied shall be separated from container charging room by a partition wall or walls of fire resistant construction continuous from floor to roof or ceiling. Such separation walls shall be without openings and shall be joined to the floor, other walls and ceiling or roof in a manner to effect a permanent gas tight joint.~~
- ~~g) That all piping, tubing and fittings will be in compliance with the appropriate standards for the intended use as specified in 41 Ill. Adm. Code 200.10, 41 Ill. Adm. Code 200.20 and 41 Ill. Adm. Code 200.30.~~
- ~~h) That proposals for additional storage and additions shall show the entire installation to be in full compliance with 41 Ill. Adm. Code 200.10, 41 Ill. Adm. Code 200.20, 41 Ill. Adm. Code 200.30 as is appropriate for the intended use.~~

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 200.190 Abandoned Tanks (Repealed)

~~A tank which is abandoned shall have the fuel removed and the tank filled with water.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Number: 130.605 Proposed Action:
Amendment
- 4) Statutory Authority: 20 ILCS 2505/2505-25
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Section 130.605 to clarify the documentation that a retailer is required to keep beginning July 1, 2008, in order to properly claim the drive-away permit exemption provided for sales of motor vehicles to nonresidents and to remove language that limited the exemption to vehicles taken to a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
130.120	Amendment	32 Ill. Reg. 4155; March 21, 2008
130.330	Amendment	32 Ill. Reg. 8561; June 13, 2008
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

Terry D. Charlton
Senior Counsel, Sales & Excise Taxes
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Retailers of automobiles and out-of-State residents who purchase automobiles and other vehicles in this State.
 - B) Reporting, bookkeeping or other procedures required for compliance: Minimal record keeping requirements, such as an automobile dealer keeping a copy of an out-of-State purchaser's driver's license.
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2008

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

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130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
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130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
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130.225	Drop Shipments

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130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled

DEPARTMENT OF REVENUE

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130.340	Rolling Stock
130.341	Commercial Distribution Fee Sales Tax Exemption
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

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130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges – Penalties – Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

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130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period

DEPARTMENT OF REVENUE

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130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

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130.605	Sales of Property Originating in Illinois
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SUBPART G: CERTIFICATE OF REGISTRATION

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130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
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130.ILLUSTRATION A Examples of Tax Exemption Card

130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;

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amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,

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for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. _____, effective _____.

SUBPART F: INTERSTATE COMMERCE

Section 130.605 Sales of Property Originating in Illinois

- a) Where tangible personal property is located in this State at the time of its sale (or is subsequently produced in Illinois), and then delivered in Illinois to the purchaser, the seller is taxable if the sale is at retail.
 - 1) The sale is not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in this State.
 - 2) This is so notwithstanding the fact that the purchaser may, after receiving physical possession of the property in this State, transport or send the property out of the State for use outside the State or for use in the conduct of interstate commerce.
 - 3) The place at which the contract of sale or contract to sell is negotiated and executed and the place at which title to the property passes to the purchaser are immaterial. The place at which the purchaser resides is also immaterial. It likewise makes no difference that the purchaser is a carrier when that happens to be the case.
- b) There are ~~three~~two exceptions to the rule that the sale is not deemed to be a sale in interstate commerce if the purchaser or his representative receives physical possession of the property in Illinois.

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- 1) Except Effective July 23, 1971, except as otherwise provided in subsection (b)(1)(C)(b)(1)(A), the tax is not imposed upon the sale of a motor vehicle in this State even though the motor vehicle is delivered in this State, if all of the following conditions are met: the motor vehicle is sold to a nonresident; even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State; and either if a drive-away permit for purposes of transporting the motor vehicle to a destination outside of Illinois the other state is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code [625 ILCS 5/3-603], or if the nonresident purchaser has non-Illinois vehicle registration plates to transfer to the motor vehicle upon transporting the vehicle outside of Illinois returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is shall be prima facie evidence that the motor vehicle will not be titled in this State. [35 ILCS 120/2-5(25)]
- A) Documentation of nonresidency. The exemption under subsection (b)(1) is available only to nonresidents. A vehicle purchased by an Illinois resident is not eligible for the exemption (even if the purchaser is only a part-time Illinois resident or has dual residency in both Illinois and another state, and, in the case of more than one purchaser, even if only one of the purchasers is an Illinois resident). Effective July 1, 2008, if a retailer claims the exemption under subsection (b)(1), the retailer must keep evidence that the purchaser is not a resident of Illinois, along with the records related to the sale (e.g., in the deal jacket).
- i) When the purchaser is a natural person, the best evidence of nonresidence is a non-Illinois driver's license. Retention of a copy of the purchaser's permanent non-Illinois driver's license in the records related to the sale is prima facie evidence that the purchaser is a nonresident eligible for the exemption under this subsection (b)(1). In addition, the retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:
- "I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an

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Illinois resident. I understand that if I am a resident of Illinois, I am also liable for tax, penalty and interest on this purchase."

- ii) When the purchaser is a natural person, failure to keep a copy of the purchaser's non-Illinois driver's license or the presence of a copy of the purchaser's Illinois driver's license in the records related to the sale creates a rebuttable presumption that the purchaser is an Illinois resident ineligible for the exemption under this subsection (b)(1). To rebut this presumption, the retailer must keep evidence of the nonresidency of the purchaser in the records related to the sale, such as a voter registration card listing a non-Illinois address, a copy of a purchase contract or lease agreement for a new residence outside of Illinois, a copy of a tax return from another state that declares residency in that other state, a credit report listing the primary address as out-of-state, property tax records claiming a homestead exemption for an out-of-state residence, or any other documentation that clearly shows that the purchaser is not an Illinois resident. In addition, the retailer must also obtain and keep in the records related to the sale a certification from the purchaser in substantially the following form:

"I, (purchaser), under applicable penalties, including penalties for perjury and fraud, state that I am not an Illinois resident. I understand that if I am a resident of Illinois or use the motor vehicle in Illinois for 30 or more days in a calendar year as provided in 86 Ill. Adm. Code 150.310(a)(7), I am also liable for tax, penalty and interest on this purchase."

- iii) When the purchaser is not a natural person (e.g., corporation, partnership, limited liability company, trust, etc.), then the purchaser shall be deemed a resident of the state or foreign country under whose laws the purchaser was incorporated, created or organized, as well as the state or foreign country of the purchaser's commercial domicile,

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if different. When the purchaser is a grantor trust or other entity that claims it has no state or foreign country of incorporation, creation, organization and commercial domicile, then the purchaser's state or foreign country of residence shall be deemed to be the place of residency of the principal user of the vehicle and a copy of the user's non-Illinois driver's license or other evidence of non-Illinois residency must be kept by the retailer in the records related to the sale. When the purchaser is not a natural person, the retailer must obtain and keep in the records related to the sale a certificate from the purchaser that states substantially the following:

"(Purchaser) states, under applicable penalties, including penalties for perjury and fraud, that it is a (corporation, partnership, LLC, trust, etc.), incorporated, organized or created under the laws of (state or foreign country) and has its commercial domicile in (state or foreign country), or alternatively that it has no state or foreign country of incorporation, creation, organization and commercial domicile, but the principal user's state or foreign country of residence is (state). The undersigned has authority to sign this certification on behalf of the purchaser, and understands that in doing so, if the purchaser is a resident of Illinois or uses the motor vehicle in Illinois for 30 or more days in a calendar year as provided in 86 Ill. Adm. Code 150.310(a)(7), it will be liable for tax, penalty and interest on this purchase."

- iv) If the retailer meets the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then, absent fraud, the Department shall pursue any claim that the exemption does not apply solely against the vehicle purchaser. If, however, the retailer does not meet the requirements of subsection (b)(1)(A)(i), (ii) or (iii) to document the exemption, then the exemption claimed by the retailer shall be disallowed subject to further review by the Department.

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- B) [When the motor vehicle is purchased for lease and delivery to a lessee, the provisions of subsection \(b\)\(1\) shall apply to the lessee as if the lessee is the purchaser of the motor vehicle.](#)
- CA) The exemption under [this](#) subsection (b)(1) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under the Retailers' Occupation Tax Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under the Retailers' Occupation Tax Act. ([See 35 ILCS 120/2-5\(25-5\).](#))
- DB) For purposes of [this](#) subsection (b)(1), the term "motor vehicle" does not include (list not exhaustive):
- i) "watercraft" or "personal watercraft" as defined in the Boat Registration and Safety Act [625 ILCS 45] or any boat equipped with an inboard motor, regardless of whether the watercraft, personal watercraft, or boat is sold individually or included with the sale of a trailer. If the watercraft, personal watercraft, or boat is included with the sale of a trailer, the trailer may be an exempt "motor vehicle" under [this](#) subsection (b)(1), but the watercraft, personal watercraft, or boat is not an exempt motor vehicle and tax is still owed on it. If the two items are sold together for one non-itemized price, and the trailer is exempt under [this](#) subsection (b)(1), only the gross receipts representing the selling price of the trailer are exempt. Please note that Section 130.540 requires separate transaction returns to be filed with the Department for each item of property sold by the retailer that is required to be titled or registered with an agency of Illinois government;
 - ii) "all-terrain vehicles" as defined in Section 1-101.8 of the Illinois Vehicle Code;

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- iii) "motorcycles", as defined in Section 1-147 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
 - iv) "motor driven cycles", as defined in Section 1-145.001 of the Illinois Vehicle Code, that are not eligible for vehicle registration because they are not properly manufactured or equipped for general highway use;
 - v) "off-highway motorcycles" as defined in Section 1-153.1 of the Illinois Vehicle Code; or
 - vi) "snowmobiles" as defined in Section 1-2.15 of the Snowmobile Registration and Safety Act [625 ILCS 40/1-2.15].
- Ⓔ) ~~For purposes of subsection (b)(1), the term "state" is limited to a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a province of the Dominion of Canada (see 625 ILCS 5/1-195).~~
- 2) The seller does not incur Retailers' Occupation Tax liability with respect to *the proceeds from the sale of an item of tangible personal property to a common carrier by rail or motor that receives physical possession of property in Illinois and that transports the property, or shares with another common carrier in transporting the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.* [35 ILCS 120/2-5(17)]
 - 3) The exception for sales to common carriers by rail or motor, which is described in subsection (b)(2), is also applicable to local occupation taxes administered by the Department.
- c) The tax does not extend to gross receipts from sales in which the seller is obligated, under the terms of his [or her](#) agreement with the purchaser, to make physical delivery of the goods from a point in this State to a point outside this

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State, not to be returned to a point within this State, provided that the delivery is actually made.

- d) Nor does the tax apply to gross receipts from sales in which the seller, by carrier (when the carrier is not also the purchaser) or by mail, under the terms of his [or her](#) agreement with the purchaser, delivers the goods from a point in this State to a point outside this State not to be returned to a point within this State. The fact that the purchaser actually arranges for the common carrier or pays the carrier that effects delivery does not destroy the exemption. However, it is critical that the seller is shown as the consignor or shipper on the bill of lading. If the purchaser is shown as either the consignor or the shipper, the exemption will not apply.
- e) The place at which title to the property passes to the purchaser is immaterial. The place at which the contract of sale or contract to sell is negotiated and executed and the place at which the purchaser resides are also immaterial. Sales of the type described in subsections (c) and (d) are deemed to be within the protection of the Commerce Clause of the Constitution of the United States.
- f) To establish that the gross receipts from any given sale are exempt because the tangible personal property is delivered by the seller from a point within this State to a point outside this State under the terms of an agreement with the purchaser, the seller will be required to retain in his [or her](#) records, to support deductions taken on his [or her](#) tax returns proof that satisfies the Department that there was an agreement and a bona fide delivery outside this State of the property that is sold. The most acceptable proof of this fact will be:
- 1) If shipped by common carrier, a waybill or bill of lading requiring delivery outside this State;
 - 2) if sent by mail, an authorized receipt from the United States Post Office ~~department~~[Department](#) for articles sent by registered mail, parcel post, ordinary mail or otherwise, showing the name of the addressee, the point outside Illinois to which the property is mailed and the date of the mailing; if the receipt does not comply with these requirements, other supporting evidence will be required;
 - 3) if sent by seller's own transportation equipment, a trip sheet signed by the person making delivery for the seller and showing the name, address and signature of the person to whom the goods were delivered outside this

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State; or, in lieu thereof, an affidavit signed by the purchaser or his [or her](#) representative, showing the name and address of the seller, the name and address of the purchaser and the time and place of the delivery outside Illinois by the seller; together with other supporting data as required by Section 130.810 of this Part and by Section 7 of the Act.

- g) Retailers who ship property to freight forwarders who take possession of the property in Illinois and ship the property to foreign countries, not to be returned to the United States, are making exempt sales in foreign commerce and do not incur Retailers' Occupation Tax liability on the gross receipts from those sales. However, there is no exemption for property delivered in Illinois to foreign vessels. If foreign vessels purchase items of tangible personal property from Illinois retailers and have those items delivered to the vessels in an Illinois port, the sale is made in Illinois, the purchaser takes possession of the items in Illinois, and therefore, the sale is taxable.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 150
- 3)

<u>Section Numbers:</u> 150.306 150.310	<u>Proposed Action:</u> Amendment Amendment
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- 4) Statutory Authority: 20 ILCS 2505/2505-90
- 5) A Complete Description of the Subjects and Issues Involved: Section 150.306 is being amended to replace the current rulemaking for that Section that expired on May 27, 2008. The Illinois Automobile Dealers Association (IADA) filed an objection to that rulemaking. Discussions with the IADA and the Chicago Automobile Trade Association have resulted in the changes incorporated into this rulemaking. Beginning July 1, 2008, this proposed rulemaking sets out 3 criteria that, if they occur, would prohibit the availability of the exemption for those items in those specific situations. It also provides a safe harbor for the use of items for which the interim use exemption is claimed as long as the retailers meet 6 criteria in regards to those items. If the use of the item does not fall either under the specific prohibitions or under the safe harbor provisions, another set of criteria is provided to determine if the exemption applies. The rules also make clear that manufacturers who are registered as retailers and claim the interim use exemption are subject to the same requirements as other retailers beginning on July 1, 2008.

Section 150.310 is being amended to reference the exemption from Use Tax for nonresidents who claim the drive-away decal exemption described in Section 130.605(b)(1). The rulemaking also provides notice that, beginning July 1, 2008, if the motor vehicle is then used in this State for 30 or more days in a calendar year, the purchaser is liable for Use Tax on the purchase price of that motor vehicle. The rules reference that, if the purchaser incurs tax under this provision, a credit will be given for any tax that was properly due and paid in another state; and any assessment of tax under that provision is limited to the period for which the Department may issue a notice of tax liability under the Use Tax Act.

Section 150.310 is being further amended to describe the fly-away aircraft exemption for aircraft that is purchased in this State, temporarily located in this State for the purpose of a prepurchase evaluation, and temporarily located in this State for the purpose of a post-sale customization, which was created by Public Act 95-305, effective August 20, 2007. That Section is also amended to reference the ending date for the exemption for the

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temporary storage of property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect: No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

Section Number:
150.340

Proposed Action:
New Section

Illinois Register Citation:
32 Ill. Reg. 8563; June 13, 2008

- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Terry D. Charlton
Senior Counsel, Sales & Excise Taxes
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Automobile dealers and other retailers who claim the interim use exemption; nonresident purchasers of automobiles and other vehicles for which

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the drive-away permit exemption may be claimed; and persons who claim the temporary storage exemption for property purchased from Illinois retailers.

- B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: The rulemaking for Section 150.306 was not included on the January 2008 Regulatory Agenda because the previous rulemaking on this issue had already been filed. The rulemaking for Section 150.310 regarding the Use Tax liability of purchasers who claimed the drive-away permit exemption was not included on the January 2008 Regulatory Agenda because it arose out of discussions with the Illinois Automobile Dealers Association and the Chicago Automobile Trade Association after that Regulatory Agenda had been prepared. The rulemaking for the changes to Section 510.310 regarding the fly-away aircraft exemption was listed on the January 2008 Regulatory Agenda.

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 150
USE TAX

SUBPART A: NATURE OF THE TAX

Section	
150.101	Description of the Tax
150.105	Rate and Base of Tax
150.110	How To Compute Depreciation
150.115	How To Determine Effective Date
150.120	Effective Date of New Taxes
150.125	Relation of Use Tax to Retailers' Occupation Tax
150.130	Accounting for the Tax
150.135	How to Avoid Paying Tax on Use Tax Collected From the Purchaser

SUBPART B: DEFINITIONS

Section	
150.201	General Definitions

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section	
150.301	Cross References
150.305	Effect of Limitation that Purchase Must be at Retail From a Retailer to be Taxable
150.306	Interim Use and Demonstration Exemptions
150.310	Exemptions to Avoid Multi-State Taxation
150.311	Commercial Distribution Fee Sales Tax Exemption
150.315	Non-resident Exemptions
150.320	Meaning of "Acquired Outside This State"
150.325	Charitable, Religious, Educational and Senior Citizens Recreational Organizations as Buyers
150.330	Governmental Bodies as Buyers
150.331	Persons Who Lease Tangible Personal Property to Exempt Hospitals
150.332	Persons Who Lease Tangible Personal Property to Governmental Bodies
150.335	Game or Game Birds Purchased at Game Breeding and Hunting Areas or Exotic

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- Game Hunting Areas
- 150.336 Fuel Brought into Illinois in Locomotives
- 150.337 Food, Drugs, Medicines and Medical Appliances When Purchased for Use by a Person Receiving Medical Assistance under the Illinois Public Aid Code

SUBPART D: COLLECTION OF THE USE TAX FROM USERS BY RETAILERS

Section

- 150.401 Collection of the Tax by Retailers From Users
- 150.405 Tax Collection Brackets
- 150.410 Tax Collection Brackets for a 2 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.415 Tax Collection Brackets for a 2 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.420 Tax Collection Brackets for a 2 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.425 Tax Collection Brackets for a 3% Rate of Tax (Repealed)
- 150.430 Tax Collection Brackets for a 3 $\frac{1}{8}$ % Rate of Tax (Repealed)
- 150.435 Tax Collection Brackets for a 3 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.440 Tax Collection Brackets for a 3 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.445 Tax Collection Brackets for a 3 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.450 Tax Collection Brackets for a 4% Rate of Tax (Repealed)
- 150.455 Tax Collection Brackets for a 4 $\frac{1}{8}$ % Rate of Tax (Repealed)
- 150.460 Tax Collection Brackets for a 4 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.465 Tax Collection Brackets for a 4 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.470 Tax Collection Brackets for a 4 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.475 Tax Collection Brackets for a 5% Rate of Tax (Repealed)
- 150.480 Tax Collection Brackets for a 5 $\frac{1}{8}$ % Rate of Tax (Repealed)
- 150.485 Tax Collection Brackets for a 5 $\frac{1}{4}$ % Rate of Tax (Repealed)
- 150.490 Tax Collection Brackets for a 5 $\frac{1}{2}$ % Rate of Tax (Repealed)
- 150.495 Tax Collection Brackets for a 5 $\frac{3}{4}$ % Rate of Tax (Repealed)
- 150.500 Tax Collection Brackets for a 6% Rate of Tax (Repealed)
- 150.505 Optional 1% Schedule (Repealed)
- 150.510 Exact Collection of Tax Required When Practicable
- 150.515 Prohibition Against Retailer's Representing That He Will Absorb The Tax
- 150.520 Display of Tax Collection Schedule (Repealed)
- 150.525 Methods for Calculating Tax on Sales of Items Subject to Differing Tax Rates

SUBPART E: RECEIPT FOR THE TAX

Section

- 150.601 Requirements

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SUBPART F: SPECIAL INFORMATION FOR TAXABLE USERS

- Section
150.701 When and Where to File a Return
150.705 Use Tax on Items that are Titled or Registered in Illinois
150.710 Procedure in Claiming Exemption from Use Tax
150.715 Receipt for Tax or Proof of Exemption Must Accompany Application for Title or Registration
150.716 Display Certificates for House Trailers
150.720 Issuance of Title or Registration Where Retailer Fails or Refuses to Remit Tax Collected by Retailer from User
150.725 Direct Payment of Tax by User to Department on Intrastate Purchase Under Certain Circumstances
150.730 Direct Reporting of Use Tax to Department by Registered Retailers

SUBPART G: REGISTRATION OF OUT-OF-STATE RETAILERS

- Section
150.801 When Out-of-State Retailers Must Register and Collect Use Tax
150.805 Voluntary Registration by Certain Out-of-State Retailers
150.810 Incorporation by Reference

SUBPART H: RETAILERS' RETURNS

- Section
150.901 When and Where to File
150.905 Deduction for Collecting Tax
150.910 Incorporation by Reference
150.915 Itemization of Receipts from Sales and the Tax Among the Different States from Which Sales are Made into Illinois

SUBPART I: PENALTIES, INTEREST, STATUTE OF LIMITATIONS AND ADMINISTRATIVE PROCEDURES

- Section
150.1001 General Information

SUBPART J: TRADED-IN PROPERTY

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Section
150.1101 General Information

SUBPART K: INCORPORATION OF ILLINOIS RETAILERS' OCCUPATION TAX
REGULATIONS BY REFERENCE

Section
150.1201 General Information

SUBPART L: BOOKS AND RECORDS

Section
150.1301 Users' Records
150.1305 Retailers' Records
150.1310 Use of Signs to Prove Collection of Tax as a Separate Item
150.1315 Consequence of Not Complying with Requirement of Collecting Use Tax
Separately From the Selling Price
150.1320 Incorporation by Reference

SUBPART M: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section
150.1401 Claims for Credit – Limitations – Procedure
150.1405 Disposition of Credit Memoranda by Holders Thereof
150.1410 Refunds
150.1415 Interest

150.TABLE A Tax Collection Brackets

AUTHORITY: Implementing the Use Tax Act [35 ILCS 105] and authorized by Section 2505-90 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-90].

SOURCE: Adopted August 1, 1955; amended at 4 Ill. Reg. 24, p. 553, effective June 1, 1980; amended at 5 Ill. Reg. 5351, effective April 30, 1981; amended at 5 Ill. Reg. 11072, effective October 6, 1981; codified at 6 Ill. Reg. 9326; amended at 8 Ill. Reg. 3704, effective March 12, 1984; amended at 8 Ill. Reg. 7278, effective May 11, 1984; amended at 8 Ill. Reg. 8623, effective June 5, 1984; amended at 11 Ill. Reg. 6275, effective March 20, 1987; amended at 14 Ill. Reg. 6835, effective April 19, 1990; amended at 15 Ill. Reg. 5861, effective April 5, 1991;

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emergency amendment at 16 Ill. Reg. 14889, effective September 9, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 1947, effective February 2, 1993; amended at 18 Ill. Reg. 1584, effective January 13, 1994; amended at 20 Ill. Reg. 7019, effective May 7, 1996; amended at 20 Ill. Reg. 16224, effective December 16, 1996; amended at 22 Ill. Reg. 21670, effective November 25, 1998; amended at 24 Ill. Reg. 10728, effective July 7, 2000; amended at 25 Ill. Reg. 953, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1821, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 5059, effective March 23, 2001; amended at 25 Ill. Reg. 6540, effective May 3, 2001; amended at 25 Ill. Reg. 10937, effective August 13, 2001; amended at 26 Ill. Reg. 971, effective January 15, 2002; amended at 26 Ill. Reg. 9902, effective June 24, 2002; amended at 27 Ill. Reg. 1607, effective January 15, 2003; emergency amendment at 27 Ill. Reg. 11209, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; emergency amendment at 28 Ill. Reg. 15266, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7079, effective April 26, 2005; emergency amendment at 32 Ill. Reg. 8806, effective May 29, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. _____, effective _____.

SUBPART C: KINDS OF USES AND USERS NOT TAXED

Section 150.306 Interim Use and Demonstration Exemptions

a) Interim Use Exemption

- 1) Except as [otherwise](#) provided in [this subsection \(a\) and in](#) subsection (c) of this Section, tangible personal property purchased by a retailer for resale, and used by the retailer or his [or her](#) agents prior to its ultimate sale at retail, is exempt from Use Tax, provided that the tangible personal property is [of the same general type of property sold by that retailer and is carried as inventory on the books of the retailer or is otherwise available for sale during the interim use period. Beginning July 1, 2008, the following provisions apply to persons claiming the interim use exemption:](#)

[A\) The interim use exemption may not be claimed for any item if any of the following circumstances exist:](#)

- [i\) title to the item is held by any party other than the retailer, except that title may be held by the retailer, the manufacturer of the item, or a captive finance company;](#)

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- ii) the retailer elects to claim an Internal Revenue Code section 179 deduction on the item as a depreciable business asset; or
 - iii) if the item is leased or rented by the retailer, the aggregate gross receipts received from all leasing or renting of the item by the retailer exceeds the retailer's selling price of the item.
- B) Safe Harbor Rule. For items that are not excluded from the exemption under subsection (a)(1)(A), interim use will be deemed to occur if the retailer satisfies all of requirements of subsections (a)(1)(B)(i) through (vi):
- i) The item is one of the following:
 - listed in the retailers records as part of inventory;
 - not depreciated by the retailer under Internal Revenue Code section 167; or
 - otherwise shown by the retailer's records, documents, or operations as available for sale during the interim use period.
 - ii) The period of use or lease of the item by the retailer is less than 24 months.
 - iii) The item is of the same general type of property sold by the retailer.
 - iv) The item is ultimately sold by the retailer.
 - v) If the retailer receives revenues from the lease of the same general type of property as the item for which interim use is claimed, then the annual total of such lease revenues must be less than the annual total of the sales revenues received from the property.

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vi) If the item is leased under a lease agreement for more than 30 days, the lease agreement must contain a provision that, if the retailer locates a buyer for the item, the lease may be terminated within 7 days or the lessee may receive comparable property substituted by the retailer for the item within 7 days.

C) If the item is not excluded from the exemption under subsection (a)(1)(A) and does not fall under the safe harbor provisions of subsection (a)(1)(B) and, if the item is leased, the retailer is primarily a retailer as provided by subsection (a)(3), then the Department shall review all applicable and available facts to determine if the interim use exemption applies, including, but not limited to:

i) The retail sales history or records of the type of items in question.

ii) Inventory records.

iii) Advertising of the item and, if the item is a vehicle, any advertisements on the vehicle and at the location of the vehicle.

iv) Manufacturer's contract terms, conditions, discounts and rebates.

v) Length and location of use or lease prior to sale.

vi) Whether depreciation under Internal Revenue Code section 167 was taken by the retailer.

vii) Ownership and control documents, including but not limited to books, records, titles and insurance documents.

viii) If the item is leased, whether the contracts signed by lessee indicate the vehicle is available for recall, substitution allowance and sale during the lease period.

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D) For purposes of this subsection (a)(1), the term "captive finance company" means a wholly owned subsidiary of a manufacturing company that finances wholesale or retail purchases from that manufacturing company.

- 2) To the extent provided by and limited under subsections (a) and~~Except as limited in subsection~~ (c), the leasing of tangible personal property by persons who are primarily engaged in the business of selling such property at retail is within the interim use exemption if ~~thesueh~~ property is carried as inventory on the books of the retailer or is otherwise available for sale during the lease period. Except as to motor vehicles described in subsection (a)(4), the interim use exemption is not available to persons who purchase tangible personal property with the intent to engage in the business of leasing ~~thatsueh~~ property and who sell ~~thesueh~~ property only as an incident to their leasing activity. Persons who are primarily engaged in the business of leasing motor vehicles may not claim an interim use exemption when purchasing motor vehicles for use in their business even though ~~thesueh~~ lessors are subject to ~~Retailers'~~Retailer's Occupation Tax on the sale of used motor vehicles pursuant to 35 ILCS 120/1c. Motor vehicles of the first division, as defined in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146], are exempt from Use Tax if the vehicles purchased are to be rented under lease terms of one year or less. (See 35 ILCS 105/3-5(10).)
- 3) In determining whether a taxpayer is "primarily" a retailer, the Department will examine only the activities of his Illinois operations. In addition, the Department will examine the activities of divisions of a corporate entity that are not separately registered with the Department. If divisions of a corporate entity are separately registered, however, their activities will not be examined in making this determination.
- 4) To the extent provided by and limited under subsection (a), the~~The~~ leasing of motor vehicles by motor vehicle dealers is within the interim use exemption if the leased motor vehicles are carried as inventory on the books of the dealers or are otherwise available for sale during the lease period. For example, many times motor vehicle dealers enter into leases of motor vehicles with lessees and simultaneously sell both those motor vehicles and leases to third parties. If a motor vehicle dealer enters into a lease of a motor vehicle with a lessee and simultaneously sells that motor

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vehicle to a third party, the interim use exemption is available to the dealer in regard to the purchase of the motor vehicle when it was purchased by the dealer for lease, provided that the motor vehicle is carried as inventory on the books of the dealer or is otherwise available for sale during the lease period. However, the dealer's sale of the motor vehicle, with or without the lease, to the third party is taxable and the third party incurs a Use Tax liability.

- 5) Until June 30, 2008, theThe leasing of motor vehicles by motor vehicle manufacturers to their employees is within the interim use exemption if the leased motor vehicles are carried as inventory on the books of the manufacturers or are otherwise available for sale during the lease period. Beginning on July 1, 2008 and thereafter, a manufacturer may claim the interim use exemption for tangible personal property leased to its employees, or otherwise used by its employees, only when the manufacturer is registered as a retailer and the use of that property would qualify under all of the requirements of this subsection (a) and subsection (c).

b) Demonstration Use Exemption

- 1) Except as provided in subsection (c), tangible personal property purchased for resale and used by its owner for demonstration purposes is not subject to Use Tax.
- 2) The leasing of tangible personal property by a retailer to prospective buyers for the purpose of allowing them to ascertain whether ~~or not~~ the property suits their particular needs and for the purpose of trying to induce them to buy ~~the~~ property is a use for demonstration purposes, except as provided in subsection (c).
- 3) The demonstration use exemption may not be claimed for tangible personal property purchased for resale ~~that~~which is consumed or destroyed in order to promote or demonstrate the product available for sale or is given away to a prospective customer as an inducement to make future purchases. For example, a retail grocer offering free samples of pizza to customers in his ~~or her~~ store in order to promote the sale of a new frozen pizza would not be able to claim a demonstration use exemption on his ~~or her~~ purchase price of the pizza consumed in the promotion.

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- 4) A vendor may not claim a demonstration use exemption on the use of a competing product, not available for sale by that vendor, even though the vendor uses the competing product to assist in the demonstration of the product ~~which~~ he or she sells. Nor may a vendor claim a demonstration use exemption on ancillary items used in the demonstration of a product (i.e., a microwave used to heat the pizza samples in the above example). The demonstration use exemption is available only to a vendor of the product being demonstrated.
- c) Aircraft and Watercraft
For watercraft or aircraft, if the period of demonstration use or interim use by the retailer exceeds 18 months, the retailer shall pay Use Tax on the original cost price of the aircraft or watercraft, and no credit for that tax is permitted if the aircraft or watercraft is subsequently sold by the retailer. For purposes of this Section, the term "watercraft" means a Class 2, Class 3 or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act [625 ILCS 45/3-2], a personal watercraft, or any boat equipped with an inboard motor.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 150.310 Exemptions to Avoid Multi-State Taxation

- a) To prevent actual or likely multi-state taxation, the tax shall not apply to the use of tangible personal property in this State under the following circumstances:
- 1) The use, in this State, of tangible personal property acquired outside this State by a nonresident individual and brought into this State by ~~that~~ she individual for his or her own use while temporarily within this State or while passing through this State;~~;~~
- 2) the use, in this State, of tangible personal property by an interstate carrier for hire as rolling stock moving in interstate commerce; or by lessors under a lease of one year or longer executed or in effect at the time of purchase of tangible personal property to interstate carriers for hire for use as rolling stock moving in interstate commerce, ~~as long as so used by~~ the ~~she~~ interstate carriers for hire. When tangible personal property is purchased by a lessor, ~~under a lease for one year or longer, executed or in effect at the time of purchase to an interstate carrier for hire,~~ who did not

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pay Use Tax to the retailer, ~~thesueh~~ lessor (by the last day of the month following the calendar month in which ~~thesueh~~ property reverts to the use of ~~thesueh~~ lessor) shall file a return with the Department and pay the tax upon the fair market value of ~~thesueh~~ property on the date of ~~thesueh~~ reversion. For more details concerning this exemption, see 86 Ill. Adm. Code 130.340 of the Retailers' Occupation Tax ~~regulations~~Regulations; the same principles apply for Use Tax purposes;

- 3) *the use, in this State, of tangible personal property that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another state in respect to the sale, purchase or use of that property, to the extent of the amount of the tax properly due and paid in the other state; for this purpose, "state" includes the District of Columbia [35 ILCS 105/3-55(d)];*
- 4) the temporary storage, in this State, of tangible personal property ~~which is~~ acquired outside this State ~~thatand which~~, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State;
- 5) the temporary storage in this State of building materials and fixtures ~~which are~~ acquired either in this State or outside this State by an Illinois registered combination retailer and construction contractor, and ~~that thewhich such~~ purchaser thereafter uses outside this State by incorporating ~~thesueh~~ property into real estate located outside this State;
- 6) *beginning on January 1, 2002 ~~and through June 30, 2011~~, the use of tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. [35 ILCS 105/3-55(j)]*

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- A) "Centralized purchasing" means the procurement of tangible personal property by persons who purchase tangible personal property solely for use or consumption outside Illinois, who take delivery of that tangible personal property in Illinois and who temporarily store that tangible personal property in Illinois prior to transporting it outside the State for use or consumption solely outside Illinois.
- i) For example, a business that maintains offices in several states and maintains storage facilities in Illinois purchases office equipment from an Illinois retailer, takes delivery of those items in Illinois and then stores them at its Illinois warehouse until they are shipped to its offices outside Illinois for use there can qualify for the exemption.
 - ii) For example, a lessor that purchases an item from an Illinois retailer specifically to fulfill its obligations under an existing lease with a lessee located outside Illinois, takes delivery of that item in Illinois and then stores that item at an Illinois warehouse until it is shipped to its lessee's out-of-State location can qualify for the exemption so long as the item is used solely outside Illinois.
 - iii) However, a lessor who purchases an item that is not dedicated to an existing lease with an out-of-State lessee, takes delivery of that item in Illinois and then places it in an Illinois rental inventory cannot qualify for the exemption even if the item is subsequently leased to an out-of-State lessee. This is true because, in Illinois, lessors are deemed to be the users of items purchased for rental inventories and placing an item in a rental inventory does not constitute storage.
- B) "Good standing" means the taxpayer has no final liability that the taxpayer is failing to pay. For purposes of this Section, final liability includes a notice of tax liability that has become final, an admitted liability, or a math error.

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- C) Persons who wish to take advantage of this expanded temporary storage exemption must apply in writing to the Department to obtain an Expanded Temporary Storage Permit. Expanded Temporary Storage Permits cannot be assigned or transferred except when the holder of the permit is purchasing from an unregistered de minimis serviceman providing services as described in 86 Ill. Adm. Code 140.108. Other than this, only the person to whom the Expanded Temporary Storage Permit was issued by the Department may use that permit as described in this Section.
- D) Persons holding a valid Expanded Temporary Storage Permit may claim the expanded temporary storage exemption by providing their Illinois suppliers with a certification that the tangible personal property received in Illinois will be temporarily stored in Illinois for the purpose of being subsequently transported outside this State for use or consumption thereafter solely outside this State or for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. ~~The~~[Such](#) certification must identify the seller, the purchaser, and the property, and include the purchaser's Expanded Temporary Storage Permit number and signature.
- i) If all of an Expanded Temporary Storage Permit holder's purchases qualify for the expanded temporary storage exemption, the Expanded Temporary Storage Permit holder may provide his [or her](#) supplier a blanket certificate of expanded temporary storage.
- ii) If an Expanded Temporary Storage Permit holder knows that a certain percentage of all his [or her](#) purchases from a given seller will qualify for the expanded temporary storage exemption, he [or she](#) may provide a blanket certificate of expanded temporary storage stating that a designated percentage of purchases qualify for the expanded temporary storage exemption.
- E) In the event that tangible personal property for which the expanded

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temporary storage exemption has been claimed is taken out of storage and not transported outside this State for use or consumption, but is instead used or consumed in Illinois, the purchaser shall pay the tax that would have been due, in the same form that the retailer would have paid the tax (i.e., Retailers' Occupation Tax and local Retailers' Occupation Tax, if applicable), at the rate applicable at the location of the retailer from which the tangible personal property was purchased. For example, if tangible personal property purchased from a retailer in Naperville is temporarily stored in Illinois, then, instead of being transported outside the State for use or consumption, is removed from inventory and used in Illinois, tax will be due at the retailer's rate applicable in Naperville. The permit holder must pay the tax directly to the Department on forms prescribed by the Department, not later than the twentieth day of the month following the month in which the property was removed from inventory.

- F) In the event that tangible personal property for which the expanded temporary storage exemption has been claimed is temporarily stored in Illinois and transported outside this State for use or consumption, but subsequently returned to Illinois and used here, the purchaser shall pay the tax that would have been due, in the same form that the retailer would have paid the tax (i.e., Retailers' Occupation Tax and local Retailers' Occupation Tax, if applicable), at the rate applicable at the location of the retailer from which the tangible personal property was purchased. For example, if tangible personal property purchased from a retailer in Naperville is temporarily stored in Illinois and transported outside this State for use or consumption, but subsequently returned to Illinois and used here, tax will be due at the retailer's rate applicable in Naperville. Depreciation will be allowed as provided in Section 150.105(a). Also, credit shall be given for tax paid in another state in respect to the sale, purchase or use of [thesueh](#) property, to the extent of the amount of the tax properly due and paid in the other state, as provided in subsection (a)(3) of this Section.
- G) Permit holders who assume the liability for the Retailers' Occupation Tax and any applicable local Retailers' Occupation

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Tax are subject to the same rights, remedies, privileges, immunities, powers and duties, and are subject to the same conditions, restrictions, limitations, penalties, and definitions of terms and employ the same modes of procedures as are prescribed for retailers under the Retailers' Occupation Tax Act. For example, if a permit holder fails to timely file the proper return or make the proper payment of tax, that permit holder is not entitled to the 1.75% vendor discount applicable to the sales reported on that return and is subject to penalties and interest under the Uniform Penalty and Interest Act [35 ILCS 735].

- 7) the use, in this State, of a vehicle for which a drive-away decal has been issued under the provisions of 86 Ill. Adm. Code 130.605(b)(1). However, beginning July 1, 2008, if the purchaser of a motor vehicle claims the exemption provided in Section 130.605(b)(1) and the motor vehicle is then used in this State for 30 or more days in a calendar year, the purchaser is liable for Use Tax on the purchase price of that motor vehicle, subject to credit for tax properly due and paid to any other state as provided in subsection (a)(3) of this Section. The assessment of tax under this subsection (a)(7) by the Department is limited to the period for which it may issue a notice of tax liability under the Use Tax Act.
- 8) beginning July 1, 2007, the use, in this State, of an aircraft described in subsection (a)(8)(A), (B) or (C), as defined in Section 3 of the Illinois Aeronautics Act.
 - A) If the aircraft is purchased in this State, all of the following three conditions must be met:
 - i) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the purchase of the aircraft or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection as required by 14 CFR 91.407;
 - ii) the aircraft is not based or registered in this State after the purchase of the aircraft; and

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- iii) the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this subsection (a)(8)(A) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.
- B) If the aircraft is temporarily located in this State for the purpose of a prepurchase evaluation, all of the following conditions must be met:
 - i) the aircraft is not based or registered in this State after the prepurchase evaluation; and
 - ii) the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this subsection (a)(8)(B) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.
- C) If the aircraft is temporarily located in this State for the purpose of a post-sale customization, all of the following conditions must be met:
 - i) the aircraft leaves this State within 15 days after the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 CFR 91.407;
 - ii) the aircraft is not based or registered in this State either before or after the post-sale customization; and

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iii) the purchaser provides the Department with a signed and dated certification, on a form prescribed by the Department, certifying that the requirements of this subsection (a)(8)(C) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

D) The exemption provided under subsections (a)(8)(B) and (C) does not apply to tax incurred on any service transactions performed on the aircraft.

E) For purposes of subsection (a)(8):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this subsection (a)(8)(E), for 10 or more days in each 12-month period immediately following the date of the sale of the aircraft.

"Post-sale customization" means any improvement, maintenance, or repair that is performed on an aircraft following a transfer of ownership of the aircraft.

"Prepurchase evaluation" means an examination of an aircraft to provide a potential purchaser with information relevant to the potential purchase.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

F) If tax becomes due under this subsection (a)(8) because of the purchaser's use of the aircraft in this State, the purchaser shall file a return with the Department and pay the tax on the fair market value of the aircraft. This return and payment of the tax must be made no later than 30 days after the aircraft is used in a taxable manner in this State. The tax is based on the fair market value of the aircraft

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[on the date that it is first used in a taxable manner in this State. \[35 ILCS 105/3-55\(h-2\)\]](#)

- b) Since exemptions described in subsections (a)(1), (3) and (4) do not exist as far as the Retailers' Occupation Tax is concerned, and since it would therefore serve no purpose to say that the exemptions exist for Use Tax purposes insofar as the seller is merely collecting Use Tax to reimburse himself [or herself](#) for Retailers' Occupation Tax on the same transaction, the Department believes that the legislative intention in these references to the acquisition of tangible personal property outside this State was to make the references apply to cases in which the only tax liability that could be involved is Use Tax liability.
- c) Therefore, exemptions described in subsections (a)(1), (3) and (4) would not apply except when the tangible personal property is acquired outside Illinois by the purchaser in such a way that there is no Retailers' Occupation Tax liability on the part of the seller in the same transaction.
- d) For information as to when sellers do or do not incur Retailers' Occupation Tax liability when shipping the tangible personal property from outside Illinois, see [86 Ill. Adm. Code Section 130.610](#) of the Retailers' Occupation Tax [regulationsRegulations](#).

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Illinois Safety Responsibility Law
- 2) Code Citation: 92 Ill. Adm. Code 1070
- 3) Section Number: 1070.110 Proposed Action:
Amendment
- 4) Statutory Authority: 625 ILCS 5/7-701; 625 ILCS 5/6-521
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is being amended to establish the process by which the Office of the Secretary of State suspends driver's licenses based on an administrative order from the Illinois Department of Healthcare and Family Services.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The rulemaking will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Texts of the proposed amendment is posted on the Secretary of State's website, <http://www.cyberdriveillinois.com/> as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Arlene J. Pulley
Administrative Rules Coordinator
Office of the Secretary of State
Driver Services Department
Springfield, Illinois 62723

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217-557-4462

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

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

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NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1070
ILLINOIS SAFETY RESPONSIBILITY LAW

Section	
1070.10	Forms of Security
1070.20	Future Proof
1070.30	Installment Agreements
1070.40	Disposition of Security
1070.50	Failure to Satisfy Judgment
1070.60	Release From Liability
1070.70	Incomplete Unsatisfied Judgment
1070.80	Driver's License Restriction for Exclusive Operation of Commercial Vehicles
1070.90	Dormant and Dead Judgments
1070.100	Bankruptcy
1070.110	Illinois Safety and Family Financial Responsibility Law

AUTHORITY: Implementing and authorized by the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/Ch. 7].

SOURCE: Filed and effective December 17, 1971; codified at 6 Ill. Reg. 12674; repealed at 7 Ill. Reg. 13678, effective October 14, 1983; New Part adopted at 11 Ill. Reg. 20215, effective November 30, 1987; amended at 14 Ill. Reg. 6859, effective April 24, 1990; amended at 14 Ill. Reg. 10107, effective June 12, 1990; amended at 15 Ill. Reg. 15083, effective October 8, 1991; amended at 16 Ill. Reg. 2172, effective January 24, 1992; amended at 17 Ill. Reg. 8517, effective May 27, 1993; amended at 18 Ill. Reg. 10909, effective June 28, 1994; amended at 20 Ill. Reg. 398, effective December 20, 1995; amended at 20 Ill. Reg. 7956, effective May 30, 1996; amended at 24 Ill. Reg. 1672, effective January 14, 2000; emergency amendment at 27 Ill. Reg. 14361, effective August 20, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18458, effective November 24, 2003; emergency amendment at 30 Ill. Reg. 7974, effective April 14, 2006, for a maximum of 150 days; emergency expired September 11, 2006; amended at 30 Ill. Reg. 6392, effective April 12, 2007; amended at 32 Ill. Reg. _____, effective _____.

Section 1070.110 Illinois Safety and Family Financial Responsibility Law

- a) For purposes of this Section, the following definitions shall apply:

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"Administrative Order of Support" – an order for the support of dependent children issued by an administrative body of this or any other state.

"Cancellation" – the annulment or termination by formal action of the Secretary of State of a person's Family Financial Responsibility Driving Permit (FFRP) because of some error or defect in the FFRP or because the permittee is in some form of violation of any of the requirements contained in the Illinois Vehicle Code or Illinois Administrative Code.

"Certification" – the electronic transmission to the Department from the Illinois Department of Healthcare and Family Services when a person is 90 days or more delinquent in payment of support under an order of support entered by an administrative body of this or any other state.

"Department" – the Department of Driver Services within the Office of the Secretary of State.

"Department of Healthcare and Family Services" or "HFS" – the Illinois Department of Healthcare and Family Services.

"Family Financial Responsibility Driving Permit" or "(FFRP)" – a document issued to persons who have had their full driving privileges suspended that which grants and specifies limited driving privileges as specified in IVC Section 7-702.1 of the Illinois Vehicle Code [625 ILCS 5/7-702.1].

"Illinois Vehicle Code", "Vehicle Code" or "IVC" – 625 ILCS 5.

"Invalidation" – to render a license or permit no longer valid for the purpose it was issued, as specified in IVC Section 6-301.3 of the Illinois Vehicle Code [625 ILCS 5/6-301.3].

"Law Enforcement" – a police officer, sheriff, coroner, municipal prosecutor, or state's attorney.

"Law Enforcement Sworn Report" – a confirmation of correctness and truth by an affidavit, oath or, deposition, or a verification by certification, executed by a law enforcement officer, as specified in IVC Section 11-501.1(d) of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501.1(d)] and Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109].

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"Received by the Department of Administrative Hearings" – a written request for an administrative hearing that is received and date-file stamped at the Department of Administrative Hearings ~~or any formal hearing location located at Michael J. Howlett Building, 2nd Floor, Springfield, IL 62756 or 17 North State Street, Suite 1200, Chicago, IL 60602.~~

"Stay Order" – the temporary suspension of the regular order of proceeding in a cause, by direction or order of the court.

- b) The Department shall not enter an order of suspension pursuant to IVC ~~for purposes of~~ Section 7-702(a) or (b) ~~of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-702]~~ unless the authenticated report provided for in IVC Section 7-703 ~~of the Illinois Safety and Family Financial Responsibility Law~~ is complete. It must be on a form prepared or approved by the Secretary of State and include obligor's name and address, case number, driver's license number, date of birth, sex, the date the order was entered, court clerk or judge's signature or the signature of his/her designee, court seal or file stamp, court, court address, date certified, obligee's full name and attorney initiating action where applicable.
- c) The Department shall not enter ~~an FFRP a Family Financial Responsibility Driving Permit pursuant to IVC for purposes of~~ Section 7-702.1 ~~of the Illinois Safety and Family Financial Responsibility Law [625 ILCS 5/7-702.1]~~ unless the following conditions are met:
- 1) The Department receives a certified court order on a form prepared and approved by the Secretary of State from the court of jurisdiction.
 - 2) The order shall include: name and address of individual receiving permit, court case number, driver's license number, date of birth, ~~and~~ sex, employer and address if applicable, medical treatment if applicable, hours petitioner permitted to operate vehicle, route to be traveled, issue date, judge's signature or the signature of his/her designee, court seal and county.
- d) Upon receipt of one or more of the following documents from a circuit clerk's office, law enforcement agency or the Department of Administrative Hearings within the Office of the Secretary of State, the Department shall invalidate ~~an a~~

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FFRP:

- 1) a copy of a charging document for manslaughter or reckless homicide resulting from operation of a motor vehicle in violation of Section 9-3 of the Criminal Code [720 ILCS 5/9-3], driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501 ~~of the Illinois Vehicle Code~~ or a similar provision of a local ordinance ~~[625 ILCS 5/11-501]~~, driving outside of restrictions of permit in violation of IVC Section 6-113(e) ~~of the Illinois Vehicle Code [625 ILCS 5/6-113(e)]~~, leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401 ~~of the Illinois Vehicle Code [625 ILCS 5/11-401]~~, or drag racing ~~in violation of IVC Section 11-504 of the Illinois Vehicle Code [625 ILCS 5/11-504]~~. The law enforcement officer issuing a citation for any of the ~~above listed~~ offenses listed in this subsection (d)(1) shall confiscate the FFRP and forward it, along with the citation, to the clerk of the circuit court of the county in which the citation was issued. Whenever ~~an a~~-FFRP is forwarded to a court, as a result of confiscation by a law enforcement officer, it shall be the duty of the clerk to forward ~~the such~~ FFRP and a facsimile of the officer's citation to the Secretary of State as expeditiously as possible.
 - 2) a report of any disposition of court supervision or convictions for manslaughter or reckless homicide resulting from operation of a motor vehicle in violation of Section 9-3 of the Criminal Code [720 ILCS 5/9-3], driving under the influence of alcohol and/or other drugs in violation of IVC Section 11-501 ~~of the Illinois Vehicle Code~~ or a similar provision of a local ordinance ~~[625 ILCS 5/11-501]~~, leaving the scene of a motor vehicle accident involving death or personal injury in violation of IVC Section 11-401 ~~of the Illinois Vehicle Code [625 ILCS 5/11-401]~~, or drag racing in violation of IVC Section 11-504 ~~of the Illinois Vehicle Code [625 ILCS 5/11-504]~~; or
 - 3) Law Enforcement Officer's Sworn Report.
- e) An FFRPA Family Financial Responsibility Driving Permit issued pursuant to IVC Section 7-702.1 ~~of the Illinois Family Financial Responsibility Law [625 ILCS 5/702.1]~~ shall be valid until it is invalidated, suspended, revoked or canceled, or as specified by the court~~Court~~.

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- f) The Department shall invalidate ~~an a-~~FFRP, upon receipt of a court order indicating the permittee is no longer entitled to ~~thesueh~~ permit, in the same manner ~~thatus~~ a driver's license may be invalidated.
- g) The Department, upon receipt of authenticated documentation that the obligor is in compliance with the court order of support or that the order of suspension has been stayed, shall terminate the FFRP.
- h) In order to reinstate the privileges ~~suspended pursuant to IVC Section 7-702(a) or (b) under the Illinois Family Financial Responsibility Law~~, the Department must receive authenticated documentation on a form prepared or approved by the Secretary of State ~~that includes which must include~~ case number, driver's license number, name, address and county, date of birth, sex, notice of compliance or stay, signature of circuit clerk, issuing judge, circuit court, court seal, street and city.
- i) Any submitted authenticated report or Record of Nonpayment of Court-Ordered Child Support that ~~ismay be~~ defective by not containing sufficient information or ~~has been~~ completed in error shall not be entered into the record, ~~butand~~ shall be returned to the court of jurisdiction, ~~and shall indicate indicating~~ why the order of suspension cannot be entered unless the necessary information is submitted.
- j) Any submitted court order that contains insufficient data or fails to comply with any provisions of this Part or Article VII of the ~~Illinois Vehicle Code Illinois Family Financial Responsibility Law [625 ILCS 5/Ch. 7, Art. VII]~~ shall be returned to the court of jurisdiction indicating why the ~~FFRP Family Financial Responsibility Driving Permit~~ cannot be issued at that time.
- k) The Secretary of State, upon receipt of a written request for administrative hearing that is received by the Department of Administrative Hearings prior to the effective date of the suspension, ~~on a form prescribed by the Secretary~~, shall stay the Family Financial Responsibility Suspension in accordance with ~~IVC Section 7-706 Family Financial Responsibility~~.
- l) The Secretary of State, upon receipt of an Order to Stay as listed on the Notice of Compliance prior to or after the effective date of the suspension, shall stay the Family Financial Responsibility Suspension in accordance with IVC Section 7-704 ~~of the Illinois Family Financial Responsibility Law [625 ILCS 5/7-704]~~.

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- m) An obligor whose driving privileges have been suspended pursuant to IVC Section 7-702 ~~of the Illinois Family Financial Responsibility Law~~ and possesses an FFRPa Family Financial Responsibility Driving Permit shall be required to renew his/her driving privileges in the same manner as set forth in IVC Section 6-115 ~~of the Illinois Vehicle Code [625 ILCS 5/6-115]~~. Non-renewal of a driver's license pursuant to IVC Section 6-115 will result in invalidation of the FFRPFamily Financial Responsibility Driving Permit.
- n) The fee collected by the Department for reinstatement of a driver's license following a suspension shall be as prescribed by IVC SectionsSection 6-118 ~~of the Illinois Vehicle Code~~ and Section 7-707 ~~of the Illinois Family Financial Responsibility Law~~ and shall be charged for each suspension entered pursuant to IVC Section 7-704 ~~of the Illinois Family Financial Responsibility Law [625 ILCS 5/6-118, 7-707 and 7-704]~~.
- o) The Department shall enter an order of suspension pursuant to IVC Section 7-702(c) when the Department of Healthcare and Family Services submits the certification to the Department when the person is 90 days or more delinquent in payment of support under an order of support issued by an administrative body of this or any other state. The certification shall include the person's name, address, date of birth, sex and case number.
- p) The Department shall enter a notice of compliance for purposes of IVC Section 7-702(c) when HFS electronically submits a certification of compliance to the Department when the person has paid the support delinquency in full or has arranged for payment of the delinquency and current support obligations in a manner satisfactory to HFS. The certification of compliance must include the person's name, address, date of birth, sex and case number.
- q) Any electronic submission to the Department from HFS that contains insufficient data or fails to comply with any provisions of Ch. 7, Art. VII of the Illinois Vehicle Code shall be rejected and returned electronically to HFS.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Sale of Information
- 2) Code Citation: 92 Ill. Adm. Code 1002
- 3)

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1002.10	Amendment
1002.20	Amendment
1002.30	Amendment
1002.40	Amendment
1002.42	Amendment
1002.45	Amendment
1002.60	Amendment
1002.70	Amendment
1002.90	Amendment
- 4) Statutory Authority: 625 ILCS 5/2-104(b) and 625 ILCS 5/2-123(p)
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking serves to update the policies that govern the release and sale of information of data acquired by the Secretary of State in conjunction with issuing vehicle registrations and driver's licenses.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency amendments currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Written comments may be submitted within 45 days to:

Brenda Glahn, Assistant General Counsel

SECRETARY OF STATE

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Illinois Secretary of State
298 Howlett Building
Springfield, Illinois 62756

217-785-3094

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the most recent regulatory agendas because: the Department did not anticipate this rulemaking at the time the agendas were filed.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1002
SALE OF INFORMATION

Section	
1002.10	Applicability
1002.20	Definitions
1002.30	Fees
1002.40	Requests
1002.42	Impermissible Use Uses of Personally Identifying Personal Information
1002.45	Request for an Individual's Driving, Registration, or Title Information
1002.50	Lists of Purchasers
1002.60	Access Agreement Contract
1002.70	Public Records
1002.80	Lists of Licenses
1002.90	Social Security Numbers

AUTHORITY: Implementing Section 2-123, and authorized by Sections 2-104, 2-107, and 2-123, of the Illinois Vehicle Title and Registration Law [625 ILCS 5/2-123, 2-104 and 2-107] and 18 USC 2721.

SOURCE: Emergency rules adopted at 7 Ill. Reg. 11760, effective September 14, 1983; adopted and codified at 8 Ill. Reg. 2522, effective February 11, 1984; amended at 16 Ill. Reg. 13088, effective August 11, 1992; amended at 18 Ill. Reg. 18118, effective December 9, 1994; amended at 21 Ill. Reg. 466, effective January 1, 1997; amended at 31 Ill. Reg. 11337, effective July 23, 2007; amended at 32 Ill. Reg. _____, effective _____.

Section 1002.10 Applicability

~~This Part applies~~[These Rules apply](#) to the sale and dissemination of information contained in the Office of the Secretary of State ~~that, which information~~ has been collected pursuant to the Illinois Vehicle Code [625 ILCS 5] for the issuance of ~~driver's~~[drivers](#) licenses, vehicle titles, and vehicle registrations [and pursuant to the Illinois Identification Card Act \[15 ILCS 335\] for the issuance of identification cards](#). This information is a public record; however, [Social Security Numbers](#)~~social security numbers~~ are not public information. Personally ~~identifying~~[identifiable](#) information shall not be released to requestors unless otherwise permitted by statute or this Part.

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1002.20 Definitions

"Access Agreement" – an agreement entered into under Section 1002.60 of this Part by the Secretary of State and a recipient of drivers, title, vehicle or identification card information covered by this Part.

"Attorney" – an individual who is licensed to practice law

"Automobile ~~Associated Businesses~~associated businesses" – shall include but not be limited to new or used vehicle dealerships, vehicle rental agencies, and tow truck operators

"Commercial Purchasers" – individuals and business entities who enter into a written agreement to buy all or a portion of the ~~drivers~~driver's, title, or vehicle list or individual records in bulk

"Commercial Solicitation Purposes" – the use of the drivers, vehicle or title list, or driving or identification card abstracts, to contact individuals for advertising, offering for sale, marketing or sale of products or services; or identifying potential employees, except for the United States armed forces

"Director" – the Director or Acting Director of either Driver Services or Vehicle Services, depending on the context

"Driver Services" – the Department of ~~Driver~~Drivers Services of the Office of the Secretary of State

"Drivers ~~List~~list" – the entire list or any part of the list~~thereof~~ of all ~~licensed~~licensed drivers licensed by the State of Illinois ~~that, the information contained on the list~~ includes the driver's name, address, weight, height, ~~gender~~sex, color of eyes, color of hair, and date of birth, county of residence, zip code, license, classification, license restriction codes, and license ~~issuance~~issue and expiration dates

"Driving ~~Abstract~~abstract" – a record kept by the Department of ~~Driver~~Drivers Services on each driver licensed by the State of Illinois, containing all information required by IVC Section 6-106(b) ~~of the Illinois Vehicle Code, and~~ all records of each driver's violations of the traffic laws, and administrative actions pertaining to

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driving privileges

~~"DUI listing"—a periodic listing of persons who have been convicted of Driving Under the Influence or have a statutory summary suspension or any suspension resulting from the receipt of the Sworn Report issued to a driver as the result of an alcohol or drug related traffic violation and/or revocation in effect on his/her driving record. The listing contains the person's name, driver's license number, address, and length of suspension and revocation~~

"Employers" – individuals or business entities ~~that, which~~ permit individuals to work, when requesting information concerning current or prospective employees

"Financial ~~Institutions~~institutions" – banks, savings and loans, and credit unions, but ~~shall~~ not ~~including~~include currency exchanges

"Government ~~Agencies~~agencies" – units of local, ~~state~~State, or federal governmental agencies or elected governmental officials, including, but not limited to, Representatives, Senators, Congressmen, park board members, county board members, and school districts

~~"Identification Card Abstract" – a record kept by the Department of Driver Services on each person issued an identification card by the Secretary of State, containing all information required by the Illinois Identification Card Act [15 ILCS 335]~~

~~"Illinois Vehicle Code", "Vehicle Code", or "IVC" – 625 ILCS 5~~

"Insurers" – any insurance agent or company as defined in Section 2(e) of the Illinois Insurance Code [215 ILCS 5] authorized by the laws of any state to transact the business of insurance, and ~~including~~shall include all employees of such agent or company

"Law Enforcement Officials" – police agencies, state's attorneys' offices or court officials

"News ~~Medium~~medium" – any newspaper or other periodical issued at regular intervals and having a general circulation; a news service; a radio station; a television station; a community antenna television service; and any person or corporation engaged in the making of news reels or other motion picture news for

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public showing

"Office" – the Office of the Secretary of State and not any particular department, address, or location

"Other ~~Business Entities~~business entities for ~~Purposes Consistent~~purposes consistent with the Illinois Vehicle Code" – licensed remitters when requesting title or registration information; public libraries, public educational institutions, and private educational institutions when requesting driving records; or registration or title information

"Personally ~~Identifying~~Identifiable Information" or "~~Personal Information~~" – for driving records, the information regarding the driver's name, address (excluding the 5 digit zip code), telephone number and, driver's license number, ~~weight, height, sex, color of eyes, color of hair, date of birth, restrictions, or endorsements and classification codes of the driver's license, county of residence, and zip code, Circuit Court County which imposed the conviction or County of venue for driver's license sanctions~~; for title or vehicle records, the information regarding the vehicle owner's name, address (excluding the 5 digit zip code), ~~county of residence~~, and telephone number, or registration owner's address (excluding the 5 digit zip code), ~~county of residence~~, and telephone number; for identification card records, the information regarding the identification card holder's name, address (excluding the 5 digit zip code), telephone number and identification card number

"~~Reporter~~Reporters" – any person regularly engaged in the business of collecting, writing or editing news for publication through a news medium; and includes any person who was a reporter at the time the information sought was procured or obtained

"Request" – the written application upon the designated form or an acceptable alternative for the obtaining of a drivers list, vehicle list, title list, or a driving or identification card abstract

"Secretary" – the Secretary of State of Illinois

"~~Section 2-123~~" – ~~Section 2-123 of the Illinois Vehicle Code [625 ILCS 5/2-123]~~

"Title ~~List~~list" – the list of all vehicles titled by the State of Illinois

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"Vehicle ~~List~~list" – the list of all vehicles by identification number, with the name and address of the owners, ~~that~~which are registered by the State of Illinois

"Vehicle Services" – the Department of Vehicle Services of the ~~Office~~office of the Secretary of State

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1002.30 Fees

Drivers, vehicle, and title information shall not be sold for commercial solicitation purposes.

- a) Fees for drivers lists:
- 1) ~~The fee~~ for the sale of a drivers list pursuant to IVC ~~paragraph (a) of~~ Section 2-123 (a) is \$500.~~00~~.
 - 2) ~~The fee~~ for the sale of a drivers list pursuant to IVC ~~paragraph (b) of~~ Section 2-123 (b) is ~~\$500~~200 plus ~~\$50~~20 per 1,000 names, with a minimum cost of \$500.~~00~~.
- b) ~~Fees~~The fees for title and vehicle information provided to public entities pursuant to IVC Section 2-123(a) shall be as follows:
- 1) for title lists or parts of a list~~thereof~~, \$600;
 - 2) for lists of recent title transactions, \$100;
 - 3) for passenger vehicle lists or parts of a list~~thereof~~, \$300;
 - 4) for miscellaneous vehicle lists or parts of a list~~thereof~~, \$200;
 - 5) for International Reciprocity Plan vehicle lists or parts of a list~~thereof~~, \$100;
 - 6) for computer searches of specific vehicle registration plate numbers, \$100.
- c) The fees for title and vehicle information provided to private entities pursuant to IVC Section 2-123(b) shall be as follows:

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- 1) for title lists or parts ~~of a list thereof~~, \$200 plus \$20 per 1,000 records, or the actual cost or \$600, whichever is greater;
 - 2) for lists of recent title transactions, \$200 plus \$20 per 1,000 records, or the actual cost, whichever is greater;
 - 3) for passenger vehicle lists or parts ~~of a list thereof~~, \$200 plus \$20 per 1,000 records, or the actual cost of \$300, whichever is greater;
 - 4) for International Reciprocity Plan vehicle lists or parts ~~of a list thereof~~, \$200 plus \$20 per 1,000 records or the actual cost thereof, whichever is greater;
 - 5) for computer searches of specific vehicle registration plate numbers, \$200 plus \$20 per 1,000 records, or the actual cost thereof, whichever is greater.
- d) The information sold pursuant to subsection (a) or (b) of this Section shall be provided on a computer processible medium as prescribed by the Secretary~~tape furnished by the purchaser. Such information as requested will be provided on standard computer paper for an additional fee of 50 per page; the maximum number of records that may be so provided shall be 15,000 per request.~~
- e) The fees for additional copies of registration lists provided to public entities pursuant to IVC Section 2-123(d) shall be as follows:
- 1) for a complete list, \$80;
 - 2) for a partial list (up to one-half of the complete list), \$40.
- ~~f) The fees for registration lists provided pursuant to Section 2-123(e) shall be as follows:~~
- ~~1) for a complete list, \$400;~~
 - ~~2) for a partial list (up to one half of the complete list), \$200~~
- fg) The information sold pursuant to subsection (e) ~~or (f)~~ of this Section shall be provided on a computer processible medium as prescribed by the

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Secretary microfiche.

- gh) All fees, other than those paid by governmental agencies, shall be paid in advance of the delivery of any list to any purchaser.
- hi) Fees for information supplied by means of computer connections between the Secretary's computers and those of any other agency, corporation, or person may be paid on a daily or monthly basis for all information delivered during that day or month, and shall be determined by the Secretary and the agency or person to be the most economically feasible simplest way of billing billings.
- ij) No fees shall be charged from those local, state State, and federal Federal governmental government agencies that who obtain information from the Secretary to enforce criminal laws.
- jk) Computer terminal connections to the Secretary's computer may be provided to other State agencies. This service may be made available at no charge asse long as the requesting agency incurs all terminal costs and asse long as the service does not substantially increase costs or network traffic on the Secretary's computer.
- kl) Computer terminal connection may be allowed to non-governmental agencies provided that the expense of the equipment and communication cost seest are borne by the non-governmental agency. The allowance of computer terminal connections shall be contingent upon the best interests of the Office of the Secretary of State, which is based upon the volume of requests received, the cost-effectiveness of providing the information through computer terminal connections, as opposed to other methods, and other factors that which may impede the operations of the Office of the Secretary of State. Should This service will be suspended at any time, should the connection interfere with the Secretary's internal work schedules and processing, this service may be suspended at any time.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1002.40 Requests

- a) Except as provided in subsection (c), all All requests for any type of information for sale pursuant to IVC Section 2-123 must be in writing, be signed before a notary by the person requesting the information, and include that person's address,

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the purpose of the request, the specific information or type of information sought, the name and address of any organization represented ~~and~~; the position of the requestor in the organization. This document shall be known as the Certified Statement of Use, and the identification of the requestor.

- b) Information obtained by means of a computer connection between the Secretary's computers and those of any organization shall be requested in writing, as set forth in subsection (a) including a certified statement of use, and a record shall be kept as required in subsection (a). Throughout the term of the Access Agreement, the requesting organization shall not deviate from the Certified Statement of Use, comply with the provisions of subsection (a) at the time of the original request and contract period.
- c) A request for an individual driving or identification card abstract must be in writing, signed by the person requesting the abstract, and include the requestor's address, driver's license or identification card number, purpose of the request, the name and address of any organization represented, and an affirmation that the information provided by the requestor is true and correct to the best of the requestor's knowledge. In addition, if the request is not made in person at a Secretary of State facility, the signature of the person making the request must be notarized. Personally identifying information will be released only if the request falls within IVC Section 2-123(f-5).

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1002.42 Impermissible Uses of Personally Identifying Personal Information

The Secretary of State shall not sell personally identifying personal information from the drivers, vehicle or title lists, or from a driving or identification card abstract for commercial solicitation purposes, as defined in this Part.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1002.45 Request for an Individual's Driving, Registration, or Title Information

- a) If a request is made for an individual's driving or identification card abstract record, title, or registration information, the individual shall be notified by the Secretary of the request and the identity of the requestor. No information shall be released to the requestor until 10 days have elapsed from the date notice

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was mailed to the individual by the Secretary. No personally ~~identifying~~~~identifiable~~ information shall be released to a requestor, unless authorized by IVC Section 2-123 or this Part.

- b) The notification, 10-day waiting period, and non-disclosure of personally ~~identifying~~~~identifiable~~ information provisions shall not apply to requests made by law enforcement officials, ~~governmental~~~~government~~ agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, family members with ~~written~~~~expressed~~ consent, the individual ~~personally~~~~himself~~, or reporters or news media, or to other business entities for purposes consistent with the Illinois Vehicle Code, ~~and entities which register with the Illinois Department of Revenue in compliance with the Retail Occupation Tax Act (86 Ill. Adm. Code 270) when requesting information based upon an existing business relationship with an individual.~~ The exemption to the notification, 10-day waiting period, and non-disclosure of personally ~~identifying~~~~identifiable~~ information provisions shall apply to the aforementioned requestors or to an authorized agent of the requestor acting within the scope of ~~his or her~~~~their~~ employment, if such use is related to the operation of a motor vehicle or public safety.
- c) Requests made by the groups outlined in subsection (b) ~~of this Section~~ shall be exempt from the notification, 10-day waiting period, and non-disclosure of personally ~~identifying~~~~identifiable~~ information requirements only if the request is made for an official business purpose, which shall be documented by the requestor on the request form submitted to the Secretary.
- d) The notification, 10-day waiting period, and non-disclosure of personally ~~identifying~~~~identifiable~~ information outlined in subsection (a) ~~of this Section~~ shall not apply to bulk sale requests ~~which are~~ made through a computer connection, computer tapes or other data processing medium. Information disclosed pursuant to this Section shall not be used for commercial solicitation purposes.
- e) Personally ~~identifying~~~~identifiable~~ information shall be withheld from exempted entities listed in subsection (b) ~~above~~ if the individual about whom an inquiry is made submits a valid court order of protection to the Secretary. This non-disclosure shall apply for the duration of the court order; however, law enforcement officials and ~~governmental~~~~government~~ agencies shall always have access to this personally ~~identifying~~~~identifiable~~ information.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 1002.60 Access Agreement~~Contract~~

All commercial or business purchasers of the drivers, vehicle, or title lists, or driving or identification card abstracts and all entities receiving drivers, vehicle or title lists or driving or identification card abstracts in bulk or via a computer connection, shall sign an Access Agreement~~a contract~~ with the Secretary. The Access Agreement~~contract~~ shall include disclosure of the commercial use, which shall not include commercial solicitation purposes, or disclosure of the permissible use of personal information, if applicable. The Access Agreement~~contract~~ shall contain those terms the Secretary deems necessary and appropriate to protect the integrity of the lists and abstracts, including, but not limited to, a requirement that the data~~list~~ not be used for criminal or immoral purposes, that violation of any terms of the Access Agreement~~contract~~ could result in the Secretary's denial of sale of the data~~lists~~ to the purchaser for a term of 5 years and the return of the data~~vehicles, titles or drivers list~~ to the Secretary. The redisclosure of the data~~information~~ is prohibited, except to the extent necessary to effectuate the purpose for which the original disclosure of the data~~information~~ was permitted. Any authorized recipient that resells or rediscloses personal data~~information~~ covered by this Part must keep, for a period of 5 years, records identifying each person or entity that receives information and the permitted purpose for which the data~~information~~ will be used. The purchaser must make these records available to the Secretary of State upon request.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1002.70 Public Records

- a) Subject to the federal Driver's Privacy Protection Act (18 USC 2721 et seq.) and IVC Section 625-ILCS 5/2-123, the drivers-lists, title-lists and vehicle lists, driving or identification card abstracts and lists of purchasers of this data~~these lists~~, are public records and may be examined and purchased for the appropriate fees for a legitimate and lawful purpose and use.
- b) The Secretary may sell the lists in their entirety on the medium the Secretary deems most economical and efficient, or in any reasonable part, such as by county or counties, age group, zip code groups, make or model of car, restriction codes, license issuance~~issue~~ data, license expiration data, city, or other governmental or geographic division. No listing shall be prepared and sold by the Secretary to any person or organization for commercial solicitation purposes. Lists shall not be available as compiled by any type~~form~~ of driver's license sanction; i.e., suspension, revocation, cancellation, or denial. No list will be prepared and sold

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~~by the Secretary for any person or organization for commercial purposes if the request is for the Secretary to extract from a larger group certain persons or types of persons to be solicited by the requestor, when the requestor, by the purchase of the larger group of names, titles, or registrations, could extract the information sought.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1002.90 Social Security Numbers

- a) Social Security Numbers of persons licensed to drive or issued an identification card by the State of Illinois shall not be disclosed to any person, public or private agency, corporation, or governmental body, except as permitted by IVC Section 2-123~~the Illinois Vehicle Code (Ill. Rev. Stat. 1981, ch. 95½, par. 2-123, as amended by P.A. 83-0148, effective August 29, 1983).~~
- b) Individual drivers or identification card holders may authorize the Secretary to release to designated persons or agencies the individual's Social Security Number. This authorization shall be in a written, notarized or affirmed statement delivered to the Director of the Department of Driver Services in Springfield.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Access to Information
- 2) Code Citation: 2 Ill. Adm. Code 751
- 3) Section Number: 751.100 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140]
- 5) Effective Date of Amendment: June 6, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 13261; September 21, 2007
- 10) Has JCAR issued a Statement of Objection to this Amendment? No
- 11) Differences between proposal and final version: In Section 751.100(b)(1), language relating to the fee for electronic copies was added.
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This amendment changes the rate charged for hard copy responses to requests made under the Freedom of Information Act and this Part. The rate will change from 10 cents to 25 cents a page. Language was also added that states that electronic copies will be assessed based on the actual cost of reproduction.
- 16) Information and questions regarding this adopted amendment shall be directed to:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Sunny Clark
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706

217/782-0975

- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE D: CODE DEPARTMENTS
CHAPTER III: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 751
ACCESS TO INFORMATION

SUBPART A: INTRODUCTION

- Section
- 751.10 Policy
- 751.20 Definitions

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

- Section
- 751.30 Person to Whom Requests are Submitted
- 751.40 Form and Content of Requests

SUBPART C: PROCEDURES FOR DEPARTMENT RESPONSE
TO REQUESTS FOR PUBLIC RECORDS

- Section
- 751.50 Time Limit for Department Response
- 751.60 Types of Department Responses

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

- Section
- 751.70 Appeal of Denial
- 751.80 Director's Response to Appeal

SUBPART E: PROCEDURES FOR PROVIDING
PUBLIC RECORDS TO REQUESTORS

- Section
- 751.90 Inspection of Records at Department Offices
- 751.100 Copies of Public Records
- 751.110 General Materials Available from the Freedom of Information Officer

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AUTHORITY: Implementing the Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and authorized by Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

SOURCE: Adopted and codified at 8 Ill. Reg. 12097, effective July 1, 1984; amended at 32 Ill. Reg. 8911, effective June 6, 2008.

SUBPART E: PROCEDURES FOR PROVIDING
PUBLIC RECORDS TO REQUESTORS

Section 751.100 Copies of Public Records

- a) Copies of public records shall be provided to the requestor only upon payment of any charges which are due. ~~Requestor may be required to provide sufficient coins to operate coin-operated machines. Requestor must make payment in exact amount required. No change or refund can be made.~~

b) Fees

- 1) Charge for copies of public records shall be assessed in accordance with the following fee schedule for duplication of public records:

<u>Type of Duplication</u>	<u>Per Copy Charge</u>
<u>Paper copy standard size 8½" x 11" and legal size 8½" x 14"</u>	<u>\$.25 per copy (reduced to \$.15 per copy if the request is in the public interest in accordance with Section 751.100(c)(2))</u>
<u>Electronic Copy</u>	<u>Assessed based upon the actual cost of reproduction</u>

- 2) Some records possessed by the Department are in book or pamphlet form. A charge may be assessed for those materials based upon the cost incurred by the Department for those materials.

c) Waived or Reduced Charges

- 1) Charges shall be waived if the requestor is a State agency, a constitutional

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officer, or a member of the General Assembly, or if the response is fewer than 10 pages in its original format. ~~Charges may be waived in any other case where the Freedom of Information Officer determines that the waiver serves the public interest.~~

2) Charges shall be reduced if:

A) the requestor states the specific purpose for the request; and

B) the requestor indicates that a reduction of the fees is in the public interest. A reduction of fees is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit [5 ILCS 140/6(b)].

e) ~~Only one copy of any public record shall be provided.~~

d) ~~Charge to copy hardcopy (paper and where facilities are available microfiche and microfilm) of any page size is \$.10 (ten cents) per page.~~

(Source: Amended at 32 Ill. Reg. 8911, effective June 6, 2008)

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- 1) Heading of the Part: Economic Development for a Growing Economy Program (EDGE)
- 2) Code Citation: 14 Ill. Adm. Code 527
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
527.20	Amend
527.70	Amend
- 4) Statutory Authority: Implementing Section 5-15 and authorized by Section 5-80 of the Economic Development for a Growing Economy Tax Credit Act [35 ILCS 10/5-15 and 5-80] and the Business Location Efficiency Incentive Act [35 ILCS 11]
- 5) Effective Date of Amendments: June 3, 2008
- 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: 32 Ill. Reg. 2865; February 29, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Nonsubstantive grammatical and stylistic changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The rulemaking change expands the definition of full-time employee to include an individual for whom a W-2 is issued by a Professional Employer Organization (PEO) if employed in the service of the applicant business for at least 35 hours each week or who renders any other standard of service generally accepted

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by industry custom or practice as full-time employment. This rule change is necessary to implement changes made to the Act by Public Act 95-375.

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

Ms Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
620 East Adams Street
Springfield, IL 62701

217/557-1820

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

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TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 527

ECONOMIC DEVELOPMENT FOR A GROWING ECONOMY PROGRAM (EDGE)

Section

527.10	Purpose
527.20	Definitions
527.30	Eligibility Determination
527.40	Form of Application
527.50	Application Review
527.60	Application Denial/Approval
527.70	Determination of Amount and Term of the Credit
527.80	Tax Credit Agreement
527.90	Certificate of Verification
527.100	Noncompliance with the Agreement

AUTHORITY: Implementing Section 5-15 and authorized by Section 5-80 of the Economic Development for a Growing Economy Tax Credit Act [35 ILCS 10/5-15 and 5-80] and the Business Location Efficiency Incentive Act [35 ILCS 11].

SOURCE: Emergency rules adopted at 23 Ill. Reg. 10862, effective August 16, 1999, for a maximum of 150 days; emergency expired on January 22, 2000; adopted at 24 Ill. Reg. 6884, effective April 19, 2000; amended at 29 Ill. Reg. 1186, effective January 5, 2005; amended at 31 Ill. Reg. 8085, effective May 23, 2007; amended at 32 Ill. Reg. 8916, effective June 3, 2008.

Section 527.20 Definitions

The following definitions are applicable to this Part.

"Accessible and affordable mass transit" means access to transit stops with regular and frequent service within one mile from the project site and pedestrian access to transit stops.

"Act" means the Economic Development for a Growing Economy Tax Credit Act, [35 ILCS 10]-

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"Affordable workforce housing" means owner-occupied or rental housing that costs, based on current census data for the municipality where the project is located or any municipality within 3 miles of the municipality where the project is located, no more than 35% of the median salary at the project site, exclusive of the highest 10% of the site's salaries. If the project is located in an unincorporated area, "affordable workforce housing" means no more than 35% of the median salary at the project site, excluding the highest 10% of the site's salaries, based on the median cost of rental or of owner-occupied housing in the county where the unincorporated area is located.

"Agreement" means the Tax Credit Agreement created pursuant to 35 ILCS 10/5-50.

"Business Location Efficiency Incentive" means the incentive created by the Business Location Efficiency Incentive Act [35 ILCS 11].

"Capital improvements" shall include the purchase, renovation, rehabilitation, or construction of permanent tangible land, buildings, structures, equipment and furnishings in an approved project sited in Illinois and in expenditures for goods or services that are normally capitalized, including organizational costs and research and development costs incurred in Illinois. For land, buildings, structures and equipment that are leased, the lease must equal or exceed the term of the Tax Credit Agreement and the cost of the property shall be determined from the present value, using the corporate interest rate prevailing at the time of the application, of the lease payments.

"Credit" means the amount agreed to between the Department and applicant under the Act, but not to exceed the incremental payroll attributable to the applicant's project. [35 ILCS 10/5-15]

"Department" means the Illinois Department of Commerce and Economic Opportunity, formerly known as the Illinois Department of Commerce and Community Affairs.

"Director" means the Director of the Illinois Department of Commerce and Economic Opportunity, formerly known as the Illinois Department of Commerce and Community Affairs.

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"Employee housing or transportation remediation plan" means a plan to increase affordable housing or transportation options, or both, for employees earning up to the median annual salary of the workforce at the project. The plan may include, but is not limited to, an employer-financed assisted housing program that can be supplemented by State or federal grants or shuttle services between the place of employment and existing transit stops or other reasonably accessible places.

"Existence of infrastructure" means the existence, within 1,500 feet of the proposed site, of roads, sewers, sidewalks, and other utilities and a description of the investments or improvements, if any, that an applicant expects State or local government to make to that infrastructure.

"Full-time employee" means an individual who is employed for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment. [35 ILCS 10/5-5] Annually scheduled periods for inventory or repairs, vacations, holidays and paid time for sick leave, vacation or other leave shall be included in this computation of full time employment. An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the Applicant for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment to the Applicant. [35 ILCS 10/5-5] For example, an employee who works 25 hours per week is considered the industry standard for full-time in the package delivery industry and an employee who is employed for a least 35 hours per week during the historical seasonal production is considered the industry standard for full-time in the candy manufacturing industry.

"Incremental Income Tax" means the incremental payroll attributable to a project that is the subject of an Agreement.

"Incremental payroll" means the total amount withheld by the taxpayer during the taxable year from the compensation of new employees and retained employees under Article 7 of the Illinois Income Tax Act [35 ILCS 5/Art. 7] arising from such employees' employment at a project that is the subject of an Agreement.

"Labor Surplus Area" or "LSA" must have an average unemployment rate at least 20 percent above the average rate for all states (plus the District of Columbia and

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Puerto Rico) during the previous two calendar years. However, the 20 percent ratio is disregarded:

when this 2-year average for all states is 8.3 percent or above, an average unemployment rate of 10 percent or more will qualify an area, and

when the all-states' average is 5.0 percent or less, an area will qualify with a 6.0 percent average.

The U.S. Department of Labor issues the labor surplus area listing on a fiscal year basis. The listing becomes effective each October 1 and remains in effect through the following September 30, but may be updated at any time during the fiscal year based on exceptional circumstance petitions. LSAs are classified on the basis of civil jurisdictions (cities with a population of at least 25,000 and all counties). LSAs are authorized by Public Law 96-302 and 20 CFR 654.

"Location efficient" means a project that maximizes the use of existing investments in infrastructure, avoids or minimizes additional government expenditures for new infrastructure, and has nearby housing affordable to the permanent workforce of the project or has accessible and affordable mass transit or its equivalent or some combination of both.

"Location efficiency report" means a report that is prepared by an applicant for increased State economic development assistance, under Section 10 of the Business Location Efficiency Incentive Act [35 ILCS 11/10] and follows that Act, and that describes the existence of affordable workforce housing or accessible and affordable mass transit or its equivalent. [35 ILCS 11/5]

"New employee" means a full-time employee first employed by a taxpayer in the project that is the subject of an Agreement and who is hired after the taxpayer enters into the Tax Credit Agreement.

The term "new employee" does not include:

an employee of the taxpayer who performs a job that was previously performed by another employee, if that job existed for at least 6 months before hiring the employee;

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an employee of the taxpayer who was previously employed in Illinois by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the Tax Credit Agreement;

an employee of the taxpayer who was previously employed in Illinois by the taxpayer and whose employment was shifted to the taxpayer project after the taxpayer entered into the Tax Credit Agreement; or

a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or an indirect ownership interest of at least 5% in the profits, capital, or value of the taxpayer.

An employee may be considered a new employee under the Agreement if the employee performs a job that was previously performed by an employee who was treated under the Agreement as a new employee and promoted by the taxpayer to another job. [35 ILCS 10/5-5]

An employee shall be considered a new employee under the Agreement if the employee fills a job vacancy that had been continuously vacant for the 184 day period immediately preceding the date of the Agreement. A job vacancy whose incumbent is on approved leave, is locked out or is on strike is not a vacancy.

"Placed in service" means the state or condition of readiness and availability for a specifically assigned function.

"Professional Employer Organization" or "PEO" means an employee leasing company that is an individual or entity contracting with a client to supply or assume responsibility for personnel management of one or more workers to perform services for the client on an on-going basis rather than under a temporary help arrangement, as defined in Section 206.1(A)(2) of the Illinois Unemployment Insurance Act [820 ILCS 405]. [35 ILCS 10/5-5]

"Professional services" means a taxpayer engaged in the practice of law or medicine.

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"Project" means a for-profit economic development activity or activities at a single site, or of one or more taxpayers at multiple sites if the economic activities are vertically integrated.

"Project costs" includes cost of the project incurred or to be incurred by the taxpayer including: *capital investment, including, but not limited to, equipment, buildings, or land; infrastructure development; debt service, except refinancing of current debt; research and development; job training and education; lease costs or relocation costs*, but excludes the value of State incentives, including discretionary tax credits, discretionary job training grants, or the interest savings of below market rate loans. [35 ILCS 10/5-30]

"Retained employee" means a full-time employee employed by a taxpayer during the term of the agreement whose job duties are directly and substantially-related to the project. For purposes of this definition, "directly and substantially-related to the project" means at least two-thirds of the employee's job duties must be directly related to the project and the employee must devote at least two-thirds of his or her time to the project. The term "retained employee" does not include a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has direct or indirect ownership interest of at least 5% in the profits, capital, or value of the taxpayer.

"Taxpayer" means an individual, corporation, partnership, or other entity that has any Illinois Income Tax liability. [35 ILCS 10/5-5]

(Source: Amended at 32 Ill. Reg. 8916, effective June 3, 2008)

Section 527.70 Determination of Amount and Term of the Credit

- a) *The Department shall determine the amount and duration of the Credit awarded under the Act. The duration of the Credit may not exceed 10 taxable years.* [35 ILCS 10/5-45] In determining the appropriate amount and duration of a Credit to be awarded to a Taxpayer, *the Department shall take into consideration the following additional factors:*
- 1) *The number and location of jobs created and retained in relation to the economy of the county where the projected investment is to occur.*
 - 2) *The potential impact of the Project on the economy of Illinois.*

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- 3) *The magnitude of the cost differential between Illinois and the competing states.*
 - 4) *The incremental payroll attributable to the Project.*
 - 5) *The capital investment attributable to the Project.*
 - 6) *The amount of the average wage and benefits paid by the Applicant in relation to the wage and benefits of the area of the Project.*
 - 7) *The costs to Illinois and the affected political subdivisions with respect to the Project.*
 - 8) *The financial assistance that is otherwise provided by Illinois and the affected political subdivisions. [35 ILCS 10/5-40]*
- b) *The Credit may be stated as a percentage of the Incremental Income Tax attributable to the Applicant's Project and may include a fixed limitation. [35 ILCS 10/5-45]*
- c) *The Credit shall not exceed the Incremental Payroll attributable to the Project that is the subject of an Agreement. [35 ILCS 10/5-15(d)]*
- d) *The total amount of the Credit allowed during all tax years may not exceed the aggregate amount of costs incurred by the Taxpayer during all prior tax years to the extent provided in the Agreement of Project Costs. [35 ILCS 10/5-30]*
- e) Applicants that qualify for increased EDGE benefits under the Business Location Efficiency Incentive Act may receive:
- 1) up to 10 percent more than the maximum allowable tax credits for which they are eligible under the Act, but not to exceed 100 percent of the applicant's tax liability; or
 - 2) such other adjustments of those tax credits, including but not limited to authorizing the term of the credit to exceed 10 taxable years, as the Department deems appropriate to foster job creation and retention in Illinois.

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- f) [Nothing in this Section shall prohibit a Tax Credit Award to an Applicant that uses a Professional Employer Organization if all other award criteria are satisfied.](#)

(Source: Amended at 32 Ill. Reg. 8916, effective June 3, 2008)

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- 1) Heading of the Part: Illinois Small Business Development Program
- 2) Code Citation: 14 Ill. Adm. Code 570
- 3) Section Number: 570.50 Adopted Action:
Amend
- 4) Statutory Authority: Implementing and authorized by the Small Business Development Act [30 ILCS 750/Art. 9]
- 5) Effective Date of Rulemaking: June 5, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 32 Ill. Reg. 2874; February 29, 2008
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Nonsubstantive grammatical and stylistic changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency amendment currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The funding limit for loans to businesses owned by minorities, women and persons with disabilities is raised from \$50,000 to \$100,000. This change to the rulemaking makes it consistent with the changes to the funding threshold contained in PA 95-97.
- 16) Information and questions regarding this Adopted Amendment shall be directed to:

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Ms Jolene Clarke
Rules Administrator
Illinois Department of Commerce and Economic Opportunity
620 East Adams Street
Springfield, IL 62701

217/557-1820

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF ADOPTED AMENDMENT

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 570

ILLINOIS SMALL BUSINESS DEVELOPMENT PROGRAM

Section

570.10	Purpose
570.15	Loan Terms (Renumbered)
570.20	Application Cycle
570.25	Application Documentation
570.30	Application Evaluation
570.40	Selection for Funding
570.50	Funding Limitations
570.60	Allowable Leverage
570.70	Administrative Requirements

AUTHORITY: Implementing and authorized by the Small Business Development Act [30 ILCS 750/Art. 9].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 14368, effective September 6, 1985, for a maximum of 150 days; adopted at 10 Ill. Reg. 3266, effective January 28, 1986; amended at 10 Ill. Reg. 19724, effective November 6, 1986; amended at 13 Ill. Reg. 58, effective December 27, 1988; amended at 15 Ill. Reg. 9902, effective June 24, 1991; emergency amendment at 17 Ill. Reg. 21087, effective November 23, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 6119, effective April 11, 1994; emergency amendment at 29 Ill. Reg. 20665, effective December 12, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 8461, effective April 19, 2006; emergency amendment at 32 Ill. Reg. 2979, effective February 13, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8926, effective June 5, 2008.

Section 570.50 Funding Limitations

a) Direct Funding

- 1) In accordance with Sections 9-4(b) and ~~9-4.3(b)~~~~9-4.2(b)~~ of the Act, the Department shall finance no more than the lesser of 25% of the total project or \$750,000 (50% of the project or ~~\$100,000~~~~\$50,000~~ for Minority, Women and Disability Business Loans) unless the Director waives

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limitations governing the amount of the loan/grant and percentage of leverage when it is determined that these funding limitations would prohibit an otherwise approved project, in accordance with Sections 570.30(a) and 570.40(a), and the subsequent employment impact/opportunity, from occurring.

- 2) For the Technical Assistance Grant Program, the funding limitation will not exceed \$25,000 unless a Director waiver is granted. The recipient of grant funds shall be required to provide a portion of the financing with respect to the project. The recipients' financing may be in the form of cash, in-kind services or any other form approved by the Department.
 - 3) Department Financial Assistance to a Development Corporation in the form of a grant shall be limited to not more than \$10,000, unless a Director waiver is granted.
- b) Indirect Funding
- 1) For each loan in which the Department buys a participation under the Participation Loan Program, the financial intermediary will be required to retain at least 50% of the amount of its loan. The Department's participation will not exceed 25% of the total amount of the project or \$750,000. In accordance with subsection (a)(1), the Director may waive limitation governing the amount of the loan and percentage of leverage when it is determined that these funding limitations would prohibit an otherwise approved project.
 - 2) As to the amounts received by the ultimate recipients of funds, the Loan Loss Reserve Program funding limitations will be established by the financial intermediary staff involved.
 - 3) Department Financial Assistance to or through a Development Corporation in the form of a participation shall not be made for more than 50% of the Development Corporation's loan and the Department's participation will not exceed 25% of the total amount of the project or \$750,000 unless the Director waives limitations governing the amount of the loan and percentage of leverage when it is determined that these funding limitations would prohibit an otherwise approved project, in accordance with subsection (a)(1).

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- 4) Notwithstanding the provisions of subsections (b)(1) and (3), Minority, Women and Disability Participation Loans, in accordance with Section 9-4.2 of the Act, shall not exceed the lesser of ~~\$100,000~~[\\$50,000](#) or 50% of the total amount of the project unless a Director waiver is granted.
- 5) Rural Micro-business Participation Loans, in accordance with Section 9-4.2a of the Act, shall not exceed the lesser of \$25,000 or 50% of the total amount of the project, unless the Director determines that a waiver of these limits is required to meet the purposes of the Act and is in accordance with subsections (b)(1) and (3).

(Source: Amended at 32 Ill. Reg. 8926, effective June 5, 2008)

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- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
3000.100	Amendment
3000.635	Amendment
- 4) Statutory Authority: Authorized by the Riverboat Gambling Act [230 ILCS 10], specifically Sections 5 (c) (2), (3), and (7) of this Act [230 ILCS 10/5 (c) (2), (3), and (7)]
- 5) Effective Date of Amendments: June 4, 2008
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the principal office and is available for public inspection.
- 9) Notice of proposal published in Illinois Register: February 8, 2008; 32 Ill. Reg. 1512
- 10) Has JCAR issued a Statement of Objection to this rulemaking? 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? Not applicable
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
3000.1050	Amendment	32 Ill. Reg. 3136; March 7, 2008
- 15) Summary and Purpose of Amendments: The purpose of the proposed rulemaking is to amend Section 3000.100, Definitions, and Section 3000.635, Issuance and Use of Tokens and Vouchers for Gaming, to provide for a one-year (instead of three year) expiration period during which vouchers may be redeemed for cash at the cashier cage of the holder of an owner's license.

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Currently in the calculation of Adjusted Gross Receipts (AGR), Owner Licensees reduce AGR by the dollar amount of vouchers issued for that day and increase AGR by all vouchers redeemed on that same day. Owner Licensees do not pay tax on unredeemed vouchers until they are "cashed-in" or until they expire, which is currently 3 years from the date of issuance. Reducing the "expiration date" from 3 years to 1 year will reintroduce unredeemed vouchers back into the revenue stream and result in the State receiving tax revenue from those vouchers 24 months sooner than currently constituted under this section of the Rules. Additionally, this amendment will reduce regulatory concerns associated with Owner Licensees having to maintain secure custody of unredeemed vouchers in their possession for a 3-year period of time. The change in the expiration date will be prospective from the effective date of the amendment.

- 16) Information and Questions regarding these adopted amendments may be addressed to:

Michael Fries
Chief Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601

Fax No. (312) 814-4143
mfries@revenue.state.il.us

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER IV: ILLINOIS GAMING BOARDPART 3000
RIVERBOAT GAMBLING

SUBPART A: GENERAL PROVISIONS

Section	
3000.100	Definitions
3000.101	Invalidity
3000.102	Public Inquiries
3000.103	Organization of the Illinois Gaming Board
3000.104	Rulemaking Procedures
3000.105	Board Meetings
3000.110	Disciplinary Actions
3000.115	Records Retention
3000.120	Place to Submit Materials
3000.130	No Opinion or Approval of the Board
3000.140	Duty to Disclose Changes in Information
3000.141	Applicant/Licensee Disclosure of Agents
3000.150	Owner's and Supplier's Duty to Investigate
3000.155	Investigatory Proceedings
3000.160	Duty to Report Misconduct
3000.161	Communication with Other Agencies
3000.165	Participation in Games by Owners, Directors, Officers, Key Persons or Gaming Employees
3000.170	Fair Market Value of Contracts
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SUBPART B: LICENSES

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3000.200	Classification of Licenses
3000.210	Fees and Bonds
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3000.221	Other Required Forms
3000.222	Identification and Requirements of Key Persons
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3000.224	Economic Disassociation
3000.225	Business Entity and Personal Disclosure Filings
3000.230	Owner's Licenses
3000.231	Distributions
3000.232	Undue Economic Concentration
3000.234	Acquisition of Ownership Interest By Institutional Investors
3000.235	Transferability of Ownership Interest
3000.236	Owner's License Renewal
3000.237	Renewed Owner's Licenses, Term and Restrictions
3000.238	Appointment of Receiver for an Owner's License
3000.240	Supplier's Licenses
3000.241	Renewal of Supplier's License
3000.242	Amendment to Supplier's Product List
3000.243	Bankruptcy or Change in Ownership of Supplier
3000.244	Surrender of Supplier's License
3000.245	Occupational Licenses
3000.250	Transferability of Licenses
3000.260	Waiver of Requirements
3000.270	Certification and Registration of Electronic Gaming Devices
3000.271	Analysis of Questioned Electronic Gaming Devices
3000.272	Certification of Voucher Systems
3000.280	Registration of All Gaming Devices
3000.281	Transfer of Registration (Repealed)
3000.282	Seizure of Gaming Devices (Repealed)
3000.283	Analysis of Questioned Electronic Gaming Devices (Repealed)
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SUBPART C: OWNER'S INTERNAL CONTROL SYSTEM

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3000.300	General Requirements – Internal Control System
3000.310	Approval of Internal Control System
3000.320	Minimum Standards for Internal Control Systems
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3000.340	Operating Procedures (Repealed)
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SUBPART D: HEARINGS ON NOTICE OF DENIAL,

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3000.405	Requests for Hearings
3000.410	Appearances
3000.415	Discovery
3000.420	Motions for Summary Judgment
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3000.425	Proceedings
3000.430	Evidence
3000.431	Prohibition on Ex Parte Communication
3000.435	Sanctions and Penalties
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3000.445	Status of Applicant for Licensure or Transfer Upon Filing Request for Hearing

SUBPART E: CRUISING

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3000.500	Riverboat Cruises
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3000.600	Wagering Only with Electronic Credits, Approved Chips, Tokens and Electronic Cards
3000.602	Disposition of Unauthorized Winnings
3000.605	Authorized Games
3000.606	Gaming Positions
3000.610	Publication of Rules and Payout Ratio for Live Gaming Devices
3000.614	Tournaments, Enhanced Payouts and Give-aways
3000.615	Payout Percentage for Electronic Gaming Devices
3000.616	Cashing-In
3000.620	Submission of Chips for Review and Approval
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3000.630	Primary, Secondary and Reserve Sets of Gaming Chips
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3000.635	Issuance and Use of Tokens for Gaming
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3000.640	Exchange of Chips, Tokens, and Vouchers
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3000.650	Inventory of Chips
3000.655	Destruction of Chips, Tokens, and Vouchers
3000.660	Minimum Standards for Electronic Gaming Devices
3000.661	Minimum Standards for Voucher Systems
3000.665	Integrity of Electronic Gaming Devices
3000.666	Bill Validator Requirements
3000.667	Integrity of Voucher Systems
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3000.701	Duty to Exclude
3000.705	Voluntary Self-Exclusion Policy (Repealed)
3000.710	Distribution and Availability of Board Exclusion List
3000.720	Criteria for Exclusion or Ejection and Placement on the Board Exclusion List
3000.725	Duty of Licensees
3000.730	Procedure for Entry of Names
3000.740	Petition for Removal from the Board Exclusion List
3000.745	Voluntary Self-Exclusion Policy
3000.750	Establishment of a Self-Exclusion List
3000.751	Locations to Execute Self-Exclusion Forms
3000.755	Information Required for Placement on the Self-Exclusion List
3000.756	Stipulated Sanctions for Failure to Adhere to Voluntary Self-Exclusion
3000.760	Distribution and Availability of Confidential Self-Exclusion List
3000.770	Duties of Licensees
3000.780	Request for Removal from the IGB Self-Exclusion List
3000.782	Required Information, Recommendations, Forms and Interviews
3000.785	Appeal of a Notice of Denial of Removal
3000.786	Duties of Owner Licensees to Persons Removed from the Self-Exclusion List
3000.787	Placement on the Self-Exclusion List Following Removal
3000.790	Duties of the Board

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SUBPART H: SURVEILLANCE AND SECURITY

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3000.820	Segregated Telephone Communication
3000.830	Surveillance Logs
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3000.910	Liquor Licenses
3000.920	Disciplinary Action
3000.930	Hours of Sale

SUBPART J: OWNERSHIP AND ACCOUNTING RECORDS AND PROCEDURES

Section

3000.1000	Ownership Records
3000.1010	Accounting Records
3000.1020	Standard Financial and Statistical Records
3000.1030	Annual and Special Audits and Other Reporting Requirements
3000.1040	Accounting Controls Within the Cashier's Cage
3000.1050	Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit
3000.1060	Handling of Cash at Gaming Tables
3000.1070	Tips or Gratuities
3000.1071	Admission Tax and Wagering Tax
3000.1072	Cash Reserve Requirements

SUBPART K: SEIZURE AND DISCIPLINARY HEARINGS

Section

3000.1100	Coverage of Subpart
3000.1105	Duty to Maintain Suitability

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3000.1110	Board Action Against License or Licensee
3000.1115	Complaint
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3000.1135	Motions for Summary Disposition
3000.1139	Subpoena of Witnesses
3000.1140	Proceedings
3000.1145	Evidence
3000.1146	Prohibition of Ex Parte Communication
3000.1150	Sanctions and Penalties
3000.1155	Transmittal of Record and Recommendation to the Board

AUTHORITY: Implementing and authorized by the Riverboat Gambling Act [230 ILCS 10].

SOURCE: Emergency rule adopted at 15 Ill. Reg. 11252, effective August 5, 1991, for a maximum of 150 days; adopted at 15 Ill. Reg. 18263, effective December 10, 1991; amended at 16 Ill. Reg. 13310, effective August 17, 1992; amended at 17 Ill. Reg. 11510, effective July 9, 1993; amended at 20 Ill. Reg. 5814, effective April 9, 1996; amended at 20 Ill. Reg. 6280, effective April 22, 1996; emergency amendment at 20 Ill. Reg. 8051, effective June 3, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14765, effective October 31, 1996; amended at 21 Ill. Reg. 4642, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 14566, effective October 22, 1997, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 978, effective December 29, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 4390, effective February 20, 1998; amended at 22 Ill. Reg. 10449, effective May 27, 1998; amended at 22 Ill. Reg. 17324, effective September 21, 1998; amended at 22 Ill. Reg. 19541, effective October 23, 1998; emergency amendment at 23 Ill. Reg. 8191, effective July 2, 1999 for a maximum of 150 days; emergency expired November 28, 1999; amended at 23 Ill. Reg. 8996, effective August 2, 1999; amended at 24 Ill. Reg. 1037, effective January 10, 2000; amended at 25 Ill. Reg. 94, effective January 8, 2001; amended at 25 Ill. Reg. 13292, effective October 5, 2001; proposed amended at 26 Ill. Reg. 9307, effective June 14, 2002; emergency amendment adopted at 26 Ill. Reg. 10984, effective July 1, 2002, for a maximum of 150 days; adopted at 26 Ill. Reg. 15296, effective October 11, 2002; amended at 26 Ill. Reg. 17408, effective November 22, 2002; emergency amendment at 27 Ill. Reg. 10503, effective June 30, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 15793, effective September 25, 2003; amended at 27 Ill. Reg. 18595, effective November 25, 2003; amended at 28 Ill. Reg. 12824, effective August 31, 2004; amended at 32 Ill. Reg. 8098, effective June 14, 2007; amended at 32 Ill. Reg. 2967, effective February 15, 2008; amended at 32 Ill. Reg. 3275, effective February 19, 2008; amended

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at 32 Ill. Reg. 7357, effective April 28, 2008; amended at 32 Ill. Reg. 8592, effective May 29, 2008; amended at 32 Ill. Reg. 8931, effective June 4, 2008.

SUBPART A: GENERAL PROVISIONS

Section 3000.100 Definitions

For purposes of this Part the following terms shall have the following meanings:

"Act": The Riverboat Gambling Act [230 ILCS 10].

"Affiliate": An "Affiliate of", or person "Affiliated with", a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person.

"Alcoholic Liquors": Includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being.

"Attributed Interest": A direct or indirect interest in a Business Entity deemed to be held by a person not through the person's actual holdings but either through the holdings of the person's relatives or through a third party or parties on behalf of the person pursuant to a plan, arrangement or agreement.

"Bill Validator": Any electro-mechanical device attached either on or into an Electronic Gaming Device which accepts and analyzes the legitimacy of United States currency and/or Vouchers, validates the currency and/or Vouchers, stores the currency and/or Vouchers, and issues Electronic Credits equal to the value of currency and/or Vouchers inserted into the device.

"Board": The Illinois Gaming Board.

"Business Entity": A partnership, incorporated or unincorporated association or group, firm, corporation, limited liability company, partnership for shares, trust, sole proprietorship or other business enterprise.

"Chip": A non-metal or partly metal representative of value, redeemable for cash, and issued and sold by a holder of an Owner's license for use in Gaming other than in Electronic Gaming Devices on such holder's Riverboat or Riverboats.

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"Chip Float": The difference between the total face value of Chips received from vendors and the total face value of Chips accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Computer Monitoring System": The gaming related system used to provide on-line, real-time monitoring of Electronic Gaming Devices and data acquisition capability in the format and media approved by the Administrator.

"Dependent": Any individual who received over half of his support in a calendar year from any other individual.

"Electronic Card": A card purchased from a holder of an Owner's license for use on that holder's Riverboat Gaming Operation as a substitute for Tokens in the conduct of gaming on an Electronic Gaming Device.

"Electronic Credit": A value owed to a patron on an Electronic Gaming Device.

"Electronic Gaming Device": Includes as approved Games under Section 3000.605 Single-Position Reel-Type, Single-Position Single-Game Video and Single-Position Multi-Game Video Electronic Gaming Devices.

"Electronic Gaming Device Drop": The total face value of Tokens or representations of Tokens (including without limitation foreign Tokens and slugs) collected from the drop bucket and United States currency and/or Vouchers collected from the Bill Validator drop box.

"Electronic Gaming Device Win": The Electronic Gaming Device Drop minus hand-paid jackpots minus hopper fills minus Vouchers issued.

"EPROM": An acronym for Erasable, Programmable, Read Only Memory, which is a microprocessor component that stores memory and affects payout percentage and/or contains a random number generator that selects the outcome of a Game on an Electronic Gaming Device.

"Excluded Person": Any person whose name appears on any Exclusion List, or any person whose name does not appear on an Exclusion List but who is excluded or ejected pursuant to Section 5(c)(12) of the Act or as a result of meeting one or more of the criteria in Section 3000.720 of this Part.

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"Exclusion List": A list or lists which contain the identities of persons who are to be excluded or ejected from any licensed Gaming operation in any jurisdiction. The list may include any person whose reputation or conduct is such that his presence within a Riverboat Gaming Operation may, in the opinion of the Board or the Administrator, call into question the honesty or integrity of the Gaming operation or pose a threat to the interests of the State of Illinois.

"Expiration Date": The ~~one-year~~^{three-year} period, starting on the day of issuance, during which Vouchers may be redeemed for United States currency at a cashier's cage of a Riverboat Gaming Operation.

"Game": A gambling activity which is played for money, property, or anything of value, including without limitation those played with cards, Chips, Tokens, dice, implements, or electronic, electrical, or mechanical devices or machines.

"Gaming": The dealing, operating, carrying on, conducting, maintaining or exposing for play of any Game.

"Gaming Equipment/Supplies": A machine, mechanism, device, or implement which is integral to the operation of a Game or affects the result of a Game by determining win or loss, including without limitation: electronic, electrical, or mechanical devices or machines; cards or dice; layouts for Live Gaming Devices; any representative of value used with any Game, including without limitation Chips, Tokens, or Electronic Cards; Voucher Systems; Voucher Printers; Voucher Validation Terminals; Computer Monitoring Systems; and hardware and software related to any item described herein.

"Gaming Operations Manager": A person or business entity other than the holder of an Owner's license who has the ultimate responsibility to manage, direct or administer the conducting of Gaming.

"Hand": Either one Game in a series, one deal in a card Game, or the cards held by a player.

"Indirect Interest": An interest in a Business Entity that is deemed to be held by the holder of an Owner's license not through the holder's actual holdings in the business entity but through the holder's holdings in other business entities.

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"Institutional Investor": A "qualified institutional buyer" as defined by Securities and Exchange Commission Rule 144A (17 CFR 230.144A) under the Securities Act of 1933, as amended.

"Internal Control System": Proprietary internal procedures and administration and accounting controls designed by the holder of an Owner's license for the purpose of exercising control over the Riverboat Gaming Operation.

"Junketeer": A person or entity that facilitates a patron's participation in gaming at a Riverboat Gaming Operation and is compensated, not as an employee but as an independent contractor, by that Operation based upon how much the patron actually wagers or loses.

"Key Person": A Person identified by the Board under Section 3000.222 as subject to regulatory approval as a Person able to control, or exercise significant influence over, the management, assets, or operating policies of an owner or supplier licensee.

"Live Gaming Device": Any apparatus, other than an Electronic Gaming Device, upon which Gaming is conducted or which determines an outcome which is the object of a wager. This definition includes but is not limited to roulette wheels, keno machines, punchboard tickets and tables with layouts utilized in Games approved by the Board.

"Marketing Agent": A person or entity, other than a junketeer or an employee of a Riverboat Gaming Operation, who is compensated by the Riverboat Gaming Operation in excess of \$100 per patron per trip for identifying and recruiting patrons.

"Non-Alterable Storage Media": An electronic storage medium that contains the program files that operate the game, which medium cannot be altered through the use of the circuitry or programming of the gaming device.

"Non-Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation, but bearing no value designation.

"Notice of Board Action": A Notice of Denial, Restriction, Suspension, Revocation, Nonrenewal, Fine, Exclusion or other action issued by the Board.

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"Parent Company": A "parent company" of a specified person is an affiliate controlling such person directly, or indirectly through one or more intermediaries.

"Payout": Winnings earned on a wager.

"Person": "Person" includes both individuals and Business Entities.

"Petitioner": An applicant, licensee, or Excluded Person who requests a hearing upon issuance of a Notice of Board Action.

"Progressive Controller": The hardware and software that controls all communications among the machines within a progressive Electronic Gaming Device link and its associated progressive meter.

"Progressive Jackpot": An award for winning play in a Game, the value of which is determined by the contribution of a portion of each Wager placed into play or the combined amount of several wagers linked to a common jackpot award.

"Redemption Period": The 120-day period during which a Voucher may be used to acquire electronic credits from an Electronic Gaming Device or to obtain United States currency from a Voucher Validation Terminal. After their Redemption dates and prior to their Expiration dates, Vouchers may be redeemed for United States currency only at a cashier cage of a Riverboat Gaming Operation.

"Relative": Spouse, parents, grandparents, children, siblings, uncles, aunts, nephews, nieces, fathers-in-law, mothers-in-law, sons-in-law, daughters-in-law, brothers-in-law, and sisters-in-law, whether by the whole or half blood, by marriage, adoption or natural relationship, and Dependents.

"Riverboat": A navigable vessel or a permanently moored vessel comprised of one or more barges that are permanently attached to operate as one barge.

"Riverboat Gaming Operation": The owner licensee, Gaming Operations Manager, or, as the context requires, the conducting of Gaming and all related activities, including without limitation the purveying of food, beverages, retail goods and services, and transportation, on a Riverboat and at its Support Facilities.

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"Signature": The definitive identity of an individual specific EPROM chip or other non-alterable storage media, determined by electronic analysis and reflective of the EPROM chip's game behavior capability.

"Substantial Owner": A person who has an ownership interest of 25% or more in a Business Entity.

"Supplier": Either a Gaming Operations Manager or a provider of Gaming Equipment, Gaming Equipment maintenance or repair services, security services or lessor of a Riverboat or dock facilities or a provider of any goods or services where payment is calculated by a percentage of a Riverboat Gaming Operation's revenues.

"Support Facility": A place of business which is part of, or operates in conjunction with, a Riverboat Gaming Operation and is owned in whole or in part by a holder of an Owner's or Supplier's license or any of their Key Persons, including without limitation Riverboats, offices, docking facilities, parking facilities, and land-based hotels or restaurants.

"Table Drop": The total amount of cash or cash equivalents contained in the drop box for Chips purchased at a Live Gaming Device.

"Table Win": The dollar amount won by the holder of an Owner's license through play at a live Game which is the total of the Table Drop plus ending Chip inventory plus credits minus opening Chip inventory minus fills.

"Theoretical Payout Percentage": The percentage of Tokens or Electronic Credits from amounts wagered that will be returned to players by an Electronic Gaming Device.

"Token": A metal representative of value, redeemable for cash only at the issuing Riverboat Gaming Operation, and issued and sold by a holder of an Owner's license for use in Gaming.

"Token Dispenser": Any mechanical or electrical device designed for the purpose of dispensing an amount of Tokens equal to the amount of currency inserted into the device.

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"Token Float": The difference between the total face value of Tokens received from vendors and the total face value of Tokens accounted for through an inventory conducted by the Riverboat Gaming Operation.

"Tournament EPROM": A specially designed EPROM with a mode of play that provides for a mathematically demonstrable payout of more than 100 percent.

"Value Chip": A Chip, clearly and permanently impressed, engraved or imprinted with the name of the Riverboat Gaming Operation and the specific value of the Chip.

"Voucher": A printed paper scrip representing the value in United States currency stated on the face of the scrip that is issued by a Voucher Printer connected to an Electronic Gaming Device at a Riverboat Gaming Operation and which scrip is redeemable for electronic credits or United States currency and is not a coupon or other promotional item.

"Voucher Float": The difference between the total face value of unexpired Vouchers issued by a Riverboat Gaming Operation and the total face value of Vouchers accounted for by the Riverboat Gaming Operation as redeemed or expired.

"Voucher Printer": A device designed for the purpose of issuing Vouchers at Electronic Gaming Devices at a Riverboat Gaming Operation.

"Voucher System": The hardware and software used to issue and validate Vouchers, record redemptions and account for Vouchers.

"Voucher Validation Terminal": A hard-wired and interfaced device that accepts Vouchers and communicates the Voucher information to the Voucher System for the System to validate the information. If the System confirms that the Voucher is valid, the terminal then stores the Voucher and issues United States currency equal to the value of the Voucher.

"Wager": A sum of money or thing of value risked.

(Source: Amended at 32 Ill. Reg. 8931, effective June 4, 2008)

SUBPART F: CONDUCT OF GAMING

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Section 3000.635 Issuance and Use of Tokens and Vouchers for Gaming

- a) No holder of an Owner's license shall issue or cause to be utilized in a Riverboat Gaming Operation any Tokens for Gaming unless such Tokens are approved by the Administrator. In requesting approval of such Tokens, the holder of an Owner's license shall first submit to the Administrator a detailed schematic of its proposed Token which shall show its front, back and edge, its diameter and thickness and any logo, design or wording to be contained thereon, all of which shall be depicted on such schematic as they will appear, both as to size and location, on the actual Token. Once the design schematics are approved by the Administrator, no Token shall be issued or utilized until a sample of such Token is also submitted and approved by the Administrator.
- b) A holder of an Owner's license may, with the approval of the Administrator, issue metal Tokens designed for Gaming. Such Tokens shall:
 - 1) Clearly identify the name and location of the Riverboat Gaming Operation issuing them;
 - 2) Clearly state the face value of the Token;
 - 3) Contain the statement "Not Legal Tender";
 - 4) Not be deceptively similar to any current or past coin of the United States or a foreign country;
 - 5) Be of a size or shape or have other characteristics which will physically prevent their use to activate lawful vending machines or other machines designed to be operated by coins of the United States; and
 - 6) Not be manufactured from a ferromagnetic material or from a three-layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core or from a copper based alloy except if the total zinc, nickel, aluminum, magnesium and other alloying metal exceeds 25 percent of the Token's weight.
- c) Tokens approved for issuance by a holder of an Owner's license shall be:

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- 1) Issued to a patron upon payment therefor, or in accordance with a complimentary distribution program authorized pursuant to the Act;
 - 2) Capable of insertion into designated Electronic Gaming Devices operated by the holder of an Owner's license for the purpose of activating play;
 - 3) Available as a payout from the hopper of Electronic Gaming Devices equipped with a Token hopper; and
 - 4) Redeemable by the patron in accordance with the Act.
- d) A holder of an Owner's license may, with the prior approval of the Administrator, issue Vouchers through approved Voucher Printers in Electronic Gaming Devices. The Vouchers shall:
- 1) Clearly identify the name and location of the Riverboat Gaming Operation issuing them;
 - 2) Clearly identify the specific Electronic Gaming Device issuing them;
 - 3) Contain a unique validation number, which number or code shall be automatically generated by or caused to be generated by the Voucher System and not be alterable by any mechanical, electronic, digital or other means prior to issuance;
 - 4) Clearly state the face value of the Voucher in both words and numbers;
 - 5) Contain a date and time of issuance;
 - 6) Clearly state a 120 day Redemption Period during which the Voucher may be redeemed at an Electronic Gaming Device, Voucher Validation Terminal or cashier cage of a holder of an Owner's license;
 - 7) Be available as a payout from Voucher equipped Electronic Gaming Devices connected to the Voucher System, provided that both the Electronic Gaming Device and the Voucher System are functioning;
 - 8) Be individually printed for face values of not less than \$0.01 and not more than \$3,000;

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- 9) Contain a bar code which shall enable the Voucher System to access and validate the alpha or numeric information contained in subsections (d)(1) through (6) and display the information when the Voucher is redeemed, provided that only numeric information must be displayed on the System;
 - 10) Clearly state that the Voucher may be redeemed for cash at the cashier cage of the holder of an Owner's license for one year~~three years~~ from the date of issuance;
 - 11) Clearly state the following: "Vouchers issued by another Riverboat may not be used, exchanged or redeemed at this Riverboat";
 - 12) List the unique validation number on the leading edge of each Voucher issued from a Voucher Printer;
 - 13) Not be deceptively similar to the currency of the United States or a foreign country;
 - 14) Contain at least one anti-counterfeiting measure, such as a unique bar code, which shall appear on one or both sides of the Voucher; and
 - 15) Be promptly redeemable by the patron in accordance with this Part.
- e) Vouchers must be capable of insertion into Voucher equipped Electronic Gaming Devices connected to the Voucher System for the purpose of obtaining Electronic Credits.

(Source: Amended at 32 Ill. Reg. 8931, effective June 4, 2008)

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

<u>Section Numbers</u> :	<u>Adopted Action</u> :
245.10	Amendment
245.20	Amendment
245.25	Amendment
245.30	Amendment
245.40	Amendment
245.50	Repeal
245.60	Amendment
245.70	Amendment
245.71	New
245.75	New
245.80	Amendment
245.90	Amendment
245.95	New
245.100	Amendment
245.110	Amendment
245.115	New
245.120	Amendment
245.130	Amendment
245.150	Amendment
245.200	New
245.205	New
245.210	New
245.212	New
245.214	New
245.220	New
245.225	New
245.240	New
245.250	New
- 4) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
- 5) Effective Date of Rulemaking: June 5, 2008

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- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: August 3, 2007; 31 Ill. Reg. 11168
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

The following changes were made in response to comments received during the first notice or public comment period:

1. In Section 245.20, "Activities of Daily Living – include, but are not limited to, eating, dressing, bathing, toileting, transferring, or personal hygiene." was inserted above the definition for "Advocate".
2. In Section 245.20, "Client Record – a written record that includes, but is not limited to, personal information, emergency notification information, plans of service agreed to between client and home services agency, a copy of the home services contract or agreement and documentation of the services provided at each visit." was inserted following the definition of "Client".
3. In Section 245.20 in the definition for "Clinical Record", "and care" was inserted after "an accurate account of services".
4. In Section 245.20 in the definition for "Companionship", the sentence "Services include household work related to the care of the client, such as meal preparation, bed making, washing of clothes or other similar services." was changed to "Services requested may include, but are not limited to, household work related to the care of the client, such as meal preparation, bed making, or laundry; shopping or errands; or other similar services.".
5. In Section 245.20 in the definitions for "Home Nursing Agency", "Home Nursing Services", "Home Services or In-Home Service or In-Home Support Services", "Registered Nurse", and "Skilled Nursing Services", and in Section 245.25(d)(4), Section

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245.40(c)(1), and Section 245.40(d)(1), "Nursing and Advanced Practice Nursing Act" was changed to "Nurse Practice Act".

6. In Section 245.20 in the definition for "Patient Care Plan", "for home health agencies" was added after "or".
7. In Section 245.20 in the definition for "Personal Care Services", "a" was inserted after "require".
8. In Section 245.20 in the definition for "Placement Agency", "For the purposes of these rules, there are two types of placement agencies: Home Health Placement Agencies (see Section 245.212) and Home Services Placement Agencies (see Section 245.214)." was added at the end.
9. Subsections 245.25(a)(2)(A) and (B) were deleted.
10. In Section 245.25(b), after "Prevention", "1600 Clifton Road, Atlanta, Georgia 30333:" was added; the rest of the paragraph was stricken.
11. In Section 245.25(b), the following were added:
 - 1) General Recommendations on Immunization Morbidity and Mortality Weekly Report (MMWR) February 8, 2002
 - 2) Hand Hygiene in Healthcare Settings (2002)
 - 3) Infection Control in Healthcare Personnel (1998)
12. In Section 245.25(d), "(16) Private Employment Agency Act [225 ILCS 515]." was inserted.
13. In Section 245.30(a)(1), "for the home health agencies, to" was added after "and" and "of the" was stricken.
14. In Section 245.30(a)(3), "(2)" was added before "~~(3)~~" and strikeouts were removed from "~~Employ a qualified administrator~~", and "for home health agencies" was added at the end.
15. In Section 245.30(a)(6), "and confidentiality of patient and/or client records," was inserted between "work" and "and".

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16. In Section 245.30(c), "...agencies must adhere to subsections (c)(2), (3) and (4))" was changed to "...Agencies must meet subsection (1)(B), (2), (3) and (4)".
17. In Section 245.30(c)(1)(B), "including a physical examination and any other components" was stricken.
18. In Section 245.30, a new (e)(1) was inserted that reads, """The Governing Body shall appoint a Home Health Administrator with the duties prescribed in Section 345.40 of this Part."
19. In Section 245.30(e)(5), "home health agency" was inserted between "both" and "administrator".
20. In Section 245.30(g)(1), "to" was inserted after "or".
21. In Section 245.30(c)(3)(A), "General client oversight" was changed to "Observation of client functioning and reporting changes to supervisor or employer".
22. In Section 245.40(c)(4), "In order" was removed and "to" was capitalized; "acceptable tasks and also" was inserted between "examples of" and "limitations" and "where" was changed to "when" and "the" was inserted between "meet" and "higher".
23. In Section 245.40(c)(4)(B), "be assigned to" was deleted.
24. In Section 245.40(c)(4)(D), the sentence "A home services worker may not assist with application of an Ace bandage and anti-embolic or other pressure stockings that can be purchased only with a physician's prescription." was changed to read "A home services worker may not assist with application of an Ace bandage, the application of which involves wrapping a part of the client's body, or with application of a sequential compression device that can be purchased only with a physician's prescription.".
25. In Section 245.40(c)(4)(G), "agencies" was changed to "workers".
26. In Section 245.40(c)(4)(N), ", or in the case of a placement worker to the client or the client's advocate or designee," was inserted between "supervisor" and "any".
27. In Section 245.40(c)(5)(E), "or other state laws" was added at the end of the sentence.

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28. In Section 245.40(c)(6), "or aide" was deleted.
29. In Section 245.71(b), "placement" was inserted between "Each" and "agency" and "(c)" was changed to "(d)".
30. In Section 245.71, a new subsection (c) was inserted to read: "(c) Each home services agency shall provide a minimum of eight hours of training for each home services worker. Four hours of training shall be provided prior to the home services worker's first assignment, and the remaining four hours shall be provided within the worker's first 30 days after employment. The training shall include subsection (d)(1)-(12) of this Section." and subsequent subsections were changed from "(c)", "(d)", and "(e)" to "(d)", "(e)", and "(f)", respectively.
31. Section 245.71(d) was revised to read as follows: "The agency shall provide proof of a competency evaluation conducted by the agency or proof that the worker has successfully completed a training program at another licensed home services agency within the prior year or 365 days. The competency evaluation or proof of prior training at a licensed home services agency within the prior year shall address each of the following subjects:".
32. Section 245.71(e) was changed from "All home services staff shall complete a minimum of eight hours or training, which can include self-study courses with demonstration of learned concepts that are applicable to the employee's responsibilities, every 12 months after the starting date of employment. Training shall include:" to "All home services workers shall complete a minimum of eight hours of training during each year of employment based on either a calendar year or an anniversary date basis, whichever is selected by the agency. The initial eight hours of training required in subsection (c) of this Section shall satisfy the annual training requirement for the home services worker's first year of employment. The annual training can include self-study courses with demonstration of learned concepts that are applicable to the employee's responsibilities. Training shall include:".
33. In Section 245.90(a)(2), ", at a minimum," was inserted after "contain".
34. In Section 245.90(a)(2)(B), "Ownership," was inserted before "*organization*".
35. In Section 245.100(a)(1), "The Department shall issue a provisional license to a new agency provided that the application is in compliance with Section 245.90. A

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new agency is an agency that meets either of the following circumstances:" was inserted and the rest of the paragraph was stricken.

36. In Section 245.100(a)(1)(A), "or" was inserted after "*licensed*" and the period was stricken.
37. In Section 245.100(a)(1)(B), "*of*" was stricken and "is made" was inserted between "*application*" and the period.
38. In Section 245.100(a)(2), "termination" was inserted and "*expiration*" was stricken; "and, if the applicant" was inserted after "*agency*" and ". *If the Department finds that the agency*" was stricken and "for licensure, the Department" was inserted after "*requirements*" and "*of the act and this Part, it*" was stricken.
39. In Section 245.100(b)(1), "If an operating agency does not substantially comply with the provisions of the Act and this Part, the" was inserted and "The" was stricken; "issue a provisional license, provided that" was inserted after "shall" and "issue a provisional license to an agency when it finds that all of the following conditions exist" was stricken.
40. In Section 245.100(b)(1)(A), "A) *The health, safety, and well-being of the patients and/or clients of the agency will be protected during the period for which such provisional license is issued. (Section 4(b)(1) of the Act); and*" was inserted and the existing language was stricken.
41. In Section 245.100(b)(1), subsection (C) was stricken.
42. In Section 245.205(a), the text after "services." was re-arranged for clarity as follows: "All services shall be provided in accordance with the client's physician or podiatrist or provided under a plan of treatment established by the physician, podiatrist or prescribing professional, and under the supervision of agency staff, by a health care professional, such as a physician's assistant or advance practice nurse, who has a working agreement with a physician, under the constraints of Illinois law, to prescribe orders.".
43. In Section 245.210(a), "and annually thereafter" was changed to "and when changes occur".
44. In Section 245.210(d), "Plan of Service" was changed to "Service Plan".

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45. In Section 245.210(d)(3), "including" was changed to "such as" and "client's physician," was inserted between "treatments received" and "activity".
46. In Section 245.212(d)(1), (2), and (3) and Section 245.214(d)(1), (2), and (3), "seeking to be placed on the placement agency's registry" was changed to "wishing to remain eligible for placement by the agency".
47. In Section 245.214(d)(2), "(c)" was changed to "(d)".
48. In Section 245.214(d)(4), "retain an active listing on the placement agency's registry" was changed to "remain eligible for placement by the agency".
49. In Section 245.214(e), "10 All placement fees and procedures for refunds of such fees and a complaint resolution process for disputes concerning placement fees, as currently provided under the Private Employment Agency Act [225 ILCS 515]." was inserted.
50. In Section 245.220, "e Indication and assurance of compliance by the agency with the requirements of the licensing Act, including compliance with the Health Care Worker Background Check Act;" was inserted, and the remaining subsections were re-lettered accordingly.
51. In Section 245.220(l), "Department" was changed to "agency".
52. In Section 245.225(f), "and fees" was inserted between "rate" and "to".
53. In Section 245.250(d), "persons placed by a placement agency," was inserted between "employees," and "and".

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

1. In Section 245.20 in the definition for "Placement Agency", "these rules" was changed to "this Part".
2. In Section 245.30(b), "in accordance with Section 245.90(a)" was added before the period.

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3. In Section 245.30(c), "subsection" was changed to "the requirements of subsections".
4. In Section 245.40(c)(3)(A), "his/her" was added after "to".
5. In Section 245.40(c)(4)(D), the comma was changed to "that can be purchased only with a physician's prescription (" and the comma was changed to a closing parenthesis.
6. In Section 245.71(c), "subsection" was changed to "the components of subsections".
7. In Section 245.71(d), "or" was changed to "(previous" and before the period, a close parenthesis was added.
8. In Section 245.71(d)(4), "bladder and bowel care" was changed to "toileting".
9. In Section 245.90(a), the following was added:
"2) The application shall be accompanied by a Certificate of Insurance documenting minimum liability coverage of \$1 million per occurrence and \$3 million in the aggregate."
10. In Section 245.200(d)(5), "three" was changed to "seven".
11. In Section 245.205(a)(1), "provided" was deleted and after "podiatrist", a comma was added and "professional, and" was changed to "professional; and 2)".
12. In Section 245.205(a)(2), ", such as a physician's assistant or" was changed to a period and the rest was deleted.
13. In Section 245.205(c)(1)(D), "three" was changed to "seven".
14. In Section 245.205(f)(1)(J), the semicolon was changed to ". The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician;".
15. In Section 245.210(c)(3), "three" was changed to "seven".
16. In Section 245.214(d)(4), "seeking" was changed to "wishing".

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17. In Section 245.214(e)(8), "and" was deleted.
18. In Section 245.220(b), (c) and Section 245.225(b), (c), "and" was changed to a comma and "and telephone number" was added after "address".

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

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245) regulates home health agencies, including organization, staffing, services, training for home health aides, licensure, violations, and complaints. The amendments implement Public Act 94-379, enacted by the General Assembly in 2005. PA 94-379 changed the name of the Home Health Agency Licensing Act to the Home Health, Home Services, and Home Nursing Agency Licensing Act and required the licensure of home services agencies and home nursing agencies after September 1, 2008. The other extensive amendments in PA 94-379 are incorporated into this rulemaking.

Section 245.10 (Purpose) was amended to incorporate the new sections in the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55] (the Act) that authorize the rulemaking.

Section 245.20 (Definitions) was amended to add new definitions from PA 94-379 and to update some existing definitions to bring the Section into conformity with the Act.

Section 245.25 (Incorporated and Referenced Materials) was amended to update federal regulations and State statutes and rules incorporated in Part 245.

Section 245.30 (Organization and Administration) was amended to add a job description for "agency manager" and otherwise bring the organizational and administration

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structures of home health, home services, and home nursing agencies into conformity with PA 94-379.

Section 245.40 (Staffing and Staff Responsibilities) was amended to add a statutory definition of "home services worker" and to list the duties and responsibilities of home services workers. Other language in the Section also was updated.

Section 245.50 (Services) was repealed.

Section 245.60 (Annual Financial Statement – Home Health Agencies) and Section 245.70 (Home Health Aide Training) received minor changes to bring them into conformity with the Act.

Section 245.71 (Qualifications and Requirements for Home Services Workers) was added to set minimum requirements for the training of home services workers, including ensuring that home services workers undergo a background check and a competency evaluation, and receive eight hours of training every twelve months.

Section 245.75 (Infection Control) was added to require all agencies to develop and implement policies and procedures for investigating, controlling, and preventing infections.

Section 245.80 (Licensure Required) was amended to add statutory language prohibiting anyone from opening, managing, conducting, or maintaining a home services agency or a home nursing agency after September 1, 2008, without first obtaining a license from the Department of Public Health.

Section 245.90 (License Application) was amended to add statutory language from PA 94-379 and otherwise bring the Section into conformity with the Act.

Section 245.95 (License Application Fee) was added to establish licensure fees for home nursing agencies, home nursing placement agencies, home services placement agencies, and home health agencies.

Section 245.100 (Provisional License) was amended to bring the language regarding provisional licenses into conformity with the Act. Section 245.110 (Inspections and Investigations) is receiving minor amendments to bring it into conformity with the Act.

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Section 245.110 (Inspections and Investigations) was amended to bring it into conformity with the Act.

Section 245.115 (Complaints) was added to establish procedure for handling complaints.

Section 245.120 (Violations), Section 245.130 (Adverse Licensure Actions), and Section 245.150 (Hearings) received minor amendments to update references to other State statutes and bring them into conformity with the Act.

Section 245.200 (Services – Home Health) was added to establish the kinds of services home health agencies are expected to provide, including skilled nursing service, at least one other kind of home health service, a plan of treatment, a patient care plan, policies governing the administration of drugs and biologicals, and so on.

Section 245.205 (Services – Home Nursing Agencies) was added to establish the kind of services expected of home nursing agencies, whether directly or through a contractual purchase of services.

Section 245.210 (Services – Home Services Agencies) was added to establish the kind of minimal non-medical services expected of home service agencies, including acceptance of clients and a plan of service.

Section 245.212 (Services – Home Nursing Placement Agencies) was added to establish the minimum requirements for licensure as a home nursing placement agency.

Section 245.214 (Services – Home Services Placement Agency) was added to establish the minimum requirements for licensure as a home services placement agency.

Section 245.220 (Client Service Contracts – Home Nursing and Home Services Agencies) was added to require that there be a contract between home nursing or home services agencies and a client, and to outline the minimum requirements for all contracts.

Section 245.225 (Client Service Contracts – Home Nursing Placement Agency and Home Services Placement Agency) was added to require that there be a contract between home nursing placement or home services placement agencies and a client, and to outline the minimum requirements for all contracts.

Section 245.240 (Quality Improvement Program) was added to establish the minimum requirements for mandated quality improvement programs.

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Section 245.250 (Abuse, Neglect, and Financial Exploitation Prevention and Reporting) was added to establish minimum requirements for reporting complaints of abuse, neglect, and financial exploitation, including requirements for agencies and agency employees and volunteers.

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

Susan Meister
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 245

~~ILLINOIS~~-HOME HEALTH, HOME SERVICES,
AND HOME NURSING AGENCY CODE

SUBPART A: GENERAL PROVISIONS

Section	Purpose
245.10	Purpose
245.20	Definitions
245.25	Incorporated and Referenced Materials

SUBPART B: OPERATIONAL REQUIREMENTS

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

SUBPART C: LICENSURE PROCEDURES

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

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- 245.140 Penalties and Fines
245.150 Hearings

SUBPART D: CLIENT/PATIENT SERVICES

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

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

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

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SUBPART A: GENERAL PROVISIONS

Section 245.10 Purpose

- a) This Part has been adopted in accordance with [Sections 6, 6.3 and 6.7 of the Home Health, Home Services and Home Nursing Agency Licensing Act \(the Act\) \[210 ILCS 55/6, 6.3 and 6.7\]](#)~~Section 6 of the Home Health Agency Licensing Act ("the Act") (Ill. Rev. Stat. 1989, ch. 111½, par. 2806).~~
- b) Home health agencies licensed under the Act and this Part may be eligible for participation in the federal Medicare program under the rules of the federal [Centers for Medicare and Medicaid Services Health Care Financing Administration](#)~~(42 CFR 484.1 through 484.40).~~
- c) *[Health care and support services are provided in the consumer's home by three basic types of agencies: home health care, home nursing care, and home support services. Each type of agency delivers a different type and scope of care or service. \(Section 1.01 of the Act\)](#)*

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.20 Definitions

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

~~Administrator—any one of the following:~~

~~a physician;~~

~~a registered nurse;~~

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

~~an individual who meets the requirements for Public Health Administrator as contained in 77 Ill. Adm. Code 600.300 of the Certified Local Health Department Code (77 Ill. Adm. Code 600) as promulgated by the Department.~~

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

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

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

~~Agency – a Home Health Agency, unless otherwise designated.~~

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

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

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

Bylaws or Equivalent – a set of rules adopted by ~~ana home health~~ agency for governing the agency's operation.

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

Client Record – a written record that includes, but is not limited to, personal information, emergency notification information, plans of service agreed to between the client and the home services agency, a copy of the home services

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contract or agreement, and documentation of the services provided at each visit.

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

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

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

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

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

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

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

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

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

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

Home Health Agency Administrator – any one of the following:

a physician;

a registered nurse;

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

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

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

Home Health Services – services provided to a person at his residence according to a plan of treatment for illness or infirmity prescribed by a physician or podiatrist. Such services include part-time and intermittent nursing services and other therapeutic services such as physical therapy, occupational therapy, speech therapy, medical social services or services provided by a home health aide. (Section 2.05 of the Act)

Home Nursing Agency – an agency that provides services directly, or acts as a placement agency, in order to deliver skilled nursing services to persons in their personal residences. A home nursing agency provides services that would require an individual licensed under the Nurse Practice Act to perform. A home nursing agency does not qualify for licensure as a home health agency under the Act. "Home nursing agency" does not include an individually licensed nurse acting as a private contractor or a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.11 of the Act)

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

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

Home Services or In-Home Services or In-Home Support Services – assistance with activities of daily living, housekeeping, personal laundry, and companionship provided to an individual in his or her personal residence, which are intended to enable that individual to remain safely and comfortably in his or her own personal residence. "Home services" does not include services that would be required to be performed by an individual licensed under the Nurse Practice Act. (Section 2.09 of the Act) Home care services are focused on providing assistance that is not medical in nature, but is based upon assisting the client in meeting the demands of living independently and maintaining a personal residence, such as companionship, cleaning, laundry, shopping, meal preparation, dressing, and bathing.

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

Licensed Practical Nurse – a person currently licensed as a licensed practical nurse under the Nursing and Advanced Practice Nursing Act ~~[225 ILCS 65]~~.

Medical Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act ~~[225 ILCS 20]~~.

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Occupational Therapist – a person who is licensed as an occupational therapist under the Illinois Occupational Therapy Practice Act ~~[225 ILCS 75]~~ and meets ~~either or both~~ one or more of the following requirements:

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

is eligible for the National Registration Examination of the American Occupational Therapy Association, ~~or~~

~~has two years of appropriate experience as an occupational therapist and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such examinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapist after December 31, 1977.~~

Occupational Therapy Assistant – a person who is licensed as an occupational therapy assistant under the Illinois Occupational Therapy Practice Act and meets ~~one or more of the following~~ requirements: ~~meets the requirements~~ for certification as an occupational therapy assistant established by the American Occupational Therapy Association, ~~or~~

~~has two years of appropriate experience as an occupational therapy assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualification as an occupational therapy assistant after December 31, 1977.~~

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

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

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

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

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

Physical Therapist – a person who is licensed as a physical therapist under the Illinois Physical Therapy Act ~~[225 ILCS 90]~~ and who meets the qualifications for a physical therapist under the Federal Conditions of Participation for Home Health Agencies established by the Centers for Medicare and Medicaid Services Health Care Financing Administration (42 CFR 484.1 through 484.40).

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

Physician – Any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 ~~[225 ILCS 60]~~. For a patient who has received medical care in another state, or has moved from another state, and who has not secured the services of a physician licensed in Illinois, an individual who holds an active license to practice medicine in another state will be considered the physician for the patient during this emergency (as determined by the physician) as provided in Section 3 of the Medical Practice Act of 1987. Such an emergency may not extend more than six months in any case.

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

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hire by a consumer in that consumer's residence for purposes of providing home services. The term does not include a person that provides or procures temporary employment in health care facilities, as defined in the Nurse Agency Licensing Act. (Section 2.12 of the Act) For the purposes of this Part, there are two types of placement agencies: Home Health Placement Agencies (see Section 245.212) and Home Services Placement Agencies (see Section 245.214).

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

Podiatrist – a person who is licensed to practice under the Podiatric Medical Practice Act of 1987 ~~[225 ILCS 100]~~.

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

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

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

Registered Nurse – a person who is currently licensed as a registered nurse under the ~~Nurse Nursing and Advanced Practice Nursing Act~~ ~~[225 ILCS 65]~~.

Skilled Nursing Services – those services that, due to their nature and scope, would require the performing individual to be licensed under the Nurse Practice Act. These services are acts requiring the basic nursing knowledge, judgment and skills acquired by means of completion of an approved nursing education program and include, but are not limited to: assessment of healthcare needs; nursing

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diagnosis; planning, implementation and nursing evaluation; counseling and/or patient education; health education; the administration of medications and treatments; and the coordination and/or management of a nursing or medical plan of care.

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

Social Work Assistant – a person who has a baccalaureate degree in social work, psychology, sociology, or other field related to social work and has had at least one year of social work experience in a health care setting; ~~or has two years of appropriate experience as a social work assistant and has achieved a satisfactory grade on a proficiency examination conducted, approved or sponsored by the U.S. Public Health Service, except that such determinations of proficiency do not apply with respect to persons initially licensed by a state or seeking initial qualifications as a social work assistant after December 31, 1977.~~

Speech-Language Pathologist – a person who is licensed as a speech-language pathologist under the Illinois Speech-Language Pathology and Audiology Practice Act ~~[225 ILCS 110].~~

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

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

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

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

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

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

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.25 Incorporated and Referenced Materials

- a) The following federal regulations are incorporated by reference in this Part and apply only to Medicare certified agencies:

Department of Health and Human Services, [Centers for Medicare and Medicaid Services Health Care Financing Administration](#), Medicare Program Conditions of Participation for Home Health Agencies (42 CFR 484, [October 1, 2006](#)), ~~1 through 484.55, October 1, 2005.~~

- b) The following guidelines of a federal agency are incorporated by reference in this Part:

Department of Health and Human Services, Centers for Disease Control and Prevention, [1600 Clifton Road, Atlanta, Georgia 30333](#); ~~Morbidity and Mortality Weekly Report, General Recommendations on Immunization, February 8, 2002.~~

- 1) [General Recommendations on Immunization, Morbidity and Mortality Weekly Report \(MMWR\) \(February 8, 2002\)](#)
- 2) [Hand Hygiene in Healthcare Settings \(2002\)](#)
- 3) [Infection Control in Healthcare Personnel \(1998\)](#)

- c) All incorporations by reference of federal regulations and guidelines ~~and the standards of nationally recognized organizations~~ in this Part refer to the regulations ~~and~~ guidelines, ~~or standards~~ on the date specified and do not include any amendments or editions subsequent to the date specified.

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- d) The following State statutes are referenced in this Part:
- 1) Administrative Review Law [735 ILCS 5/Art. III]
 - 2) Business Corporation Act of 1983 [805 ILCS 5]
 - 3) Illinois Administrative Procedure Act [5 ILCS 100]
 - 4) [NurseNursing and Advanced Practice Nursing Act \[225 ILCS 65\]](#)
 - 5) Illinois Occupational Therapy Practice Act [225 ILCS 75]
 - 6) Illinois Physical Therapy Act [225 ILCS 90]
 - 7) Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110]
 - 8) Local Records Act [50 ILCS 205]
 - 9) Medical Practice Act of 1987 [225 ILCS 60]
 - 10) [Health Care Worker Background Check Act \[225 ILCS 46\]](#)
 - 11) [Nurse Agency Licensing Act \[225 ILCS 510\]](#)
 - 12) [Clinical Social Worker and Social Work Practice Act \[225 ILCS 20\]](#)
 - 13) [Podiatric Medical Practice Act of 1987 \[225 ILCS 100\]](#)
 - 14) [Assisted Living and Shared Housing Act \[210 ILCS 9\]](#)
 - 15) [Code of Civil Procedure, Article VIII, Part 21 \(Medical Studies\) \[735 ILCS 5/Art. VIII, Part 21\]](#)
 - 16) [Private Employment Agency Act \[225 ILCS 515\]](#)
- e) The following State rules are referenced in this Part:
- 1) Department of Public Health, Certified Local Health Department Code (77

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Ill. Adm. Code 600)

- 2) Department of Public Health, Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- 3) [Department of Public Health, Long-Term Care Assistants and Aides Training Programs Code \(77 Ill. Adm. Code 395\).](#)
- 4) [Department of Public Health, Health Care Worker Background Check Code \(77 Ill. Adm. Code 955\)](#)
- 5) [Department of Public Health, Central Complaint Registry \(77 Ill. Adm. Code 400\)](#)

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

SUBPART B: OPERATIONAL REQUIREMENTS

Section 245.30 Organization and Administration

- a) Governing Body – ~~All Agencies-~~
The ~~home health~~ agency shall have a governing body or a clearly defined body having legal authority and responsibility for the conduct of the ~~home health~~ agency. Where the governing body of a large organization is functionally remote from the operation of the ~~home health~~ agency, the Department may approve the designation of an intermediate level "governing body". For the purposes of this Section, the governing body shall:
 - 1) Have bylaws or the equivalent, which shall be reviewed annually and be revised as needed. They shall be made available to all members of the governing body and, ~~for the home health agencies, to~~ of the professional advisory group. The bylaws or the equivalent shall specify the objectives of the agency.
 - 2) ~~Appoint members of the professional advisory group.~~
 - 2)3) Employ a qualified administrator [for home health agencies.](#)
 - 3)4) Adopt and revise, as needed, policies and procedures for the operation and

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administration of the agency.

45) Meet to review the operation of the agency.

56) Keep minutes of all meetings.

67) Provide and maintain an office facility adequately equipped for efficient work, and confidentiality of patient and/or client records, and that provides a safe working environment in compliance with local ordinances and fire regulations.

b) Professional Advisory Group

1) ~~The professional advisory group shall assist in developing and recommending policies and procedures for administration and home health services provided by the agency. These policies and procedures shall be in accordance with the scope of services offered by the agency and based on the home health needs of the patient and the area being served. Policies and procedures shall be reviewed annually or more frequently as needed to determine their adequacy and suitability. Recommendations for any improvements are made to the Governing Body. These policies and procedures shall include but not be limited to:~~

A) ~~Administration and supervision of the agency and the home health services it provides.~~

B) ~~Criteria for the acceptance, non-acceptance and discharge of patients.~~

C) ~~Home health services.~~

D) ~~Medical supervision and plans of treatment.~~

E) ~~Patient care plans.~~

F) ~~Clinical records.~~

G) ~~Personnel data.~~

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~~H) Evaluation.~~

~~I) Coordination of services.~~

~~2) The group shall keep minutes of its meetings and meet as often as necessary to carry out its purposes.~~

be) Administration – All Agencies

1) The ~~home health~~ agency shall have written administrative policies and procedures to ensure the provision of safe and adequate care of the patient or client.

2) The ~~home health~~ agency shall show evidence of liability insurance in accordance with Section 245.90(a).

3) The agency shall develop and implement written policies for complaint resolution between the agency and its patients/clients and/or patient/client advocates in regard to services being provided to the patient/client.

~~d) Agency Supervision~~

~~1) The home health agency shall designate a person with one of the following sets of qualifications to supervise the provision of home health services:~~

~~A) A physician;~~

~~B) A registered nurse who:~~

~~i) Has completed a baccalaureate degree program approved by the National League for Nursing; and~~

~~ii) Has at least one year of nursing experience.~~

~~C) A registered nurse who does not have a baccalaureate degree, but who has at least three years of nursing experience, which meets the following requirements:~~

~~i) At least two years of such nursing experience must have~~

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~~been in either: a home health agency; a community health program that included care of the sick; or a generalized family-centered nursing program in a community health agency.~~

- ii) ~~At least two years of the three years nursing experience must have been obtained within five years prior to current employment with the home health agency.~~
- 2) ~~The agency supervisor shall be available at all times during operating hours of the agency and participate in all activities relevant to the provision of home health services.~~
- 3) ~~Any person employed as an agency supervisor prior to July 1, 1983, may continue to serve in that capacity at that agency only without meeting the qualifications for agency supervisor that were in effect prior to October 1, 1983.~~
- 4) ~~One person may hold the positions of both administrator and agency supervisor, if that person meets the requirements of both positions.~~
- e) ~~Supervising Nurse~~
 - 1) ~~The skilled nursing service of a home health agency shall be under the supervision of a full-time registered nurse.~~
 - 2) ~~The supervising nurse shall be responsible for:~~
 - A) ~~The overall supervision of all registered nurses, licensed practical nurses and home health aides.~~
 - B) ~~The assurance that the professional standards of community nursing practice are maintained by all nurses providing care.~~
 - C) ~~Maintaining and adhering to agency procedure and patient care policy manuals.~~
 - D) ~~Participation in the establishment of service policies and procedures.~~

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- ~~E) Participation in the selection of nursing personnel and the evaluation of nursing personnel.~~
- ~~F) Coordination of patient care services.~~
- ~~G) Keeping and maintaining records of case assignments and case management.~~
- ~~H) Preparation and maintenance of scheduling of cases to be brought to the clinical record review committee.~~
- ~~I) The conduct of selective program evaluations to improve deficient services and the development and implementation of plans of correction.~~

cf) Personnel Policies – All Agencies (Placement agencies must meet the requirements of subsections (c)(1)(B), (2), (3) and (4).)

- 1) Personnel policies applicable and available to all full- and part-time employees shall include, but not be limited to, the following:
 - A) Wage scales, fringe benefits, hours of work and leave time;
 - B) Requirements for an initial health evaluation of each new employee who has contact with clients/patients, including a physical examination and any other components as specified by the governing body;
 - C) Orientation to the home health agency and appropriate continuing education;
 - D) Job descriptions for all positions utilized by the agency;
 - E) Annual performance evaluation for all employees;
 - F) Compliance with all applicable requirements of the Civil Rights Act of 1964;

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- G) Provision for confidentiality of personnel records;:-
- H) Employee health policies that require employees to report health symptoms and exposure to any communicable or infectious disease and that specify conditions under which employees are to be removed from patient or client contact and conditions under which employees may resume patient/client contact; and:-
- D) [Agency procedures related to identifying potential dangers to the health and safety of agency personnel providing services in the home and procedures for protecting agency personnel from identified dangers.](#)
- 2) Prior to employing or placing any individual in a position that requires a State professional license, the ~~home health~~ agency shall contact the Illinois Department of Financial and Professional Regulation to verify that the individual's license is active. A copy of the verification of the individual's license shall be placed in the individual's personnel file.
- 3) The ~~home health~~ agency shall check the status of employee or placement prospects who have direct patient/client care responsibilities with the Health Care Worker~~Nurse Aide~~ Registry prior to hiring.
- 4) Personnel records for all employees/placement agency registry files for placement workers shall include the name and address of the employee or placement worker, Social Security~~social security~~ number, date of birth, name and address of next of kin, evidence of qualifications (including any current licensure, registration, or certification that is required by State~~state~~ or federal law for the functions performed), and dates of employment or placement and separation from the agency and the reason for separation.
- 5) Home health agencies that provide other home health services under arrangement through a contractual purchase of services shall ensure that these services are provided by qualified personnel, who hold any current licensure, registration, or certification that is required by State~~state~~ or federal law for the functions performed, under the supervision of the agency.
- d) [Professional Advisory Group – Home Health Agencies](#)

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- 1) The professional advisory group shall be appointed by the governing body and shall assist in developing and recommending policies and procedures for administration and home health services provided by the agency. These policies and procedures shall be in accordance with the scope of services offered by the agency and based on the home health needs of the patient and the area being served. Policies and procedures shall be reviewed annually or more frequently as needed to determine their adequacy and suitability. Recommendations for any improvements are made to the governing body. These policies and procedures shall include, but are not limited to:
 - A) Administration and supervision of the home health agency and the home health services it provides;
 - B) Criteria for the acceptance, non-acceptance, and discharge of patients;
 - C) Home health services;
 - D) Medical supervision and plans of treatment;
 - E) Patient care plans;
 - F) Clinical records;
 - G) Personnel data;
 - H) Evaluation; and
 - I) Coordination of services.
 - 2) The group shall keep minutes of its meetings and meet as often as necessary to carry out its purposes.
- e) Agency Supervision – Home Health Agencies
- 1) The governing body shall appoint a Home Health Administrator with the duties prescribed in Section 345.40 of this Part.

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- 2) The home health agency shall designate a person with one of the following sets of qualifications to supervise the provision of home health services:
 - A) A physician;
 - B) A registered nurse who:
 - i) Has completed a baccalaureate degree program approved by the National League for Nursing; and
 - ii) Has at least one year of nursing experience;
 - C) A registered nurse who does not have a baccalaureate degree, but who has at least three years of nursing experience that meets the following requirements:
 - i) At least two years of the nursing experience must have been in: a home health agency; a community health program that included care of the sick; or a generalized family-centered nursing program in a community health agency.
 - ii) At least two years of the three years nursing experience must have been obtained within five years prior to current employment with the home health agency.
- 3) The agency supervisor shall be available at all times during operating hours of the agency and participate in all activities relevant to the provision of home health services.
- 4) Any person employed as an agency supervisor prior to July 1, 1983, who does not meet the qualifications for agency supervisor that were in effect prior to October 1, 1983, may continue to serve in that capacity only at that agency.
- 5) One person may hold the positions of both home health agency administrator and agency supervisor, if that person meets the requirements of both positions.

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- f) Supervising Nurse – Home Health Agencies
- 1) The skilled nursing service of a home health agency shall be under the supervision of a full-time registered nurse.
 - 2) The supervising nurse shall be responsible for:
 - A) The overall supervision of all registered nurses, licensed practical nurses, and home health aides;
 - B) Assuring that the professional standards of community nursing practice are maintained by all nurses providing care;
 - C) Maintaining and adhering to agency procedure and patient care policy manuals;
 - D) Participation in the establishment of service policies and procedures;
 - E) Participation in the selection of nursing personnel and the evaluation of nursing personnel;
 - F) Coordination of patient care services;
 - G) Keeping and maintaining records of case assignments and case management;
 - H) Preparation and maintenance of scheduling of cases to be brought to the clinical record review committee; and
 - I) The conduct of selective program evaluations to improve deficient services and the development and implementation of plans of correction.
- g) Agency Manager – Home Services and Home Nursing Agencies
- 1) A home services agency shall designate a person to supervise the provision of services or to oversee the placement of workers through the licensed home services agency.

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- 2) [A home nursing agency shall designate a person who is qualified under the laws of the State of Illinois to supervise the provision of skilled nursing care to clients or to oversee the placement of workers qualified to provide skilled nursing services to consumers through the licensed home nursing agency.](#)

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.40 Staffing and Staff Responsibilities

- a) [Home Health Administrator/Agency Manager](#). The administrator [and/or agency manager](#) shall have the following responsibilities:
 - 1) Ensure that the agency is in compliance with all applicable federal, State and local laws.
 - 2) Be familiar with the [applicable](#) rules of the Department and maintain them within the agency.
 - 3) Familiarize all employees as well as providers through contractual purchase of services with the law and the rules of the Department and make copies available for their use.
 - 4) Ensure the completion, maintenance and submission of such reports and records as required by the Department.
 - 5) Maintain ongoing liaison with the governing body, professional advisory group, staff members and the community.
 - 6) Maintain a current organizational chart to show lines of authority down to the patient [or client](#) level.
 - 7) Have the authority for the management of the business affairs and the overall operation of the agency.
 - 8) Maintain appropriate personnel records, administrative records and all policies and procedures of the agency.

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- 9) Employ qualified personnel in accordance with job descriptions.
 - 10) Provide orientation of new staff, regularly scheduled in-service education programs and opportunities for continuing education for the staff.
 - 11) Designate in writing the qualified staff member to act in the absence of the administrator.
- b) Home Health Aide
- 1) When home health aide services are offered, the services shall be under the supervision of a registered nurse in accordance with the plan of treatment. The home health aide is assigned to a particular patient by a registered nurse. Written instructions for patient care are prepared by a registered nurse or the appropriate therapist.
 - 2) Duties of the home health aide may include:
 - A) The performance of simple procedures as an extension of therapeutic services.
 - B) Personal care, [as defined in this Part](#).
 - C) Ambulation and exercise of the patient.
 - D) Household services essential to health care at home.
 - E) Assistance with medications that are ordinarily self-administered.
 - F) Reporting changes in the patient's/[client's](#) condition and needs to the registered nurse or the appropriate therapist.
 - G) Completion of appropriate records.
 - 3) The registered nurse or appropriate therapist shall make a supervisory visit to the patient's residence at least every two weeks either when the home health aide is present to observe and assist, or when the home health aide is absent to assess relationships and determine whether goals are being met.

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c) Home Services or In-Home Services Worker

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

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- 4) To delineate the types of services that can be provided by a home services worker, the following are examples of acceptable tasks and also limitations when a more medical model of assistance would be needed to meet the higher needs of the client.
- A) Skin Care. A home services worker may perform general skin care assistance. Skin care may be performed by a home services worker only when skin is unbroken, and when any chronic skin problems are not active. The skin care provided by a home services worker must be preventative rather than therapeutic in nature, and may include the application of non-medicated lotions and solutions, or of lotions and solutions not requiring a physician's prescription. Skilled skin care must be provided by an agency licensed as a home health or home nursing services agency. Skilled skin care includes wound care, dressing changes, application of prescription medications, skilled observation and reporting.
- B) Ambulation. A home services worker may assist clients with ambulation. Clients in the process of being trained to use adaptive equipment for ambulation, such as walkers, canes or wheelchairs, require supervision by an agency licensed to provide home health or home nursing services during the period of their training. Once the prescribing individual or the health care provider responsible for the training of the client is comfortable with releasing the client to work on his or her own with the adaptive equipment, a home services worker may assist with ambulation.
- C) Bathing. A home services worker may assist clients with bathing. When a client has skilled skin care needs or skilled dressings that will need attention before, during, or after bathing, the client shall be in the care of an agency licensed as a home health agency or a home nursing agency to meet those specific needs.
- D) Dressing. A home services worker may assist a client with dressing. This may include assistance with ordinary clothing and application of support stockings of the type that can be purchased without a physician's prescription. A home services worker may

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not assist with application of an Ace bandage that can be purchased only with a physician's prescription (the application of which involves wrapping a part of the client's body) or with application of a sequential compression device that can be purchased only with a physician's prescription.

- E) Exercise. A home services worker may assist a client with exercise. Passive assistance with exercise that can be performed by a home services worker is limited to the encouragement of normal bodily movement, as tolerated, on the part of the client, and to encouragement with a prescribed exercise program. Passive Range of Motion may not be performed by a home services worker.
- F) Feeding. A home services worker may provide assistance with feeding. Home services workers can assist clients with feeding when the client can independently swallow and be positioned upright. Assistance by a home services worker does not include syringe, tube feedings, and intravenous nutrition. Whenever there is a high risk that the client may choke as a result of the feeding, the client shall be in the care of an agency licensed as a home health or home nursing agency to fulfill this function.
- G) Hair Care. As a part of the broader set of services provided to clients who are receiving home services, home services workers may assist clients with the maintenance and appearance of their hair. Hair care within these limitations may include shampooing with non-medicated shampoo or shampoo that does not require a physician's prescription, drying, combing and styling hair.
- H) Mouth Care. A home services worker may assist in and perform mouth care. This may include denture care and basic oral hygiene, including oral suctioning for mouth care. Mouth care for clients who are unconscious shall be performed by an agency licensed as a home health agency or home nursing agency.
- D) Nail Care. A home services worker may assist with nail care. This assistance may include soaking of nails, pushing back cuticles without utensils, and filing of nails. Assistance by a home services

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worker may not include nail trimming. Clients with a medical condition that might involve peripheral circulatory problems or loss of sensation shall be under the care of an agency licensed as a home health agency or home nursing agency to meet this need.

- J) Positioning. A home services worker may assist a client with positioning when the client is able to identify to the personal care staff, either verbally, non-verbally or through others, when the position needs to be changed, only when skilled skin care, as previously described, is not required in conjunction with the positioning. Positioning may include simple alignment in a bed, wheelchair, or other furniture.
- K) Shaving. A home services worker may assist a client with shaving only with an electric or a safety razor.
- L) Toileting. A home services worker may assist a client to and from the bathroom; provide assistance with bed pans, urinals, and commodes; provide pericare; or change clothing and pads of any kind used for the care of incontinence.
- i) A home services worker may empty or change external urine collection devices, such as catheter bags or suprapubic catheter bags. In all cases, the insertion and removal of catheters and care of external catheters is considered skilled care and shall not be performed by a home services worker.
- ii) A home services worker may empty ostomy bags and provide assistance with other client-directed ostomy care only when there is no need for skilled skin care or for observation or reporting to a nurse. A home services worker shall not perform digital stimulation, insert suppositories, or give an enema.
- M) Transfers. A home services worker may assist with transfers only when the client has sufficient balance and strength to reliably stand and pivot and assist with the transfer to some extent. Adaptive and safety equipment may be used in transfers, provided that the client

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is fully trained in the use of the equipment and can direct the transfer step by step. Adaptive equipment may include, but is not limited to, wheel chairs, tub seats, and grab bars. Gait belts may be used as a safety device for the home services worker as long as the worker has been properly trained in their use. In general, a home services worker may not assist with transfers when the client is unable to assist with the transfer. Home services workers may assist clients in the use of a mechanical or electrical transfer device only when the following conditions are met:

- i) The home services worker must have been trained in the use of the mechanical or electrical transfer device by the licensed agency;
- ii) The client or client representative must be able to direct the transfer step by step; and
- iii) The agency must have conducted a competency evaluation of the worker using the type of device that is available in the home.

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

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- O) A home services worker shall not provide respiratory care. Respiratory care is skilled and includes postural drainage, cupping, adjusting oxygen flow within established parameters, nasal, endotracheal, and tracheal suctioning, and turning off or changing tanks. However, home services workers may temporarily remove and replace a cannula or mask from the client's face for the purposes of shaving or washing a client's face and may provide oral suctioning.
- 5) In addition to the exclusions prescribed in subsection (c)(4), home services workers shall not act in the following capacities:
- A) Provide skilled personal care services as defined in Section 245.20;
- B) Become or act as a Power of Attorney;
- C) Be involved in any financial transactions of the client outside of contracted services. In such cases, the home services worker shall follow agency policies in regard to securing receipts for items purchased and ensuring both client and worker signatures documenting those expenditures;
- D) Perform or provide medication setup for a client; and
- E) Other actions specifically prohibited by agency policy or other State laws.
- 6) Supervision of a home services worker shall include the following (these provisions do not apply to placement agencies):
- A) An individual who is in a supervisory capacity shall be designated and available to the worker for questions at all times.
- B) On-site supervision shall take place at a minimum every 90 days or more often if the plan of service requires it.
- C) Supervision does not constitute time or an activity that can be billed as a service to the client/consumer.

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de) Licensed Practical Nurse

- 1) The licensed practical nurse may perform selected acts in accordance with the [Illinois Nurse Practice Act of 1987 \[225 ILCS 65\]](#), including the administration of treatments and medications in the care of the ill, injured, or infirm, the maintenance of health, and prevention of illness, under the direction of a registered nurse.
- 2) The licensed practical nurse shall report changes in the patient's condition to the registered nurse, and these reports shall be documented in the clinical notes.
- 3) The licensed practical nurse shall prepare clinical notes for the clinical record.

ed) Medical Social Worker. When provided, medical social services shall be given by a social worker or by a social work assistant under the supervision of a social worker in accordance with the plan of treatment. These services shall include the following:

- 1) Assist the physician or podiatrist and other members of the health team in understanding significant social and emotional factors related to the patient's health problems.
- 2) Assess the social and emotional factors in order to estimate the patient's capacity and potential to cope with the problems of daily living.
- 3) Help the patient and family to understand, accept, and follow medical recommendations and provide services planned to restore the patient to the optimum social and health adjustment within the patient's capacity.
- 4) Assist the patient and family with personal and environmental difficulties thatwhich predispose toward illness or interfere with obtaining maximum benefits from medical care.
- 5) Utilize all available resources, such as family and community agencies, to assist the patient to resume life in the community or to live within the disability.

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- 6) Observe, record and report social and emotional changes.
- 7) Prepare clinical and progress notes for the clinical record.
- 8) Supervision of the social work assistant shall include the following:
 - A) A licensed social worker must be accessible by telephone to the social work assistant at all times while the social work assistant is treating patients.
 - B) On-site supervision ~~shall~~should take place every four to six visits. The supervisory visits may be made either when the social work assistant is present so that the supervisor may observe and assist, or when the social work assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
 - C) Supervision does not constitute treatment.
 - D) The supervisory visit ~~shall~~should include a complete on-site assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of outside resources.
- fe) Occupational Therapist and Occupational Therapy Assistant. When ~~required~~provided, occupational therapy services shall be ~~provided~~given by an occupational therapist or by an occupational therapy assistant under the supervision of an occupational therapist in accordance with the plan of treatment. These services shall include the following:
 - 1) Assist the physician or podiatrist in evaluating the patient's level of function by applying diagnostic and prognostic procedures.
 - 2) Guide the patient in the use of therapeutic creative and self-care activities for the purpose of improving function.
 - 3) Observe, record and report to the physician or podiatrist the patient's reaction to treatment and any changes in the patient's condition.

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- 4) Instruct other health team personnel, including, when appropriate, home health aides and family members in certain phases of occupational therapy in which they may work with the patient.
- 5) Prepare clinical and progress notes for the clinical record.
- 6) Supervision of the occupational therapy assistant shall include the following:
 - A) A licensed occupational therapist ~~shall~~**must** be accessible by telephone to the occupational therapy assistant at all times while the occupational therapy assistant is treating patients.
 - B) On-site supervision ~~shall~~**should** take place every four to six visits. The supervisory visits may be made either when the occupational therapy assistant is present so that the supervisor may observe and assist, or when the occupational therapy assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
 - C) Supervision does not constitute treatment.
 - D) The supervisory visit ~~shall~~**should** include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of outside resources.

gf) Physical Therapist and Physical Therapist Assistant

- 1) When provided, physical therapy services shall be given by a physical therapist or by a physical therapist assistant under the supervision of a physical therapist in accordance with the plan of treatment. These services shall include the following:
 - A) Review and evaluate physician's or podiatrist's referral and patient's medical record to determine physical therapy required.
 - B) Plan and prepare a written treatment program based on the evaluation of available patient data.

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- C) Perform patient tests, measurements, and evaluations, such as range-of-motion and manual muscle tests, gait and functional analyses, and body parts measurements, and record and evaluate findings to aid in establishing or revising specifics of treatment programs.
 - D) Plan and administer prescribed physical therapy treatment programs for patients to restore function, relieve pain, and prevent disability following disease, injury or loss of body part.
 - E) Administer manual therapeutic exercises to improve or maintain muscle function, applying precise amounts of manual force and guiding patient's body parts through selective patterns and degrees of movement. Instruct, motivate and assist patient in non-manual exercises, such as active regimens, isometric and progressive resistive, and in functional activities using available equipment and assistive and supportive devices, such as crutches, walkers, canes, orthoses and prostheses. Administer treatment involving application of physical agents, such as heat, light, cold, water and electricity. Administer traction and massage. Evaluate, fit and adjust prosthetic and orthotic devices and recommend modifications to the orthotist/prosthetist.
 - F) Observe, record, and report to the physician or podiatrist the patient's treatment, response and progress.
 - G) Instruct other health team personnel, including, when appropriate, home health aides and family members in certain phases of physical therapy with which they may work with the patient.
 - H) Instruct patient and family in total physical therapy program.
 - I) Prepare clinical and progress notes for the clinical record.
- 2) Supervision of the physical therapist assistant shall include the following:
- A) A licensed physical therapist ~~shall~~ must be accessible by telephone to the physical therapist assistant at all times while the physical

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therapist assistant is treating patients.

- B) On-site supervision ~~shall~~should take place every four to six visits. The supervisory visits may be made either when the physical therapist assistant is present so that the supervisor may observe and assist, or when the physical therapist assistant is absent so that the supervisor may assess relationships and determine whether goals are being met.
 - C) Supervision does not constitute treatment.
 - D) The supervisory visit ~~shall~~should include a complete on-site functional assessment, an on-site review of activities with appropriate revision of treatment plan, and an assessment of the utilization of outside resources.
- 3) The physical therapist assistant shall:
- A) Be directed by and under the supervision of a licensed physical therapist.
 - B) Administer the physical therapy program as established by the physical therapist.
 - C) Administer non-complex active and passive manual therapeutic exercises, therapeutic massage, traction, heat, light, cold, water and electrical modalities to patients with relatively stable conditions.
 - D) Instruct, motivate and assist patients in learning and improving functional activities such as perambulation, transfers, ambulation and activities of daily living.
 - E) Observe patient's progress and response to treatment, and report to the physical therapist.
 - F) Confer with members of the health care team for planning, modifying, and coordinating treatment programs.
- hg) Registered Nurse (RN). Skilled nursing services shall be ~~provided~~given by a

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registered nurse in accordance with the plan of treatment. These services shall include the following:

- 1) ~~Be responsible~~Have the responsibility for the observation, assessment, nursing diagnosis, counsel, care and health teaching of the ill, injured or infirm, and the maintenance of health and prevention of illness of others.
 - 2) Maintain a clinical record for each patient receiving care.
 - 3) Provide progress notes to the patient's physician or podiatrist about patients under care when the patient's conditions change or there are deviations from the plan of care, or at least every ~~60~~sixty days.
 - 4) ~~In the case of an RN working as a part of a home health or home nursing agency, make~~Make home health aide assignments, prepare written instructions for the aide, and supervise the aide in the home.
 - 5) Direct the activities of the licensed practical nurse.
 - 6) Administer medications and treatments as prescribed by the patient's physician or podiatrist.
 - 7) Act as the coordinator of the health care team in order to maintain the proper linkages within a continuum of care.
- ih) Speech-Language Pathologist. When ~~required~~provided, speech therapy services shall be ~~provided~~given by a speech-language pathologist in accordance with the plan of treatment. These services shall include the following:
- 1) Assist the physician in determining and recommending appropriate speech and hearing services.
 - 2) Evaluate the patient's speech and language abilities and establish a plan of treatment.
 - 3) Provide rehabilitation services for speech and language disorders.
 - 4) Record and report to the patient's physician the patient's progress in treatment and any changes in the patient's condition and plan of care.

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- 5) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills.
 - 6) Prepare clinical and progress notes for the clinical record.
- j)** Audiologist. When ~~required~~provided, audiology services shall be ~~provided~~given by an audiologist in accordance with the plan of treatment. These services shall include the following:
- 1) Administer diagnostic hearing tests to evaluate the patient's audiological abilities.
 - 2) Assess the patient's need for amplification.
 - 3) Provide rehabilitative services for hearing disorders.
 - 4) Instruct other health team personnel and family members in methods of assisting the patient in improving communication skills.
 - 5) Record and report to the patient's physician the patient's response to rehabilitative intervention.
- k)** Student Training Program. When an agency elects to participate with an educational institution to provide clinical experience for students as part of their health-related professional training, ~~there shall be~~ a written agreement between the agency and each educational institution ~~shall~~. ~~The agreement must~~ specify the responsibilities of the agency and the educational institution. The agreement shall include, at a minimum, the following provisions:
- 1) The agency retains the responsibility for client care~~;~~
 - 2) The educational institution retains the responsibility for student education~~;~~
 - 3) ~~Student~~The student and faculty performance expectations~~;~~
 - 4) Faculty supervision of undergraduate students in the clinic and the field~~;~~

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- 5) Ratio of faculty to students~~;~~
- 6) Confidentiality regarding patient information~~;~~
- 7) Required insurance coverage; ~~and~~
- 8) Provisions for ~~joint evaluation by~~ the agency and faculty ~~to jointly evaluate~~ of the students' performance and ~~of~~ the training program.

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.50 Services (Repealed)**a) ~~Services Provided~~**

- 1) ~~Each agency shall provide skilled nursing service and at least one other home health service on a part time or intermittent basis. The basic skilled nursing service shall be provided directly by agency staff. Other home health services may be provided by agency staff directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.~~
- 2) ~~The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.~~
- 3) ~~Services provided under contractual arrangements shall be through a written agreement that includes but is not limited to the following:~~
 - A) ~~Services to be provided.~~
 - B) ~~Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies.~~
 - C) ~~Designation of full responsibility for agency control over~~

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~~contracted services.~~

- ~~D) Procedures for submitting clinical and progress notes.~~
- ~~E) Charges for contracted services.~~
- ~~F) Statement of responsibility of liability and insurance coverage.~~
- ~~G) Period of time in effect.~~
- ~~H) Date and signatures of appropriate authorities.~~
- ~~I) Provision for termination.~~

b) ~~Acceptance of Patients. Patient acceptance and discharge policies shall include but not be limited to the following:~~

- ~~1) Persons shall be accepted for health service on a part-time or intermittent basis upon a plan of treatment established by the patient's physician or podiatrist. This plan shall be in writing within 14 days after acceptance and signed by the physician within 30 days from the start of care date.~~
- ~~2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.~~
- ~~3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of the service.~~
- ~~4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's place of residence.~~
- ~~5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.~~

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- 6) ~~Services shall not be terminated until such time as the registered nurse, the appropriate therapist, or both, in consultation with the patient's physician or podiatrist, deem it appropriate or arrangements are made for continuing care.~~
- e) ~~Plan of Treatment~~
- 1) ~~Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and assessment of the patient's immediate and long range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient and members of the patient's family. The plan of treatment shall include:~~
- A) ~~Diagnoses.~~
- B) ~~Functional limitations and rehabilitation potential.~~
- C) ~~Expected outcomes for the patient.~~
- D) ~~The patient's physician's or podiatrist's regimen of:~~
- i) ~~Medications;~~
- ii) ~~Treatments;~~
- iii) ~~Activity;~~
- iv) ~~Diet;~~
- v) ~~Specific procedures deemed essential for the health and safety of the patient;~~
- vi) ~~Mental status;~~
- vii) ~~Frequency of visits;~~

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~~patient's record. The patient care plan shall indicate:~~

- ~~A) Patient problems.~~
- ~~B) Patient's goals, family's goals, service goals.~~
- ~~C) Service approaches to modify or eliminate problems.~~
- ~~D) The staff responsible for a given element of service.~~
- ~~E) Anticipated outcome of service approach with an estimated time frame for completion.~~
- ~~F) Potential for discharge from service.~~

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

- ~~1) Appropriate identifying information for the patient, household members and caretakers, medical history and current findings.~~
- ~~2) A plan of treatment signed by the patient's physician or podiatrist.~~
- ~~3) A patient care plan developed by the home health services team that is in accord with the patient's physician's or podiatrist's plan of treatment.~~
- ~~4) A medication list with dates reviewed, revised and date sent to the patient's physician or podiatrist.~~
- ~~5) Initial and periodic patient assessments by the registered nurse, which include documentation of the patient's functional status and eligibility for service.~~
- ~~6) Assessments made by other members of the home health services team.~~
- ~~7) Signed and dated clinical notes for each contact, which are written the day of service and incorporated into the patient's clinical record at least weekly.~~

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- 8) ~~Reports on all patient home health care conferences.~~
- 9) ~~Reports of contacts with the patient's physician or podiatrist by patient and staff.~~
- 10) ~~Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team.~~
- 11) ~~Written summary reports sent to the patient's physician or podiatrist every 62 days containing home health services provided, the patient's status, recommendations for revision of the plan of treatment and the need for continuation or termination of services noted.~~
- 12) ~~Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.~~
- 13) ~~A discharge summary giving a brief review of service, patient status, reason or reasons for discharge and plans for post discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits and short-term or event-focused or diagnosis-focused interventions. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary reports already furnished to the physician.~~
- 14) ~~A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.~~
- 15) ~~Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will utilize and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on nonthermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract must include that the original records must be maintained for a period of five years by the professional.~~

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- 16) ~~Those agencies which are subject to the Local Records Act should note that *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act [50 ILCS 205/7])~~
- 17) ~~Each agency shall have a written policy and procedure for the protection of confidentiality of patient records, which explains the use of records, removal of records and release of information.~~
- f) ~~Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include but not be limited to the following:~~
- 1) ~~All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.~~
 - 2) ~~Drugs and treatments are administered by agency staff only as ordered by the physician, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a physician and after an assessment of the patient.~~
 - 3) ~~All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.~~
 - 4) ~~The agency's physician or podiatrist or registered nurse shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications and shall promptly report any problem to the patient's physician or podiatrist.~~
 - 5) ~~All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, and signed by the patient's physician or podiatrist within 30 days.~~
 - 6) ~~When any experimental drug, sera, allergenic desensitizing agent,~~

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~~penicillin or any other potentially hazardous drug is administered, the registered nurse administering such drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.~~

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

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~~treatment;~~

~~C) Whether the services could have been provided in a shorter span of time.~~

~~2) Clinical records shall be reviewed continually for each 62 day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.~~

(Source: Repealed at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.60 Annual Financial Statement – Home Health Agencies

- a) *Each home health agency licensee shall file annually an attested financial statement on a form prescribed, prepared and furnished by the Department in conjunction with the Illinois Department of Healthcare and Family Services~~Public Aid~~. The application shall contain such information as may be required by the Department and the Illinois Department of Healthcare and Family Services~~Public Aid~~ for the proper administration of the Act and this Part. An audited financial statement may be required of a particular facility, if the Director determines that additional information is needed. (Section 11(a) of the Act)*
- b) *No public funds shall be expended for the services of a home health agency which has failed to file the financial statement required by this Section. (Section 11(b) of the Act)*
- c) *No other ~~State~~ agency may require submission of financial data except as expressly authorized by law or as necessary to meet requirements of federal law or regulation. (Section 11(d) of the Act)*
- d) *Information obtained under this Section shall be made available, upon request, by the Department only to any other State agency or legislative commission to which such information is necessary for investigations or to execute the intent of ~~State~~ or federal law or regulation. (Section 11(d) of the Act)*

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.70 Home Health Aide Training

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- a) Each home health agency shall ensure that all persons employed as home health aides or under any other title, whose duties are to assist with the personal, nursing or medical care of the patients, and who are not otherwise licensed, certified or registered in accordance with Illinois law to render such care, comply with one of the following conditions:
- 1) Is approved on the Department's [Health Care WorkerNurse Aide](#) Registry. "Approved" means that the home health aide has met the training or equivalency requirements of this Section and does not have a disqualifying background check without a waiver (see Section 245.72);
 - 2) Meets training requirements by completion of a training program approved under the Long-Term Care Assistants and Aides Training Programs Code (see 77 Ill. Adm. Code 395); or
 - 3) Meets equivalencies established in subsection (b) of this Section.
- b) Equivalency may be established by any one of the following:
- 1) Documentation of current registration from another state.
 - 2) Documentation of successful completion of a nursing arts course, which included at least 40 hours of supervised clinical experience, in an accredited nurse training program as evidenced by diploma, certificate or other written verification from the school, and successful completion of the written portion of the Department-established nursing assistant competency test.
 - 3) Documentation of successful completion of a United States military training program that includes the content of the Basic Nursing Assistant Training Program (see 77 Ill. Adm. Code 395), as evidenced by a diploma, certification DD-214, or other written verification, and successful completion of the written portion of the Department-established nursing assistant competency evaluation.
 - 4) Documentation of completion of a nursing program in a foreign country, including the following, and successful completion of the written portion of the Department-established competency test:

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- A) A copy of the license, diploma, registration or other proof of completion of the program;
 - B) A copy of the Social Security card; and
 - C) Visa or proof of citizenship.
- c) Requests to establish equivalency shall be submitted to the Department with accompanying documentation.
- d) The home health agency is responsible for assuring that the individuals who furnish home health aide services on its behalf are competent to carry out assigned tasks in the patient's place of residence. The competency evaluation conducted by a registered nurse in the home health agency shall address each of the following subjects:
- 1) Communication skills;
 - 2) Observation, reporting, and documentation of patient status and the care or service furnished;
 - 3) Reading and recording temperature, pulse, and respiration;
 - 4) Basic infection control procedures;
 - 5) Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;
 - 6) Maintenance of a clean, safe and healthy environment;
 - 7) Recognizing emergencies and knowledge of emergency procedures;
 - 8) The physical, emotional and developmental needs of and ways to work with the populations served by the home health agency, including the need for respect for the patient, his or her privacy, and his or her property;
 - 9) Appropriate and safe techniques in personal hygiene and grooming that include:

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- A) Bed bath;
 - B) Sponge, tub or shower bath;
 - C) Shampoo – sink, tub, or bed;
 - D) Nail and skin care;
 - E) Oral hygiene; [and](#)
 - F) Toileting and elimination;
- 10) Safe transfer techniques and ambulation;
 - 11) Normal range of motion and positioning;
 - 12) Adequate nutrition and fluid intake; and
 - 13) Any other task that the agency may choose to have the home health aide perform.
- e) A home health agency shall not employ an individual as a home health aide unless the Agency has inquired of the Department as to information in the [Health Care Worker Nurse Aide](#) Registry concerning findings of abuse, neglect, or misappropriation of property.

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

[Section 245.71 Qualifications and Requirements for Home Services Workers](#)

- a) [Each agency shall ensure and maintain documentation in the employee file that all persons employed or providing services as an in-home services worker, and who are not otherwise licensed, certified or registered in accordance with Illinois law to render such care, comply with the following conditions:](#)
 - 1) [Does not have a disqualifying background check under the requirements of the Health Care Worker Background Check Act without a waiver;](#)

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- 2) Has a copy of the Social Security card; and
- 3) Has visa or proof of citizenship in compliance with federal requirements for employment.
- b) Each placement agency shall provide a minimum of eight hours of training for each home services worker prior to his or her first assignment. The training shall include all of the items noted in subsection (d) of this Section.
- c) Each home services agency shall provide a minimum of eight hours of training for each home services worker. Four hours of training shall be provided prior to the home services worker's first assignment, and the remaining four hours shall be provided within the worker's first 30 days after employment. The training shall include the components of subsections (d)(1)-(12) of this Section.
- d) The agency shall provide proof of a competency evaluation conducted by the agency or proof that the worker has successfully completed a training program at another licensed home services agency within the prior year (previous 365 days). The competency evaluation or proof of prior training at a licensed home services agency within the prior year shall address each of the following subjects:
 - 1) The employee's job responsibilities and limitations;
 - 2) Communication skills in areas such as with persons who are hard of hearing, have dementia, or have other special needs;
 - 3) Observation, reporting and documentation of client status and the service furnished, including changes in functional ability and mental status demonstrated by the client;
 - 4) Performance of personal care tasks for clients, including: bathing; skin care; hair care; nail care; mouth care; shaving; dressing; feeding; assistance with ambulation; exercise and transfers; positioning; toileting; and medication reminding;
 - 5) Performance of ability to assist in the use of specific adaptive equipment, such as a mechanical lifting device, if the worker will be working with clients who use the device;

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

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(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.75 Infection Control

- a) Each agency shall develop and implement policies and procedures for investigating, controlling and preventing infections.
- b) Each agency shall adhere, at a minimum and as appropriate, to the guidelines of the Center for Infectious Diseases, Centers for Disease Control and Prevention, United States Public Health Service, Department of Health and Human Services, as incorporated in Section 245.25.

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

SUBPART C: LICENSURE PROCEDURES

Section 245.80 Licensure Required

- a) *No person shall open, manage, conduct or maintain a home health agency without a license issued by the Department. (Section 3 of the Act)*
- b) *On and after September 1, 2008, no person shall open, manage, conduct, or maintain a home services agency, or advertise himself or herself as a home services agency or as offering services that would be included in the definition of home services or a home services agency, without a license issued by the Department. (Section 3.3 of the Act)*
- c) *On and after September 1, 2008, no person shall open, manage, conduct, or maintain a home nursing agency, or advertise himself or herself as a home nursing agency or as offering services that would be included in the definition of a home nursing agency, without a license issued by the Department. (Section 3.7 of the Act)*
- db)** License Nontransferable
 - 1) Each license shall be issued only for the ~~specific home health~~ agency named in the application and shall not be transferred or assigned to any other person, agency or corporation.

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- 2) Sale, assignment, lease or other transfer, voluntary or involuntary, shall require relicensure by the new owner ~~or person in interest~~ prior to maintaining, operating or conducting ~~ana home health~~ agency.
- 3) In the case of agencies operating under a franchise arrangement, each unique business entity shall obtain and maintain a distinct license and shall not share licensure based on franchised name status.
- ~~ee)~~ Each license shall be for a term of one year and shall expire one year from the date of issuance. However, initial licenses shall expire one year from the end of the month in which the initial license was issued.
- ~~d)~~ ~~Subunits. A separate license for the operation of a home health agency is required for each home health agency subunit. A separate license application and fee must be submitted for each home health agency subunit.~~
- ~~fe)~~ Out-of-State Agencies. A license is required for any ~~home health~~ agency providing care in Illinois, or functioning in a capacity of matching workers with clients or consumers for home nursing or home service care, including internet matching services where the parent agency is domiciled in a state other than Illinois. In such cases, the following conditions ~~shall~~must be met:
- 1) The licensee ~~shall~~must be registered to do business in Illinois under the Business Corporation Act of 1938 [805 ILCS 5](Ill. Rev. Stat., 1989, ch. 32, par. 1.01 et seq.) or otherwise authorized to do business in Illinois.
- 2) The licensee ~~shall~~must have an office in Illinois.
- 3) All professional care supervisory and staff personnel caring for patients or clients residing in Illinois ~~shall~~will be subject to any licensure, certification, or registration ~~that~~which is required to perform the respective service in Illinois, and shall be so licensed, certified, or registered.
- ~~gf)~~ The licensee shall notify the Department in writing not less than 30 days prior to closing the ~~home health~~ agency.
- ~~hg)~~ *Any ~~home health~~ agency conducted by and for the adherents of any well recognized church or religious denomination for the purpose of providing services for the care or treatment of the sick who depend upon prayer or spiritual*

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means for healing in the practice of the religion of such church or religious denomination is not subject to licensure. (Section 13 of the Act)

- i) Subunits. A separate license for the operation of a home health agency is required for each home health agency subunit. A separate license application and fee shall be submitted for each home health agency subunit.

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.90 License Application

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

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- E) *Sources of financing of services* and any other sources of income of the agency;~~;~~
 - F) A description or map of the geographic *service area* in which services are provided by the agency;~~;~~
 - G) *Charges for services* by types of services provided by the agency;
and;
 - H) For home health agencies, copies~~Copies~~ of any *affiliation agreements with other health care providers*. (Section 5(a) of the Act)
- b) Renewal Application – All Agencies
- 1) Each licensee shall file a renewal application with the Department not less than 60 days, nor more than 90 days, prior to the expiration date of the licensee's current license.
 - 2) Each renewal application shall be on forms provided by the Department and shall contain the information specified in subsection (a)(~~32~~) of this Section.
- c) Renewal Application – Home Health Agencies
Applications for renewal of home health agency licenses shall additionally contain~~Each renewal application shall also include~~ the following information:
- 1A) *Patient load* data for the preceding year, including the number of patients discharged, the total number of patients who received services, the number of patients over 65 years of age who received services, and the number of patients being served at the end of the year;
and;
 - 2B) *Agency utilization* data, including the number of patients receiving specific types of services and the number of visits by types of services provided. (Section 5(a) of the Act)
- d) An entity that meets the requirements for licensure under the Act and this Part may obtain licensure singly or in any combination for the categories authorized under the Act and this Part. (Section 4(d) of the Act)

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- e) One application for licensure shall be used even if a combination of licenses authorized under the Act and this Part is sought. Applicants for multiple licenses shall pay the higher of the licensure fees applicable. (Section 4(d) of the Act) The licensure fee under the multiple category shall not exceed \$1500 annually.
- e) ~~Each initial and renewal application shall be accompanied by a license fee of \$25. The fee is not refundable. (Section 4(e) of the Act)~~
- f)d) The Department will review each application. The Department will approve the application and issue an initial or renewal license to the applicant for operation of ~~ana home health~~ agency, when it finds that the applicant meets all of the requirements of the Act and the standards established by the Department in this Part. The Department may also issue a provisional license, as provided in Section 4 of the Act and Section 245.100 of this Part, or deny an application, as provided in ~~Sections~~Section 8 and 9 of the Act and Section 245.130 of this Part. (Section 4(c) of the Act)

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.95 License Application Fee

- a) Applicants for multiple licenses under this system shall pay the higher of the licensure fees applicable. (Section 4(d) of the Act)
- b) A home nursing agency or a home service agency shall pay a licensure fee not to exceed \$1500. The fee is not refundable.
- c) A home nursing placement agency or home services placement agency shall pay a licensure fee not to exceed \$500. The fee is not refundable.
- d) Home Health Agencies. For a single home health agency license only, each initial and renewal application shall be accompanied by a license fee of \$25. (Section 4(c) of the Act) The fee is not refundable.

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.100 Provisional License

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a) Provisional License for New Agencies

1) ~~The Department shall issue a provisional license to a new agency provided that the application is in compliance with Section 245.90. A new agency is an agency that meets either of the following circumstances: If the Department is unable to determine that the agency complies with the requirements of the Act and this Part from the information provided in the application, the Department may conduct an on-site survey. The Department shall issue a provisional license to an applicant for licensure when the applicant appears to comply with the requirements of the Act and this Part, and either of the following conditions exists:~~

A) ~~The applicant for licensure has not previously been licensed; or-~~

B) ~~The agency is not in operation at the time of the application is made.~~ (Section 4(a) of the Act).

2) ~~Within 30 days prior to the termination expiration of the provisional license, the Department shall inspect the agency and, if the applicant. If the Department finds that the agency substantially meets the requirements for licensure, the Department of the Act and this Part, it shall issue a license.~~ This license shall expire one year from the end of the month in which the provisional license was first issued. The initial license fee shall be applied to this license. (Section 4(a) of the Act)

b) Provisional License for Operating Agencies

1) ~~If an operating agency does not substantially comply with the provisions of the Act and this Part, the~~ The Department shall issue a provisional license, ~~provided that~~ issue a provisional license to an agency when it finds that all of the following conditions exist:

A) ~~The health, safety, and well-being of the patients and/or clients of the agency will be protected during the period for which such provisional license is issued~~ (Section 4(b)(1) of the Act); and

A) ~~The agency does not substantially comply with all of the requirements of the Act and this Part.~~

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- B) The violations of the requirements of the Act and this Part are not serious enough to support adverse licensure action as provided under Sections 8 and 9 of the Act and Section 245.130 of this Part.
- C) ~~The health and safety of the patients of the agency will be protected during the period of the provisional license (Section 4(b)(1) of the Act)~~
- 2) When a provisional license is issued to an operating agency, the Department shall notify the agency of the issuance of the provisional license. The notice to the agency shall include the following information:
- A) A description of the *manner in which the agency fails to substantially comply with all of the requirements of the Act and this Part.*
- B) A description of the *corrections which must be made by the ~~home health~~ agency to substantially comply with all of the requirements of the Act and this Part.*
- C) A specific *time within which the necessary corrections shall be completed* by the agency. (Section 4(b)(2) of the Act)
- c) *A provisional license is valid for 120 days unless sooner suspended or revoked in accordance with Section 9 of the Act and Section 245.130 of this Part. A provisional license will be renewed for an additional 120 days when the Department finds that all of the following conditions exist:*
- 1) *The agency does not substantially meet all of the requirements of the Act and this Part.*
- 2) *The agency has made significant progress toward correcting deficiencies and bringing the agency into full compliance with the requirements of the Act and this Part.*
- 3) *The health, ~~and~~ safety ~~and well-being~~ of the ~~patients and/or clients~~ patients of the agency will be protected during the period ~~for which of the extension of the provisional license is extended.~~ (Section 4 of the Act)*

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(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.110 Inspections and Investigations

- a) *The Department will conduct such investigations and inspections of licensed agencies and of persons suspected of operating an agency without a license as it deems necessary to assess compliance with the Act and this Part. ~~The Department will conduct an investigation or inspection based on complaints received by the Department when it finds that the complaint alleges a violation of the Act or this Part and that a reasonable basis exists for the complaint.~~ (Section 9.01 of the Act)*
- b) *Agencies shall facilitate any necessary visits by the Department's staff to patients or clients in their homes during the Department's investigations or inspections. The Department will obtain *consent from the patient or client* prior to conducting *direct observation of patient care or the provision of home services* in the home during an investigation or inspection. (Section 9.01 of the Act)*
- c) *Agencies shall make available to the Department all books, records, policies and procedures, or any other materials requested during the course of an investigation or inspection. (Section 9.01 of the Act)*

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.115 Complaints

- a) Complaints in regard to agencies licensed under the Act and this Part may be submitted either in writing, by telephone or by other electronic means to the IDPH Central Complaint Registry.
- b) The Department will conduct an investigation of all complaints received. An appropriate investigation may include but is not limited to record reviews and/or telephone interviews, on-site surveys or a combination of methods.

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.120 Violations

- a) Notice of Violation

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- 1) *When the Department determines that ~~ana home health~~ agency is in violation of the Act or this Part, a notice of violation shall be served on the licensee. The notice shall be served on the licensee personally or by certified mail. (Section 9.02 of the Act)*
 - 2) *Each notice of violation shall be in writing and shall include:*
 - A) *A description of the nature of the violation.*
 - B) *Citation of the statutory provision or rule alleged to have been violated.*
 - C) *A statement that the agency must submit a plan of correction as provided under Section 9.03 of the Act and subsection (b) of this Section.*
 - D) *A description of additional action the Department may take under the Act, including adverse licensure action under Section 9 of the Act and Section 245.130 of this Part or assessment of a penalty under Section 9.04 of the Act and Section 245.140 of this Part.*
 - E) *A statement that the licensee has a right to a hearing to contest the violation, as provided in Section 10 of the Act and Section 245.150 of this Part, and a description of the procedure for requesting a hearing. (Section 9.02 of the Act)*
- b) **Plan of Correction**
- 1) *In response to the receipt of a notice of violation, the agency shall file with the Department a written plan of correction. Each plan of correction is subject to the approval of the Department and shall comply with the following requirements:*
 - A) *Be filed with the Department within 10 days ~~after~~ the agency's receipt of the notice of violation.*
 - B) *State with particularity the method by which the agency intends to correct each violation specified in the notice of violation.*

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- C) *Contain a stated date by which each violation will be corrected.*
(Section 9.03 of the Act)
- 2) The Department will review each plan of correction. If the Department finds that the plan of correction fails to comply with the requirements in subsection (b)(1) of this Section, the Department will *reject the plan of correction* and *notify the licensee of the rejection and the reason for the rejection.* (Section 9.03 of the Act)
- 3) *The agency shall have 10 days after the receipt of a notice of rejection in which to submit a modified plan of correction.* The Department shall review each modified plan of correction. (Section 9.03 of the Act)
- 4) The Department shall *reject a modified plan* and impose a plan of correction, which the *agency shall follow*, in any of the following conditions:
- A) *The modified plan is not submitted on time.*
- B) The modified plan fails to resolve the reasons for the rejection of the plan of correction.
- C) The modified plan fails to *state with particularity the method by which the agency intends to correct each violation* specified in the notice of violation.
- D) The modified plan fails to *contain a stated date by which each violation will be corrected.* (Section 9.03 of the Act)
- c) Hearing to Contest Violations
- 1) An agency may *contest any Department action under this Section by sending a written request for a hearing to the Department within 10 days ~~after~~ after the receipt of the notice of the action being contested,* as provided in Section 10 of the Act and Section 245.150 of this Part. (Section 9.03(c) of the Act)
- 2) *Whenever possible, all action of the Department under this Section arising out of a violation shall be contested and determined at a single hearing.*

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(Section 9.03(c) of the Act)

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.130 Adverse Licensure Actions

- a) Adverse licensure actions include the denial of an initial license application, denial of an application for license renewal, revocation of a license, suspension of a license, and the imposition of a penalty or fine.
- b) Adverse licensure action shall be considered by the Department under the following conditions:
 - 1) Failure of the agency to meet the standards prescribed by the Department in this Part. (~~Section 8(a) of the Act~~)
 - 2) *Satisfactory evidence that the moral character of the applicant or supervisor of the agency is not reputable. In determining moral character, the Department may take into consideration any convictions of the applicant or supervisor for criminal offenses, but such convictions shall not operate as a bar to licensing.* (Section 8(b) of the Act)
 - 3) *Lack of personnel qualified by training and experience to properly perform the function of ~~ana-home health~~ agency. This determination shall be based on the personnel requirements established in this Part.* (Section 8(c) of the Act)
 - 4) *Insufficient financial or other resources to operate and conduct a home health, home services or home nursing agency in accordance with the requirements of the Act and this Part.* (Section 8(d) of the Act)
 - 5) *Refusal to make books, records, policies and procedures, or any other materials requested during the course of an investigation or inspection available to the Department.* (Section 9.01 of the Act)
 - 6) *Violation of any provision of the Act or this Part.* (Section 9(a) of the Act)
 - 7) *Conduct or practice found by the Department to be detrimental to the health, safety or welfare of a patient or client.*

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- c) In determining whether to take adverse licensure action, the Department shall consider the following factors:
- 1) *The gravity of the violation, including the probability that death or serious physical or mental harm to a patient or client will result or has resulted and the severity of the actual or potential harm.*
 - 2) *The extent to which the provisions of the Act or this Part were violated.*
 - 3) *The reasonable diligence exercised by the licensee and any efforts by the licensee to correct the violations.*
 - 4) *Any previous violations committed by the licensee.*
 - 5) *The financial benefit to the agency of committing or continuing the violation. (Section 9.04(c) of the Act)*
- d) The Department shall deny an application for license renewal when the licensee *refuses to make payment at the time of the application for renewal of the license* for penalties or fines ~~that~~which have been imposed and added to the license fee. (Section 10.01(c) of the Act)
- e) The Director will order an emergency suspension of a license; when the Director finds that continued operation of the agency poses an immediate and serious danger to the public health, safety; or welfare. The suspension shall take effect upon the issuance of an order of emergency suspension by the Director and shall remain in effect during any administrative proceeding contesting the action. Promptly following any emergency suspension of a license, the Department shall take action to revoke the license.
- f) Notice of Adverse Licensure Action
- 1) *The Department shall notify the applicant or licensee in writing before~~in writing, prior to~~ denying an application refusing to renew a license, or revoking a license. (Section 10(a) of the Act)*
 - 2) *The notice shall be served on the applicant or licensee either by personal service or by registered mail. The notice shall contain the following*

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information:

- A) A description of the *particular reasons for the proposed action*, including citations of the specific provisions of the Act and this Part under which the proposed action is being taken.
- B) The date, not less than 15 days from the date of the mailing or service of the notice, on which the action will take effect, unless appealed by the applicant or licensee.
- C) A description of the manner in which the applicant or licensee may appeal the proposed action and the right of the applicant or licensee to a hearing under Section 10 of the Act and Section 245.150 of this Part. (Section 10(b) of the Act)

(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.150 Hearings

- a) Applicants for [ana-home-health](#) agency license and licensees may appeal certain actions of the Department under the Act and this Part. Following receipt of an appeal or a request for a hearing from an applicant or licensee, the Department shall conduct a hearing to review the contested action.
- b) Hearings conducted pursuant to the Act and this Part shall be conducted in accordance with the following:
 - 1) Section 10 of the Act.
 - 2) The Illinois Administrative Procedure Act (~~Ill. Rev. Stat. 1991, ch. 127, par. 1001 et seq.~~).
 - 3) The rules of the Department ~~titled entitled~~ "Rules of Practice and Procedure in Administrative Hearings" (~~77 Ill. Adm. Code 100~~).
- c) Applicants and licensees have a right to administrative review of actions and decisions of the Department by the courts under the Administrative Review Law (~~Ill. Rev. Stat. 1989, ch. 110, par. 3-101 et seq.~~).

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(Source: Amended at 32 Ill. Reg. 8949, effective June 5, 2008)

SUBPART D: CLIENT/PATIENT SERVICESSection 245.200 Services – Home Health

- a) Each home health agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The agency staff shall directly provide basic skilled nursing service. The agency staff may provide other home health services directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's physician or podiatrist, under a plan of treatment established by such physician or podiatrist, and under the supervision of agency staff.
- b) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.
- c) Services provided under contractual arrangements shall be through a written agreement that includes, but is not limited to, the following:
 - 1) Services to be provided;
 - 2) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies;
 - 3) Designation of full responsibility for agency control over contracted services;
 - 4) Procedures for submitting clinical and progress notes;
 - 5) Charges for contracted services;
 - 6) Statement of responsibility of liability and insurance coverage;
 - 7) Period of time in effect;

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

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consultation with the home health services team, which includes the patient's physician or podiatrist, pertinent members of the agency staff, the patient, and members of the patient's family. The plan of treatment shall include:

- 1) Diagnoses;
 - 2) Functional limitations and rehabilitation potential;
 - 3) Expected outcomes for the patient;
 - 4) The patient's physician's or podiatrist's regimen of:
 - A) Medications;
 - B) Treatments;
 - C) Activity;
 - D) Diet;
 - E) Specific procedures deemed essential for the health and safety of the patient;
 - F) Mental status;
 - G) Frequency of visits;
 - H) Equipment required;
 - I) Instructions for timely discharge or referral; and
 - J) Assessed need for influenza and pneumococcal vaccination;
 - 5) The patient's physician's or podiatrist's signature and date.
- f) Consultation with the patient's physician or podiatrist on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's physician's or podiatrist's signature shall be obtained within 30 days after any modification of the medical plan of treatment.

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- 1) The home health services team shall review the plan every 62 days, or more often if the patient's condition warrants.
 - 2) An updated plan of treatment shall be given to the patient's physician or podiatrist for review, for any necessary revisions, and for signature every 62 days, or more often as indicated.
- g) Patient Care Plan
- 1) Home health services from members of the agency staff, as well as those under contractual arrangements, shall be provided in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. The initial assessment is to be made by a registered nurse. Assessment by other members of the health services team shall be made on orders of the patient's physician or podiatrist or by request of a registered nurse. In those circumstances in which the patient's physician has ordered only therapy services, the appropriate therapist (physical therapist, speech-language pathologist or occupational therapist) may perform the initial assessment.
 - 2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:
 - A) Patient problems;
 - B) Patient's goals, family's goals, and service goals;
 - C) Service approaches to modify or eliminate problems;
 - D) The staff responsible for each element of service;
 - E) Anticipated outcome of service approach with an estimated time frame for completion; and
 - F) Potential for discharge from service.

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h) Clinical Records

- 1) Each patient shall have a clinical record, identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
 - A) Appropriate identifying information for the patient, household members and caretakers, medical history, and current findings.
 - B) A plan of treatment signed by the patient's physician or podiatrist.
 - C) A patient care plan developed by the home health services team in accordance with the patient's physician's or podiatrist's plan of treatment.
 - D) A noted medication list with dates reviewed and revised and date sent to the patient's physician or podiatrist.
 - E) Initial and periodic patient assessments by the registered nurse that include documentation of the patient's functional status and eligibility for service.
 - F) Assessments made by other members of the home health services team.
 - G) Signed and dated clinical notes for each contact that are written the day of service and incorporated into the patient's clinical record at least weekly.
 - H) Reports on all patient home health care conferences.
 - I) Reports of contacts with the patient's physician or podiatrist by patient and staff.
 - J) Indication of supervision of home health services by the supervising nurse, a registered nurse, or other members of the home health services team.

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- K) Written summary reports sent to the patient's physician or podiatrist every 62 days, containing home health services provided, the patient's status, recommendations for revision of the plan of treatment, and the need for continuation or termination of services.
- L) Written and signed confirmation of the patient's physician's or podiatrist's interim verbal orders.
- M) A discharge summary giving a brief review of service, patient status, reason for discharge, and plans for post-discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits and short-term or event-focused or diagnoses-focused interventions. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician.
- N) A copy of appropriate patient transfer information, when requested, if the patient is transferred to another health facility or health agency.
- 2) Each agency shall have a written policy on records procedures and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will use and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies shall be maintained on non-thermal paper and that the original records shall be maintained for a period of five years by the professional who originated the records. If the professional is providing services through a contract with the agency, then the contract shall include that the professional shall maintain the original records for a period of five years.
- 3) Those agencies that are subject to the Local Records Act should note that, *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act)

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- 4) Each agency shall have a written policy and procedure for the protection of confidentiality of patient records that explains the use of records, removal of records and release of information.
- i) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals that shall include, but not be limited to, the following:
 - 1) All orders for medications to be given shall be dated and signed by the patient's physician or podiatrist.
 - 2) Drugs and treatments are administered by agency staff only as ordered by the physician, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a physician, and after an assessment of the patient.
 - 3) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection, and permission from the patient's physician or podiatrist if the patient, the patient's family, or both are to be taught to give medications.
 - 4) The agency's physician or podiatrist or registered nurse shall check all medicines a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications, and shall promptly report any problem to the patient's physician or podiatrist.
 - 5) All verbal orders for medication or change in medication orders shall be taken by the registered nurse, written, and signed by the patient's physician or podiatrist within 30 days after the verbal order.
 - 6) When any experimental drug, sera, allergenic desensitizing agent, penicillin or other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary in the event of a drug reaction.

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

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- 2) Clinical records shall be reviewed continually for each 62-day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.205 Services – Home Nursing Agencies

- a) Each home nursing agency shall provide skilled nursing services. Home nursing services may be provided directly by agency staff or through a contractual purchase of services. All services shall be provided:
 - 1) in accordance with the client's physician or podiatrist, or under a plan of treatment established by the physician, podiatrist or prescribing professional; and
 - 2) under the supervision of agency staff, by a health care professional.
- b) The agency shall state in writing to the client what services will be provided directly by agency staff, and what services will be provided under contractual arrangements.
- c) Acceptance and Discharge of Patients
 - 1) Patient acceptance and discharge policies shall include, but not be limited to, the following:
 - A) Persons shall be accepted for services with a plan of treatment established by the patient's health care professional. This plan shall be promulgated in writing within 30 days after acceptance and shall be signed by the prescribing professional within 45 days after acceptance.
 - B) Prior to acceptance, the person shall be promulgate informed of the agency's charges for the various services that it offers.
 - C) No person shall be refused service because of age, race, color, sex, marital status, national origin or sexual orientation. Patients are accepted for treatment on the basis of a reasonable expectation that

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the patient's nursing needs can be met adequately in the patient's place of residence.

- D) When services are to be terminated by the agency, the patient is to be notified seven working days in advance of the date of termination. The notice shall state the reason for termination. This information shall be documented in the clinical record. When indicated, a plan shall be developed or a referral made for any continuing care.
- E) Services shall not be terminated until such time as the registered nurse has provided a minimum of seven days notice to the patient's health care professional.

d) Plan of Treatment

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

- A) Diagnoses;
- B) Client limitations and prognosis;
- C) Expected outcomes for the client;
- D) The prescribing professional's regimen of care designed to address identified client needs, including medications; treatments; activity; diet; specific procedures deemed essential for the health and safety of the client; mental status; and potential for discharge; and
- E) The types and frequency of services to be provided.

e) Consultation with the client's health care professional on any modifications in the plan of treatment deemed necessary shall be documented, and the prescribing

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professional's signature shall be obtained within 45 days after any modification of the plan.

- 1) The home nursing services team shall review the plan every 90 days, or more often should the patient's condition warrant.
- 2) An updated plan of treatment shall be given to the client's health care professional for review, for any necessary revisions, and for signature every 90 days, or more often as indicated.

f) Clinical Records

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

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

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records and a process for reconstruction of the records in the event of a system failure or breakdown.

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

g) Drugs and Biologicals

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

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

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.210 Services – Home Services Agencies

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- a) Agencies licensed as home services agencies shall provide non-medical services that are intended to assist clients with activities of daily living, which would include, but not be limited to, activity of daily living support, personal care, medication reminding, housekeeping services, personal laundry, cooking, shopping, assistance in getting to and from appointments, maintenance of household records, and companionship. Each agency shall maintain a listing of the types of services offered by the agency, and the scope of the work to be provided under each area, which the agency shall distribute to clients before contracting with the client, with the signed contract, and when changes occur.
- b) When services are provided to clients by a home services agency, there shall be a written contractual agreement between the client and the agency that includes, but is not limited to:
- 1) Indication and assurance of compliance by the agency with the requirements of the licensing Act, including the Health Care Worker Background Check Act;
 - 2) Identification of parties responsible for payment of employment taxes, Social Security taxes, and workers' compensation;
 - 3) Information on the parties responsible for supervising workers, as well as hiring, firing and discipline of in-home services workers;
 - 4) Identification of the charges to be paid, payment schedule, and to whom the client, or person acting on behalf of the client, is to make payments for services under the contract;
 - 5) Time period for contractual arrangement and conditions for termination of contract; and
 - 6) Contact information for the client to use in case of concerns, complaints, or questions on care to be provided.
- c) Acceptance of Clients. Home Services Agencies shall develop and follow policies on acceptance and discharge of clients, which shall include, but not be limited to, the following:

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- 1) Persons shall be accepted for service on the basis of their desire or need for household or personal support and/or companionship services. A home services agency shall not provide medical services that would be performed by an agency licensed as a home health agency or home nursing agency.
 - 2) No person shall be refused services based on age, race, color, sex, marital status or national origin.
 - 3) When services are terminated by the agency, the client is to be notified at least seven working days in advance of the date of termination, with a stated reason for the termination. This information shall be maintained in the client record. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In such cases, the agency may notify the client of termination of services and the reason for termination. Documentation of the risk to the provider shall be maintained in the client record.
- d) Service Plan. The agency shall establish a plan for each client, in consultation with the client and his or her appropriate family members or representative, that outlines the services to be provided to the client. The plan shall address and include, but not be limited to:
- 1) The level, type and/or scope of services the client is receiving;
 - 2) Identification of any functional limitations of the client and the relevance of the limitation to the services to be provided;
 - 3) Information received from the client, in consultation with the client and his or her appropriate family members or representative, on circumstances that may have an impact on activity or involvement by the client, such as basic information on medications being taken, treatments received, client's physician, activity, diet and mental status.
- e) Physician signature is not required for the plan of service developed under this Section.
- f) The service plan shall be reviewed and revised as necessary, but not less than once annually.

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- g) Client Records. A client record shall be maintained for each client receiving in-home services. The record shall contain:
- 1) Appropriate identifying information for the client, including the client's name, address and telephone numbers;
 - 2) The name, telephone numbers and address of the client's representative, if applicable;
 - 3) The name, telephone numbers and address of an individual or relative to be contacted in an emergency;
 - 4) The plan of services agreed to by the client and agency;
 - 5) A copy of the Client Home Care Services Agreement or Contract; and
 - 6) Documentation of each of the services provided at each visit.
- h) Each agency shall have a written policy on records procedures and shall retain records for a minimum of two years beyond the last date of service provided.
- i) Each agency shall have a written policy for protecting the confidentiality of patient records that explains the use of records, removal of records, and release of information.

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.212 Services – Home Nursing Placement Agency

- a) Agencies licensed as home nursing placement agencies are in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers.
- b) A placement agency, by definition, cannot be the employer of the worker.
- c) A placement agency must identify itself as a placement agency in all advertisement and marketing materials.

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- d) The placement agency shall require and document that:
- 1) An individual wishing to remain eligible for placement by the agency shall submit to a criminal background check;
 - 2) Anyone wishing to remain eligible for placement by the agency shall undergo a competency evaluation prior to placement to ensure that the individual is competent to provide the services that the consumer is seeking; and
 - 3) Anyone wishing to remain eligible for placement by the agency, even after an initial placement, shall participate in a minimum of eight hours of in-service training per year, provided and arranged for by the placement agency.
- e) The placement agency shall notify the worker both verbally and in writing of the implications of the worker's relationship to the client as the worker's employer. The document must be printed in no less than 12 point type and shall include at least the following elements in the body or through supporting documents or attachments, indicating the responsible parties for the following:
- 1) Employer of the licensed worker;
 - 2) Liability for the licensed worker;
 - 3) Payment of wages to the licensed worker;
 - 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the licensed worker;
 - 5) Payment of Social Security taxes for the licensed worker;
 - 6) Day-to-day supervision of the licensed worker;
 - 7) Assignment of duties to the licensed worker;
 - 8) Responsibility for hiring, firing and discipline of the licensed worker; and

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- 9) Provision of equipment or materials for the licensed worker's use in providing services to the consumer.

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.214 Services – Home Services Placement Agency

- a) Agencies licensed as home services placement agencies are in the business of securing or attempting to secure work for hire for persons seeking work or workers for employers.
- b) A placement agency, by definition, cannot be the employer of the worker.
- c) A placement agency must identify itself as a placement agency in all advertisement and marketing materials.
- d) The placement agency shall require and document that:
- 1) An individual wishing to remain eligible for placement by the agency shall submit to a criminal background check;
 - 2) Anyone wishing to remain eligible for placement by the agency shall undergo eight hours of training pursuant to Section 245.71(d) of this Part prior to his or her first placement;
 - 3) Anyone wishing to remain eligible for placement by the agency shall undergo a competency evaluation prior to placement to ensure that the individual is competent to provide the services that the consumer is seeking; and
 - 4) Anyone wishing to remain eligible for placement by the agency, even after an initial placement, shall participate in a minimum of eight hours of in-service training per year, provided and arranged for by the placement agency.
- e) The placement agency shall notify the worker both verbally and in writing of the implications of his or her relationship to the client as his or her employer. The document must be printed in no less than 12 point type and shall include at least

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the following elements in the body or through supporting documents or attachments, indicating the responsible parties for the following:

- 1) Employer of the in-home services worker;
- 2) Liability for the in-home services worker;
- 3) Payment of wages to the in-home services worker;
- 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home services worker;
- 5) Payment of Social Security taxes for the in-home services worker;
- 6) Day-to-day supervision of the in-home services worker;
- 7) Assignment of duties to the in-home services worker;
- 8) Responsibility for hiring, firing, and discipline of the in-home services worker;
- 9) Provision of equipment or materials for the in-home services worker's use in providing services to the consumer; and
- 10) All placement fees and procedures for refunds of such fees and a complaint resolution process for disputes concerning placement fees, as currently provided under the Private Employment Agency Act.

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

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

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

- a) Client consent to receive services;

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

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

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

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

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

- a) Client consent to receive services;
- b) The name, street address, mailing address and telephone number of the agency;
- c) The name, mailing address and telephone number of the persons designated as the placement agency manager and/or other individual representing the placement agency whom the consumer may contact in the event that the contract terms are not performed;
- d) A statement describing the agency license status;
- e) The duration of the contract;
- f) The rate and fees to be paid by the client and a detailed description of services to be provided as a part of the rate;

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- g) A description of the process through which the contract may be modified, amended or terminated;
- h) A description of the agency complaint resolution process;
- i) The billing and payment procedures and requirements;
- j) A statement regarding the agency's policy on notification of a relative or other individual in case of an emergency;
- k) A statement on how the client can report abuse, neglect or financial exploitation;
- l) A notice, as developed and provided by the agency, indicating the responsible party for the following:
 - 1) Employer of the in-home/licensed worker;
 - 2) Liability for the in-home/licensed worker;
 - 3) Payment of wages to the in-home/licensed worker;
 - 4) Payment of employment taxes, unemployment insurance, and worker's compensation for the in-home/licensed worker;
 - 5) Payment of Social Security taxes for the in-home/licensed worker;
 - 6) Day-to-day supervision of the in-home/licensed worker;
 - 7) Assignment of duties to the in-home/licensed worker;
 - 8) Responsibility for hiring, firing and discipline of the in-home/licensed worker; and
 - 9) Provision of equipment or materials for the in-home/licensed worker's use in providing services to the consumer.

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.240 Quality Improvement Program

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

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

Section 245.250 Abuse, Neglect and Financial Exploitation Prevention and Reporting

- a) When an agency has reasonable suspicion that a client has been the victim of abuse, neglect or financial exploitation, the agency shall do the following:
- 1) In the case of an individual who is 60 years of age or older, an individual who has been found to be disabled or one who otherwise qualifies as an "eligible adult" under the Elder Abuse and Neglect Act, the agency shall

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- notify the elder abuse provider agency designated by the Department on Aging or an Area Agency on Aging for the area in which the client resides. The agency shall document this report and maintain documentation on the premises for 12 months after the date of the report.
- 2) In the case of an alleged victim under the age of 18, the agency shall notify the Department of Children and Family Services through the Child Abuse Hotline. The agency shall document this report and maintain documentation on the premises for 12 months after the date of the report.
 - 3) If the abuse or neglect is alleged to be a result of actions by an employee of the agency, or one placed by an agency providing in-home, home health, or home nursing services, the agency shall immediately remove the alleged perpetrator from direct contact with clients and investigate the allegation.
- b) In cases of allegations of abuse or neglect by an employee or an individual who has been placed by an agency, the agency shall conduct an investigation and develop a written report of the findings of the investigation within 14 days after the initial report. The agency shall send the written report of the investigation to the Department within 24 hours after completion of the investigation and shall maintain a copy of the report on the agency premises for 12 months after the date of the report.
- c) The written report of the investigation conducted pursuant to this Section shall contain at least the following:
- 1) Dates, times and description of alleged abuse, neglect or financial exploitation;
 - 2) Description of injury or abuse to client;
 - 3) Any actions taken by the licensee;
 - 4) A list of individuals and agencies interviewed or notified by the licensee;
 - 5) A description of the action to be taken by the licensee to prevent the abuse, neglect or financial exploitation from occurring in the future; and

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- 6) Statements of any witnesses.
- d) Agency employees, persons placed by a placement agency and volunteers shall report abuse, neglect or financial exploitation of a client to the agency management and to the appropriate elder abuse provider agency or the Illinois Department on Aging.
- e) The agency shall immediately contact local law enforcement authorities (e.g., telephoning 911 where available) in the following situations:
 - 1) Physical abuse involving physical injury inflicted on a patient and/or client by a staff member;
 - 2) Sexual abuse of a patient and/or client by a staff member;
 - 3) When a crime has been committed in the patient and/or client's home by a person other than the patient or client;
 - 4) When a patient or client's death has occurred other than by disease processes; or
 - 5) When an allegation of physical abuse, sexual abuse or crime has been reported, or when death (other than by disease or natural causes) has occurred to a patient and/or client.
- f) The agency shall develop and implement a policy concerning local law enforcement notification, including:
 - 1) Ensuring the safety of patients and/or clients in situations requiring local law enforcement notification;
 - 2) Contacting local law enforcement in situations involving physical abuse of a patient and/or client by another person;
 - 3) Contacting police, fire, ambulance and rescue services; and
 - 4) Seeking advice concerning preservation of a potential crime scene.

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- g) [Nothing in this Section relieves a mandates reporter from the responsibility of making a report to an agency designated to receive such reports under the Elder Abuse and Neglect Act or to the Department.](#)

(Source: Added at 32 Ill. Reg. 8949, effective June 5, 2008)

SECRETARY OF STATE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Uniform Partnership Act
- 2) Code Citation: 14 Ill. Adm. Code 165
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
165.10	Repealed
165.20	Repealed
165.30	Repealed
165.40	Repealed
165.50	Repealed
165.60	Repealed
165.70	Repealed
165.75	Repealed
165.80	Repealed
165.90	Repealed
- 4) Statutory Authority: Implementing and authorized by the Uniform Partnership Act [805 ILCS 205]
- 5) Effective Date of Repealer: June 16, 2008
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Secretary of State, Department of Business Services' office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: January 18, 2008; 32 Ill. Reg. 828
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between proposal and final version: None
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.

SECRETARY OF STATE

NOTICE OF ADOPTED REPEALER

- 13) Will this repealer replace any emergency repealer currently in effect? No. The companion emergency repealer expired on May 31, 2008.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: The entire Part 165 is being repealed to coincide with the repeal of 805 ILCS 205.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Anthony Gordon
Assistant General Counsel
Secretary of State
100 W. Randolph St.
Suite 5-400
Chicago, IL 60601

Phone – 312/814-9509

Email – tgordon1@ilsos.net

SECRETARY OF STATE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Revised Uniform Limited Partnership Act
- 2) Code Citation: 14 Ill. Adm. Code 170
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
170.10	Repealed
170.11	Repealed
170.12	Repealed
170.13	Repealed
170.14	Repealed
170.15	Repealed
170.16	Repealed
170.17	Repealed
170.20	Repealed
170.30	Repealed
170.40	Repealed
- 4) Statutory Authority: Implementing and authorized by the Revised Uniform Limited Partnership Act [805 ILCS 210]
- 5) Effective Date of Repealer: June 16, 2008
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Secretary of State, Department of Business Services' office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: January 18, 2008; 32 Ill. Reg. 830
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between proposal and final version: None
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.

SECRETARY OF STATE

NOTICE OF ADOPTED REPEALER

- 13) Will this repealer replace any emergency repealer currently in effect? No. The companion emergency repealer expired on May 31, 2008.
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Repealer: The entire Part 170 is being repealed to coincide with the repeal of 805 ILCS 210.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Anthony Gordon
Assistant General Counsel
Secretary of State
100 W. Randolph St.
Suite 5-400
Chicago, IL 60601

Phone – 312/814-9509
Email – tgordon1@ilsos.net

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- 1) Heading of the Part: Child Health Examination Code
- 2) Code Citation: 77 Ill. Adm. Code 665
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
665.610	Amend
665.620	Repeal
665.630	Amend
665.640	Repeal
665.650	New
665.APPENDIX A	Amend
665.APPENDIX C	New
- 4) Statutory Authority: Section 27-8.1 of the School Code [105 ILCS 5/27-8.1]
- 5) Effective Date of Rulemaking: June 6, 2008
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This emergency rule will expire at the end of the 150-day period or upon adoption of permanent rules, whichever comes first.
- 7) Date filed with the Index Department: June 6, 2008
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file and available for public inspection at the Illinois Department of Public Health, 535 W. Jefferson Street, Springfield, Illinois 62761-0001.
- 9) Reason for Emergency: The amendments to the Child Health Examination Code set forth eye examination requirements for children entering kindergarten or the Illinois school system for the first time. Proposed amendments to the Code will reflect the statutory requirements set forth in PA 95-671, which became law effective January 1, 2008.

Pursuant to the statute, eye examinations are to be included as part of the health examination for school children within one year prior to entering the Illinois public, private or parochial school system for the first time beginning with kindergarten. The Department is required to establish a rule specifying the eye examination and procedures, create a form to document the eye examination, and establish a waiver for children who show an undue burden or a lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations, or to a licensed optometrist.

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The Department will file the proposed amendments to the Code as emergency amendments. Without the implementation of an emergency rule, the State will not be able to ensure that school children expected to be covered by the new law would receive the necessary eye examination for the upcoming school year. Lack of timely implementation poses a threat to the public safety and welfare. It has been estimated by the American Public Health Association that 10 percent of preschoolers and 25 percent of kids in kindergarten through 6th grade have vision deficiencies, some of which could be serious eye conditions or disease. In the absence of a complete eye test, common pediatric vision problems may go undetected and limit a child's ability to learn and succeed, and, in some cases, can be misdiagnosed as a learning disability or behavioral problem. A child who is not seeing well is at educational risk and will potentially cost the State additional special education services and additional burdens for the child's family.

In spring of each year, schools throughout Illinois must provide notice to families regarding the physical examination requirements for the following school year. This year, notice would also need to include the eye exam requirement. Amended rules need to be in place more quickly than the regular rulemaking process would allow to give parents notice of the eye exam requirement.

With the adoption of emergency amendments, families will have sufficient time to ensure that their children receive eye examinations in accordance with the rules before the start of the 2008-2009 school year.

- 10) A Complete Description of the Subjects and Issues Involved: This rulemaking will implement Public Act 95-671, which amended the School Code to mandate eye examinations for all children enrolling in kindergarten in a public, private, or parochial school and any student enrolling for the first time in a public, private, or parochial school, on or after the January 1, 2008. The amendments include definitions; referenced materials; requirements for report forms and proof of examination; requirements for the examinations; and procedures for waivers from the eye examination requirement. Eye examinations are required to be performed by optometrists or by physicians who provide eye examinations. An Eye Examination Report form and an Eye Examination Waiver form have been appended.
- 11) Are there any proposed amendments to this Part pending? Yes

Section Number: Proposed Action: Illinois Register Citation:

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NOTICE OF EMERGENCY AMENDMENTS

665.140 Amendment 32 Ill. Reg. 8545; June 13, 2008

12) Statement of Statewide Policy Objectives: This rulemaking will affect local school districts.

13) Information and questions regarding these emergency amendments shall be directed to:

Susan Meister
Administrative Rules Coordinator
Illinois Department of Public Health
535 W. Jefferson St., 5th Floor
Springfield, IL 62761-0001

217/782-2043
DPH.RULES@illinois.gov

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER i: MATERNAL AND CHILD HEALTHPART 665
CHILD HEALTH EXAMINATION CODE

SUBPART A: GENERAL PROVISIONS

Section	
665.100	Statutory Authority
665.105	Definitions
665.110	General Considerations (Repealed)
665.115	Referenced Materials

SUBPART B: HEALTH EXAMINATION

Section	
665.120	Health Examination Requirement
665.130	Performance of Health Examination and Verification of Certificate of Child Health Examination
665.140	Timetable for Examinations
665.150	Report Forms
665.160	Proof of Examination
665.210	Proof of Immunizations
665.220	Local School Authority (Repealed)
665.230	School Entrance
665.240	Basic Immunization
665.250	Proof of Immunity
665.260	Booster Immunizations
665.270	Compliance with the School Code
665.280	Physician Statement of Immunity
665.290	List of Non-immunized Students

SUBPART C: VISION AND HEARING SCREENING

Section	
665.310	Vision and Hearing Screening

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SUBPART D: DENTAL EXAMINATION

Section

- 665.410 Dental Examination Requirement
 665.420 Dental Examination Timetable
 665.430 Dental Examination
 665.440 Guidelines (Repealed)
 665.450 Waiver of Dental Examination Requirement

SUBPART E: EXCEPTIONS

Section

- 665.510 Objection of Parent or Legal Guardian
 665.520 Medical Objection

SUBPART F: [EYEVISION](#) EXAMINATION

Section

- 665.610 [EyeVision](#) Examination [RequirementRecommendation](#)
[EMERGENCY](#)
 665.620 Vision Examination ([Repealed](#))
[EMERGENCY](#)
 665.630 [EyeVision](#) Examination Report
[EMERGENCY](#)
 665.640 Indigent Students ([Repealed](#))
[EMERGENCY](#)
[665.650](#) [Waiver of Eye Examination Requirement](#)
[EMERGENCY](#)

SUBPART G: DIABETES SCREENING

Section

- 665.700 Diabetes Screening Requirement
 665.710 Diabetes Screening
 665.720 Testing Recommendations

665.APPENDIX A [Illinois Department of Public Health EyeVision](#) Examination Report
[EMERGENCY](#)

665.APPENDIX B Vaccination Schedule for Haemophilus influenzae type b Conjugate

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Vaccines (Hib)

[665.APPENDIX C](#) [Eye Examination Waiver Form](#)
[EMERGENCY](#)

AUTHORITY: Implementing and authorized by Section 27-8.1 of the School Code [105 ILCS 5/27-8.1] and Section 6.2 of the Lead Poisoning Prevention Act [410 ILCS 45/6.2].

SOURCE: Emergency rule adopted at 4 Ill. Reg. 38, p. 275, effective September 10, 1980, for a maximum of 150 days; emergency rule adopted at 4 Ill. Reg. 41, p. 176, effective October 1, 1980, for a maximum of 150 days; adopted at 5 Ill. Reg. 1403, effective January 29, 1981; codified at 8 Ill. Reg. 8921; amended at 11 Ill. Reg. 11791, effective June 29, 1987; amended at 13 Ill. Reg. 11565, effective July 1, 1989; amended at 13 Ill. Reg. 17047, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5617, effective March 30, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14543, effective August 27, 1990; amended at 15 Ill. Reg. 7706, effective May 1, 1991; amended at 18 Ill. Reg. 4296, effective March 5, 1994; amended at 20 Ill. Reg. 11950, effective August 15, 1996; emergency amendment at 21 Ill. Reg. 11966, effective August 15, 1997, for a maximum of 150 days; emergency expired on January 1, 1998; amended at 26 Ill. Reg. 5921, effective July 1, 2002; amended at 26 Ill. Reg. 10689, effective July 1, 2002; amended at 29 Ill. Reg. 18127, effective October 24, 2005; emergency amendment at 32 Ill. Reg. 8778, effective May 30, 2008, for a maximum of 150 days; emergency amendment at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days.

SUBPART F: [EYEVISION](#) EXAMINATION

Section 665.610 [EyeVision Examination RequirementRecommendation](#)
[EMERGENCY](#)

- a) [*All children enrolling in kindergarten in a public, private, or parochial school and any student enrolling for the first time in a public, private, or parochial school shall have an eye examination. Each of these children shall present proof of having been examined by a physician who performs eye examinations or an optometrist within the previous year, in accordance with Section 27-8.1\(1.10\) of the School Code and this Part before October 15 of the school year. \(Section 27-8.1\(1.10\) of the School Code\)*](#)
- b) [The eye examination requirement does not apply to children enrolling in preschool.](#)

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- c) The required eye examination shall be completed within one year prior to October 15 of the school year in which the child enters kindergarten or the child first enters any public, private, or parochial school. For students attending school programs where grade levels are not assigned, eye examinations shall be completed prior to October 15 of the year of the child's first entry into the Illinois school system.
- d) An eye examination shall at a minimum include history, visual acuity, subjective refraction to best visual acuity near and far, internal and external examination, and a glaucoma evaluation, as well as any other tests or observations that in the professional judgment of the doctor are necessary. (Section 27-8.1(2) of the School Code)
- e) In addition to the requirements of subsection (d), optometrists shall include measurements of binocular acuity and ocular motility, and color vision screening in the required eye examination, as required by the Illinois Optometric Practice Act of 1987.

~~It is recommended, but not required, that a vision examination, including ophthalmoscopy and subjective refraction, be performed on public, private/independent, and parochial school students by a physician or an optometrist.~~

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days)

Section 665.620 Vision Examination (Repealed)
EMERGENCY

- a) ~~If a vision examination is performed, it shall not be performed in the place of, or rather than performing, vision screening, and shall be conducted within one year:~~
- ~~1) Prior to the date of entering kindergarten or first grade;~~
 - ~~2) Prior to the date of entering the fifth grade; and~~
 - ~~3) Prior to the date of entering the ninth grade;~~
- b) ~~For students attending school programs where grade levels are not assigned, examinations shall be completed prior to the date of entering and within one year~~

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~~prior to the ages of 5, 10 and 15.~~

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days)

Section 665.630 Eye Vision Examination Report
EMERGENCY

~~The eye examination shall be recorded on the Department of Public Health Eye Examination Report prescribed by the Department for statewide use (see Appendix A). The report form is available on the Department's website. The completed form shall be presented to the local school authority. If performed, the vision examination shall be recorded on the Vision Examination Report prescribed by the Department for statewide use and presented to the local school authority. (See Section 665. Appendix A Vision Examination Report.)~~

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days)

Section 665.640 Indigent Students (Repealed)
EMERGENCY

~~School districts opting to require vision examinations as a part of the health examination shall ensure vision examinations are made available for indigent students. Indigent students are those students eligible for the "free breakfast and free lunch program" under the School Free Lunch Program Act (Ill. Rev. Stat. 1991, ch. 122, pars. 712.01 et seq.) [105 ILCS 125].~~

(Source: Repealed by emergency rulemaking at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days)

Section 665.650 Waiver of Eye Examination Requirement
EMERGENCY

~~*Children who show an undue burden or a lack of access to an optometrist or to a physician who provides eye examinations shall receive a waiver from the requirement for an eye examination. (Section 27-8.1(1.10) of the School Code) The school or district shall make a waiver from the eye examination requirement available, and shall provide a Department-prescribed waiver form that shall be used to demonstrate the child's eligibility for a waiver (see Appendix C).*~~

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- a) For the purpose of this Section, an undue burden or lack of access to an optometrist or to a physician who performs eye examinations includes, but is not limited to, the following circumstances:
- 1) The child is enrolled in the free and reduced lunch program under the School Breakfast and Lunch Program Act [105 ILCS 125] and is ineligible for public assistance (Medicaid/ALLKIDS).
 - 2) The child is enrolled in Medicaid/ALLKIDS, but the parent or guardian is unable to find an optometrist or physician in the community who performs eye examinations, who is able to see the child and who accepts Medicaid/ALLKIDS.
 - 3) The child does not have any type of medical or vision/eye insurance coverage, and there are no low-cost clinics in the community that provide eye examinations as required in Section 665.610 and that will see the child.
- b) The Eye Examination Waiver Form shall be submitted to the school by October 15 of the school year. If the Eye Examination Waiver Form is not submitted by October 15, the school may hold the child's report card until the Eye Examination Waiver Form is submitted.

(Source: Added by emergency rulemaking at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days)

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**Section 665.APPENDIX A Illinois Department of Public Health Eye~~Vision~~ Examination Report
EMERGENCY**

**State of Illinois
Eye Examination Report**

Illinois law requires that proof of an eye examination by an optometrist or physician who provides complete eye examinations be submitted to the school no later than October 15 of the year the child is first enrolled or as required by the school for other children. The examination must be completed within one year prior to October 15 of the year the child enters an Illinois school.

Student Name: _____
(Last) (First) (Middle Initial)

Birth Date: _____ Gender: _____ Grade: _____
(Mo.) (Day) (Yr.)

Parent or Guardian: _____
(Last) (First)

Phone: _____
(Area Code)

Address: _____
(Number) (Street) (City) (Zip Code)

County: _____

To Be Completed By Examining Doctor

Case History

Date of Exam: _____

Ocular History: Normal or Positive for: _____

Medical History: Normal or Positive for: _____

Drug Allergies: NKDA or Allergic to: _____

Other Information: _____

Examination

Refraction: _____ Distance | Near

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	<u>Right</u>	<u>Left</u>	<u>Both</u>	<u>Both</u>
<u>Unaided Visual Acuity:</u>	<u>20 /</u>	<u>20 /</u>	<u>20 /</u>	<u>20 /</u>
<u>Best Corrected Visual Acuity:</u>	<u>20 /</u>	<u>20 /</u>	<u>20 /</u>	<u>20 /</u>

Was refraction performed with cycloplegic agents? Yes No

	<u>Normal</u>	<u>Abnormal</u>	<u>Not Able to Assess</u>	<u>Comments</u>
<u>External Exam (eye and adnexa)</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Internal Exam (media, lens, fundus, etc.)</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Neurological Integrity (pupils)</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Binocular Function (stereopsis)</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Accommodation and Vergence</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Color Vision</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>IOP (glaucoma)</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Oculomotor Assessment</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Other:</u> _____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Diagnosis

- Normal Myopia Hyperopia Astigmatism
- Strabismus Amblyopia
- Other: _____

Recommendations

- Corrective Lenses: No Yes, glasses should be worn for:
 Constant Wear Near Vision Far Vision
 May Be Removed for Physical Education
- Preferential Seating Recommended: No Yes Comments: _____
- Recommend Re-examination: 3 months 6 months 12 months
 Other _____
- _____
- _____

Print Name: _____
Optometrist or Physician Who Provides Eye Examinations

Address: _____

Phone: _____

<p><u>Consent of Parent or Guardian</u> <u>I agree to release the above information on my child or ward to appropriate school or health authorities.</u></p>
--

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

<u>Signature:</u>	_____	<u>Date:</u> _____

<u>Date:</u>	<u>Optometrist or Physician Who Provides Eye Examinations</u>	_____
	_____	_____

(Parent or Guardian's Signature)

Optometrist or Physician Who Provides Eye Examinations

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

STATE OF ILLINOIS
VISION EXAMINATION REPORT

White- Doctor's Referral
Yellow- File

Date _____
Name _____ Birth Date _____ Sex _____ Grade _____
(Last) (First) (Initial) (Mo) (Day) (Yr)
Parent or Guardian _____ Phone _____
(Last) (First) (Area Code)
Address _____ County _____
(Number) (Street) (City) (Zip Code)
Testing Location _____ Testing Agency _____ Tester _____

TO BE COMPLETED FOLLOWING SCREENING

TEST GIVEN:

- 1. Instrument Used _____
a. Visual Acuity
b. Plus Sphere
c. Muscle Balance
d. Near and Far Binocular Vision
e. Other _____

REASON FOR REFERRAL:

- 1. Visual Acuity
2. Plus Sphere
3. Muscle Balance—Phoria
4. Near and Far Binocular Vision—Fusion

SYMPTOMS NOTED:

- 1. Academic Achievement
2. Observable Signs: _____

TO THE DOCTOR

CHILD WEARING GLASSES OR UNDER CARE



Children wearing glasses or under care are not screened as part of the routine vision screening program. Observations by screening technicians possibly indicate the following:

- Frames broken/too small Two years since last examination
 Lenses scratched/broken Other: _____

TO BE COMPLETED BY EXAMINING DOCTOR

DISTANCE

(1) Uncorrected Visual Acuity		(2) Best Corrected Visual Acuity	
Right	Left	Right	Left

PLEASE CHECK IF APPROPRIATE

- Treatment recommended
 Medical
 Glasses
 Contact Lenses
 Other: _____
- Corrective Lens prescribed
 Constant Wear
 Near Vision only
 Far Vision only
 May be removed for physical education
- Visual field restriction
 Amblyopia exists
 Muscle imbalance exists
 Close work may be difficult or cause fatigue
- Preferential seating needed
 Re-examination advised
 Six months
 Twelve months
 Other: _____

- (3) Oculomotor Assessment: _____
- (4) Diagnosis: _____
- (5) Comments: _____

IMPORTANT NOTICE

This state agency is requesting disclosure of information that is necessary to accomplish the statutory purpose as outlined under Public Act 81-174. Disclosure of this information is voluntary, and there is no penalty for non-compliance. This form has been approved by the Forms Management Center.

Please print or stamp
Doctor's Name: _____

Name
Last
First
Middle

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

<u>CONSENT OF PARENT OR GUARDIAN</u>	
<u>I agree to release the above information on my child</u>	
<u>or ward to appropriate school or health authorities.</u>	

<u>Parent or Guardian's Signature</u>	
<u>IDPH V-4</u>	<u>4-82</u>

Address: _____

City: _____

Date of Examination: _____

_____ Doctor's Signature

(Source: Amended by emergency rulemaking at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

**Section 665. APPENDIX C Eye Examination Waiver Form
EMERGENCY****State of Illinois
Department of Public Health****EYE EXAMINATION WAIVER FORM****Please print:**

<u>Student's Name:</u> Last First Middle			<u>Birth Date:</u> (Month/Day/Year)
<u>Address:</u> Street City ZIP Code			<u>Telephone:</u>
<u>Name of School:</u>		<u>Grade Level:</u>	<u>Gender:</u> <input type="checkbox"/> Male <input type="checkbox"/> Female
<u>Parent or Guardian:</u>		<u>Address (of parent/guardian):</u>	

I am unable to obtain the required vision examination because:

- My child is enrolled in the free and reduced lunch program and is ineligible for public insurance (Medicaid/All KIDS).
- My child is enrolled in Medicaid/All KIDS, but we are unable to find a medical doctor who performs eye examinations or an optometrist in the community who is able to see the child and accepts Medicaid/All KIDS.
- My child does not have any type of medical or vision/eye care insurance coverage, and there are no low-cost vision/eye clinics in our community that will see my child.

Signature _____ Date _____

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

(Source: Added by emergency rulemaking at 32 Ill. Reg. 9055, effective June 6, 2008, for a maximum of 150 days)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: 310.80 and 310.220
- 4) Date Peremptory published in Illinois Register: May 2, 2008; 32 Ill. Reg. 7154
- 5) Summary and Purpose of Expedited Correction: In Section 310.80, the capitalization of the word "step" is inconsistent and the numbering of the 4th indent level of subsection (d) does not meet the Secretary of State Style Manual guidelines. The numbering of the 4th indent level of subsection (d) is referenced in Section 310.220. The capitalization errors are not substantive and correction provides clarity in the reference of a particular step. The numbering errors are not substantive and create unintentional discrepancies between the adopted rule text and the text published in the *Illinois Register*. The expedited corrections are requested in order that the proposed amendments to the Pay Plan at 32 Ill. Reg. 4417, if the Joint Committee on Administrative Rules issues a "Certificate of No Objection," may be adopted effective July 1, 2008 without errors.
- 6) Information and questions regarding this request shall be directed to:

Mr. Jason Doggett
Manager
Compensation Section
Division of Technical Services and Agency Training Development
Bureau of Personnel
Department of Central Management Services
504 William G. Stratton Building
Springfield, IL 62706

217/782-7964
Fax: 217/524-4570
CMS.PayPlan@illinois.gov

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

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

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.45	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.47	In-Hiring Rate
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
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

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate
310.240	Daily or Hourly Rate Conversion
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State Rate
310.295	Foreign Service Rate
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 (Repealed)
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 and Bonuses
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 (Repealed)
310.520	Conversion of Base Salary to Daily or Hourly Equivalent
310.530	Implementation
310.540	Annual Merit Increase and Bonus Guidechart
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

310.APPENDIX A Negotiated Rates of Pay

310.TABLE A RC-104 (Conservation Police Supervisors, Laborers' – ISEA Local #2002)

310.TABLE B VR-706 (Assistant Automotive Shop Supervisors, Automotive Shop Supervisors and Meat and Poultry Inspector Supervisors, Laborers' – ISEA Local #2002)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

310.TABLE C	RC-056 (Site Superintendents and Natural Resource, Historic Preservation and Agriculture Managers, IFPE)
310.TABLE D	HR-001 (Teamsters Local #726)
310.TABLE E	RC-020 (Teamsters Local #330)
310.TABLE F	RC-019 (Teamsters Local #25)
310.TABLE G	RC-045 (Automotive Mechanics, IFPE)
310.TABLE H	RC-006 (Corrections Employees, AFSCME)
310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	HR-012 (Fair Employment Practices Employees, SEIU) (Repealed)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
310.TABLE AB	VR-007 (Plant Maintenance Engineers, Operating Engineers) (Repealed)
310.APPENDIX B	Schedule of Salary Grade Pay Grades – Monthly Rates of Pay
310.APPENDIX C	Medical Administrator Rates
310.APPENDIX D	Merit Compensation System Salary Schedule
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

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 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; preemptory 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; preemptory 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; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory 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; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory 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; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory 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; preemptory

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF REQUEST FOR EXPEDITED CORRECTION

amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; preemptory 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; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory 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; preemptory 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; preemptory amendment at 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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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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 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;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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peremptory 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; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory 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; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory 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; peremptory 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; peremptory 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; peremptory 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; peremptory 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; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective

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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, 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; preemptory 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; emergency expired March 22, 2003; preemptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; preemptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; preemptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; preemptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; preemptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; preemptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; preemptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; preemptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; preemptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; preemptory amendment at 28 Ill. Reg. 15336, effective

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November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; preemptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; preemptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; preemptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; preemptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; preemptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; preemptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; preemptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; preemptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; preemptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; preemptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; preemptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; preemptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; preemptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; preemptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; preemptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; preemptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; preemptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; preemptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; preemptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 2485, effective January 17, 2007; preemptory amendment at 31 Ill. Reg. 4445, effective February 28, 2007; amended at 31 Ill. Reg. 4982, effective March 15, 2007; preemptory amendment at 31 Ill. Reg. 7338, effective May 3, 2007; amended at 31 Ill. Reg. 8901, effective July 1, 2007; emergency amendment at 31 Ill. Reg. 10056, effective July 1, 2007, for a maximum of 150 days;

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peremptory amendment at 31 Ill. Reg. 10496, effective July 6, 2007; peremptory amendment at 31 Ill. Reg. 12335, effective August 9, 2007; emergency amendment at 31 Ill. Reg. 12608, effective August 16, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 13220, effective August 30, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 13357, effective August 29, 2007; amended at 31 Ill. Reg. 13981, effective September 21, 2007; peremptory amendment at 31 Ill. Reg. 14331, effective October 1, 2007; amended at 31 Ill. Reg. 16094, effective November 20, 2007; amended at 31 Ill. Reg. 16792, effective December 13, 2007; peremptory amendment at 32 Ill. Reg. 598, effective December 27, 2007; amended at 32 Ill. Reg. 1082, effective January 11, 2008; peremptory amendment at 32 Ill. Reg. 3095, effective February 13, 2008; peremptory amendment at 32 Ill. Reg. 6097, effective March 25, 2008; peremptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; expedited correction at 32 Ill. Reg. _____, effective _____.

SUBPART A: NARRATIVE

Section 310.80 Increases in Pay

Except as otherwise provided for in this Section, for employees occupying positions in classes that are paid in conformance with the Schedule of Negotiated Rates (Appendix A) and the Schedule of Salary Grade Pay Grades – Monthly Rates of Pay (Appendix B), increases shall be granted as follows and will become effective the first day of the pay period following the date of approval:

- a) Satisfactory Performance Increase –
 - 1) Each employee who has not attained Step 8 of the relevant pay grade, and whose level of performance has been at a satisfactory level of competence, shall be successively advanced in pay to the next higher step in the pay grade after one year of creditable service in the same class. Step increases are suspended for non-union positions and employees.
 - 2) A satisfactory performance increase shall become effective on the first day of the month within which the required period of creditable service is reached.
 - 3) No satisfactory performance increase may be given after the effective date of separation.
- b) Withholding Satisfactory Performance Increase – As an inducement toward

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attainment of satisfactory level of competence, satisfactory performance increases may be withheld from the employee who has not achieved a satisfactory level of performance. Such action must be supported by:

- 1) A performance record showing less than satisfactory performance. This must be prepared by the appropriate supervisor, discussed with the employee and approved by the agency head prior to the date the increase would otherwise become effective. The performance record will not be invalidated by refusal of an employee to sign. In such cases, an explanatory comment shall be made on the record by the supervisor. This record will be preserved by the agency.
 - 2) Notice of withholding of satisfactory performance increases to the Department of Central Management Services – It shall be reported upon completion of action required by subsection (b)(1), but not later than the submission of the payroll reflecting the denial of the increase.
- c) Redetermination – A satisfactory performance increase previously withheld shall be granted when the cause for withholding has been eliminated. Redetermination must be made at least annually. In such cases the increases will be effective the first day of the month following date of approval and will be preceded by the preparation and filing of a Performance Record within the agency indicating the attainment of satisfactory level of competence.
- d) Other Pay Increases –
- 1) Promotion –
 - A) Standard Procedures –
 - ~~i)(1)~~ From Other Than Step 8 – Normally, upon promotion, an employee shall be advanced to the lowest step in the targeted pay grade that represents at least a full step increase in the former pay grade.
 - ~~ii)(2)~~ From Step 8 – Effective March 27, 2008, when an employee represented by the American Federation of State, County, and Municipal Employees (AFSCME) is promoted from Step 8, the employee shall be paid at the lowest step

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rate in the targeted pay grade that results in an increase equal to at least the dollar difference between ~~Step~~ 7 and ~~Step~~ 8 in the former pay grade. To compute this, add the dollar difference between ~~Step~~ 7 and ~~Step~~ 8 in the former pay grade to the employee's current rate at Step 8 (then include longevity if the employee is receiving an increased rate based on longevity). Then place the employee on the lowest step in the targeted pay grade that is at least equivalent to that amount. Otherwise, when an employee is promoted from Step 8, the employee shall be paid at the lowest step rate in the targeted pay grade that results in an increase equal to at least 3%. To compute this, add 3% to the employee's current rate at Step 8 (then include longevity if the employee is receiving an increased rate based on longevity). Then place the employee on the lowest step in the targeted pay grade that is at least equivalent to that amount.

- B) Exception – Any deviation requires prior written approval of the Director of Central Management Services. In determining the appropriateness of a request for a special salary treatment by an employing agency, the Director of Central Management Services shall consider whether the need for the special salary treatment is substantial, whether the action is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request.

2) Reallocation –

A) Standard Procedures –

- ~~i)~~(+) From Other Than Step 8 – Normally, upon reallocation, an employee shall be advanced to the lowest step in the targeted pay grade that represents at least a full step increase in the former pay grade.
- ~~ii)~~(2) From Step 8 – When an employee is promoted from Step 8, the employee shall be paid at the lowest step rate in the targeted pay grade that results in an increase equal to at

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least 3%. To compute this, add 3% to the employee's current rate at Step 8 (then include longevity if the employee is receiving an increased rate based on longevity). Then place the employee on the lowest step in the targeted pay grade that is at least equivalent to that amount. The reallocation shall not change the creditable service date for non-bargaining-unit employees or if the increase is less than one ~~step~~Step for the bargaining unit employees.

- B) Exception – Any deviation requires prior written approval of the Director of Central Management Services. In determining the appropriateness of a request for a special salary treatment by an employing agency, the Director of Central Management Services will consider whether the need for the special salary treatment is substantial, whether the action is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request. The reallocation shall not change the creditable service date for non-bargaining-unit employees or if the increase is less than one ~~step~~Step for the bargaining unit employees.
- 3) Reevaluation – If a higher pay grade is assigned to a class, the employee occupying the position in the class shall be advanced to the lowest step in the new grade that represents an increase in pay. If an employee becomes eligible for a satisfactory performance increase as a result of the reevaluation, a one-step increase will be granted immediately. The reevaluation shall not change the creditable service date for non-bargaining-unit employees or if the increase is less than one ~~step~~Step for the bargaining unit employees.
- 4) Separation and Subsequent Appointment – Upon separation from a position of a given class and appointment within four calendar days to a position in a higher pay grade, an increase shall be given under the conditions and requirements applicable to promotions.
- 5) Reclassification – If the class to which the position is being moved has a higher pay grade, the employee's base salary is advanced to the salary in the new pay grade that represents the least increase in pay. If this new

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salary is less than the difference between Step 7 and Step 8 in the new pay grade and the employee has been paid the base salary in Step 8 of the previous pay grade for longer than one year, the new salary is advanced one step from the salary in the new pay grade representing the least increase.

- e) Adjustment – An employee may receive an upward adjustment in the employee's base salary for the purpose of correcting a previous error, oversight or when the best interest of the agency and the State of Illinois will be served. Adjustments must have the prior approval of the Director of Central Management Services. In determining the appropriateness of a request for a salary adjustment by an employing agency, the Director of Central Management Services will consider whether the need for the adjustment is substantial, whether the action is consistent with the treatment of other similar situations, and whether the action is equitable in view of the particular circumstances prompting the request. The adjustment shall not change the creditable service date for non-bargaining-unit employees or if the increase is less than one ~~step~~Step for the bargaining unit employees. The effective dates for the 4% and 3% adjustment increases effective December 2, 2005 and January 1, 2007, respectively, are as stated.

(Source: Peremptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; Expedited correction at 32 Ill. Reg. _____, effective _____)

SUBPART B: SCHEDULE OF RATES

Section 310.220 Negotiated Rate

- a) The rate of pay for a class in any specific area or agency, or in a specific area for an agency, as established and approved by the Director of Central Management Services after having conducted negotiations for this purpose, or as certified as being correct and reported to the Director of Central Management Services by the Director of the Illinois Department of Labor for designated classifications.
- b) An employee occupying a position in a class normally subject to contract, but whose position is excluded from the bargaining unit, shall receive the contract rate and other compensation items specified by the contract, unless the Director of Central Management Services has established another specific provision. Subsection (b) is suspended for non-union positions and employees. Effective January 1, 2008, the non-union positions and employees are assigned to the Merit

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Compensation System (Subpart C) and to rates within the Merit Compensation System Salary Schedule (Appendix D).

- c) As provided in certain collective bargaining agreements, an employee may be paid at an appropriate higher rate when assigned to perform the duties of a higher level position. Eligibility for and the amount of this pay will be as provided in the contract.
- d) Effective March 27, 2008, when an employee represented by the American Federation of State, County, and Municipal Employees (AFSCME) is promoted from Step 8, the employee shall be paid as provided in Section 310.80(d)(1)(A)(ii~~2~~).
- e) The negotiated rates of pay for classifications in specified operating agencies, in specified agency facilities or with specified duties shall be as indicated in Appendix A of this Part.

(Source: Peremptory amendment at 32 Ill. Reg. 7154, effective April 17, 2007; Expedited correction at 32 Ill. Reg. _____, effective _____)

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 June 3, 2008 through June 9, 2008 and have been scheduled for review by the Committee at its June 17, 2008 or July 15, 2008 meetings. 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>
7/17/08	<u>Department of Human Services</u> , Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132)	4/18/08 32 Ill. Reg. 6371	6/17/08
7/17/08	<u>Department of Public Health</u> , Food Service Sanitation Code (77 Ill. Adm. Code 750)	7/13/07 31 Ill. Reg. 9778	6/17/08
7/17/08	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	4/18/08 32 Ill. Reg. 6438	6/17/08
7/18/08	<u>Environmental Protection Agency</u> , Procedures for Review of Petitions for Mercury Product Exemptions (35 Ill. Adm. Code 182)	4/11/08 32 Ill. Reg. 4901	6/17/08
7/17/08	<u>Illinois Commerce Commission</u> , Safety Relocation Towing (92 Ill. Adm. Code 1715)	2/1/08 32 Ill. Reg. 1189	7/15/08
7/18/08	<u>Illinois Emergency Management Agency</u> , Certification of Individuals to Perform Industrial Radiography (32 Ill. Adm. Code 405)	3/28/08 32 Ill. Reg. 4290	7/15/08
7/18/08	<u>Illinois Gaming Board</u> , Riverboat Gambling (86 Ill. Adm. Code 3000)	3/7/08 32 Ill. Reg. 3136	7/15/08

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

7/20/08	<u>Department of Revenue</u> , Service Occupation Tax (86 Ill. Adm. Code 140)	4/11/08 32 Ill. Reg. 5956	7/15/08
7/20/08	<u>Department of Revenue</u> , Property Tax Code (86 Ill. Adm. Code 110)	4/18/08 32 Ill. Reg. 6452	7/15/08
7/20/08	<u>Department of Public Health</u> , Hospital Licensing Requirements (77 Ill. Adm. Code 250)	3/7/08 32 Ill. Reg. 3146	7/15/08

PROCLAMATIONS

2008-221 (Revised)
Bishop Arthur M. Brazier Day

WHEREAS, Bishop Arthur M. Brazier has been the pastor of the Apostolic Church of God since 1960. He received his Bible training at Moody Bible Institute and conducted classes at North Park College and Theological Seminary for two years on the subject of the church's role in community organizations; and

WHEREAS, Bishop Brazier has lectured at the University of Chicago Law School, Northwestern University Law School, Harvard University, Antioch College, New York School of Social Work, and many other prestigious institutions; and

WHEREAS, in addition to his pastoral duties, Bishop Brazier has also been a lifelong advocate for the improvement of the quality of life for minorities, and was the founding president of The Woodlawn Organization, one of the most successful community organizations in the country; and

WHEREAS, Bishop Brazier also founded The Woodlawn Preservation and Investment Corporation and The Fund for Community Redevelopment and Revitalization. He was the Vice President of The Center for Community Change, a Washington D.C. based organization, where he was in charge of the Major Projects Unit, responsible for giving intensive technical assistance to the Community Development Corporation on large scale housing and commercial projects in various parts of the United States; and

WHEREAS, Bishop Brazier has authored several articles published in various periodicals, and has published three books; and

WHEREAS, for more than 30 years, Bishop Brazier has served as Diocesan of the 6th Episcopal District of the Pentecostal Assemblies of the World, which includes oversight of more than 80 churches in the state of Illinois; and

WHEREAS, Bishop Brazier, civil rights leader, community activist and revered pastor, will preach his last sermon on June 1, leaving the congregation he has led for 48 years, and a celebration in his honor will be held on July 12:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 12, 2008 as **BISHOP ARTHUR M. BRAZIER DAY** in Illinois, in recognition of Bishop Brazier's lifetime of community service.

Issued by the Governor May 20, 2008

PROCLAMATIONS

Filed by the Secretary of State June 6, 2008

2008-234**National Baton Twirling Week**

- WHEREAS, the art of baton twirling positively affects the lives of nearly one-half million young Americans; and
- WHEREAS, baton twirling can build the confidence of these young girls and boys, and the dedication learned in training for and practicing the sport is beneficial to many situations in life; and
- WHEREAS, baton twirling is one of the largest nationwide beneficial movements for today's young girls; and
- WHEREAS, baton twirling is used in children's hospitals as a unique and effective method of physical therapy; and
- WHEREAS, baton twirlers provide inspiration and wholesome entertainment in our communities; and
- WHEREAS, baton twirlers from all over the United States will gather at the University of Notre Dame July 22 – 26, 2008, to conduct a colorful pageant entitled "America's Youth On Parade":

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 20 – 26, 2008 as **NATIONAL BATON TWIRLING WEEK** in Illinois, and encourage our citizens to appreciate and support the colorful and beneficial youth movement of baton twirling.

Issued by the Governor June 3, 2008

Filed by the Secretary of State June 6, 2008

2008-235**Stevens Johnson Syndrome Awareness Month**

- WHEREAS, Stevens Johnson Syndrome (SJS) and Toxic Epidermal Necrolysis Syndrome, another form of SJS, are severe adverse drug reactions to medications; and
- WHEREAS, adverse drug reactions (ADR's) account for approximately 150,000 deaths per year in the United States alone, making drug reactions the fourth leading cause of death in the U.S.; and

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WHEREAS, SJS is one of the most debilitating ADR's. Besides death, it can cause severe skin and oral lesions, permanent blindness, lung damage and other life-long complications; and

WHEREAS, almost any medication, including over-the-counter drugs, can cause SJS, and although it afflicts people of all ages, a large number of its victims are children; and

WHEREAS, recognition of the early symptoms of SJS and prompt medical attention are the best ways to minimize the possible long-term effects SJS may cause. Symptoms include: rash or red splotches on skin, persistent fever, facial blisters and flu-like symptoms; and

WHEREAS, affected persons must stop taking the offending drug immediately and contact a physician:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 2008 as **STEVENS JOHNSON SYNDROME AWARENESS MONTH** in Illinois, and encourage all citizens to educate themselves on the symptoms and treatment of this devastating problem.

Issued by the Governor June 3, 2008

Filed by the Secretary of State June 6, 2008

2008-236**National Alcohol and Drug Addiction Recovery Month**

WHEREAS, substance addiction is a chronic illness linked to brain chemistry that can often be treated medically; and

WHEREAS, substance abuse, and its co-existing mental and physical disorders, are major public health problems that affect millions of Americans of every age, race and ethnic background, in all communities; and

WHEREAS, alcohol and drug use disorders have enormous medical, societal and economic costs, with a significant negative impact on families, often resulting in increased conflict, emotional and physical abuse, stress, and financial strife; and

WHEREAS, according to the latest national figures, as many as 22.2 million Americans met the criteria for substance dependence or abuse. In 2004, only 16.8 percent of

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Americans 12 and older who needed treatment for an alcohol or drug use disorder actually received treatment; and

WHEREAS, the primary reason that most of those afflicted did not receive treatment is that they incorrectly believed that treatment was not necessary; and

WHEREAS, those who do realize that they need treatment often face various barriers to recovery. These barriers include the cost of treatment, stigma associated with substance abuse problems, inadequate facilities, and simply a lack of information about treatment options; and

WHEREAS, since 1967, the Illinois Alcoholism and Drug Dependence Association (IADDA) has worked to educate the public about substance abuse and addiction, while also representing more than 100 treatment and prevention agencies across Illinois; and

WHEREAS, treatment is cost effective, with some measurements showing a benefit-to-cost ratio of up to 7:1, with substance use disorder treatment costing \$1,583 per person on average and having a monetary benefit to society of nearly \$11,487 for each person treated; and

WHEREAS, the theme of this year's Recovery Month, "Join the Voices for Recovery: Real People, Real Recovery," highlights the people for whom treatment and long-term recovery have given a renewed outlook on life, and also celebrates those who have worked to advance the treatment and recovery landscape; and

WHEREAS, to help achieve this goal, the U.S. Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the White House Office of National Drug Control Policy, and The Illinois Department of Human Services, Division of Alcoholism and Substance Abuse, invite all residents of Illinois to participate in National Alcohol and Drug Addiction Recovery Month:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2008 as **NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH** in Illinois, and call on all citizens to celebrate the lives of those who have successfully recovered, while encouraging those struggling with substance abuse to seek treatment.

Issued by the Governor June 3, 2008

Filed by the Secretary of State June 6, 2008

2008-237

Bullying Prevention Awareness Week

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WHEREAS, bullying is physical, verbal, sexual, or emotional harm or intimidation directed at a person or group of people; and

WHEREAS, bullying occurs in neighborhoods, playgrounds, schools, and through technology, such as the Internet; and

WHEREAS, various researchers have concluded that bullying is the most common form of violence, affecting millions of American children and adolescents annually; and

WHEREAS, thousands of Illinois children and adolescents are targets of bullying annually; and

WHEREAS, targets of bullying are more likely to acquire physical, emotional, and learning problems and students who are repeatedly bullied often fear such activities as riding the bus, going to school, and attending community activities; and

WHEREAS, children who bully are at greater risk of engaging in more serious violent behaviors; and

WHEREAS, a large percentage of children who are bullied believe that adult help is infrequent and ineffective:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 5-11, 2008 as **BULLYING PREVENTION AWARENESS WEEK** in Illinois, and encourage schools, parents, recreation programs, religious institutions, and community organizations to engage in a variety of awareness and prevention activities designed to make our communities safer for all children and adolescents.

Issued by the Governor June 4, 2008

Filed by the Secretary of State June 6, 2008

2008-238

Support Our Troops Day

WHEREAS, the people of Illinois believe in providing a compassionate and supportive community for residents of the state in all branches of the Armed Forces, the Reserves and those called to perform homeland security duties, as well as the families and friends of those serving; and

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WHEREAS, Illinois citizens exercise a patriotic duty by acknowledging the fathers, mothers, sons and daughters of the State, and from every corner of the United States and allied nations, who heroically defend our country; and

WHEREAS, on this day, which has been designated as a day to show our support for our troops, Illinoisans are encouraged to display the community's unwavering commitment to honoring the members of the Armed Forces for their courageous and patriotic duty in defending our country, its freedoms, and its way of life:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 30, 2008 as **SUPPORT OUR TROOPS DAY** in Illinois, and urge all citizens to join in this important observance.

Issued by the Governor June 4, 2008

Filed by the Secretary of State June 6, 2008

2008-239**Captive Nations Week**

WHEREAS, Captive Nations Week has been recognized since July 17, 1959, originating from U.S. Public Law 86-90, a joint resolution of the 86th Congress; and

WHEREAS, every year, Captive Nations Week organizers focus international attention on the plight and struggle of captive nations to rid themselves of oppressive rulers by organizing and unifying these country's voices of freedom; and

WHEREAS, although several former Captive Nations have been liberated from devastating and militaristic rule, the United States and the international community must remain cognizant of those countries still straining for freedom under precarious regimes; and

WHEREAS, this week should serve as a time of reflection and remembrance for all of the millions of people tragically lost to genocide and other forms of persecution under these cruel governments; and

WHEREAS, the 50th Annual Captive Nations Week will highlight the struggle for freedom around the world in occupied territories:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 13 – 20, 2008 as **CAPTIVE NATIONS WEEK** in Illinois, and encourage all citizens to join in observance of this important week.

PROCLAMATIONS

Issued by the Governor June 4, 2008
Filed by the Secretary of State June 6, 2008

2008-240
Bike to Work Week

WHEREAS, millions of Americans engage in cycling because it is a viable and environmentally sound form of transportation and an excellent form of physical fitness; and

WHEREAS, Bike to Work Week helps to increase public awareness for bicycling, educate the community about the benefits of bicycling for transportation purposes, and encourages people to try bicycle commuting; and

WHEREAS, there is a need to promote alternative forms of transportation such as walking and bicycling in order to reduce pollution, reduce America's dependence on fossil fuels, and improve the health and well being of all people; and

WHEREAS, increasing the number of bicycling lanes, paths, storage facilities, and traffic calming measures will help ease automobile traffic congestion and encourage a healthy lifestyle for residents:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 7-13, 2008 as **BIKE TO WORK WEEK** in Illinois, and encourage all citizens to recognize the importance of sharing our streets with cyclists and encourage citizens to participate in cycling activities to whatever extent possible during this week, including cycling to work.

Issued by the Governor June 5, 2008
Filed by the Secretary of State June 6, 2008

2008-241
The Day of the Right for Sight for Life

WHEREAS, RP International, despite humble beginnings in the Woodland Hills home of the Harris family, has made its mission the search for a treatment and eventual cure for degenerative blindness; and

WHEREAS, RP International's efforts quickly garnered support from the entertainment industry, service groups and the general public, and have brought worldwide attention to degenerative blindness; and

PROCLAMATIONS

WHEREAS, this support was rallied to produce the first RP eye sight telethon in 1980, The Bob Hope Insight Special; and

WHEREAS, the special reached out to people across the country, promoting awareness of, and educating the masses about, degenerative blindness; and

WHEREAS, when the experimental surgery restored eyesight two years ago in keeping with the approach taken by RP International and Dr. Gholam Peyman in 1984 at LSU, the surgery was declared a success, and beneficial to mankind; and

WHEREAS, the surgery was again successful in restoring vision to a blind subject in the following attempt, and many since; and

WHEREAS, 26 million Americans have now been diagnosed with degenerative blindness, it is through the persistent efforts of RP International's army of volunteers educating the public that a cure might be found; and

WHEREAS, these volunteers coordinate with celebrities, researchers and service groups to host the annual Vision Awards, producing funding for research and venues for physicians to present their remarkable work in the field of eyesight restoration:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 12, 2008 as **THE DAY OF THE RIGHT FOR SIGHT FOR LIFE** in Illinois.

Issued by the Governor June 5, 2008

Filed by the Secretary of State June 6, 2008

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